

AMENDED IN SENATE JULY 2, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 731

Introduced by Assembly Member Gallagher

February 25, 2015

An act to amend Sections 4115, 4120, 4201, 7590.2, 8538, 12518, 19556, 19599, 19605.7, 25350, 25503.6, and 25608 of, to amend and renumber Sections 1626.5, 7588.2, and 17550.42 of, to repeal Sections 125.3, 1917.2, 4945, 5082.5, 5095, 7000.6, 17530.6, and 18897.8 of, and to repeal the heading of Article 3.5 (commencing with Section 316) of Chapter 4 of Division 1 of, the Business and Professions Code, to amend Sections 51, 56.36, 3486, 5910, and 5915 of, to repeal Sections 1936.5, 2923.55, 2924.19, 2924.20, and 2934a of, and to repeal Title 17 (commencing with Section 3272) of Part 4 of Division 3 of, the Civil Code, to amend ~~Section~~ Sections 398, 629, 1277, and 2030.010 of, to repeal Section 116.222 of, to repeal the heading of Article 5 (commencing with Section 142) of Chapter 6 of Title 1 of Part 1 of, and to repeal the heading of Chapter 1 (commencing with Section 156) of Title 2 of Part 1 of, the Code of Civil Procedure, to amend Section 9321.1 of, and to amend the heading of Part 6 (commencing with Section 3601) of Division 3 of, the Commercial Code, to amend Sections 5047, 25620, 31116, 31121, and 31158 of, and to amend and renumber Section 12637 of, the Corporations Code, to amend Sections 1313, 2575, 2577, 8261, 8273.1, 8363.1, 8450, 8483.55, 8490.1, 9004, 17199.4, 17592.74, 32282, 35035, 35735.1, 41020, 42127, 42238.15, 42800, 44252, 44277, 44932, 44939, 44940, 44944, 44944.05, 44944.3, 46116, 47605, 47605.1, 47605.6, 47614.5, 47651, 48003, 48297, 48321, 48900.9, 49452.9, 51747.3, 52064.5, 52852, 66281.7, 67386, 69437, 70022, 70037, 76030, 78261.5, 82542, 87782, 87784.5, 88207.5, 89005, 89295, 89500.7, 89770, 92611.7, 92675, 94143, 94145.5, and 94880 of, to

amend and renumber Sections 38047.5, 38047.6, 39672, 41207.3, and 66261.5 of, to amend and renumber the heading of Article 7 (commencing with Section 66080) of Chapter 2 of Part 40 of Division 5 of Title 3 of, to amend and renumber the heading of Chapter 11 (commencing with Section 19900) of Part 11 of Division 1 of Title 1 of, to repeal Sections 8350.5 and 41851.1 of, to repeal the heading of Article 2 (commencing with Section 12210) of Chapter 2 of Part 8 of Division 1 of Title 1 of, to repeal the heading of Article 1 (commencing with Section 32200) of Chapter 2 of Part 19 of Division 1 of Title 1 of, to repeal the heading of Article 7 (commencing with Section 33390) of Chapter 3 of Part 20 of Division 2 of Title 2 of, to repeal the headings of Article 3 (commencing with Section 46330) and Article 4 (commencing with Section 46340) of Chapter 3 of Part 26 of Division 4 of Title 2 of, to repeal the heading of Article 2 (commencing with Section 48810) of Chapter 5 of Part 27 of Division 4 of Title 2 of, to repeal the heading of Article 8 (commencing with Section 54750) of Chapter 9 of Part 29 of Division 4 of Title 2 of, to repeal the heading of Article 7 (commencing with Section 68090) of Chapter 1 of Part 41 of Division 5 of Title 3 of, to repeal the heading of Article 3 (commencing with Section 72632) of Chapter 6 of Part 45 of Division 7 of Title 3 of, to repeal the heading of Article 8 (commencing with Section 78310) of Chapter 2 of Part 48 of Division 7 of Title 3 of, to repeal the heading of Article 3 (commencing with Section 78440) of Chapter 3 of Part 48 of Division 7 of Title 3 of, to repeal the heading of Article 4 (commencing with Section 82360) of Chapter 7 of Part 49 of Division 7 of Title 3 of, to repeal the heading of Article 1 (commencing with Section 84300) of Chapter 3 of Part 50 of Division 7 of Title 3 of, to repeal the heading of Article 2 (commencing with Section 85210) of Chapter 8 of Part 50 of Division 7 of Title 3 of, to repeal the heading of Chapter 3 (commencing with Section 37400) of Part 22 of Division 3 of Title 2 of, to repeal the heading of Chapter 14 (commencing with Section 52980) of Part 28 of Division 4 of Title 2 of, to repeal the heading of Chapter 8.5 (commencing with Section 56867) of Part 30 of Division 4 of Title 2 of, to repeal the heading of Chapter 4 (commencing with Section 78600) of Part 48 of Division 7 of Title 3 of, to repeal Chapter 17 (commencing with Section 11600) of Part 7 of Division 1 of Title 1 of, and to repeal and amend Section 32289 of, the Education Code, to amend Sections ~~2150, 2157, and 8040~~ *2150 and 2157* of the Elections Code, to amend Sections 6203, 6301, ~~7613.5~~, 8712, 8811, and 8908 of, to amend and renumber Section 3201

of, to repeal Sections 3690 and 4051 of, and to repeal the heading of Article 3 (commencing with Section 3780) of Chapter 7 of Part 1 of Division 9 of, the Family Code, to amend Sections 12201, 17201, 22066, 22101, 23005, and 32208 of, to amend and renumber Section 23015 of, to repeal Section 24058 of, to repeal the headings of Article 1 (commencing with Section 32700) and Article 2 (commencing with Section 32710) of Chapter 6 of Division 15.5 of, and to repeal the heading of Chapter 8 (commencing with Section 50601) of Division 20 of, the Financial Code, to amend Sections 1652, 1653, 1654, 1745.2, and 12002 of the Fish and Game Code, to amend Sections 6045, 6047.9, 12996, 12999.5, 13186.5, 19227, and 78579 of, to amend and renumber the heading of Article 5 (commencing with Section 491) of Chapter 3 of Part 1 of Division 1 of, and to repeal Sections 55462 and 77103 of, the Food and Agricultural Code, to amend Sections 6254, 6276.22, 6700, 8753.6, 11146.2, 13956, 15155, 15814.22, 16183, 17581.6, 18720.45, 27491, 53398.52, 53398.75, 56378, 65352.5, 65583.2, 65995.7, 75070, 75521, 82015, and 95014 of, to amend and renumber Sections 13994, 13994.1, 13994.2, 13994.3, 13994.4, 13994.5, 13994.6, 13994.7, 13994.8, 13994.9, 13994.10, 13994.11, 13994.12, 14670.2, 22960.51, 31685.96, 53216.8, and 65080.1 of, to amend and renumber the heading of Chapter 14 (commencing with Section 5970) of Division 6 of Title 1, to amend and renumber *the heading of* Article 6 (commencing with Section 12099) of Chapter 1.6 of Part 2 of Division 3 of Title 2, to amend and renumber *the heading of* Article 18 (commencing with Section 14717) of Chapter 2 of Part 5.5 of Division 3 of Title 2 of, to repeal Sections 4420.5, 12804, 13312, 14254.5, 14829.2, 19995.5, and 43009 of, to repeal the heading of Article 8.5 (commencing with Section 8601) of Chapter 7 of Division 1 of Title 2 of, to repeal the heading of Article 8 (commencing with Section 11351) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of, to repeal the heading of Article 1 (commencing with Section 11370) of Chapter 4 of Part 1 of Division 3 of Title 2 of, to repeal the heading of Article 7 (commencing with Section 13968) of Chapter 5 of Part 4 of Division 3 of Title 2 of, to repeal the heading of Article 2 (commencing with Section 72054) of Chapter 8 of Title 8 of, to repeal the heading of Article 4 (commencing with Section 72150) of Chapter 8 of Title 8 of, to repeal the heading of Chapter 3 (commencing with Section 980) of Part 5 of Division 3.6 of Title 1 of, to repeal the heading of Chapter 4 (commencing with Section 14730) of Part 5.5 of Division 3 of Title 2 of, to repeal the heading of Chapter 5.5 (commencing with Section

19994.20) of Part 2.6 of Division 5 of Title 2 of, to repeal the heading of Chapter 10 (commencing with Section 95030) of Title 14 of, and to repeal Article 12 (commencing with Section 16429.30) of Chapter 2 of Part 2 of Division 4 of Title 2 of, the Government Code, to amend Sections 678.3, 1159.2, and 6087 of, and to repeal Section 1159.1 of, the Harbors and Navigation Code, to amend Sections 442.5, 1255, 1347.5, 1357.504, 1358.18, 1367.004, 1367.035, 1367.25, 1368.05, 1389.4, 1389.5, 1389.7, 1399.836, 1399.855, 1502, 1522, 1534, 1546.1, 1546.2, 1562, 1567.62, 1567.69, 1568.07, 1569.335, 1569.481, 1569.482, 1569.525, 1569.682, 1597.58, 1635.1, 1796.17, 1796.23, 1796.25, 1796.26, 1796.29, 1796.34, 1796.37, 1796.38, 1796.41, 1796.44, 1796.45, 4730.65, 7158.3, 16500, 25163.3, 25262, 25507.2, 33492.78, 34177, 39945, 42301.16, 50561, 51505, 101661, 101850, 101853, 101853.1, 101855, 101855.1, 102430, 102825, 111825, 115880, 119316, 120262, 120393, 121025, 123223, 124995, 125125, 125130, 125160, 125175, 125190, 125191, 130060, and 136000 of, to amend the heading of Chapter 2 (commencing with Section 104145) of Part 1 of Division 103 of, to amend the heading of Part 8 (commencing with Section 125700) of Division 106 of, to amend and renumber Sections 1339.9, 1531.2, 1568.0823, 4766.5, 13143.5, 25997, 25997.1, and 120155 of, to amend and renumber the heading of Chapter 3 (commencing with Section 16500) of Division 12.5 of, to amend and renumber the heading of Article 5.5 (commencing with Section ~~25159~~ 25159.10) of Chapter 6.5 of Division 20 of, to amend and renumber the heading of Article 4 (commencing with Section 128454) of Chapter 5 of Part 3 of Division 107 of, to repeal Sections 1317.5, 1367.20, 1371.36, 1371.37, 1371.38, 1371.39, 8650.5, 44246, 44525.5, 44525.7, and 116283 of, to repeal the heading of Article 2.6 (commencing with Section 1528) of Chapter 3 of Division 2 of, to repeal the heading of Article 3 (commencing with Section 11140) of Chapter 3 of Division 10 of, to repeal the heading of Article 2 (commencing with Section 11760.5) of Chapter 1 of Part 2 of Division 10.5 of, to repeal the heading of Article 6 (commencing with Section 11780) of Chapter 2 of Part 2 of Division 10.5 of, to repeal the heading of Article 8 (commencing with Section 25299.80) of Chapter 6.75 of Division 20 of, to repeal the heading of Article 12 (commencing with Section 25299.97) of Chapter 6.75 of Division 20 of, to repeal the heading of Article 5 (commencing with Section 101150) of Chapter 2 of Part 3 of Division 101 of, to repeal the heading of Chapter 3 (commencing with Section 101000) of Part 2 of Division 101 of, to repeal the heading of Chapter 4 (commencing

with Section ~~101500~~ 101325) of Part 3 of Division 101 of, to repeal Division 10.10 (commencing with Section 11999.30) of, to repeal Chapter 6 (commencing with Section 101860) of Part 4 of Division 101 of, to repeal Chapter 4 (commencing with Section 128200) of Part 3 of Division 107 of, and to repeal and amend Sections 25299.97 and 116612 of, the Health and Safety Code, to amend Sections 926.1, 926.2, 1215.8, 10112.26, 10112.35, 10123.196, 10192.18, 10753.06.5, and 12880.4 of, to amend and renumber Section 10123.21 of, and to repeal the heading of Chapter 17 (commencing with Section 12693.99) of Part 6.2 of Division 2 of, the Insurance Code, to amend Sections 1019, 1311.5, 1741.1, 5406, 6319, 6404.5, 6625, and 7873 of the Labor Code, to amend Sections 19.8, 132.5, 264.2, 295.2, 308, 602, 626.9, 814, 830.14, 1191.15, 2905, 3016, 3043, 3063.1, 3440, 3502, 4501, 4852.08, 4852.11, 4852.12, 4852.14, 4852.18, 13510.5, 18115, 18150, 18155, 18175, 27210, and 30625 of, to amend and renumber Sections 300.2 and 13980 of, to amend and renumber the heading of Chapter 5a (commencing with Section 852) of Title 3 of Part 2 of, to repeal Section 11105.5 of, and to repeal the heading of Title 6.7 (commencing with Section 13990) of Part 4 of, the Penal Code, to repeal the heading of Part 14 (commencing with Section 900) of Division 2 of, and to repeal the heading of Article 1 (commencing with Section 7200) of Chapter 3 of Part 1 of Division 7 of, the Probate Code, to amend ~~Section~~ Sections 6100, 6101, and 20427 of, and to repeal Section 10299 of, the Public Contract Code, to amend Sections 541.5, 4598.1, 4598.6, 4598.7, 5080.16, 14591.2, 21082.3, 30103, 42356, 42649.82, 42987, 42987.1, 42989.1, 44107, and 75220 of, to amend and renumber Sections 5096.955 and 21080.35 of, to repeal Section 6217.2 of, to repeal the heading of Chapter 6 (commencing with Section 12292) of Division 10.5 of, and to repeal Chapter 1 (commencing with Section 32600) of Division 22.8 of, the Public Resources Code, to amend Sections 765, 960, and 120260 of, to amend and renumber Section 5384.2 of, to repeal Sections 957, 125450, and 125500 of, and to repeal the heading of Article 5 (commencing with Section 125300) of Chapter 4 of Division 11.5 of, the Public Utilities Code, to amend Sections 441, 17053.34, 17053.46, 17053.73, 17053.74, 17058, 17207.7, 17207.8, 17276.21, 18805, 18807, 18808, 19183, 19191, 19255, 23151, 23610.5, 23622.7, 23626, 23634, 23732, 24347.6, 24347.10, and 24416.21 of, to amend and renumber Sections 17141, 17276.20, 24355.4, 24416.20, 32432, 40069, 45752, and 55262 of, to amend and renumber the heading of Part 5.5 (commencing with Section 11151) of Division 2 of, to repeal

Sections 54, 196.91, 196.92, 6051.7, 17132.6, 17155, 17507.6, 17565, 18407, 24661.3, 24685.5, and 24989 of, to repeal the heading of Article 1.5 (commencing with Section 7063) of Chapter 8 of Part 1 of Division 2 of, to repeal the heading of Article 3 (commencing with Section 23571) of Chapter 3 of Part 11 of Division 2 of, to repeal the heading of Chapter 10.5 (commencing with Section 17940) of Part 10 of Division 2 of, and to repeal Chapter 3.5 (commencing with Section 7288.1) of Part 1.7 of Division 2 of, and to repeal Chapter 9.5 (commencing with Section 19778) of Part 10.2 of Division 2 of, the Revenue and Taxation Code, to amend Section 2192 of, to amend and renumber Section 5132.1 of, to repeal the heading of Article 6.5 (commencing with Section 217) of Chapter 1 of Division 1 of, and to repeal the heading of Division 6 (commencing with Section 4000) of, the Streets and Highways Code, to amend Sections 125.4, 135, 605, 634.5, 710.6, 802, 803, 804, 1086, 1119, 1128.1, 1141.1, 1145, 1253.92, 1326.5, 1735.1, 3655, and 14013 of the Unemployment Insurance Code, to amend Sections 2480, 5156.7, 12801, 12801.9, 15210, 34500, 35401.7, and 40303.5 of, to repeal and amend Sections 612 and 2501 of, to repeal Sections 241, 241.1, 1803.5, 1808.7, and 42002.1 of, to repeal the heading of Article 1.7 (commencing with Section 23145) of Chapter 12 of Division 11 of, and to repeal Chapter 5 (commencing with Section 10900) of Division 4 of, the Vehicle Code, to amend Sections 9650, 10725.8, 10735.2, 20560.2, 37921, 37954, and 73502 of, to amend and renumber Sections 12938.2 and 21065 of, to repeal Sections 8612, 8613, 12585.12, 13272.1, and 21562.5 of, to repeal the heading of Article 5 (commencing with Section 36459) of Chapter 6 of Part 6 of Division 13 of, to repeal the heading of Article 1 (commencing with Section 42500) of Chapter 3 of Part 5 of Division 14 of, and to repeal Article 2 (commencing with Section 8580) of Chapter 2 of Part 4 of Division 5 of, to repeal Part 8 (commencing with Section 9650) of Division 5 of, the Water Code, to amend Sections 213.5, 258, 300, 319, 361.2, 391, 1767, 1984, 4142, 4144, 4512, 4520, 4520.5, 4521, 4540, 4541, 4648, 4903, 5328.15, 5840.2, 5892.5, 10104, 11253.5, 11325.24, 11363, 11403, 11460, 11461.3, 11477, 12300.4, 12300.41, 12301.1, 14005.271, 14011.10, 14021.6, 14022, 14029.91, 14105.18, 14124.24, 14132.277, 14148.67, 14154, 14165.50, 14166.22, 15151, 15655, 15862, 15885.5, 15894.5, 16120, 16500.5, 16524.7, 16524.8, 16524.9, 17603, 18901.2, and 18901.11 of, to amend the heading of Article 8 (commencing with Section 5869) of Chapter 1 of Part 4 of Division 5 of, to amend and renumber Sections 9757.5, 14005.75, 14011.2, 14132.99, 14148.9,

16513, and 16517 of, to amend and renumber the heading of Chapter 6 (commencing with Section 17500) of Part 5 of Division 9 of, to amend and renumber the heading of Chapter 4.5 (commencing with Section 18260) of Part 6 of Division 9 of, to add the heading of Article 1 (commencing with Section 6331) to Chapter 2 of Part 2 of Division 6 of, to add the heading of Article 5.22 (commencing with Section 14167.35) to Chapter 7 of Part 3 of Division 9 of, to repeal Sections 14103, 14105.336, 14105.337, and 14132.90 of, to repeal the heading of Article 2.93 (commencing with Section 14091.3) of Chapter 7 of Part 3 of Division 9 of, to repeal the heading of Chapter 7 (commencing with Section 16997.1) of Part 4.7 of Division 9 of, and to repeal and amend Section 12104 of, the Welfare and Institutions Code, to amend Section 25 of Chapter 279 of the Statutes of 2005, to amend Section 1 of Chapter 15 of the Statutes of 2014, and to amend Section 1 of Chapter 243 of the Statutes of 2014, relating to the maintenance of the codes.

LEGISLATIVE COUNSEL’S DIGEST

AB 731, as amended, Gallagher. Maintenance of the codes.

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

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

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

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

- 1 SECTION 1. Section 125.3 of the Business and Professions
- 2 Code, as added by Section 1 of Chapter 1059 of the Statutes of
- 3 1992, is repealed.
- 4 SEC. 2. The heading of Article 3.5 (commencing with Section
- 5 316) of Chapter 4 of Division 1 of the Business and Professions
- 6 Code is repealed.
- 7 SEC. 3. Section 1626.5 of the Business and Professions Code,
- 8 as added by Section 6 of Chapter 655 of the Statutes of 1999, is
- 9 amended and renumbered to read:
- 10 1626.1. In addition to the exemptions set forth in Section 1626,
- 11 the operations by bona fide students of registered dental assisting,

1 registered dental assisting in extended functions, and registered
 2 dental hygiene in extended functions in the clinical departments
 3 or the laboratory of an educational program or school approved
 4 by the board, including operations by unlicensed students while
 5 engaged in clinical externship programs that have been approved
 6 by an approved educational program or school, and that are under
 7 the general programmatic and academic supervision of that
 8 educational program or school, are exempt from the operation of
 9 this chapter.

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

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

14 4115. (a) A pharmacy technician may perform packaging,
 15 manipulative, repetitive, or other nondiscretionary tasks only while
 16 assisting, and while under the direct supervision and control of, a
 17 pharmacist. The pharmacist shall be responsible for the duties
 18 performed under his or her supervision by a technician.

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

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

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

30 (e) A person shall not act as a pharmacy technician without first
 31 being licensed by the board as a pharmacy technician.

32 (f) (1) A pharmacy with only one pharmacist shall have no
 33 more than one pharmacy technician performing the tasks specified
 34 in subdivision (a). The ratio of pharmacy technicians performing
 35 the tasks specified in subdivision (a) to any additional pharmacist
 36 shall not exceed 2:1, except that this ratio shall not apply to
 37 personnel performing clerical functions pursuant to Section 4116
 38 or 4117. This ratio is applicable to all practice settings, except for
 39 an inpatient of a licensed health facility, a patient of a licensed
 40 home health agency, as specified in paragraph (2), an inmate of a

1 correctional facility of the Department of Corrections and
2 Rehabilitation, and for a person receiving treatment in a facility
3 operated by the State Department of State Hospitals, the State
4 Department of Developmental Services, or the Department of
5 Veterans Affairs.

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

16 (3) A pharmacist scheduled to supervise a second pharmacy
17 technician may refuse to supervise a second pharmacy technician
18 if the pharmacist determines, in the exercise of his or her
19 professional judgment, that permitting the second pharmacy
20 technician to be on duty would interfere with the effective
21 performance of the pharmacist's responsibilities under this chapter.
22 A pharmacist assigned to supervise a second pharmacy technician
23 shall notify the pharmacist in charge in writing of his or her
24 determination, specifying the circumstances of concern with respect
25 to the pharmacy or the pharmacy technician that have led to the
26 determination, within a reasonable period, but not to exceed 24
27 hours, after the posting of the relevant schedule. An entity
28 employing a pharmacist shall not discharge, discipline, or otherwise
29 discriminate against any pharmacist in the terms and conditions
30 of employment for exercising or attempting to exercise in good
31 faith the right established pursuant to this paragraph.

32 (g) Notwithstanding subdivisions (a) and (b), the board shall
33 by regulation establish conditions to permit the temporary absence
34 of a pharmacist for breaks and lunch periods pursuant to Section
35 512 of the Labor Code and the orders of the Industrial Welfare
36 Commission without closing the pharmacy. During these temporary
37 absences, a pharmacy technician may, at the discretion of the
38 pharmacist, remain in the pharmacy but may only perform
39 nondiscretionary tasks. The pharmacist shall be responsible for a
40 pharmacy technician and shall review any task performed by a

1 pharmacy technician during the pharmacist's temporary absence.
2 This subdivision shall not be construed to authorize a pharmacist
3 to supervise pharmacy technicians in greater ratios than those
4 described in subdivision (f).

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

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

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

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

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

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

22 4120. (a) A nonresident pharmacy shall not sell or distribute
23 dangerous drugs or dangerous devices in this state through any
24 person or media, other than a wholesaler or third-party logistics
25 provider who has obtained a license pursuant to this chapter or
26 through a selling or distribution outlet that is licensed as a
27 wholesaler or third-party logistics provider pursuant to this chapter,
28 without registering as a nonresident pharmacy.

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

33 (c) The Legislature, by enacting this section, does not intend a
34 license issued to any nonresident pharmacy pursuant to this section
35 to change or affect the tax liability imposed by Chapter 3
36 (commencing with Section 23501) of Part 11 of Division 2 of the
37 Revenue and Taxation Code on any nonresident pharmacy.

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

1 to serve as any evidence that the nonresident pharmacy is doing
2 business within this state.

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

5 4201. (a) Each application to conduct a pharmacy, wholesaler,
6 third-party logistics provider, or veterinary food-animal drug
7 retailer shall be made on a form furnished by the board and shall
8 state the name, address, usual occupation, and professional
9 qualifications, if any, of the applicant. If the applicant is other than
10 a natural person, the application shall state the information as to
11 each person beneficially interested therein.

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

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

16 (2) If the applicant is a corporation, each of its officers, directors,
17 and stockholders, provided that a natural person shall not be
18 deemed to be beneficially interested in a nonprofit corporation.

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

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

32 (d) The application shall contain a statement to the effect that
33 the applicant has not been convicted of a felony and has not
34 violated any of the provisions of this chapter. If the applicant
35 cannot make this statement, the application shall contain a
36 statement of the violation, if any, or reasons which will prevent
37 the applicant from being able to comply with the requirements
38 with respect to the statement.

39 (e) Upon the approval of the application by the board and
40 payment of the fee required by this chapter for each pharmacy,

1 wholesaler, third-party logistics provider, or veterinary food-animal
2 drug retailer, the executive officer of the board shall issue a license
3 to conduct a pharmacy, wholesaler, third-party logistics provider,
4 or veterinary food-animal drug retailer if all of the provisions of
5 this chapter have been complied with.

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

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

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

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

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

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

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

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

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

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

1 7588.6. (a) A peace officer of this state or a political
2 subdivision thereof who engages in off-duty employment solely
3 and exclusively as a security guard or security officer, and who is
4 required to be registered as a security guard or security officer
5 pursuant to this chapter, shall only be subject to the fees required
6 by subdivision (h) of Section 7588.

7 (b) A peace officer shall also be subject to the fees required by
8 paragraphs (1) and (2) of subdivision (i) of Section 7588 if the
9 peace officer carries or uses a firearm as part of the off-duty
10 employment and has not received approval of his or her primary
11 employer, as defined in paragraph (2) of subdivision (i) of Section
12 7583.9, to carry a firearm while working as a security guard or
13 security officer, and has not submitted verification of that approval
14 to the bureau pursuant to subdivision (i) of Section 7583.9.

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

17 7590.2. (a) An “alarm company operator” means a person
18 who, for any consideration whatsoever, engages in business or
19 accepts employment to install, maintain, alter, sell on premises,
20 monitor, or service alarm systems or who responds to alarm
21 systems except for any alarm agent. “Alarm company operator,”
22 includes any entity that is retained by a licensed alarm company
23 operator, a customer, or any other person or entity, to monitor one
24 or more alarm systems, whether or not the entity performs any
25 other duties within the definition of an alarm company operator.
26 The provisions of this chapter, to the extent that they can be made
27 applicable, shall be applicable to the duties and functions performed
28 in monitoring alarm systems.

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

35 (c) A person who is licensed, certified, or registered pursuant
36 to this chapter is exempt from locksmithing requirements, pursuant
37 to subdivision (e) of Section 6980.12, if the duties performed that
38 constitute locksmithing are performed in combination with the
39 installation, maintenance, moving, repairing, replacing, servicing,
40 or reconfiguration of an alarm system, as defined in subdivision

1 (n) of Section 7590.1, and limited to work on electronic locks or
2 access control devices that are controlled by an alarm system
3 control device, including the removal of existing hardware.

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

6 8538. (a) A registered structural pest control company shall
7 provide the owner, or owner’s agent, and tenant of the premises
8 for which the work is to be done with clear written notice which
9 contains the following statements and information using words
10 with common and everyday meaning:

11 (1) The pest to be controlled.

12 (2) The pesticide or pesticides proposed to be used and the active
13 ingredient or ingredients.

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

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

31 “For further information, contact any of the following: Your
32 Pest Control Company (telephone number); for Health
33 Questions—the County Health Department (telephone number);
34 for Application Information—the County Agricultural
35 Commissioner (telephone number), and for Regulatory
36 Information—the Structural Pest Control Board (telephone number
37 and address).”

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

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

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

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

11 (1) First-class or electronic mail, if an electronic mail address
12 has been provided.

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

14 (3) Personal delivery.

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

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

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

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

29 12518. A water submeter submitted to a sealer by an owner,
30 user, or operator for inspection and testing before its initial
31 installation that is found to be incorrect, as defined in subdivision
32 (d) of Section 12500, shall be marked with the words "Out of
33 Order," in accordance with Section 12506, and shall be returned
34 to a service agent only if both of the following conditions are met:

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

37 (b) The water submeter is not placed into service in California.

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

1 SEC. 17. Section 17550.42 of the Business and Professions
2 Code, as added by Section 11 of Chapter 196 of the Statutes of
3 2003, is amended and renumbered to read:

4 17550.42.5. (a) Within 30 days of the close of the fiscal year
5 or other reasonable period established by the board of directors,
6 the Travel Consumer Restitution Corporation shall make publicly
7 available a statement of the following information concerning the
8 most recently concluded fiscal year:

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

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

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

15 (4) The dollar balance in the restitution fund.

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

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

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

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

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

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

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

36 SEC. 18. Section 18897.8 of the Business and Professions
37 Code, as added by Section 2 of Chapter 857 of the Statutes of
38 1996, is repealed.

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

1 19556. (a) The distribution shall be made by the distributing
2 agent to beneficiaries qualified under this article. For purposes of
3 this article, a beneficiary shall be all of the following:

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

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

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

13 (4) Approved by the board.

14 (b) At least 30 percent of the distribution shall be made to
15 charities associated with the horse racing industry. In addition to
16 this 30 percent of the distribution, another 5 percent of the
17 distribution shall be paid to a welfare fund described in subdivision
18 (b) of Section 19641 and another 5 percent of the distribution shall
19 be paid to a nonprofit corporation, the primary purpose of which
20 is to assist horsemen and backstretch personnel who are being
21 affected adversely as a result of alcohol or substance abuse. A
22 beneficiary otherwise qualified under this section to receive charity
23 day net proceeds shall not be excluded on the basis that the
24 beneficiary provides charitable benefits to persons connected with
25 the care, training, and running of racehorses, except that this type
26 of beneficiary shall make an accounting to the board within one
27 calendar year of the date of receipt of any distribution.

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

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

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

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

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

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

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

18 19599. An association or fair may offer any form of parimutuel
19 wagering, as defined by regulations adopted by the board, or as
20 defined by Chapter 4, Pari-Mutuel Wagering, Model Rules of
21 Racing, as published by the Association of Racing Commissioners
22 International. The board may prohibit any form of parimutuel
23 wagering if it determines that the proposed wagering would
24 compromise the honesty and integrity of racing in the state. Each
25 racing association or fair shall include the types of conventional,
26 exotic, and other wagering it proposes to offer on its application
27 to conduct a horse racing meeting.

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

30 19605.7. The total percentage deducted from wagers at satellite
31 wagering facilities in the northern zone shall be the same as the
32 deductions for wagers at the racetrack where the racing meeting
33 is being conducted and shall be distributed as set forth in this
34 section. Amounts deducted under this section shall be distributed
35 as follows:

36 (a) (1) For thoroughbred meetings, 1.3 percent of the amount
37 handled by the satellite wagering facility on conventional and
38 exotic wagers shall be distributed to the racing association for
39 payment to the state as a license fee, 2 percent shall be distributed
40 to the satellite wagering facility as a commission for the right to

1 do business as a franchise, but not for the use of any real property,
2 0.54 percent shall be deposited with the official registering agency
3 pursuant to subdivision (a) of Section 19617.2 and shall thereafter
4 be distributed in accordance with subdivisions (b), (c), and (d) of
5 Section 19617.2, 0.033 percent shall be distributed to the Center
6 for Equine Health, and 0.067 percent shall be distributed to the
7 California Animal Health and Food Safety Laboratory, School of
8 Veterinary Medicine, University of California at Davis. It is the
9 intent of the Legislature that the 0.033 percent of funds distributed
10 to the Center for Equine Health shall supplement, and not supplant,
11 other funding sources.

12 (2) (A) In addition to the distributions specified in paragraph
13 (1), for thoroughbred meetings, an amount not to exceed 4 percent
14 of the amount handled by the satellite wagering facility on
15 conventional and exotic wagers shall be distributed to an
16 organization described in Section 19608.2 with the mutual consent
17 of the racing association, the organization representing the
18 horsemen participating in the meeting, and the board from January
19 1, 2010, until December 31, 2016. However, the amount shall not
20 be less than that specified in subparagraph (B), and any amount
21 greater than the amount specified in subparagraph (B) shall be
22 approved by the board for no more than 12 months at a time, and
23 only upon a determination by the board that the greater amount is
24 in the economic interest of thoroughbred racing.

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

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

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

38 (b) For harness, quarter horse, Appaloosa, Arabian, or mixed
39 breed meetings, 0.4 percent of the amount handled by the satellite
40 wagering facility on conventional and exotic wagers shall be

1 distributed to the racing association for payment to the state as a
2 license fee, for fair meetings, 1 percent of the amount handled by
3 the satellite wagering facility on conventional and exotic wagers
4 shall be distributed to the fair association for payment to the state
5 as a license fee, 2 percent shall be distributed to the satellite
6 wagering facility as a commission for the right to do business as
7 a franchise, but not for the use of any real property, and 6 percent
8 of the amount handled by the satellite wagering facility or the
9 amount of actual operating expenses, as determined by the board,
10 whichever is less, shall be distributed to an organization described
11 in Section 19608.2. In addition, in the case of quarter horses, 0.4
12 percent shall be deposited with the official registering agency
13 pursuant to subdivision (b) of Section 19617.7 and shall thereafter
14 be distributed in accordance with subdivisions (c), (d), and (e) of
15 Section 19617.7; in the case of Appaloosas, 0.4 percent shall be
16 deposited with the official registering agency pursuant to
17 subdivision (b) of Section 19617.9 and shall thereafter be
18 distributed in accordance with subdivisions (c), (d), and (e) of
19 Section 19617.9; in the case of Arabians, 0.4 percent shall be held
20 by the association to be deposited with the official registering
21 agency pursuant to Section 19617.8, and shall thereafter be
22 distributed in accordance with Section 19617.8; in the case of
23 standardbreds, 0.4 percent shall be distributed for the California
24 Standardbred Sires Stakes Program pursuant to Section 19619; in
25 the case of thoroughbreds, 0.48 percent shall be deposited with
26 the official registering agency pursuant to subdivision (a) of Section
27 19617.2 and shall thereafter be distributed in accordance with
28 subdivisions (b), (c), and (d) of Section 19617.2; 0.033 percent
29 shall be distributed to the Center for Equine Health; and 0.067
30 percent shall be distributed to the California Animal Health and
31 Food Safety Laboratory, School of Veterinary Medicine, University
32 of California at Davis. It is the intent of the Legislature that the
33 0.033 percent of funds distributed to the Center for Equine Health
34 shall supplement, and not supplant, other funding sources.

35 (c) In addition to the distributions specified in subdivisions (a)
36 and (b), for mixed breed meetings, 1 percent of the total amount
37 handled by each satellite wagering facility shall be distributed to
38 an organization described in Section 19608.2 for promotion of the
39 program at satellite wagering facilities. For harness meetings, 0.5
40 percent of the total amount handled by each satellite wagering

1 facility shall be distributed to an organization described in Section
2 19608.2 for the promotion of the program at satellite wagering
3 facilities, and 0.5 percent of the total amount handled by each
4 satellite wagering facility shall be distributed according to a written
5 agreement for each race meeting between the licensed racing
6 association and the organization representing the horsemen
7 participating in the meeting. If, with respect to harness meetings,
8 there are funds unexpended from this 1 percent, these funds may
9 be expended for other purposes with the consent of the horsemen
10 and the racing association to benefit the horsemen, or the racing
11 association, or both, pursuant to their agreement. For quarter horse
12 meetings, 0.5 percent of the total amount handled by each satellite
13 wagering facility on races run in California shall be distributed to
14 an organization described in Section 19608.2 for the promotion
15 of the program at satellite wagering facilities, 0.5 percent of the
16 total amount handled by each satellite wagering facility on
17 out-of-state and out-of-country imported races shall be distributed
18 to the official quarter horse registering agency for the purposes of
19 Section 19617.75, and 0.5 percent of the total amount handled by
20 each satellite wagering facility on all races shall be distributed
21 according to a written agreement for each race meeting between
22 the licensed racing association and the organization representing
23 the horsemen participating in the meeting.

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

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

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

34 25350. The department may seize the following alcoholic
35 beverages:

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

39 (b) Beer and wine upon the sale of which the excise tax imposed
40 by Part 14 (commencing with Section 32001) of Division 2 of the

1 Revenue and Taxation Code has not been paid, regardless of where
2 found.

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

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

17 (e) Notwithstanding any other provision of this section, any
18 alcoholic beverage acquired, exchanged, purchased, sold, delivered,
19 or possessed in violation of Sections 23104.2, 23104.3, 23394,
20 23402, or Chapter 12 (commencing with Section 25000), except
21 that seizures under this subdivision shall be limited to the actual
22 package or case of alcoholic beverage acquired, exchanged,
23 purchased, sold, delivered, or possessed in violation of the
24 foregoing provisions. Any seizure under this subdivision shall not
25 exceed one hundred dollars (\$100) of alcoholic beverages at retail
26 price.

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

29 25503.6. (a) Notwithstanding any other provision of this
30 chapter, a beer manufacturer, the holder of a winegrower's license,
31 a distilled spirits rectifier, a distilled spirits manufacturer, or
32 distilled spirits manufacturer's agent may purchase advertising
33 space and time from, or on behalf of, an on-sale retail licensee
34 subject to all of the following conditions:

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

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

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

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

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

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

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

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

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

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

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

33 (K) An outdoor soccer stadium with a fixed seating capacity of
34 at least 25,000 seats, an outdoor tennis stadium with a fixed
35 capacity of at least 7,000 seats, an outdoor track and field facility
36 with a fixed seating capacity of at least 7,000 seats, and an indoor
37 velodrome with a fixed seating capacity of at least 2,000 seats, all
38 located within a sports and athletic complex built before January
39 1, 2005, within the City of Carson in Los Angeles County.

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

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

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

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

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

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

25 (4) The on-sale licensee serves other brands of beer distributed
26 by a competing beer wholesaler in addition to the brand
27 manufactured or marketed by the beer manufacturer, other brands
28 of wine distributed by a competing wine wholesaler in addition to
29 the brand produced by the winegrower, and other brands of distilled
30 spirits distributed by a competing distilled spirits wholesaler in
31 addition to the brand manufactured or marketed by the distilled
32 spirits rectifier, the distilled spirits manufacturer, or the distilled
33 spirits manufacturer's agent that purchased the advertising space
34 or time.

35 (b) Any purchase of advertising space or time pursuant to
36 subdivision (a) shall be conducted pursuant to a written contract
37 entered into by the beer manufacturer, the holder of the
38 winegrower's license, the distilled spirits rectifier, the distilled
39 spirits manufacturer, or the distilled spirits manufacturer's agent
40 and the on-sale licensee, or with respect to clause (ii) of

1 subparagraph (N) of paragraph (1) of subdivision (a), the major
2 tenant of the outdoor stadium.

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

16 (d) Any on-sale retail licensee, as described in subdivision (a),
17 who, directly or indirectly, solicits or coerces a holder of a
18 wholesaler's license to solicit a beer manufacturer, a holder of a
19 winegrower's license, a distilled spirits rectifier, a distilled spirits
20 manufacturer, or a distilled spirits manufacturer's agent to purchase
21 advertising space or time pursuant to subdivision (a) or (b) shall
22 be guilty of a misdemeanor and shall be punished by imprisonment
23 in the county jail not exceeding six months, or by a fine in an
24 amount equal to the entire value of the advertising space or time
25 involved in the contract, whichever is greater, plus ten thousand
26 dollars (\$10,000), or by both imprisonment and fine. The person
27 shall also be subject to license revocation pursuant to Section
28 24200.

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

33 SEC. 24. Section 25608 of the Business and Professions Code
34 is amended to read:

35 25608. (a) Every person who possesses, consumes, sells, gives,
36 or delivers to another person an alcoholic beverage in or on a public
37 schoolhouse or the grounds of the schoolhouse, is guilty of a
38 misdemeanor. This section does not, however, make it unlawful
39 for a person to acquire, possess, or use an alcoholic beverage in

1 or on a public schoolhouse, or on the grounds of the schoolhouse,
2 if any of the following applies:

3 (1) The alcoholic beverage possessed, consumed, or sold,
4 pursuant to a license obtained under this division, is wine that is
5 produced by a bonded winery owned or operated as part of an
6 instructional program in viticulture and enology.

7 (2) The alcoholic beverage is acquired, possessed, or used in
8 connection with a course of instruction given at the school and the
9 person has been authorized to acquire, possess, or use it by the
10 governing body or other administrative head of the school.

11 (3) The public schoolhouse is surplus school property and the
12 grounds of the schoolhouse are leased to a lessee that is a general
13 law city with a population of less than 50,000, or the public
14 schoolhouse is surplus school property and the grounds of the
15 schoolhouse are located in an unincorporated area and are leased
16 to a lessee that is a civic organization, and the property is to be
17 used for community center purposes and no public school education
18 is to be conducted on the property by either the lessor or the lessee
19 and the property is not being used by persons under the age of 21
20 years for recreational purposes at any time during which alcoholic
21 beverages are being sold or consumed on the premises.

22 (4) The alcoholic beverages are acquired, possessed, or used
23 during events at a college-owned or college-operated veterans
24 stadium with a capacity of over 12,000 people, located in a county
25 with a population of over 6,000,000 people. As used in this
26 paragraph, “events” mean football games sponsored by a college,
27 other than a public community college, or other events sponsored
28 by noncollege groups.

29 (5) The alcoholic beverages are acquired, possessed, or used
30 during an event not sponsored by any college at a performing arts
31 facility built on property owned by a community college district
32 and leased to a nonprofit organization that is a public benefit
33 corporation formed under Part 2 (commencing with Section 5110)
34 of Division 2 of Title 1 of the Corporations Code. As used in this
35 paragraph, “performing arts facility” means an auditorium with
36 more than 300 permanent seats.

37 (6) The alcoholic beverage is wine for sacramental or other
38 religious purposes and is used only during authorized religious
39 services held on or before January 1, 1995.

1 (7) The alcoholic beverages are acquired, possessed, or used
2 during an event at a community center owned by a community
3 services district or a city and the event is not held at a time when
4 students are attending a public school-sponsored activity at the
5 center.

6 (8) The alcoholic beverage is wine that is acquired, possessed,
7 or used during an event sponsored by a community college district
8 or an organization operated for the benefit of the community
9 college district where the college district maintains both an
10 instructional program in viticulture on no less than five acres of
11 land owned by the district and an instructional program in enology,
12 which includes sales and marketing.

13 (9) The alcoholic beverage is acquired, possessed, or used at a
14 professional minor league baseball game conducted at the stadium
15 of a community college located in a county with a population of
16 less than 250,000 inhabitants, and the baseball game is conducted
17 pursuant to a contract between the community college district and
18 a professional sports organization.

19 (10) The alcoholic beverages are acquired, possessed, or used
20 during events at a college-owned or college-operated stadium or
21 other facility. As used in this paragraph, “events” means fundraisers
22 held to benefit a nonprofit corporation that has obtained a license
23 pursuant to this division for the event. “Events” does not include
24 football games or other athletic contests sponsored by any college
25 or public community college. This paragraph does not apply to
26 any public education facility in which any grade from kindergarten
27 to grade 12, inclusive, is schooled.

28 (11) The alcoholic beverages are possessed, consumed, or sold,
29 pursuant to a license, permit, or authorization obtained under this
30 division, for an event held at an overnight retreat facility owned
31 and operated by a county office of education or a school district
32 at times when pupils are not on the grounds.

33 (12) The grounds of the public schoolhouse on which the
34 alcoholic beverage is acquired, possessed, used, or consumed is
35 property that has been developed and is used for residential
36 facilities or housing that is offered for rent, lease, or sale
37 exclusively to faculty or staff of a public school or community
38 college.

39 (13) The grounds of a public schoolhouse on which the alcoholic
40 beverage is acquired, possessed, used, or consumed is property of

1 a community college that is leased, licensed, or otherwise provided
2 for use as a water conservation demonstration garden and
3 community passive recreation resource by a joint powers agency
4 comprised of public agencies, including the community college,
5 and the event at which the alcoholic beverage is acquired,
6 possessed, used, or consumed is conducted pursuant to a written
7 policy adopted by the governing body of the joint powers agency
8 and no public funds are used for the purchase or provision of the
9 alcoholic beverage.

10 (14) The alcoholic beverage is beer or wine acquired, possessed,
11 used, sold, or consumed only in connection with a course of
12 instruction, sponsored dinner, or meal demonstration given as part
13 of a culinary arts program at a campus of a California community
14 college and the person has been authorized to acquire, possess,
15 use, sell, or consume the beer or wine by the governing body or
16 other administrative head of the school.

17 (15) The alcoholic beverages are possessed, consumed, or sold,
18 pursuant to a license or permit obtained under this division for
19 special events held at the facilities of a public community college
20 during the special event. As used in this paragraph, “special event”
21 means events that are held with the permission of the governing
22 board of the community college district that are festivals, shows,
23 private parties, concerts, theatrical productions, and other events
24 held on the premises of the public community college and for
25 which the principal attendees are members of the general public
26 or invited guests and not students of the public community college.

27 (16) The alcoholic beverages are acquired, possessed, or used
28 during an event at a community college-owned facility in which
29 any grade from kindergarten to grade 12, inclusive, is schooled,
30 if the event is held at a time when students in any grades from
31 kindergarten to grade 12, inclusive, are not present at the facility.
32 As used in this paragraph, “events” include fundraisers held to
33 benefit a nonprofit corporation that has obtained a license pursuant
34 to this division for the event.

35 (17) The alcoholic beverages are acquired, possessed, used, or
36 consumed pursuant to a license or permit obtained under this
37 division for special events held at facilities owned and operated
38 by an educational agency, a county office of education,
39 superintendent of schools, school district, or community college
40 district at a time when pupils are not on the grounds. As used in

1 this paragraph, “facilities” include, but are not limited to, office
2 complexes, conference centers, or retreat facilities.

3 (b) Any person convicted of a violation of this section shall, in
4 addition to the penalty imposed for the misdemeanor, be barred
5 from having or receiving any privilege of the use of public school
6 property that is accorded by Article 2 (commencing with Section
7 82537) of Chapter 8 of Part 49 of Division 7 of Title 3 the
8 Education Code.

9 *SEC. 25. Section 51 of the Civil Code is amended to read:*

10 51. (a) This section shall be known, and may be cited, as the
11 Unruh Civil Rights Act.

12 (b) All persons within the jurisdiction of this state are free and
13 equal, and no matter what their sex, race, color, religion, ancestry,
14 national origin, disability, medical condition, genetic information,
15 marital status, or sexual orientation are entitled to the full and equal
16 accommodations, advantages, facilities, privileges, or services in
17 all business establishments of every kind whatsoever.

18 (c) This section shall not be construed to confer any right or
19 privilege on a person that is conditioned or limited by law or that
20 is applicable alike to persons of every sex, color, race, religion,
21 ancestry, national origin, disability, medical condition, marital
22 status, or sexual orientation or to persons regardless of their genetic
23 information.

24 (d) Nothing in this section shall be construed to require any
25 construction, alteration, repair, structural or otherwise, or
26 modification of any sort whatsoever, beyond that construction,
27 alteration, repair, or modification that is otherwise required by
28 other provisions of law, to any new or existing establishment,
29 facility, building, improvement, or any other structure, nor shall
30 anything in this section be construed to augment, restrict, or alter
31 in any way the authority of the State Architect to require
32 construction, alteration, repair, or modifications that the State
33 Architect otherwise possesses pursuant to other laws.

34 (e) For purposes of this section:

35 (1) “Disability” means any mental or physical disability as
36 defined in Sections 12926 and 12926.1 of the Government Code.

37 (2) (A) “Genetic information” means, with respect to any
38 individual, information about any of the following:

39 (i) The individual’s genetic tests.

40 (ii) The genetic tests of family members of the individual.

1 (iii) The manifestation of a disease or disorder in family
2 members of the individual.

3 (B) “Genetic information” includes any request for, or receipt
4 of, genetic services, or participation in clinical research that
5 includes genetic services, by an individual or any family member
6 of the individual.

7 (C) “Genetic information” does not include information about
8 the sex or age of any individual.

9 (3) “Medical condition” has the same meaning as defined in
10 subdivision ~~(h)~~ (i) of Section 12926 of the Government Code.

11 (4) “Religion” includes all aspects of religious belief,
12 observance, and practice.

13 (5) “Sex” includes, but is not limited to, pregnancy, childbirth,
14 or medical conditions related to pregnancy or childbirth. “Sex”
15 also includes, but is not limited to, a person’s gender. “Gender”
16 means sex, and includes a person’s gender identity and gender
17 expression. “Gender expression” means a person’s gender-related
18 appearance and behavior whether or not stereotypically associated
19 with the person’s assigned sex at birth.

20 (6) “Sex, race, color, religion, ancestry, national origin,
21 disability, medical condition, genetic information, marital status,
22 or sexual orientation” includes a perception that the person has
23 any particular characteristic or characteristics within the listed
24 categories or that the person is associated with a person who has,
25 or is perceived to have, any particular characteristic or
26 characteristics within the listed categories.

27 (7) “Sexual orientation” has the same meaning as defined in
28 subdivision ~~(r)~~ (s) of Section 12926 of the Government Code.

29 (f) A violation of the right of any individual under the federal
30 Americans with Disabilities Act of 1990 (P.L. 101-336) shall also
31 constitute a violation of this section.

32 ~~SEC. 25.~~

33 *SEC. 26.* Section 56.36 of the Civil Code is amended to read:
34 56.36. (a) A violation of the provisions of this part that results
35 in economic loss or personal injury to a patient is punishable as a
36 misdemeanor.

37 (b) In addition to any other remedies available at law, an
38 individual may bring an action against a person or entity who has
39 negligently released confidential information or records concerning

1 him or her in violation of this part, for either or both of the
2 following:

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

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

9 (c) (1) In addition, a person or entity that negligently discloses
10 medical information in violation of the provisions of this part shall
11 also be liable, irrespective of the amount of damages suffered by
12 the patient as a result of that violation, for an administrative fine
13 or civil penalty not to exceed two thousand five hundred dollars
14 (\$2,500) per violation.

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

20 (B) A licensed health care professional who knowingly and
21 willfully obtains, discloses, or uses medical information in violation
22 of this part shall be liable on a first violation for an administrative
23 fine or civil penalty not to exceed two thousand five hundred
24 dollars (\$2,500) per violation, on a second violation for an
25 administrative fine or civil penalty not to exceed ten thousand
26 dollars (\$10,000) per violation, or on a third and subsequent
27 violation for an administrative fine or civil penalty not to exceed
28 twenty-five thousand dollars (\$25,000) per violation. This
29 subdivision shall not be construed to limit the liability of a health
30 care service plan, a contractor, or a provider of health care that is
31 not a licensed health care professional for a violation of this part.

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

39 (B) A licensed health care professional who knowingly and
40 willfully obtains, discloses, or uses medical information in violation

1 of this part for financial gain shall be liable on a first violation for
2 an administrative fine or civil penalty not to exceed five thousand
3 dollars (\$5,000) per violation, on a second violation for an
4 administrative fine or civil penalty not to exceed twenty-five
5 thousand dollars (\$25,000) per violation, or on a third and
6 subsequent violation for an administrative fine or civil penalty not
7 to exceed two hundred fifty thousand dollars (\$250,000) per
8 violation and shall also be subject to disgorgement of any proceeds
9 or other consideration obtained as a result of the violation. This
10 subdivision shall not be construed to limit the liability of a health
11 care service plan, a contractor, or a provider of health care that is
12 not a licensed health care professional for any violation of this
13 part.

14 (4) This subdivision shall not be construed as authorizing an
15 administrative fine or civil penalty under both paragraphs (2) and
16 (3) for the same violation.

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

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

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

30 (2) The nature and seriousness of the misconduct.

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

32 (4) The number of violations.

33 (5) The persistence of the misconduct.

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

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

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

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

1 award any actual damages and reasonable attorney’s fees and costs,
2 but shall not award nominal damages for a violation of this part.

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

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

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

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

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

20 (E) The defendant took appropriate preventive actions to protect
21 the confidential information or records against release consistent
22 with the defendant’s obligations under this part or other applicable
23 state law and the Health Insurance Portability and Accountability
24 Act of 1996 (Public Law 104-191) (HIPAA) and all HIPAA
25 Administrative Simplification Regulations in effect on January 1,
26 2012, contained in Parts 160, 162, and 164 of Title 45 of the Code
27 of Federal Regulations, and Part 2 of Title 42 of the Code of
28 Federal Regulations, including, but not limited to, all of the
29 following:

30 (i) Developing and implementing security policies and
31 procedures.

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

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

39 (F) The defendant took reasonable and appropriate corrective
40 action after the release of the confidential information or records,

1 and the covered entity or business associate that received the
2 confidential information or records destroyed or returned the
3 confidential information or records in the most expedient time
4 possible and without unreasonable delay, consistent with any
5 measures necessary to determine the scope of the breach and restore
6 the reasonable integrity of the data system. A court may consider
7 this subparagraph to be established if the defendant shows in detail
8 that the covered entity or business associate could not destroy or
9 return the confidential information or records because of the
10 technology utilized.

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

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

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

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

30 (B) To the extent the court allows discovery to determine
31 whether there has been any other violation of this part that the
32 court will consider in balancing the equities, the defendant shall
33 not provide any medical information, as defined in Section 56.05.
34 The court, in its discretion, may enter a protective order prohibiting
35 the further use of any personal information, as defined in Section
36 1798.80, about the individual whose medical information may
37 have been disclosed in a prior violation.

38 (4) In an action under this subdivision in which the defendant
39 establishes the affirmative defense pursuant to paragraph (2), a
40 plaintiff shall be entitled to recover reasonable attorney's fees and

1 costs without regard to an award of actual or nominal damages or
2 the imposition of administrative fines or civil penalties.

3 (5) In an action brought by an individual pursuant to subdivision
4 (b) on or after January 1, 2013, in which the defendant establishes
5 the affirmative defense pursuant to paragraph (2), a defendant shall
6 not be liable for more than one judgment on the merits under this
7 subdivision for releases of confidential information or records
8 arising out of the same event, transaction, or occurrence.

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

13 (A) The Attorney General.

14 (B) A district attorney.

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

17 (D) A city attorney of a city.

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

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

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

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

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

1 (4) This section shall not be construed as authorizing both an
2 administrative fine and civil penalty for the same violation.

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

6 (6) Administrative fines or penalties issued pursuant to Section
7 1280.15 of the Health and Safety Code shall offset any other
8 administrative fine or civil penalty imposed under this section for
9 the same violation.

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

12 (h) A person who discloses protected medical information in
13 accordance with the provisions of this part is not subject to the
14 penalty provisions of this part.

15 ~~SEC. 26.~~

16 ~~SEC. 27.~~ Section 1936.5 of the Civil Code, as added by Section
17 1 of Chapter 406 of the Statutes of 2012, is repealed.

18 ~~SEC. 27.~~

19 ~~SEC. 28.~~ Section 2923.55 of the Civil Code, as amended by
20 Section 14 of Chapter 76 of the Statutes of 2013, is repealed.

21 ~~SEC. 28.~~

22 ~~SEC. 29.~~ Section 2924.19 of the Civil Code, as amended by
23 Section 10 of Chapter 401 of the Statutes of 2014, is repealed.

24 ~~SEC. 29.~~

25 ~~SEC. 30.~~ Section 2924.20 of the Civil Code, as amended by
26 Section 12 of Chapter 401 of the Statutes of 2014, is repealed.

27 ~~SEC. 30.~~

28 ~~SEC. 31.~~ Section 2934a of the Civil Code, as amended by
29 Section 1 of Chapter 839 of the Statutes of 1996, is repealed.

30 ~~SEC. 31.~~

31 ~~SEC. 32.~~ Title 17 (commencing with Section 3272) of Part 4
32 of Division 3 of the Civil Code, as added by Section 2 of Chapter
33 698 of the Statutes of 1999, is repealed.

34 ~~SEC. 32.~~

35 ~~SEC. 33.~~ Section 3486 of the Civil Code is amended to read:

36 3486. (a) To abate the nuisance caused by illegal conduct
37 involving a controlled substance purpose on real property, the city
38 prosecutor or city attorney may file, in the name of the people, an
39 action for unlawful detainer against any person who is in violation
40 of the nuisance or illegal purpose provisions of subdivision 4 of

1 Section 1161 of the Code of Civil Procedure, with respect to that
2 controlled substance purpose. In filing this action, which shall be
3 based upon an arrest report by a law enforcement agency, reporting
4 an offense committed on the property and documented by the
5 observations of a police officer, the city prosecutor or city attorney
6 shall use the procedures set forth in Chapter 4 (commencing with
7 Section 1159) of Title 3 of Part 3 of the Code of Civil Procedure,
8 except that in cases filed under this section, the following also
9 shall apply:

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

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

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

24 (i) The notice shall contain the following language:

25
26 “(Date)

27
28 (Name of tenant)
29 (Address of tenant)

30
31 Re: Civil Code Section 3486

32
33 Dear (name of tenant):

34
35 This letter is to inform you that an eviction action may soon be
36 filed in court against you for suspected drug activity. According
37 to state law, Civil Code Section 3486 provides for eviction of
38 persons engaging in such conduct, as described below.

39

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

4
5 A letter has been sent to the property owner(s) advising of your
6 arrest and the requirements of state law, as well as the landlord's
7 option to assign the unlawful detainer action to the (name of city
8 attorney or prosecutor's office).

9
10 A list of legal assistance providers is provided below. Please
11 note, this list is not exclusive and is provided for your information
12 only; the (name of city attorney or prosecutor's office) does not
13 endorse or recommend any of the listed agencies.

14
15 Sincerely,
16
17 (Name of deputy city attorney or city prosecutor)
18 Deputy City (Attorney or Prosecutor)

19
20 Notice to Tenant: This notice is not a notice of eviction. You
21 should call (name of the city attorney or prosecutor pursuing the
22 action) at (telephone number) or a legal assistance provider to stop
23 the eviction action if any of the following is applicable:

- 24 (1) You are not the person named in this notice.
- 25 (2) The person named in the notice does not live with you.
- 26 (3) The person named in the notice has permanently moved.
- 27 (4) You do not know the person named in the notice.
- 28 (5) You want to request that only the person involved in the
29 nuisance be evicted, allowing the other residents to stay.
- 30 (6) You have any other legal defense or legal reason to stop the
31 eviction action.

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

34
35 (ii) The notice shall be provided to the tenant in English and,
36 as translated, in all of the languages identified in subdivision (a)
37 of Section 1632 of the Civil Code.

38 (D) The owner shall, within 30 calendar days of the mailing of
39 the written notice, either provide the city prosecutor or city attorney
40 with all relevant information pertaining to the unlawful detainer

1 case, or provide a written explanation setting forth any
2 safety-related reasons for noncompliance, and an assignment to
3 the city prosecutor or city attorney of the right to bring an unlawful
4 detainer action against the tenant.

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

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

18 (2) Upon the failure of the owner to file an action pursuant to
19 this section, or to respond to the city prosecutor or city attorney
20 as provided in paragraph (1), or having filed an action, if the owner
21 fails to prosecute it diligently and in good faith, the city prosecutor
22 or city attorney may file and prosecute the action, and join the
23 owner as a defendant in the action. This action shall have
24 precedence over any similar proceeding thereafter brought by the
25 owner, or to one previously brought by the owner and not
26 prosecuted diligently and in good faith. Service of the summons
27 and complaint upon the defendant owner shall be in accordance
28 with Sections 415.10, 415.20, 415.30, 415.40, and 415.50 of the
29 Code of Civil Procedure.

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

38 (4) This section does not prevent a local governing body from
39 adopting and enforcing laws, consistent with this article, relating
40 to drug abatement. If local laws duplicate or supplement this

1 section, this section shall be construed as providing alternative
2 remedies and not preempting the field.

3 (5) This section does not prevent a tenant from receiving relief
4 against a forfeiture of a lease pursuant to Section 1179 of the Code
5 of Civil Procedure.

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

17 (c) For the purposes of this section, "controlled substance
18 purpose" means the manufacture, cultivation, importation into the
19 state, transportation, possession, possession for sale, sale,
20 furnishing, administering, or giving away, or providing a place to
21 use or fortification of a place involving, cocaine, phencyclidine,
22 heroin, methamphetamine, or any other controlled substance, in a
23 violation of subdivision (a) of Section 11350, Section 11351,
24 11351.5, 11352, or 11359, subdivision (a) of Section 11360, or
25 Section 11366, 11366.6, 11377, 11378, 11378.5, 11379, 11379.5,
26 11379.6, or 11383 of the Health and Safety Code.

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

31 (e) The notice and documentation described in paragraph (1)
32 of subdivision (a) shall be given in writing and may be given either
33 by personal delivery or by deposit in the United States mail in a
34 sealed envelope, postage prepaid, addressed to the owner at the
35 address known to the public entity giving the notice, or as shown
36 on the last equalized assessment roll, if not known. Separate notice
37 of not less than 30 calendar days and documentation shall be
38 provided to the tenant in accordance with this subdivision. Service
39 by mail shall be deemed to be completed at the time of deposit in
40 the United States mail. Proof of giving the notice may be made by

1 a declaration signed under penalty of perjury by any employee of
2 the public entity which shows service in conformity with this
3 section.

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

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

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

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

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

23 (3) If the grounds for a partial eviction have been established
24 pursuant to subdivision (b), the court shall order that those persons
25 be immediately removed and barred from the property, but the
26 court shall not order the tenancy be terminated.

27 (g) This section applies only in the County of Los Angeles to
28 a court having jurisdiction over unlawful detainer cases involving
29 real property situated in the City of Los Angeles.

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

39 ~~SEC. 33.~~

40 *SEC. 34.* Section 5910 of the Civil Code is amended to read:

1 5910. A fair, reasonable, and expeditious dispute resolution
2 procedure shall, at a minimum, satisfy all of the following
3 requirements:

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

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

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

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

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

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

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

27 ~~SEC. 34.~~

28 *SEC. 35.* Section 5915 of the Civil Code is amended to read:

29 5915. (a) This section applies to an association that does not
30 otherwise provide a fair, reasonable, and expeditious dispute
31 resolution procedure. The procedure provided in this section is
32 fair, reasonable, and expeditious within the meaning of this article.

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

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

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

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

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

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

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

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

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

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

19 ~~SEC. 35.~~

20 *SEC. 36.* Section 116.222 of the Code of Civil Procedure, as
21 added by Section 3 of Chapter 600 of the Statutes of 2005, is
22 repealed.

23 ~~SEC. 36.~~

24 *SEC. 37.* The heading of Article 5 (commencing with Section
25 142) of Chapter 6 of Title 1 of Part 1 of the Code of Civil
26 Procedure is repealed.

27 ~~SEC. 37.~~

28 *SEC. 38.* The heading of Chapter 1 (commencing with Section
29 156) of Title 2 of Part 1 of the Code of Civil Procedure is repealed.

30 ~~SEC. 38.~~

31 *SEC. 39.* Section 398 of the Code of Civil Procedure is
32 amended to read:

33 398. (a) If a court orders the transfer of an action or proceeding
34 for a cause specified in subdivisions (b), (c), and (d) of Section
35 397, the action or proceeding shall be transferred to a court having
36 jurisdiction of the subject matter of the action upon agreement of
37 the parties by stipulation in writing, or in open court and entered
38 in the minutes or docket. If the parties do not so agree, the action
39 or proceeding shall be transferred to the nearest or most accessible

1 court where the like objection or cause for making the order does
2 not exist.

3 (b) If an action or proceeding is commenced in a court other
4 than one designated as a proper court for the trial thereof by the
5 provisions of this title, and the same is ordered transferred for that
6 reason, the action or proceeding shall be transferred to a proper
7 court upon agreement of the parties by stipulation in writing, or
8 in open court and entered in the minutes or docket. If the parties
9 do not so agree, the action or proceeding shall be transferred to a
10 proper court in the county in which the action or proceeding was
11 commenced which the defendant may designate or, if there is no
12 proper court in that county, to a proper court, in a proper county,
13 designated by the defendant. If the defendant does not designate
14 the court as herein provided, or if the court orders the transfer of
15 an action on its own motion as provided in this title, the action or
16 proceeding shall be transferred to the proper court as determined
17 by the court in which the action or proceeding is pending.

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

22 ~~SEC. 39.~~

23 *SEC. 40.* Section 629 of the Code of Civil Procedure is
24 amended to read:

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

32 (b) A motion for judgment notwithstanding the verdict shall be
33 made within the period specified by Section 659 for the filing and
34 service of a notice of intention to move for a new trial. The moving,
35 opposing, and reply briefs and any accompanying documents shall
36 be filed and served within the periods specified by Section 659a,
37 and the hearing on the motion shall be set in the same manner as
38 the hearing on a motion for new trial under Section 660. The
39 making of a motion for judgment notwithstanding the verdict shall
40 not extend the time within which a party may file and serve notice

1 of intention to move for a new trial. The court shall not rule upon
2 the motion for judgment notwithstanding the verdict until the
3 expiration of the time within which a motion for a new trial must
4 be served and filed, and if a motion for a new trial has been filed
5 with the court by the aggrieved party, the court shall rule upon
6 both motions at the same time. The power of the court to rule on
7 a motion for judgment notwithstanding the verdict shall not extend
8 beyond the last date upon which it has the power to rule on a
9 motion for a new trial. If a motion for judgment notwithstanding
10 the verdict is not determined before that date, the effect shall be a
11 denial of that motion without further order of the court.

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

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

30 ~~SEC. 40.~~

31 *SEC. 41.* Section 1277 of the Code of Civil Procedure is
32 amended to read:

33 1277. (a) (1) If a proceeding for a change of name is
34 commenced by the filing of a petition, except as provided in
35 subdivisions (b), (c), and (e), the court shall thereupon make an
36 order reciting the filing of the petition, the name of the person by
37 whom it is filed, and the name proposed. The order shall direct all
38 persons interested in the matter to appear before the court at a time
39 and place specified, which shall be not less than 6 weeks nor more
40 than 12 weeks from the time of making the order, unless the court

1 orders a different time, to show cause why the application for
2 change of name should not be granted. The order shall direct all
3 persons interested in the matter to make known any objection that
4 they may have to the granting of the petition for change of name
5 by filing a written objection, which includes the reasons for the
6 objection, with the court at least two court days before the matter
7 is scheduled to be heard and by appearing in court at the hearing
8 to show cause why the petition for change of name should not be
9 granted. The order shall state that, if no written objection is timely
10 filed, the court may grant the petition without a hearing. If the
11 petition seeks to conform the petitioner's name to his or her gender
12 identity and no objection is timely filed, the court shall grant the
13 petition without a hearing.

14 (2) A copy of the order to show cause shall be published
15 pursuant to Section 6064 of the Government Code in a newspaper
16 of general circulation to be designated in the order published in
17 the county. If a newspaper of general circulation is not published
18 in the county, a copy of the order to show cause shall be posted
19 by the clerk of the court in three of the most public places in the
20 county in which the court is located, for a like period. Proof shall
21 be made to the satisfaction of the court of this publication or
22 posting at the time of the hearing of the application.

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

27 (4) If a petition has been filed for a minor by a parent and the
28 other parent, if living, does not join in consenting thereto, the
29 petitioner shall cause, not less than 30 days before the hearing, to
30 be served notice of the time and place of the hearing or a copy of
31 the order to show cause on the other parent pursuant to Section
32 413.10, 414.10, 415.10, or 415.40. If notice of the hearing cannot
33 reasonably be accomplished pursuant to Section 415.10 or 415.40,
34 the court may order that notice be given in a manner that the court
35 determines is reasonably calculated to give actual notice to the
36 nonconsenting parent. In that case, if the court determines that
37 notice by publication is reasonably calculated to give actual notice
38 to the nonconsenting parent, the court may determine that
39 publication of the order to show cause pursuant to this subdivision
40 is sufficient notice to the nonconsenting parent.

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

5 (b) (1) If the petition for a change of name alleges a reason or
6 circumstance described in paragraph (2), and the petitioner has
7 established that he or she is an active participant in the address
8 confidentiality program created pursuant to Chapter 3.1
9 (commencing with Section 6205) of Division 7 of Title 1 of the
10 Government Code, and that the name he or she is seeking to acquire
11 is on file with the Secretary of State, the action for a change of
12 name is exempt from the requirement for publication of the order
13 to show cause under subdivision (a), and the petition and the order
14 of the court shall, in lieu of reciting the proposed name, indicate
15 that the proposed name is confidential and is on file with the
16 Secretary of State pursuant to the provisions of the address
17 confidentiality program.

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

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

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

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

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

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

37 (5) A petitioner may request that the court file the petition and
38 any other papers associated with the proceeding under seal. The
39 court may consider the request at the same time as the petition for

1 name change, and may grant the request in any case in which the
2 court finds that all of the following factors apply:

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

5 (B) The overriding interest supports sealing the record.

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

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

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

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

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

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

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

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

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

1 ~~SEC. 41.~~

2 *SEC. 42.* Section 2030.010 of the Code of Civil Procedure is
3 amended to read:

4 2030.010. (a) Any party may obtain discovery within the scope
5 delimited by Chapter 2 (commencing with Section 2017.010), and
6 subject to the restrictions set forth in Chapter 5 (commencing with
7 Section 2019.010), by propounding to any other party to the action
8 written interrogatories to be answered under oath.

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

16 ~~SEC. 42.~~

17 *SEC. 43.* Section 9321.1 of the Commercial Code is amended
18 to read:

19 9321.1. A licensee of nonexclusive rights in a motion picture
20 that is produced pursuant to one or more collective bargaining
21 agreements governed by the laws of the United States takes its
22 nonexclusive license in that motion picture subject to any perfected
23 security interest securing the obligation to pay residuals as set forth
24 in the applicable collective bargaining agreement and arising from
25 exploitation under the license. The terms “motion picture” and
26 “residuals” have the meaning ascribed to those terms under the
27 applicable collective bargaining agreements.

28 ~~SEC. 43.~~

29 *SEC. 44.* The heading of Part 6 (commencing with Section
30 3601) of Division 3 of the Commercial Code is amended to read:

31

CHAPTER 6. DISCHARGE AND PAYMENT

32

33 ~~SEC. 44.~~

34 *SEC. 45.* Section 5047 of the Corporations Code is amended
35 to read:

36 5047. Except as otherwise expressly provided, “directors”
37 means natural persons, designated in the articles or bylaws or
38 elected by the incorporators, and their successors and natural
39 persons designated, elected, or appointed by any other name or
40

1 title to act as members of the governing body of the corporation.
2 If the articles or bylaws designate that a natural person is a director
3 or a member of the governing body of the corporation by reason
4 of occupying a specified position within the corporation or outside
5 the corporation, without limiting that person's right to vote as a
6 member of the governing body, that person shall be a director for
7 all purposes and shall have the same rights and obligations,
8 including voting rights, as the other directors. A person who does
9 not have authority to vote as a member of the governing body of
10 the corporation, is not a director as that term is used in this division
11 regardless of title.

12 ~~SEC. 45.~~

13 *SEC. 46.* Section 12637 of the Corporations Code, as added
14 by Section 54 of Chapter 589 of the Statutes of 1996, is amended
15 and renumbered to read:

16 12638. (a) A corporation in the process of winding up may
17 dispose of the known claims against it by following the procedure
18 described in this section.

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

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

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

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

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

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

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

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

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

1 ~~SEC. 46.~~

2 *SEC. 47.* Section 25620 of the Corporations Code is amended
3 to read:

4 25620. (a) Notwithstanding any other law, the commissioner
5 may by rule or order prescribe circumstances under which to accept
6 electronic records or electronic signatures. This section does not
7 require the commissioner to accept electronic records or electronic
8 signatures.

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

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

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

17 (B) A financial statement, report, or advertising.

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

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

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

26 (F) The transcripts of a hearing.

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

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

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

36 (c) The Legislature finds and declares that the Department of
37 Business Oversight has continuously implemented methods to
38 accept records filed electronically, including broker-dealer and
39 investment adviser applications, and is encouraged to continue to
40 expand its use of electronic filings to the extent feasible, as budget,

1 resources, and equipment are made available to accomplish that
2 goal.

3 ~~SEC. 47.~~

4 *SEC. 48.* Section 31116 of the Corporations Code is amended
5 to read:

6 31116. (a) Except as provided in subdivision (b), if no stop
7 order under Section 31115 is in effect under this law, registration
8 of the offer of franchises automatically becomes effective at 12
9 p.m., California time, of the 30th business day after the filing of
10 a complete application for registration or the last preeffective
11 amendment thereto, or at an earlier time that the commissioner
12 determines.

13 (b) With respect to any application for registration or the last
14 amendment thereto filed between January 1, 1971, and March 15,
15 1971, if no stop order under Section 31115 is in effect under this
16 law, registration becomes effective on April 15, 1971; with respect
17 to any application filed after March 15, 1971, and before May 10,
18 1971, if no stop order under Section 31115 is in effect under this
19 law, registration becomes effective on June 1, 1971, or the 15th
20 business day after the filing, whichever is the later, or at an earlier
21 time that the commissioner determines.

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

29 ~~SEC. 48.~~

30 *SEC. 49.* Section 31121 of the Corporations Code is amended
31 to read:

32 31121. (a) The registration may be renewed for additional
33 periods of one year each, unless the commissioner by rule or order
34 specifies a different period, by submitting to the commissioner a
35 renewal application before the expiration of the registration. If no
36 stop order or other order under Section 31115 is in effect under
37 this law, registration of the offer of the franchises automatically
38 becomes renewed effective at 12 p.m., California time, of the 30th
39 business day after the filing of a complete application for

1 registration or the last preeffective amendment or at an earlier time
2 that the commissioner determines.

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

10 ~~SEC. 49.~~

11 *SEC. 50.* Section 31158 of the Corporations Code is amended
12 to read:

13 31158. (a) Notwithstanding any other law, the commissioner
14 may by rule or order prescribe circumstances under which to accept
15 electronic records or electronic signatures. This section does not
16 require the commissioner to accept electronic records or electronic
17 signatures.

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

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

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

28 (B) A financial statement, report, or advertising.

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

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

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

35 (F) The transcripts of a hearing.

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

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

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

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

12 ~~SEC. 50.~~

13 *SEC. 51.* Section 1313 of the Education Code is amended to
14 read:

15 1313. Each county employee whose status is changed by this
16 article, and who is in employment and a member of a county
17 retirement system other than one provided by contract with the
18 Public Employees’ Retirement System on the date of the change,
19 shall become eligible for membership in the Public Employees’
20 Retirement System in accordance with the Public Employees’
21 Retirement Law with respect to his or her employment thereafter,
22 and shall be subject to the reciprocal benefits provided by said
23 systems; provided, that the employee may elect to continue in
24 membership of the county retirement system with respect to his
25 or her employment thereafter, in which event the same
26 appropriations and transfers of funds shall be made to the
27 retirement fund of the county system for the employee as those
28 required of the county under the county retirement law, and these
29 amounts shall be legal charges against the county school service
30 fund. The election authorized by this section shall be made no later
31 than the date preceding the date upon which his status is changed
32 in accordance with procedures to be established by the board of
33 supervisors, which shall allow at least 30 days to make the election.
34 The election once made shall not be rescinded. An employee who
35 does not elect to continue membership in the county system shall
36 be deemed to have discontinued county employment for purposes
37 of the county system at the close of the day preceding the date
38 upon which his status changes.

1 ~~SEC. 51.~~

2 *SEC. 52.* Section 2575 of the Education Code is amended to
3 read:

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

10 (1) Revenue limits in the 2012–13 fiscal year pursuant to Article
11 3 (commencing with Section 2550) of Chapter 12, as that article
12 read on January 1, 2013, adjusted only for changes in average daily
13 attendance claimed by the county superintendent of schools for
14 pupils identified in clauses (i), (ii), and (iii) of subparagraph (A)
15 of paragraph (4) of subdivision (c) of Section 2574 and for pupils
16 attending juvenile court schools. For purposes of this paragraph,
17 the calculation of an amount per unit of average daily attendance
18 for pupils attending juvenile court schools shall be considered final
19 for purposes of this section as of the annual apportionment for the
20 2012–13 fiscal year, as calculated for purposes of the certification
21 required on or before February 20, 2014, pursuant to Sections
22 41332 and 41339. All other average daily attendance claimed by
23 the county superintendent of schools and any other average daily
24 attendance used for purposes of calculating revenue limits pursuant
25 to Article 3 (commencing with Section 2550) of Chapter 12, as
26 that article read on January 1, 2013, shall be considered final for
27 purposes of this section as of the annual apportionment for the
28 2012–13 fiscal year, as calculated for purposes of the certification
29 required on or before February 20, 2014, pursuant to Sections
30 41332 and 41339.

31 (2) The sum of all of the following:

32 (A) The amount of funding received from appropriations
33 contained in Section 2.00 of the Budget Act of 2012, as adjusted
34 by Section 12.42, in the following items: 6110-104-0001,
35 6110-105-0001, 6110-107-0001, 6110-108-0001, 6110-111-0001,
36 6110-124-0001, 6110-128-0001, 6110-137-0001, 6110-144-0001,
37 6110-156-0001, 6110-181-0001, 6110-188-0001, 6110-189-0001,
38 6110-190-0001, 6110-193-0001, 6110-195-0001, 6110-198-0001,
39 6110-204-0001, 6110-208-0001, 6110-209-0001, 6110-211-0001,
40 6110-212-0001, 6110-227-0001, 6110-228-0001, 6110-232-0001,

1 6110-240-0001, 6110-242-0001, 6110-243-0001, 6110-244-0001,
 2 6110-245-0001, 6110-246-0001, 6110-247-0001, 6110-248-0001,
 3 6110-260-0001, 6110-265-0001, 6110-266-0001, 6110-267-0001,
 4 6110-268-0001, and 6360-101-0001, 2012–13 fiscal year funding
 5 for the Class Size Reduction Program pursuant to Chapter 6.10
 6 (commencing with Section 52120) of Part 28 of Division 4 of Title
 7 2, as that chapter read on January 1, 2013, and 2012–13 fiscal year
 8 funding for pupils enrolled in community day schools who are
 9 mandatorily expelled pursuant to subdivision (d) of Section 48915.
 10 For purposes of this subparagraph, the 2012–13 fiscal year
 11 appropriations described in this subparagraph shall be considered
 12 final as of the annual apportionment for the 2012–13 fiscal year,
 13 as calculated for purposes of the certification required on or before
 14 February 20, 2014, pursuant to Sections 41332 and 41339.

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

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

22 (4) The revenue limit amount determined pursuant to paragraph
 23 (1) shall be increased by the difference determined by subtracting
 24 the amount provided per unit of average daily attendance in
 25 paragraph (1) for pupils attending a school that is eligible for
 26 funding pursuant to paragraph (2) of subdivision (b) of Section
 27 42285 from the amount of funding that was provided to eligible
 28 schools in the 2012–13 fiscal year pursuant to Sections 42284 and
 29 42238.146, as those sections read on January 1, 2013.

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

33 (1) Subtract the amount computed pursuant to subdivision (a)
 34 from the amount computed pursuant to subdivision (e) of Section
 35 2574. A difference of less than zero shall be deemed to be zero.

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

1 (3) Multiply the proportion calculated for each county
2 superintendent of schools pursuant to paragraph (2) by the amount
3 of funding specifically appropriated for purposes of subdivision
4 (f). The amount calculated shall not exceed the difference for the
5 county superintendent of schools calculated pursuant to paragraph
6 (1).

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

9 (1) Local property tax revenues received pursuant to Section
10 2573 in the then current fiscal year.

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

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

20 (4) The amount, if any, received pursuant to Sections 34177,
21 34179.5, 34179.6, 34183, and 34188 of the Health and Safety
22 Code.

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

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

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

1 to the county superintendent of schools pursuant to this subdivision
2 if the amount computed pursuant to subdivision (c) is negative.

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

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

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

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

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

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

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

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

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

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

11 (g) (1) For a county superintendent of schools for whom, in the
12 2013–14 fiscal year, the amount computed pursuant to subdivision
13 (c) is less than the amount computed pursuant to subdivision (d),
14 in the first fiscal year following the fiscal year in which the sum
15 of the apportionments computed pursuant to subdivisions (e) and
16 (f) is equal to, or greater than, the amount computed pursuant to
17 subdivision (d) of this section, the Superintendent shall apportion
18 to the county superintendent of schools the amount computed in
19 subdivision (d) in that fiscal year and each fiscal year thereafter
20 instead of the amounts computed pursuant to subdivisions (e) and
21 (f).

22 (2) For a county superintendent of schools for whom, in the
23 2013–14 fiscal year, the amount computed pursuant to subdivision
24 (c) is greater than the amount computed pursuant to subdivision
25 (d), in the first fiscal year in which the amount computed pursuant
26 to subdivision (c) would be less than the amount computed pursuant
27 to subdivision (d), the Superintendent shall apportion to the county
28 superintendent of schools the amount computed in subdivision (d)
29 in that fiscal year and each fiscal year thereafter instead of the
30 amounts computed pursuant to subdivisions (e) and (f).

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

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

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

16 (h) Commencing with the 2013–14 fiscal year, the
17 Superintendent shall apportion to a county superintendent of
18 schools an amount of state aid, including any amount apportioned
19 pursuant to subdivisions (f) and (g), that is not less than the amount
20 calculated in subparagraph (A) of paragraph (2) of subdivision (a).

21 (i) (1) For the 2013–14 and 2014–15 fiscal years only, a county
22 superintendent of schools who, in the 2012–13 fiscal year, from
23 any of the funding sources identified in paragraph (1) or (2) of
24 subdivision (a), received funds on behalf of, or provided funds to,
25 a regional occupational center or program joint powers agency
26 established in accordance with Article 1 (commencing with Section
27 6500) of Chapter 5 of Division 7 of Title 1 of the Government
28 Code for purposes of providing instruction to pupils enrolled in
29 grades 9 to 12, inclusive, shall not redirect that funding for another
30 purpose unless otherwise authorized by law or pursuant to an
31 agreement between the regional occupational center or program
32 joint powers agency and the contracting county superintendent of
33 schools.

34 (2) For the 2013–14 and 2014–15 fiscal years only, if a regional
35 occupational center or program joint powers agency established
36 in accordance with Article 1 (commencing with Section 6500) of
37 Chapter 5 of Division 7 of Title 1 of the Government Code for
38 purposes of providing instruction to pupils enrolled in grades 9 to
39 12, inclusive, received, in the 2012–13 fiscal year, an
40 apportionment of funds directly from any of the funding sources

1 identified in subparagraph (A) of paragraph (2) of subdivision (a),
2 the Superintendent shall apportion that same amount to the regional
3 occupational center or program joint powers agency.

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

16 (k) (1) In addition to subdivision (j), of the funds a county
17 superintendent of schools receives for home-to-school
18 transportation programs, the county superintendent of schools shall
19 expend, pursuant to Article 2 (commencing with Section 39820)
20 of Chapter 1 of Part 23.5 of Division 3 of Title 2, Article 10
21 (commencing with Section 41850) of Chapter 5 of Part 24 of
22 Division 3 of Title 2, and the Small School District Transportation
23 program, as set forth in Article 4.5 (commencing with Section
24 42290) of Chapter 7 of Part 24 of Division 3 of Title 2, no less for
25 those programs than the amount of funds the county superintendent
26 of schools expended for home-to-school transportation in the
27 2012–13 fiscal year.

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

38 (3) For the 2013–14 and 2014–15 fiscal years only, of the funds
39 a county superintendent of schools receives for purposes of regional
40 occupational centers or programs, or adult education, the county

1 superintendent of schools shall expend no less for each of those
 2 programs than the amount of funds the county superintendent of
 3 schools expended for purposes of regional occupational centers
 4 or programs, or adult education, respectively, in the 2012–13 fiscal
 5 year. For purposes of this paragraph, a county superintendent of
 6 schools may include expenditures made by a school district within
 7 the county for purposes of regional occupational centers or
 8 programs so long as the total amount of expenditures made by the
 9 school districts and the county superintendent of schools equals
 10 or exceeds the total amount required to be expended for purposes
 11 of regional occupational centers or programs pursuant to this
 12 paragraph and paragraph (7) of subdivision (a) of Section 42238.03.

13 (l) The funds apportioned pursuant to this section and Section
 14 2574 shall be available to implement the activities required
 15 pursuant to Article 4.5 (commencing with Section 52060) of
 16 Chapter 6.1 of Part 28 of Division 4 of Title 2.

17 ~~SEC. 52.~~

18 *SEC. 53.* Section 2577 of the Education Code is amended to
 19 read:

20 2577. Notwithstanding any other law, revenue limit funding
 21 for county superintendents of schools for the 2012–13 fiscal year
 22 and prior fiscal years shall continue to be adjusted pursuant to
 23 Article 3 (commencing with Section 2550) of Chapter 12, as that
 24 article read on January 1, 2013.

25 ~~SEC. 53.~~

26 *SEC. 54.* Section 8261 of the Education Code is amended to
 27 read:

28 8261. (a) The Superintendent shall adopt rules and regulations
 29 pursuant to this chapter. The rules and regulations shall include,
 30 but not be limited to, provisions that do all of the following:

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

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

4 (3) Specify adequate standards of agency performance.

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

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

10 (6) Set forth standards for department site visits to contracting
11 agencies, including, but not limited to, specification as to the
12 purpose of the visits, the personnel that will perform these visits,
13 and the frequency of these visits which shall be as frequently as
14 staff and budget resources permit. By September 1 of each year,
15 the department shall report to the Senate Education, Senate Health
16 and Human Services, Assembly Education, and Assembly Human
17 Services Committees on the number of visits conducted during
18 the previous fiscal year pursuant to this paragraph.

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

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

26 (c) For purposes of expediting the implementation of state or
27 federal legislation to expand child care services, the Superintendent
28 may waive (1) the regulations regarding the point qualifications
29 for, and the process and scoring of, interviews of contract
30 applicants pursuant to Section 18002 of Title 5 of the California
31 Code of Regulations, or (2) the time limitations for scheduling and
32 notification of appeal hearings and their results pursuant to Section
33 18003 of Title 5 of the California Code of Regulations. The
34 Superintendent shall ensure that the appeal hearings provided for
35 in Section 18003 of Title 5 of the California Code of Regulations
36 are conducted in a timely manner.

37 (d) (1) Child care and development programs operated under
38 contract from funds made available pursuant to the federal Child
39 Care and Development Fund, shall be administered according to
40 Chapter 19 (commencing with Section 17906) of Division 1 of

1 Title 5 of the California Code of Regulations, unless provisions
2 of these regulations conflict with federal regulations. If state and
3 federal regulations conflict, the federal regulations shall apply
4 unless a waiver of federal regulations is authorized.

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

8 ~~SEC. 54.~~

9 *SEC. 55.* Section 8273.1 of the Education Code is amended to
10 read:

11 8273.1. (a) Families receiving services pursuant to
12 subparagraph (B) of paragraph (1) of subdivision (b) of Section
13 8263 may be exempt from family fees for up to three months.

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

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

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

22 (e) Notwithstanding any other law, commencing with the
23 2014–15 fiscal year, family fees shall not be assessed for the
24 part-day California preschool program to income eligible families
25 whose children are enrolled in that program pursuant to Article 7
26 (commencing with Section 8235).

27 ~~SEC. 55.~~

28 *SEC. 56.* Section 8350.5 of the Education Code, as added by
29 Section 3 of Chapter 329 of the Statutes of 1998, is repealed.

30 ~~SEC. 56.~~

31 *SEC. 57.* Section 8363.1 of the Education Code is amended to
32 read:

33 8363.1. (a) On or before July 1, 2016, the Commission on
34 Teacher Credentialing shall review, and update if appropriate, the
35 requirements for the issuance and renewal of permits authorizing
36 service in the care, development, and instruction of children in
37 child care and development programs and permits authorizing
38 supervision of a child care and development program.

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

4 ~~SEC. 57.~~

5 *SEC. 58.* Section 8450 of the Education Code is amended to
6 read:

7 8450. (a) All child development contractors are encouraged
8 to develop and maintain a reserve within the child development
9 fund, derived from earned but unexpended funds. Child
10 development contractors may retain all earned funds. For purposes
11 of this section, “earned funds” are those for which the required
12 number of eligible service units have been provided.

13 (b) (1) Earned funds shall not be expended for activities
14 proscribed by Section 8406.7. Earned but unexpended funds shall
15 remain in the contractor’s reserve account within the child
16 development fund and shall be expended only by direct service
17 child development programs that are funded under contract with
18 the department.

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

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

39 (c) Notwithstanding subdivisions (a) and (b), a contractor may
40 retain a reserve fund balance for a resource and referral program,

1 separate from the balance retained pursuant to subdivision (b) or
2 (d), not to exceed 3 percent of the contract amount. Funds from
3 this reserve account may be expended only by resource and referral
4 programs that are funded under contract with the department.

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

14 (1) Two percent of the sum of the parts of each contract to which
15 that contractor is a party that is allowed for administration pursuant
16 to Section 8276.7 and that is allowed for supportive services
17 pursuant to the provisions of the contract.

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

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

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

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

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

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

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

38 ~~SEC. 58.~~

39 *SEC. 59.* Section 8483.55 of the Education Code is amended
40 to read:

1 8483.55. (a) From the funds appropriated pursuant to
2 subdivision (b) of Section 8483.5, the department may spend 1.5
3 percent to cover evaluation costs and to provide training and
4 support to ensure quality program implementation, development,
5 and sustainability and may pay its costs of awarding and monitoring
6 grants.

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

12 (1) The department shall provide directly, or contract for,
13 technical assistance for new programs and any program that is not
14 meeting attendance or performance goals, or both, and requests
15 that assistance. The department shall allocate an appropriate level
16 of technical assistance funds to the regional system of support to
17 support program startup within 45 days after grant awards to
18 programs.

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

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

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

34 (1) Data collected pursuant to Section 8484.

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

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

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

1 (5) Pupil program participation rates.

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

5 (7) The participation rates of local educational agencies.

6 (8) Local partnerships.

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

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

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

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

18 ~~SEC. 59.~~

19 *SEC. 60.* Section 8490.1 of the Education Code is amended to
20 read:

21 8490.1. For purposes of this article, the following definitions
22 shall apply:

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

29 (b) "DASH recognition program" means the Distinguished After
30 School Health Recognition Program established pursuant to this
31 article.

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

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

37 ~~SEC. 60.~~

38 *SEC. 61.* Section 9004 of the Education Code is amended to
39 read:

1 9004. The department shall select grant recipients from the
2 northern, southern, and central regions of the state and from urban,
3 rural, and suburban areas, so that the recipients are broadly
4 representative of the state.

5 ~~SEC. 61.~~

6 *SEC. 62.* Chapter 17 (commencing with Section 11600) of Part
7 7 of Division 1 of Title 1 of the Education Code is repealed.

8 ~~SEC. 62.~~

9 *SEC. 63.* The heading of Article 2 (commencing with Section
10 12210) of Chapter 2 of Part 8 of Division 1 of Title 1 of the
11 Education Code is repealed.

12 ~~SEC. 63.~~

13 *SEC. 64.* Section 17199.4 of the Education Code is amended
14 to read:

15 17199.4. (a) Notwithstanding any other law, any participating
16 party, in connection with securing financing or refinancing of
17 projects, or working capital pursuant to this chapter, may, in
18 accordance with this section, elect to provide for funding, in whole
19 or in part, one or more of the following:

- 20 (1) Payments on authority bonds.
- 21 (2) Payments under credit enhancement or liquidity support
22 agreements in connection with authority bonds.
- 23 (3) Amounts pledged or assigned under one or more pledges or
24 assignments to pay authority bonds or obligations under these
25 credit enhancement or liquidity support agreements.
- 26 (4) Payments to fund reserves available to pay any of the
27 payments described in paragraphs (1), (2), and (3), exclusively
28 until paid.
- 29 (5) Fees and charges contemplated by the instruments of the
30 authority, trustees, tender agents, remarketing agents, credit
31 enhancement and liquidity support providers, and service providers.
- 32 (6) Any other costs necessary or incidental to any financing or
33 refinancing conducted under this chapter.

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

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

- 1 (1) Elect to participate by an action of its governing board taken
2 in compliance with the rules of that board.
- 3 (2) Provide written notice to the Controller, no later than the
4 date of the issuance of the bonds or 60 days before the next
5 payment, whichever is later, of all of the following:
- 6 (A) Its election to participate.
 - 7 (B) A schedule of the payments subject to that election.
 - 8 (C) The payee or payees of those payments, or the trustee or
9 agent on their behalf to receive those payments.
 - 10 (D) (i) Payment delivery instructions, which may be by wire
11 transfer or other method approved by the Controller.
 - 12 (ii) If the method of payment delivery is wire transfer, the
13 participating party shall complete and submit the appropriate
14 authorization form as prescribed by the Controller.
 - 15 (d) The participating party may amend, supplement, or restate
16 the notice required pursuant to paragraph (2) of subdivision (c)
17 for any reason, including, but not necessarily limited to, providing
18 for new or increased payments. The participating party shall certify
19 in the notice and in any amendment, supplement, or restatement
20 of the notice that each and every payment reflected in the schedule
21 is a payment described in subdivision (a) and the amounts
22 scheduled do not exceed the actual or reasonably estimated
23 payment obligations to be funded pursuant to this section. The
24 participating party shall also represent in the notice that it is not
25 submitting the notice for the purpose of accelerating a participating
26 party's receipt of its apportionments. Nothing in this section
27 prohibits transfer by the recipient of an apportionment under this
28 section to the participating party submitting the notice of the excess
29 apportionment above the amount needed to fund actual payments
30 where the excess resulted from erroneous estimation of scheduled
31 payments or otherwise.
 - 32 (e) Upon receipt of the notice required by paragraph (2) of
33 subdivision (c), the Controller shall make an apportionment to the
34 indicated recipient on the date, or during the period, shown in the
35 schedule in accordance with the following:
 - 36 (1) If the participating party requests transfers in full as
37 scheduled, in the amount of the scheduled transfer or such lesser
38 amount as is available from the sources indicated in subdivision
39 (f).

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

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

14 (4) In making apportionments under this section, the Controller
15 may rely conclusively and without liability on any notice or request
16 delivered under this section, including any notice of request
17 delivered before enactment of the act that adds this paragraph. The
18 Controller may make, but is not obligated to make, apportionments
19 not reflected on a notice or on an amended, supplemented, or
20 restated notice delivered under this section that the Controller
21 receives less than 20 days before when the apportionment would
22 otherwise be required.

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

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

32 (2) Any funding apportioned for purposes of the charter school
33 block grant or the local control funding formula pursuant to Section
34 42238.02, as implemented by Section 42238.03, to a charter school
35 without regard to the specific funding source of the apportionment.

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

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

4 (h) (1) The authority may require participation under this section
 5 under the terms of any financing or refinancing under this chapter
 6 to provide for one or more of the payments described in paragraphs
 7 (1), (2), (3), and (4) of subdivision (a). The authority may impose
 8 limits on new participation under this section. The authority may
 9 require participating parties to apply to the authority for
 10 participation. If the authority limits participation under this section,
 11 the authority shall consider each of the following priorities in
 12 making participation available:

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

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

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

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

23 (3) A school district electing to participate under this section
 24 that has applied for revenue bond moneys for purposes of joint
 25 venture school facilities construction projects, pursuant to Article
 26 5 (commencing with Section 17060) of Chapter 12, shall not be
 27 subject to the priorities set forth in paragraph (1).

28 (i) This section shall not be construed to make the State of
 29 California liable for any payments within the meaning of Section
 30 1 of Article XVI of the California Constitution.

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

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

1 ~~SEC. 64.~~

2 *SEC. 65.* Section 17592.74 of the Education Code is amended
3 to read:

4 17592.74. Notwithstanding any other law, the funds provided
5 to school districts from the School Facilities Emergency Repair
6 Account pursuant to this article for the purpose of emergency repair
7 grants shall not be deposited into a school district deferred
8 maintenance fund for purposes described in Section 17582.

9 ~~SEC. 65.~~

10 *SEC. 66.* The heading of Chapter 11 (commencing with Section
11 19900) of Part 11 of Division 1 of Title 1 of the Education Code,
12 as enacted by Chapter 1010 of the Statutes of 1976, is amended
13 and renumbered to read:

14

15 CHAPTER 10.5. MISCELLANEOUS PROVISIONS

16

17 ~~SEC. 66.~~

18 *SEC. 67.* The heading of Article 1 (commencing with Section
19 32200) of Chapter 2 of Part 19 of Division 1 of Title 1 of the
20 Education Code is repealed.

21 ~~SEC. 67.~~

22 *SEC. 68.* Section 32282 of the Education Code is amended to
23 read:

24 32282. (a) The comprehensive school safety plan shall include,
25 but not be limited to, both of the following:

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

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

33 (A) Child abuse reporting procedures consistent with Article
34 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of
35 Part 4 of the Penal Code.

36 (B) Disaster procedures, routine and emergency, including
37 adaptations for pupils with disabilities in accordance with the
38 federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec.
39 12101 et seq.). The disaster procedures shall also include, but not
40 be limited to, both of the following:

- 1 (i) Establishing an earthquake emergency procedure system in
 2 every public school building having an occupant capacity of 50
 3 or more pupils or more than one classroom. A school district or
 4 county office of education may work with the Office of Emergency
 5 Services and the Alfred E. Alquist Seismic Safety Commission to
 6 develop and establish the earthquake emergency procedure system.
 7 The system shall include, but not be limited to, all of the following:
- 8 (I) A school building disaster plan, ready for implementation
 9 at any time, for maintaining the safety and care of pupils and staff.
 - 10 (II) A drop procedure whereby each pupil and staff member
 11 takes cover under a table or desk, dropping to his or her knees,
 12 with the head protected by the arms, and the back to the windows.
 13 A drop procedure practice shall be held at least once each school
 14 quarter in elementary schools and at least once a semester in
 15 secondary schools.
 - 16 (III) Protective measures to be taken before, during, and
 17 following an earthquake.
 - 18 (IV) A program to ensure that pupils and both the certificated
 19 and classified staff are aware of, and properly trained in, the
 20 earthquake emergency procedure system.
- 21 (ii) Establishing a procedure to allow a public agency, including
 22 the American Red Cross, to use school buildings, grounds, and
 23 equipment for mass care and welfare shelters during disasters or
 24 other emergencies affecting the public health and welfare. The
 25 school district or county office of education shall cooperate with
 26 the public agency in furnishing and maintaining the services as
 27 the school district or county office of education may deem
 28 necessary to meet the needs of the community.
- 29 (C) Policies pursuant to subdivision (d) of Section 48915 for
 30 pupils who committed an act listed in subdivision (c) of Section
 31 48915 and other school-designated serious acts which would lead
 32 to suspension, expulsion, or mandatory expulsion recommendations
 33 pursuant to Article 1 (commencing with Section 48900) of Chapter
 34 6 of Part 27 of Division 4 of Title 2.
 - 35 (D) Procedures to notify teachers of dangerous pupils pursuant
 36 to Section 49079.
 - 37 (E) A discrimination and harassment policy consistent with the
 38 prohibition against discrimination contained in Chapter 2
 39 (commencing with Section 200) of Part 1.

1 (F) The provisions of any schoolwide dress code, pursuant to
2 Section 35183, that prohibits pupils from wearing “gang-related
3 apparel,” if the school has adopted that type of a dress code. For
4 those purposes, the comprehensive school safety plan shall define
5 “gang-related apparel.” The definition shall be limited to apparel
6 that, if worn or displayed on a school campus, reasonably could
7 be determined to threaten the health and safety of the school
8 environment. A schoolwide dress code established pursuant to this
9 section and Section 35183 shall be enforced on the school campus
10 and at any school-sponsored activity by the principal of the school
11 or the person designated by the principal. For purposes of this
12 paragraph, “gang-related apparel” shall not be considered a
13 protected form of speech pursuant to Section 48950.

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

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

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

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

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

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

38 (e) As comprehensive school safety plans are reviewed and
39 updated, the Legislature encourages all plans, to the extent that

1 resources are available, to include policies and procedures aimed
2 at the prevention of bullying.

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

7 ~~SEC. 68.~~

8 *SEC. 69.* Section 32289 of the Education Code, as added by
9 Section 1 of Chapter 272 of the Statutes of 2004, is repealed.

10 ~~SEC. 69.~~

11 *SEC. 70.* Section 32289 of the Education Code, as added by
12 Section 29 of Chapter 896 of the Statutes of 2004, is amended to
13 read:

14 32289. A complaint of noncompliance with the school safety
15 planning requirements of Title IV of the federal No Child Left
16 Behind Act of 2001 (20 U.S.C. Sec. 7114 (d)(7)) may be filed with
17 the department under the Uniform Complaint Procedures as set
18 forth in Chapter 5.1 (commencing with Section 4600) of Title 5
19 of the California Code of Regulations.

20 ~~SEC. 70.~~

21 *SEC. 71.* The heading of Article 7 (commencing with Section
22 33390) of Chapter 3 of Part 20 of Division 2 of Title 2 of the
23 Education Code is repealed.

24 ~~SEC. 71.~~

25 *SEC. 72.* Section 35035 of the Education Code is amended to
26 read:

27 35035. The superintendent of each school district shall, in
28 addition to other powers and duties granted to or imposed upon
29 him or her:

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

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

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

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

11 (e) Subject to the approval of the governing board of the school
12 district, assign all employees of the school district employed in
13 positions requiring certification qualifications to the positions in
14 which they are to serve. This power to assign includes the power
15 to transfer a teacher from one school to another school at which
16 the teacher is certificated to serve within the school district when
17 the superintendent concludes that the transfer is in the best interest
18 of the school district.

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

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

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

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

31 ~~SEC. 72.~~

32 *SEC. 73.* Section 35735.1 of the Education Code is amended
33 to read:

34 35735.1. (a) The local control funding formula allocation per
35 unit of average daily attendance for newly organized school
36 districts shall be equal to the total of the amount of the local control
37 funding formula allocation pursuant to Section 42238.02, as
38 implemented by Section 42238.03, per unit of average daily
39 attendance of the affected school districts computed pursuant to
40 the computations set forth below. The following computations

1 shall be made to determine the local control funding formula
2 allocation pursuant to Section 42238.02, as implemented by Section
3 42238.03, per unit of average daily attendance for newly organized
4 school districts:

5 (1) Based on the current information available for each affected
6 school district for the second principal apportionment period for
7 the fiscal year before the fiscal year in which the reorganization
8 is to become effective, multiply the local control funding formula
9 allocation pursuant to Section 42238.02, as implemented by Section
10 42238.03, per unit of average daily attendance for that school
11 district by the number of units of average daily attendance for that
12 school district that the county superintendent of schools determines
13 will be included in the proposed school district.

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

17 (b) The amount determined pursuant to subdivision (a) shall be
18 the local control funding formula allocation pursuant to Section
19 42238.02, as implemented by Section 42238.03, per unit of average
20 daily attendance for newly organized school districts.

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

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

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

37 (f) Upon a determination that all school districts or charter
38 schools equal or exceed the local control funding formula target
39 computed pursuant to Section 42238.02 as determined by the
40 calculation of a zero difference pursuant to paragraph (1) of

1 subdivision (b) of Section 42238.03, for all school districts and
2 charter schools, this section shall not apply and newly reorganized
3 school districts shall receive an allocation equal to the amount
4 calculated under Section 42238.02 in that fiscal year and future
5 fiscal years.

6 ~~SEC. 73.~~

7 *SEC. 74.* The heading of Chapter 3 (commencing with Section
8 37400) of Part 22 of Division 3 of Title 2 of the Education Code
9 is repealed.

10 ~~SEC. 74.~~

11 *SEC. 75.* Section 38047.5 of the Education Code is amended
12 and renumbered to read:

13 39831.1. The state board shall adopt regulations to require a
14 passenger in a schoolbus equipped with passenger restraint systems
15 in accordance with Section 27316 of the Vehicle Code to use a
16 passenger restraint system so that the passenger is properly
17 restrained by that system.

18 ~~SEC. 75.~~

19 *SEC. 76.* Section 38047.6 of the Education Code is amended
20 and renumbered to read:

21 39831.2. The state board shall adopt regulations to require a
22 passenger in a school pupil activity bus equipped with passenger
23 restraint systems in accordance with Section 27316.5 of the Vehicle
24 Code to use a passenger restraint system so that the passenger is
25 properly restrained by that system.

26 ~~SEC. 76.~~

27 *SEC. 77.* Section 39672 of the Education Code is amended and
28 renumbered to read:

29 38001.6. (a) Every school peace officer first employed by a
30 K–12 public school district before July 1, 1999, shall, in order to
31 retain his or her employment, fulfill both of the following
32 conditions:

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

37 (2) The employee shall be determined to be a person who is not
38 prohibited from employment by a school district pursuant to
39 Sections 44237 and 45122.1, and, if the employee is required to

1 carry a firearm, shall be determined by the Department of Justice
2 to be a person who is not prohibited from possessing a firearm.

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

8 ~~SEC. 77.~~

9 *SEC. 78.* Section 41020 of the Education Code is amended to
10 read:

11 41020. (a) It is the intent of the Legislature to encourage sound
12 fiscal management practices among local educational agencies for
13 the most efficient and effective use of public funds for the
14 education of children in California by strengthening fiscal
15 accountability at the school district, county, and state levels.

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

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

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

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

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

3 (c) Each audit conducted in accordance with this section shall
4 include all funds of the local educational agency, including the
5 student body and cafeteria funds and accounts and any other funds
6 under the control or jurisdiction of the local educational agency.
7 Each audit shall also include an audit of pupil attendance
8 procedures. Each audit shall include a determination of whether
9 funds were expended pursuant to a local control and accountability
10 plan or an approved annual update to a local control and
11 accountability plan pursuant to Article 4.5 (commencing with
12 Section 52060) of Chapter 6.1 of Part 28 of Division 4.

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

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

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

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

33 (2) Commencing with the 2003–04 fiscal year and except as
34 provided in subdivision (d) of Section 41320.1, it is unlawful for
35 a public accounting firm to provide audit services to a local
36 educational agency if the lead audit partner, or coordinating audit
37 partner, having primary responsibility for the audit, or the audit
38 partner responsible for reviewing the audit, has performed audit
39 services for that local educational agency in each of the six previous
40 fiscal years. The Education Audits Appeal Panel may waive this

1 requirement if the panel finds that no otherwise eligible auditor is
2 available to perform the audit.

3 (3) It is the intent of the Legislature that, notwithstanding
4 paragraph (2), the rotation within public accounting firms conform
5 to provisions of the federal Sarbanes-Oxley Act of 2002 (Public
6 Law 107-204; 15 U.S.C. Sec. 7201 et seq.), and upon release of
7 the report required by the act of the Comptroller General of the
8 United States addressing the mandatory rotation of registered
9 public accounting firms, the Legislature intends to reconsider the
10 provisions of paragraph (2). In determining which certified public
11 accountants and public accountants shall be included in the
12 directory, the Controller shall use the following criteria:

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

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

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

21 (A) A statement that the audit was conducted pursuant to
22 standards and procedures developed in accordance with Chapter
23 3 (commencing with Section 14500) of Part 9 of Division 1 of
24 Title 1.

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

27 (C) Each audit of a local educational agency shall include an
28 evaluation by the auditor on whether there is substantial doubt
29 about the ability of the local educational agency to continue as a
30 going concern for a reasonable period of time. This evaluation
31 shall be based on the Statement on Auditing Standards (SAS) No.
32 59, as issued by the AICPA regarding disclosure requirements
33 relating to the ability of the entity to continue as a going concern.

34 (2) To the extent possible, a description of correction or plan
35 of correction shall be incorporated in the audit report, describing
36 the specific actions that are planned to be taken, or that have been
37 taken, to correct the problem identified by the auditor. The
38 descriptions of specific actions to be taken or that have been taken
39 shall not solely consist of general comments such as "will

1 implement,” “accepted the recommendation,” or “will discuss at
2 a later date.”

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

10 (i) (1) Commencing with the 2002–03 audit of local educational
11 agencies pursuant to this section and subdivision (d) of Section
12 41320.1, each county superintendent of schools shall be responsible
13 for reviewing the audit exceptions contained in an audit of a local
14 educational agency under his or her jurisdiction related to
15 attendance, inventory of equipment, internal control, and any
16 miscellaneous items, and determining whether the exceptions have
17 been either corrected or an acceptable plan of correction has been
18 developed.

19 (2) Commencing with the 2004–05 audit of local educational
20 agencies pursuant to this section and subdivision (d) of Section
21 41320.1, each county superintendent of schools shall include in
22 the review of audit exceptions performed pursuant to this
23 subdivision those audit exceptions related to use of instructional
24 materials program funds, teacher misassignments pursuant to
25 Section 44258.9, information reported on the school accountability
26 report card required pursuant to Section 33126 and shall determine
27 whether the exceptions are either corrected or an acceptable plan
28 of correction has been developed.

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

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

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

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

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

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

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

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

1 (B) Exceptions that the county superintendent of schools certifies
2 as of May 15 have not been corrected.

3 (C) Repeat audit exceptions that are not assigned to a county
4 superintendent of schools to correct.

5 (2) In addition, the Superintendent is responsible for ensuring
6 that county superintendents of schools and each county board of
7 education that serves as the governing board of a local educational
8 agency either correct all audit exceptions identified in the audits
9 of county superintendents of schools and of the local educational
10 agencies for which the county boards of education serve as the
11 governing boards or develop acceptable plans of correction for
12 those exceptions.

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

19 (n) To facilitate correction of the exceptions identified by the
20 audits issued pursuant to this section, the Controller shall require
21 auditors to categorize audit exceptions in each audit report in a
22 manner that will make it clear to both the county superintendent
23 of schools and the Superintendent which exceptions they are
24 responsible for ensuring the correction of by a local educational
25 agency. In addition, the Controller annually shall select a sampling
26 of county superintendents of schools and perform a followup of
27 the audit resolution process of those county superintendents of
28 schools and report the results of that followup to the Superintendent
29 and the county superintendents of schools that were reviewed.

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

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

39 (q) Audits of regional occupational centers and programs are
40 subject to this section.

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

4 (s) Notwithstanding any other law, a nonauditing, management,
 5 or other consulting service to be provided to a local educational
 6 agency by a certified public accounting firm while the certified
 7 public accounting firm is performing an audit of the agency
 8 pursuant to this section must be in accord with Government
 9 Accounting Standards, Amendment No. 3, as published by the
 10 United States General Accounting Office.

11 ~~SEC. 78.~~

12 *SEC. 79.* Section 41207.3 of the Education Code, as added by
 13 Section 11 of Chapter 12 of the Third Extraordinary Session of
 14 the Statutes of 2009, is amended and renumbered to read:

15 41207.25. (a) If the Superintendent and the Director of Finance
 16 jointly determine that, for the 2008–09 fiscal year, the state has
 17 applied moneys for the support of school districts and community
 18 college districts in an amount that exceeds the minimum amount
 19 required for that fiscal year pursuant to Section 8 of Article XVI
 20 of the California Constitution, the excess, up to one billion one
 21 hundred million five hundred ninety thousand dollars
 22 (\$1,100,590,000), shall be deemed, as of June 30 of that fiscal
 23 year, a payment in satisfaction of the outstanding balance of the
 24 minimum funding obligation under that section for the 2002–03
 25 and 2003–04 fiscal years in accordance with the following:

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

29 (2) The next six hundred seventeen million five hundred
 30 seventy-four thousand dollars (\$617,574,000) in payment of the
 31 outstanding balance of the minimum funding obligation for the
 32 2003–04 fiscal year.

33 (b) For purposes of this section, the outstanding balance of the
 34 minimum funding obligation to school districts and community
 35 college districts pursuant to Section 8 of Article XVI of the
 36 California Constitution for a fiscal year is the amount, if any, by
 37 which the amount required to be applied by the state for the support
 38 of school districts and community college districts pursuant to
 39 Section 8 of Article XVI of the California Constitution, including
 40 any maintenance factor that should have been allocated in that

1 fiscal year pursuant to subdivision (e) of Section 8 of Article XVI
2 of the California Constitution, exceeds the amount applied by the
3 state for the support of school districts and community college
4 districts for that fiscal year.

5 (c) The amounts allocated pursuant to this section shall be
6 deemed, for purposes of Section 8 of Article XVI of the California
7 Constitution, to be appropriations made and allocated in the fiscal
8 year in which the deficiencies resulting in the outstanding balance
9 were incurred. When the amount determined to be owed for each
10 such fiscal year is fully allocated pursuant to this subdivision, the
11 data used in the computations made under this section with regard
12 to the total amount owed by the state for the support of school
13 districts and community college districts pursuant to Section 8 of
14 Article XVI of the California Constitution for that fiscal year,
15 including as much of the maintenance factor for that fiscal year
16 determined pursuant to subdivision (d) of Section 8 of Article XVI
17 of the California Constitution as has been allocated as required by
18 subdivision (e) of Section 8 of Article XVI of the California
19 Constitution by virtue of the allocations made under this section,
20 shall be deemed certified for purposes of Section 41206.

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

24 ~~SEC. 79.~~

25 *SEC. 80.* Section 41851.1 of the Education Code, as added by
26 Section 11 of Chapter 82 of the Statutes of 1989, is repealed.

27 ~~SEC. 80.~~

28 *SEC. 81.* Section 42127 of the Education Code is amended to
29 read:

30 42127. (a) On or before July 1 of each year, the governing
31 board of each school district shall accomplish the following:

32 (1) Hold a public hearing conducted in accordance with Section
33 42103 on the budget to be adopted for the subsequent fiscal year.
34 The budget to be adopted shall be prepared in accordance with
35 Section 42126. The agenda for that hearing shall be posted at least
36 72 hours before the public hearing and shall include the location
37 where the budget will be available for public inspection.

38 (2) (A) Adopt a budget. Not later than five days after that
39 adoption or by July 1, whichever occurs first, the governing board
40 of the school district shall file that budget with the county

1 superintendent of schools. The budget and supporting data shall
2 be maintained and made available for public review. If the
3 governing board of the school district does not want all or a portion
4 of the property tax requirement levied for the purpose of making
5 payments for the interest and redemption charges on indebtedness
6 as described in paragraph (1) or (2) of subdivision (b) of Section
7 1 of Article XIII A of the California Constitution, the budget shall
8 include a statement of the amount or portion for which a levy shall
9 not be made. For the 2014–15 fiscal year and each fiscal year
10 thereafter, the governing board of the school district shall not adopt
11 a budget before the governing board of the school district adopts
12 a local control and accountability plan, if an existing local control
13 and accountability plan or annual update to a local control and
14 accountability plan is not effective for the budget year. The
15 governing board of a school district shall not adopt a budget that
16 does not include the expenditures necessary to implement the local
17 control and accountability plan or the annual update to a local
18 control and accountability plan that is effective for the budget year.

19 (B) Commencing with the budget adopted for the 2015–16 fiscal
20 year, the governing board of a school district that proposes to adopt
21 a budget, or revise a budget pursuant to subdivision (e), that
22 includes a combined assigned and unassigned ending fund balance
23 in excess of the minimum recommended reserve for economic
24 uncertainties adopted by the state board pursuant to subdivision
25 (a) of Section 33128, shall, at the public hearing held pursuant to
26 paragraph (1), provide all of the following for public review and
27 discussion:

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

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

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

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

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

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

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

32 (2) Determine whether the adopted budget will allow the school
33 district to meet its financial obligations during the fiscal year and
34 is consistent with a financial plan that will enable the school district
35 to satisfy its multiyear financial commitments. In addition to his
36 or her own analysis of the budget of the school district, the county
37 superintendent of schools shall review and consider studies, reports,
38 evaluations, or audits of the school district that were commissioned
39 by the school district, the county superintendent of schools, the
40 Superintendent, and state control agencies and that contain

1 evidence that the school district is showing fiscal distress under
2 the standards and criteria adopted in Section 33127, or that contain
3 a finding by an external reviewer that more than 3 of the 15 most
4 common predictors of a school district needing intervention, as
5 determined by the County Office Fiscal Crisis and Management
6 Assistance Team, are present. The county superintendent of schools
7 shall either conditionally approve or disapprove a budget that does
8 not provide adequate assurance that the school district will meet
9 its current and future obligations and resolve any problems
10 identified in studies, reports, evaluations, or audits described in
11 this paragraph.

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

17 (4) Determine whether the adopted budget includes a combined
18 assigned and unassigned ending fund balance that exceeds the
19 minimum recommended reserve for economic uncertainties. If the
20 adopted budget includes a combined assigned and unassigned
21 ending fund balance that exceeds the minimum recommended
22 reserve for economic uncertainties, the county superintendent of
23 schools shall verify that the school district complied with the
24 requirements of subparagraphs (B) and (C) of paragraph (2) of
25 subdivision (a).

26 (d) (1) On or before August 15, the county superintendent of
27 schools shall approve, conditionally approve, or disapprove the
28 adopted budget for each school district. For the 2014–15 fiscal
29 year and each fiscal year thereafter, the county superintendent of
30 schools shall disapprove a budget if the county superintendent of
31 schools determines that the budget does not include the
32 expenditures necessary to implement a local control and
33 accountability plan or an annual update to the local control and
34 accountability plan approved by the county superintendent of
35 schools. If the governing board of a school district does not submit
36 a budget to the county superintendent of schools, the county
37 superintendent of schools shall develop, at school district expense,
38 a budget for that school district by September 15 and transmit that
39 budget to the governing board of the school district. The budget
40 prepared by the county superintendent of schools shall be deemed

1 adopted, unless the county superintendent of schools approves any
2 modifications made by the governing board of the school district.
3 The budget prepared by the county superintendent of schools shall
4 also comply with the requirements of subparagraph (B) of
5 paragraph (2) of subdivision (a). The approved budget shall be
6 used as a guide for the school district's priorities. The
7 Superintendent shall review and certify the budget approved by
8 the county superintendent of schools. If, pursuant to the review
9 conducted pursuant to subdivision (c), the county superintendent
10 of schools determines that the adopted budget for a school district
11 does not satisfy paragraph (1), (2), (3), or (4) of that subdivision,
12 he or she shall conditionally approve or disapprove the budget
13 and, not later than August 15, transmit to the governing board of
14 the school district, in writing, his or her recommendations regarding
15 revision of the budget and the reasons for those recommendations,
16 including, but not limited to, the amounts of any budget
17 adjustments needed before he or she can approve that budget. The
18 county superintendent of schools may assign a fiscal adviser to
19 assist the school district to develop a budget in compliance with
20 those revisions. In addition, the county superintendent of schools
21 may appoint a committee to examine and comment on the
22 superintendent's review and recommendations, subject to the
23 requirement that the committee report its findings to the county
24 superintendent of schools no later than August 20.

25 (2) Notwithstanding any other provision of this article, for the
26 2014–15 fiscal year and each fiscal year thereafter, the budget
27 shall not be adopted or approved by the county superintendent of
28 schools before a local control and accountability plan or update to
29 an existing local control and accountability plan for the budget
30 year is approved.

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

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

4 (f) (1) The county superintendent of schools shall examine the
5 revised budget as provided in paragraph (3) of subdivision (d) to
6 determine whether it (A) complies with the standards and criteria
7 adopted by the state board pursuant to Section 33127 for
8 application to final local educational agency budgets, (B) allows
9 the school district to meet its financial obligations during the fiscal
10 year, (C) satisfies all conditions established by the county
11 superintendent of schools in the case of a conditionally approved
12 budget, (D) is consistent with a financial plan that will enable the
13 school district to satisfy its multiyear financial commitments, and
14 (E) complies with the requirements of subparagraph (B) of
15 paragraph (2) of subdivision (a), and, not later than October 8,
16 shall approve or disapprove the revised budget. If the county
17 superintendent of schools disapproves the budget, he or she shall
18 call for the formation of a budget review committee pursuant to
19 Section 42127.1, unless the governing board of the school district
20 and the county superintendent of schools agree to waive the
21 requirement that a budget review committee be formed and the
22 department approves the waiver after determining that a budget
23 review committee is not necessary. Upon the grant of a waiver,
24 the county superintendent of schools immediately has the authority
25 and responsibility provided in Section 42127.3. Upon approving
26 a waiver of the budget review committee, the department shall
27 ensure that a balanced budget is adopted for the school district by
28 November 30. If a budget is not adopted by November 30, the
29 Superintendent may adopt a budget for the school district. The
30 Superintendent shall report to the Legislature and the Director of
31 Finance by December 10 if any school district, including a school
32 district that has received a waiver of the budget review committee
33 process, does not have an adopted budget by November 30. This
34 report shall include the reasons why a budget has not been adopted
35 by the deadline, the steps being taken to finalize budget adoption,
36 the date the adopted budget is anticipated, and whether the
37 Superintendent has or will exercise his or her authority to adopt a
38 budget for the school district.

39 (2) Notwithstanding any other law, for the 2014–15 fiscal year
40 and each fiscal year thereafter, if the county superintendent of

1 schools disapproves the budget for the sole reason that the county
2 superintendent of schools has not approved a local control and
3 accountability plan or an annual update to the local control and
4 accountability plan filed by the governing board of the school
5 district pursuant to Section 52070, the county superintendent of
6 schools shall not call for the formation of a budget review
7 committee pursuant to Section 42127.1.

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

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

19 (i) A school district for which the county board of education
20 serves as the governing board of the school district is not subject
21 to subdivisions (c) to (h), inclusive, but is governed instead by the
22 budget procedures set forth in Section 1622.

23 ~~SEC. 81.~~

24 *SEC. 82.* Section 42238.15 of the Education Code is amended
25 to read:

26 42238.15. (a) Notwithstanding any other law, and in lieu of
27 any inflation or cost-of-living adjustment otherwise authorized for
28 the programs enumerated in subdivision (b), state funding for the
29 programs enumerated in subdivision (b) shall be increased annually
30 by the product of the following:

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

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

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

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

4 (2) Child care and development programs, and preschool
5 programs, with workload measured by the state population of
6 children up to and including four years of age.

7 (c) Notwithstanding any other law, child care and development
8 programs shall not receive a cost-of-living adjustment in the
9 2012–13, 2013–14, and 2014–15 fiscal years.

10 ~~SEC. 82.~~

11 *SEC. 83.* Section 42800 of the Education Code is amended to
12 read:

13 42800. (a) The governing board of a school district may, with
14 the consent of the county superintendent of schools, establish a
15 revolving cash fund for the use of the chief accounting officer of
16 the school district, by adopting a resolution setting forth the
17 necessity for the revolving cash fund, the officer for whom and
18 the purposes for which the revolving cash fund shall be available,
19 and the amount of the fund. The purposes for which the revolving
20 cash fund shall be available shall include the purposes specified
21 in Section 45167. Three certified copies of the resolution shall be
22 transmitted to the county superintendent of schools. If he or she
23 approves the establishment of the fund, the county superintendent
24 of schools shall endorse his or her consent on the resolution and
25 return one copy to the governing board of the school district, and
26 transmit one copy to the county auditor.

27 (b) The maximum amount allowed for revolving cash funds
28 established pursuant to subdivision (a) shall be the lesser of:

29 (1) Two percent of the school district’s estimated expenditures
30 for the current fiscal year, or

31 (2) A dollar amount limit of seventy-five thousand dollars
32 (\$75,000) for any elementary school or high school district and
33 one hundred fifty thousand dollars (\$150,000) for any unified
34 school district for fiscal year 1990–91. The dollar amount limit
35 for each school district shall, through the 2012–13 fiscal year, be
36 increased annually by the percentage increase in the school
37 district’s revenue limit established by Section 42238, as that section
38 read on January 1, 2013. The dollar amount limit for each school
39 district shall thereafter be increased annually by the percentage
40 increase in the school district’s local control funding formula

1 allocation established pursuant to Section 42238.02, as
2 implemented pursuant to Section 42238.03.

3 ~~SEC. 83.~~

4 *SEC. 84.* Section 44252 of the Education Code is amended to
5 read:

6 44252. (a) (1) The commission shall establish standards and
7 procedures for the initial issuance and renewal of credentials.

8 (2) (A) The commission shall require an initial or renewal
9 applicant who submits an initial or renewal application for his or
10 her credential online, as part of the application process, to read
11 and attest by electronic signature a statement that the applicant for
12 the credential understands the duties imposed on a holder of a
13 teaching credential or a services credential pursuant to the Child
14 Abuse and Neglect Reporting Act (Article 2.5 (commencing with
15 Section 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code),
16 including, but not limited to, the duty of a holder of a teaching
17 credential or a services credential to report to any police
18 department, sheriff's department, county probation department
19 authorized to receive reports, or county welfare department,
20 whenever he or she, in his or her professional capacity or within
21 the scope of his or her employment, has knowledge of or observes
22 a child whom the holder of a teaching credential or a services
23 credential knows or reasonably suspects has been the victim of
24 child abuse or neglect.

25 (B) The commission shall require an initial applicant who
26 submits an application in paper form, as part of the application
27 process, to read and attest by signature a statement that the
28 applicant understands the duties imposed on a holder of a teaching
29 credential or a services credential pursuant to the Child Abuse and
30 Neglect Reporting Act (Article 2.5 (commencing with Section
31 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code),
32 including, but not limited to, the duty of a holder of a teaching
33 credential or a services credential to report to any police
34 department, sheriff's department, county probation department
35 authorized to receive reports, or county welfare department,
36 whenever he or she, in his or her professional capacity or within
37 the scope of his or her employment, has knowledge of or observes
38 a child whom the holder of a teaching credential or a services
39 credential knows or reasonably suspects has been the victim of
40 child abuse or neglect.

1 (C) The statement described in subparagraphs (A) and (B) shall
2 be substantially in the following form:

3
4 “As a documentholder authorized to work with children, it is
5 part of my professional and ethical duty to report every instance
6 of child abuse or neglect known or suspected to have occurred to
7 a child with whom I have professional contact.

8 I understand that I must report immediately, or as soon as
9 practicably possible, by telephone to a law enforcement agency
10 or a child protective agency, and will send a written report and
11 any evidence relating to the incident within 36 hours of becoming
12 aware of the abuse or neglect of the child.

13 I understand that reporting the information regarding a case of
14 possible child abuse or neglect to an employer, supervisor, school
15 principal, school counselor, coworker, or other person is not a
16 substitute for making a mandated report to a law enforcement
17 agency or a child protective agency.

18 I understand that the reporting duties are individual and no
19 supervisor or administrator may impede or inhibit my reporting
20 duties.

21 I understand that once I submit a report, I am not required to
22 disclose my identity to my employer.

23 I understand that my failure to report an instance of suspected
24 child abuse or neglect as required by the Child Abuse and Neglect
25 Reporting Act under Section 11166 of the Penal Code is a
26 misdemeanor punishable by up to six months in jail or by a fine
27 of one thousand dollars (\$1,000), or by both that imprisonment
28 and fine.

29 I acknowledge and certify that as a documentholder, I will fulfill
30 all the duties required of a mandated reporter.”

31
32 (b) The commission shall not issue initially a credential, permit,
33 certificate, or renewal of an emergency credential to a person to
34 serve in the public schools unless the person has demonstrated
35 proficiency in basic reading, writing, and mathematics skills in
36 the English language as provided in Section 44252.5 or 44252.7.
37 The commission shall exempt the following persons from the basic
38 skills proficiency test requirement:

39 (1) A person credentialed solely for the purpose of teaching
40 adults in an apprenticeship program.

1 (2) An applicant for an adult education designated subject
2 credential for other than an academic subject.

3 (3) A person credentialed in another state who is an applicant
4 for employment in a school district in this state who has passed a
5 basic skills proficiency examination administered by the state
6 where the person is credentialed.

7 (4) A person credentialed in another state who is an applicant
8 for employment in a school district in this state who has passed a
9 basic skills proficiency examination that has been developed and
10 administered by the school district offering that person
11 employment, by cooperating school districts, or by the appropriate
12 county office of education. School districts administering a basic
13 skills proficiency examination under this paragraph shall comply
14 with the requirements of subdivision (h) of Section 44830. The
15 applicant shall be granted a nonrenewable credential, valid for not
16 longer than one year, pending fulfillment of the basic skills
17 proficiency requirement pursuant to Section 44252.5.

18 (5) An applicant for a child care center permit or a permit
19 authorizing service in a development center for the handicapped
20 if the holder of the permit is not required to have a baccalaureate
21 degree.

22 (6) The holder of a credential, permit, or certificate to teach,
23 other than an emergency permit, who seeks an additional
24 authorization to teach.

25 (7) An applicant for a credential to provide service in the health
26 profession.

27 (8) An applicant who achieves scores on the writing, reading,
28 and mathematics sections of the College Board SAT Reasoning
29 Test, the enhanced ACT Test, or the California State University
30 Early Assessment Program that are sufficient to waive the English
31 placement test and the entry level mathematics examination
32 administered by the California State University.

33 (9) An applicant for an eminence credential to be issued pursuant
34 to Section 44262.

35 (c) (1) The Superintendent shall adopt an appropriate state test
36 to measure proficiency in these basic skills. In adopting the test,
37 the Superintendent shall seek assistance from the commission and
38 an advisory board. A majority of the members of the advisory
39 board shall be classroom teachers. The advisory board also shall

1 include representatives of school boards, school administrators,
2 parents, and postsecondary educational institutions.

3 (2) The Superintendent shall adopt a normed test that the
4 Superintendent determines will sufficiently test basic skills for
5 purposes of this section.

6 (3) The Superintendent, in conjunction with the commission
7 and approved teacher training institutions, shall take steps
8 necessary to ensure the effective implementation of this section.

9 (d) This section does not require the holders of, or applicants
10 for, a designated subjects special subjects credential to pass the
11 state basic skills proficiency test unless the requirements for the
12 specific credential required the possession of a baccalaureate
13 degree. The governing board of a school district, or the governing
14 board of a consortium of school districts, or the governing board
15 involved in a joint powers agreement, which employs a holder of
16 a designated subjects special subjects credential, shall establish its
17 own basic skills proficiency criteria for the holders of these
18 credentials and shall arrange for those individuals to be assessed.
19 The basic skills proficiency criteria established by the governing
20 board shall be at least equivalent to the test required by the district,
21 or in the case of a consortium or a joint powers agreement, by any
22 of the participating districts, for graduation from high school. The
23 governing board or boards may charge a fee to individuals being
24 tested to cover the costs of the test, including the costs of
25 developing, administering, and grading the test.

26 (e) The commission shall compile data regarding the rate of
27 passing the state basic skills proficiency test by persons who have
28 been trained in various institutions of higher education. The data
29 shall be available to members of the public, including to persons
30 who intend to enroll in teacher education programs.

31 (f) (1) Each applicant to an approved credential program, unless
32 exempted by subdivision (b), shall take the state basic skills
33 proficiency test in order to provide both the prospective applicant
34 and the program with information regarding the proficiency level
35 of the applicant. Test results shall be forwarded to each California
36 postsecondary educational institution to which the applicant has
37 applied. The program shall use test results to ensure that, upon
38 admission, each applicant receives appropriate academic assistance
39 necessary to pass the state basic skills proficiency test. Persons
40 residing outside the state shall take the test no later than the second

1 available administration following their enrollment in a credential
2 program.

3 (2) It is the intent of the Legislature that applicants for admission
4 to teacher preparation programs not be denied admission on the
5 basis of state basic skills proficiency test results.

6 ~~SEC. 84.~~

7 *SEC. 85.* Section 44277 of the Education Code is amended to
8 read:

9 44277. (a) The Legislature recognizes that effective
10 professional growth must continue to occur throughout the careers
11 of all teachers, in order that teachers remain informed of changes
12 in pedagogy, subject matter, and pupil needs. In enacting this
13 section, it is the intent of the Legislature to encourage teachers to
14 engage in an individual program of professional growth that
15 extends their content knowledge and teaching skills and for school
16 districts to establish professional growth programs that give
17 individual teachers a wide range of options to pursue as well as
18 significant roles in determining the course of their professional
19 growth.

20 (b) An individual program of professional growth may consist
21 of activities that are aligned with the California Standards for the
22 Teaching Profession that contribute to competence, performance,
23 or effectiveness in the profession of education and the classroom
24 assignments of the teacher. Acceptable activities may include,
25 among other acceptable activities, the completion of courses offered
26 by regionally accredited colleges and universities, including
27 instructor-led interactive courses delivered through online
28 technologies; participation in professional conferences, workshops,
29 teacher center programs, staff development programs, or a
30 California Reading Professional Development Institute program
31 operated pursuant to Article 2 (commencing with Section 99220)
32 of Chapter 5 of Part 65; service as a mentor teacher; participation
33 in school curriculum development projects; participation in
34 systematic programs of observation and analysis of teaching;
35 service in a leadership role in a professional organization; and
36 participation in educational research or innovation efforts.
37 Employing agencies and the bargaining agents of employees may
38 negotiate to agree on the terms of programs of professional growth
39 within their jurisdictions, provided that the agreements shall be
40 consistent with this section.

1 (c) An individual program of professional growth may include
2 a basic course in cardiopulmonary resuscitation, which includes
3 training in the subdiaphragmatic abdominal thrust (also known as
4 the “Heimlich maneuver”) and meets or exceeds the standards
5 established by the American Heart Association or the American
6 Red Cross for courses in that subject or minimum standards for
7 training programs established by the Emergency Medical Services
8 Authority. An individual program of professional growth may also
9 include a course in first aid that meets or exceeds the standards
10 established by the American Red Cross for courses in that subject
11 or minimum standards for training programs established by the
12 Emergency Medical Services Authority.

13 (d) (1) If a local educational agency offers a program of
14 professional growth for teachers, administrators, paraprofessional
15 educators, or other classified employees involved in the direct
16 instruction of pupils, the local educational agency shall evaluate
17 professional learning based on all of the following criteria, and
18 the local educational agency is encouraged to choose professional
19 learning that meets any of the following criteria:

20 (A) Helps attract, grow, and retain effective educators.

21 (B) Is a part of every educator’s experience in order to accelerate
22 instructional improvement and support pupil learning.

23 (C) Is based on needs assessment of educators and tied to
24 supporting pupil learning.

25 (D) Emphasizes the importance of meeting the needs of all
26 pupils.

27 (E) Is grounded in a description of effective practice, as
28 articulated in the California Standards for the Teaching Profession.

29 (F) Affords educators opportunities to engage with others to
30 develop their craft, including, but not limited to, opportunities to
31 increase their content knowledge.

32 (G) Ensures educators have adequate time to learn about,
33 practice, reflect, adjust, critique, and share what educators need
34 to ensure that all pupils, especially high-needs pupils, develop
35 knowledge and lifelong learning skills that will help the pupils to
36 be successful.

37 (H) Recognizes and utilizes expert teaching and leadership
38 skills.

39 (I) Attends to collective growth needs as well as educators’
40 individual growth needs.

1 (J) Contributes to a positive, collaborative, and supportive adult
2 learning environment.

3 (K) Contributes to cycles of inquiry and improvement.

4 (L) Is not limited to a single instance, but supports educators
5 through multiple iterations or engagements.

6 (M) Is based on a coherent and focused plan.

7 (2) Professional learning activities may also include
8 collaboration time for teachers to develop new instructional lessons,
9 to select or develop common formative assessments, to analyze
10 pupil data, for mentoring projects for new teachers, or for extra
11 support for teachers to improve practice. Appropriate professional
12 learning may be part of a coherent plan that combines school
13 activities within the school, including, but not limited to, lesson
14 study or coteaching, and external learning opportunities that meet
15 all of the following criteria:

16 (A) Are related to the academic subjects taught.

17 (B) Provide time to meet and work with other teachers.

18 (C) Support instruction and pupil learning to improve instruction
19 in a manner that is consistent with academic content standards.

20 (e) For purposes of this section, “local educational agency”
21 means a school district, county office of education, or charter
22 school.

23 ~~SEC. 85.~~

24 *SEC. 86.* Section 44932 of the Education Code is amended to
25 read:

26 44932. (a) A permanent employee shall not be dismissed
27 except for one or more of the following causes:

28 (1) Immoral conduct, including, but not limited to, egregious
29 misconduct. For purposes of this chapter, “egregious misconduct”
30 is defined exclusively as immoral conduct that is the basis for an
31 offense described in Section 44010 or 44011 of this code, or in
32 Sections 11165.2 to 11165.6, inclusive, of the Penal Code.

33 (2) Unprofessional conduct.

34 (3) Commission, aiding, or advocating the commission of acts
35 of criminal syndicalism, as prohibited by Chapter 188 of the
36 Statutes of 1919, or in any amendment to that chapter.

37 (4) Dishonesty.

38 (5) Unsatisfactory performance.

39 (6) Evident unfitness for service.

1 (7) Physical or mental condition unfitting him or her to instruct
2 or associate with children.

3 (8) Persistent violation of or refusal to obey the school laws of
4 the state or reasonable regulations prescribed for the government
5 of the public schools by the state board or by the governing board
6 of the school district employing him or her.

7 (9) Conviction of a felony or of any crime involving moral
8 turpitude.

9 (10) Violation of Section 51530 or conduct specified in Section
10 1028 of the Government Code, added by Chapter 1418 of the
11 Statutes of 1947.

12 (11) Alcoholism or other drug abuse that makes the employee
13 unfit to instruct or associate with children.

14 (b) The governing board of a school district may suspend
15 without pay for a specific period of time on grounds of
16 unprofessional conduct a permanent certificated employee or, in
17 a school district with an average daily attendance of less than 250
18 pupils, a probationary employee, pursuant to the procedures
19 specified in Sections 44933, 44934, 44934.1, 44935, 44936, 44937,
20 44943, and 44944. This authorization does not apply to a school
21 district that has adopted a collective bargaining agreement pursuant
22 to subdivision (b) of Section 3543.2 of the Government Code.

23 ~~SEC. 86.~~

24 *SEC. 87.* Section 44939 of the Education Code is amended to
25 read:

26 44939. (a) This section applies only to dismissal or suspension
27 proceedings initiated pursuant to Section 44934.

28 (b) Upon the filing of written charges, duly signed and verified
29 by the person filing them with the governing board of a school
30 district, or upon a written statement of charges formulated by the
31 governing board of a school district, charging a permanent
32 employee of the school district with immoral conduct, conviction
33 of a felony or of any crime involving moral turpitude, with
34 incompetency due to mental disability, with willful refusal to
35 perform regular assignments without reasonable cause, as
36 prescribed by reasonable rules and regulations of the employing
37 school district, or with violation of Section 51530, the governing
38 board of the school district may, if it deems that action necessary,
39 immediately suspend the employee from his or her duties and give
40 notice to him or her of his or her suspension, and that 30 days after

1 service of the notice of dismissal, he or she will be dismissed,
2 unless he or she demands a hearing.

3 (c) (1) An employee who has been placed on suspension
4 pursuant to this section may serve and file with the Office of
5 Administrative Hearings a motion for immediate reversal of
6 suspension. Review of a motion filed pursuant to this section shall
7 be limited to a determination as to whether the facts as alleged in
8 the statement of charges, if true, are sufficient to constitute a basis
9 for immediate suspension under this section. The motion shall
10 include a memorandum of points and authorities setting forth law
11 and argument supporting the employee's contention that the
12 statement of charges does not set forth a sufficient basis for
13 immediate suspension.

14 (2) The motion shall be served upon the governing board of the
15 school district and filed with the Office of Administrative Hearings
16 within 30 days after service upon the employee of the initial
17 pleading in the matter. The governing board of the school district
18 has the right to serve and file a written response to the motion
19 before or at the time of hearing.

20 (3) The hearing on the motion for immediate reversal of
21 suspension shall be held no later than 30 days after the motion is
22 filed with the Office of Administrative Hearings.

23 (4) The administrative law judge shall, no later than 15 days
24 after the hearing, issue an order denying or granting the motion.
25 The order shall be in writing, and a copy of the order shall be
26 served by the Office of Administrative Hearings upon the parties.
27 The grant or denial of the motion shall be without prejudice to
28 consideration by the Commission on Professional Competence,
29 based upon the full evidentiary record before it, of the validity of
30 the grounds for dismissal. The ruling shall not be considered by
31 the commission in determining the validity of the grounds for
32 dismissal, and shall not have any bearing on the commission's
33 determination regarding the grounds for dismissal.

34 (5) An order granting a motion for immediate reversal of
35 suspension shall become effective within five days of service of
36 the order. The school district shall make the employee whole for
37 any lost wages, benefits, and compensation within 14 days after
38 service of an order granting the motion.

39 (6) A motion made pursuant to this section shall be the exclusive
40 means of obtaining interlocutory review of suspension pending

1 dismissal. The grant or denial of the motion is not subject to
2 interlocutory judicial review.

3 (d) A motion for immediate reversal of suspension pursuant to
4 this section does not affect the authority of a governing board of
5 a school district to determine the physical placement and
6 assignment of an employee who is suspended or placed on
7 administrative leave during the review of the motion or while
8 dismissal charges are pending.

9 ~~SEC. 87.~~

10 *SEC. 88.* Section 44940 of the Education Code is amended to
11 read:

12 44940. (a) For purposes of this section, “charged with a
13 mandatory leave of absence offense” is defined to mean charged
14 by complaint, information, or indictment filed in a court of
15 competent jurisdiction with the commission of any sex offense as
16 defined in Section 44010, with a violation or attempted violation
17 of Section 187 of the Penal Code, or with the commission of any
18 offense involving aiding or abetting the unlawful sale, use, or
19 exchange to minors of controlled substances listed in Schedule I,
20 II, or III, as contained in Sections 11054, 11055, and 11056 of the
21 Health and Safety Code.

22 (b) For purposes of this section, “charged with an optional leave
23 of absence offense” is defined to mean a charge by complaint,
24 information, or indictment filed in a court of competent jurisdiction
25 with the commission of any controlled substance offense as defined
26 in Section 44011 or 87011 of this code, or Sections 11357 to 11361,
27 inclusive, or Section 11363, 11364, or 11370.1 of the Health and
28 Safety Code, insofar as these sections relate to any controlled
29 substances except marijuana, mescaline, peyote, or
30 tetrahydrocannabinols.

31 (c) For purposes of this section and Section 44940.5, the term
32 “school district” includes county offices of education.

33 (d) (1) If a certificated employee of a school district is charged
34 with a mandatory leave of absence offense, as defined in
35 subdivision (a), upon being informed that a charge has been filed,
36 the governing board of the school district shall immediately place
37 the employee on compulsory leave of absence. The duration of
38 the leave of absence shall be until a time not more than 10 days
39 after the date of entry of the judgment in the proceedings. No later
40 than 10 days after receipt of the complaint, information, or

1 indictment described by subdivision (a), the school district shall
2 forward a copy to the Commission on Teacher Credentialing.

3 (2) Upon receiving a copy of a complaint, information, or
4 indictment described in subdivision (a) and forwarded by a school
5 district, the Commission on Teacher Credentialing shall
6 automatically suspend the employee's teaching or service
7 credential. The duration of the suspension shall be until a time not
8 more than 10 days after the date of entry of the judgment in the
9 proceedings.

10 (e) (1) If a certificated employee of a school district is charged
11 with an optional leave of absence offense as defined in subdivision
12 (b), the governing board of the school district may immediately
13 place the employee upon compulsory leave in accordance with the
14 procedure in this section and Section 44940.5. If any certificated
15 employee is charged with an offense deemed to fall into both the
16 mandatory and the optional leave of absence categories, as defined
17 in subdivisions (a) and (b), that offense shall be treated as a
18 mandatory leave of absence offense for purposes of this section.
19 No later than 10 days after receipt of the complaint, information,
20 or indictment described by subdivision (a), the school district shall
21 forward a copy to the Commission on Teacher Credentialing.

22 (2) Upon receiving a copy of a complaint, information, or
23 indictment described in subdivision (a) and forwarded by a school
24 district, the Commission on Teacher Credentialing shall
25 automatically suspend the employee's teaching or service
26 credential. The duration of the suspension shall be until a time not
27 more than 10 days after the date of entry of the judgment in the
28 proceedings.

29 ~~SEC. 88.~~

30 *SEC. 89.* Section 44944 of the Education Code is amended to
31 read:

32 44944. (a) This section applies only to dismissal or suspension
33 proceedings initiated pursuant to Section 44934.

34 (b) (1) (A) In a dismissal or suspension proceeding initiated
35 pursuant to Section 44934, if a hearing is requested by the
36 employee, the hearing shall be commenced within six months from
37 the date of the employee's demand for a hearing. A continuance
38 shall not extend the date for the commencement of the hearing
39 more than six months from the date of the employee's request for
40 a hearing, except for extraordinary circumstances, as determined

1 by the administrative law judge. If extraordinary circumstances
2 are found that extend the date for the commencement of the
3 hearing, the deadline for concluding the hearing and closing the
4 record pursuant to this subdivision shall be extended for a period
5 of time equal to the continuance. The hearing date shall be
6 established after consultation with the employee and the governing
7 board of the school district, or their representatives, except that if
8 the parties are not able to reach an agreement on a date, the Office
9 of Administrative Hearings shall unilaterally set a date in
10 compliance with this section. The hearing shall be completed by
11 a closing of the record within seven months of the date of the
12 employee's demand for a hearing. A continuance shall not extend
13 the date for the close of the record more than seven months from
14 the date of the employee's request for a hearing, except for good
15 cause, as determined by the administrative law judge.

16 (B) If substantial progress has been made in completing the
17 previously scheduled days of the hearing within the seven-month
18 period but the hearing cannot be completed, for good cause shown,
19 within the seven-month period, the period for completing the
20 hearing may be extended by the presiding administrative law judge.
21 If the administrative law judge grants a continuance under this
22 subparagraph, he or she shall establish a reasonable timetable for
23 the completion of the hearing and the closing of the record. The
24 hearing shall be initiated and conducted, and a decision made, in
25 accordance with Chapter 5 (commencing with Section 11500) of
26 Part 1 of Division 3 of Title 2 of the Government Code, and the
27 Commission on Professional Competence shall have all of the
28 power granted to an agency pursuant to that chapter, except as
29 described in this article.

30 (2) (A) A witness shall not be permitted to testify at the hearing
31 except upon oath or affirmation. Testimony shall not be given or
32 evidence shall not be introduced relating to matters that occurred
33 more than four years before the date of the filing of the notice,
34 except allegations of an act described in Section 44010 of this code
35 or Sections 11165.2 to 11165.6, inclusive, of the Penal Code.

36 (B) Evidence of records regularly kept by the governing board
37 of the school district concerning the employee may be introduced,
38 but no decision relating to the dismissal or suspension of an
39 employee shall be made based on charges or evidence of any nature
40 relating to matters occurring more than four years before the filing

1 of the notice, except allegations of an act described in Section
2 44010 of this code or Sections 11165.2 to 11165.6, inclusive, of
3 the Penal Code.

4 (c) (1) The hearing provided for in this section shall be
5 conducted by a Commission on Professional Competence, unless
6 the parties submit a statement in writing to the Office of
7 Administrative Hearings, indicating that both parties waive the
8 right to convene a Commission on Professional Competence and
9 stipulate to having the hearing conducted by a single administrative
10 law judge. If the parties elect to waive a hearing before the
11 Commission on Professional Competence, the hearing shall be
12 initiated and conducted, and a decision made, in accordance with
13 Chapter 5 (commencing with Section 11500) of Part 1 of Division
14 3 of Title 2 of the Government Code, and the administrative law
15 judge conducting the hearing shall have all the powers granted to
16 a Commission on Professional Competence pursuant to that
17 chapter, except as described in this article.

18 (2) If the parties elect not to waive a hearing before a
19 Commission on Professional Competence, one member of the
20 commission shall be selected by the employee, one member shall
21 be selected by the governing board of the school district, and one
22 member shall be an administrative law judge of the Office of
23 Administrative Hearings who shall be chairperson and a voting
24 member of the commission and shall be responsible for assuring
25 that the legal rights of the parties are protected at the hearing.

26 (3) The governing board of the school district and the employee
27 shall select Commission on Professional Competence members
28 no later than 45 days before the date set for hearing, and shall serve
29 notice of their selection upon all other parties and upon the Office
30 of Administrative Hearings. Failure to meet this deadline shall
31 constitute a waiver of the right to selection, and the county board
32 of education or its specific designee shall immediately make the
33 selection. If the county board of education is also the governing
34 board of the school district or has by statute been granted the
35 powers of a governing board, the selection shall be made by the
36 Superintendent, who shall be reimbursed by the school district for
37 all costs incident to the selection.

38 (4) Any party who believes that a selected Commission on
39 Professional Competence member is not qualified may file an
40 objection, including a statement describing the basis for the

1 objection, with the Office of Administrative Hearings and serve
 2 the objection and statement upon all other parties within 10 days
 3 of the date that the notice of selection is filed. Within seven days
 4 after the filing of any objection, the administrative law judge
 5 assigned to the matter shall rule on the objection or convene a
 6 teleconference with the parties for argument.

7 (5) (A) The member selected by the governing board of the
 8 school district and the member selected by the employee shall not
 9 be related to the employee and shall not be employees of the school
 10 district initiating the dismissal or suspension. Each member shall
 11 hold a currently valid credential and have at least three years’
 12 experience within the past 10 years in the discipline of the
 13 employee.

14 (B) For purposes of this paragraph, the following terms have
 15 the following meanings:

16 (i) For an employee subject to dismissal whose most recent
 17 teaching assignment is in kindergarten or any of the grades 1 to 6,
 18 inclusive, “discipline” means a teaching assignment in kindergarten
 19 or any of the grades 1 to 6, inclusive.

20 (ii) For an employee subject to dismissal whose most recent
 21 assignment requires an education specialist credential or a services
 22 credential, “discipline” means an assignment that requires an
 23 education specialist credential or a services credential, respectively.

24 (iii) For an employee subject to dismissal whose most recent
 25 teaching assignment is in any of the grades 7 to 12, inclusive,
 26 “discipline” means a teaching assignment in any of grades 7 to 12,
 27 inclusive, in the same area of study, as that term is used in Section
 28 51220, as the most recent teaching assignment of the employee
 29 subject to dismissal.

30 (d) (1) The decision of the Commission on Professional
 31 Competence shall be made by a majority vote, and the commission
 32 shall prepare a written decision containing findings of fact,
 33 determinations of issues, and a disposition that shall be, solely,
 34 one of the following:

- 35 (A) That the employee should be dismissed.
- 36 (B) That the employee should be suspended for a specific period
 37 of time without pay.
- 38 (C) That the employee should not be dismissed or suspended.

39 (2) The decision of the Commission on Professional Competence
 40 that the employee should not be dismissed or suspended shall not

1 be based on nonsubstantive procedural errors committed by the
2 school district or governing board of the school district unless the
3 errors are prejudicial errors.

4 (3) The Commission on Professional Competence shall not have
5 the power to dispose of the charge of dismissal by imposing
6 probation or other alternative sanctions. The imposition of
7 suspension pursuant to subparagraph (B) of paragraph (1) shall be
8 available only in a suspension proceeding authorized pursuant to
9 subdivision (b) of Section 44932 or Section 44933.

10 (4) The decision of the Commission on Professional Competence
11 shall be deemed to be the final decision of the governing board of
12 the school district.

13 (5) The governing board of the school district may adopt from
14 time to time rules and procedures not inconsistent with this section
15 as may be necessary to effectuate this section.

16 (6) The governing board of the school district and the employee
17 shall have the right to be represented by counsel.

18 (e) (1) If the member selected by the governing board of the
19 school district or the member selected by the employee is employed
20 by any school district in this state, the member shall, during any
21 service on a Commission on Professional Competence, continue
22 to receive salary, fringe benefits, accumulated sick leave, and other
23 leaves and benefits from the school district in which the member
24 is employed, but shall not receive additional compensation or
25 honorariums for service on the commission.

26 (2) If the member selected is a retired employee, the member
27 shall receive pay at the daily substitute teacher rate in the school
28 district that is a party to the hearing. Service on a Commission on
29 Professional Competence shall not be credited toward retirement
30 benefits.

31 (3) If service on a Commission on Professional Competence
32 occurs during summer recess or vacation periods, the member shall
33 receive compensation proportionate to that received during the
34 current or immediately preceding contract period from the
35 member's employing school district, whichever amount is greater.

36 (f) (1) If the Commission on Professional Competence
37 determines that the employee should be dismissed or suspended,
38 the governing board of the school district and the state shall share
39 equally the expenses of the hearing, including the cost of the
40 administrative law judge. The state shall pay any costs incurred

1 under paragraphs (2) and (3) of subdivision (e), the reasonable
2 expenses, as determined by the administrative law judge, of the
3 member selected by the governing board of the school district and
4 the member selected by the employee, including, but not limited
5 to, payments or obligations incurred for travel, meals, and lodging,
6 and the cost of the substitute or substitutes, if any, for the member
7 selected by the governing board of the school district and the
8 member selected by the employee. The Controller shall pay all
9 claims submitted pursuant to this paragraph from the General Fund,
10 and may prescribe reasonable rules, regulations, and forms for the
11 submission of the claims. The employee and the governing board
12 of the school district shall pay their own attorney's fees.

13 (2) If the Commission on Professional Competence determines
14 that the employee should not be dismissed or suspended, the
15 governing board of the school district shall pay the expenses of
16 the hearing, including the cost of the administrative law judge, any
17 costs incurred under paragraphs (2) and (3) of subdivision (e), the
18 reasonable expenses, as determined by the administrative law
19 judge, of the member selected by the governing board of the school
20 district and the member selected by the employee, including, but
21 not limited to, payments or obligations incurred for travel, meals,
22 and lodging, the cost of the substitute or substitutes, if any, for the
23 member selected by the governing board of the school district and
24 the member selected by the employee, and reasonable attorney's
25 fees incurred by the employee.

26 (3) As used in this section, "reasonable expenses" shall not be
27 deemed "compensation" within the meaning of subdivision (e).

28 (4) If either the governing board of the school district or the
29 employee petitions a court of competent jurisdiction for review of
30 the decision of the Commission on Professional Competence, the
31 payment of expenses to members of the commission required by
32 this subdivision shall not be stayed.

33 (5) If the decision of the Commission on Professional
34 Competence is reversed or vacated by a court of competent
35 jurisdiction, either the state, having paid the commission members'
36 expenses, shall be entitled to reimbursement from the governing
37 board of the school district for those expenses, or the governing
38 board of the school district, having paid the expenses, shall be
39 entitled to reimbursement from the state. If either the governing
40 board of the school district or the employee petitions a court of

1 competent jurisdiction for review of the decision to overturn the
2 administrative law judge's decision, the payment of the expenses
3 of the hearing, including the cost of the administrative law judge
4 required by this paragraph, shall be stayed until no further appeal
5 is sought, or all appeals are exhausted.

6 (g) The hearing provided for in this section shall be conducted
7 in a place selected by agreement among the members of the
8 Commission on Professional Competence. In the absence of
9 agreement, the place shall be selected by the administrative law
10 judge.

11 ~~SEC. 89.~~

12 *SEC. 90.* Section 44944.05 of the Education Code is amended
13 to read:

14 44944.05. (a) In a dismissal or suspension proceeding initiated
15 pursuant to Section 44934, in lieu of written discovery required
16 pursuant to Section 11507.6 of the Government Code, the parties
17 shall make disclosures as described in this section. This section
18 does not apply to dismissal or suspension proceedings initiated
19 pursuant to Section 44934.1.

20 (b) (1) An initial disclosure shall comply with the following
21 requirements:

22 (A) A party shall, without awaiting a discovery request, provide
23 to the other parties both of the following:

24 (i) The name and, if known, the address and telephone number
25 of each individual likely to have discoverable information, along
26 with the subjects of information relating to the allegations made
27 in the charges and the parties' claims and defenses, unless the use
28 would be solely for impeachment purposes.

29 (ii) A copy of all documents, electronically stored information,
30 and tangible items that the disclosing party has in its possession,
31 custody, or control relating to the allegations made in the charges
32 and the parties' claims or defenses, unless the use would be solely
33 for impeachment.

34 (B) The school district and the employee shall make their initial
35 disclosures within 45 days of the date of the employee's demand
36 for a hearing.

37 (C) A party shall make its initial disclosures based on the
38 information then reasonably available to it. A party is not excused
39 from making its disclosures because it has not fully investigated
40 the case or because it challenges the sufficiency of another party's

1 disclosures. A party's failure to make initial disclosures within the
2 deadlines set forth in this section shall preclude the party from
3 introducing witnesses or evidence not disclosed at the hearing,
4 unless the party shows good cause for its failure to timely disclose.

5 (D) A party has an obligation to promptly supplement its initial
6 disclosures as new information or evidence becomes known or
7 available. Supplemental disclosures shall be made as soon as
8 possible, and no later than 60 days before the date of
9 commencement of the hearing. A party's failure to make
10 supplemental disclosures promptly upon discovery or availability
11 of new information or evidence shall preclude the party from
12 introducing witnesses or evidence not disclosed at the hearing,
13 unless the party shows good cause for its failure to timely disclose.

14 (2) The disclosure of expert testimony shall comply with the
15 following requirements:

16 (A) A party shall also disclose to the other parties the identities
17 of any expert witnesses whose testimony it may use at the hearing.

18 (B) The disclosure specified in subparagraph (A) shall be
19 accompanied by a summary of the witness' expected testimony,
20 including a description of the facts and data considered by the
21 witness; a description of the witness' qualifications, including a
22 list of all publications authored in the previous 10 years; a list of
23 all other cases in which, during the previous four years, the witness
24 testified as an expert at a hearing or by deposition; and a statement
25 of the compensation to be paid to the expert witness.

26 (C) Expert witness disclosures shall be made no later than 60
27 days before the date of commencement of the hearing. A party's
28 failure to make full and timely expert witness disclosures shall
29 preclude the party's use of the expert witness' testimony or
30 evidence at the hearing.

31 (3) Prehearing disclosures shall comply with the following
32 requirements:

33 (A) In addition to the disclosures required in paragraphs (1) and
34 (2), a party shall provide to the other parties the following
35 information about the evidence that it may present at the hearing:

36 (i) The name, and, if not previously provided, the address and
37 telephone number of each witness, separately identifying those
38 the party expects to present and those it may call if the need arises.

1 (ii) An identification of each exhibit, separately identifying
2 those items the party expects to offer and those it may offer if the
3 need arises.

4 (B) Prehearing disclosures shall be made at least 30 days before
5 the hearing.

6 (i) Within 14 days after prehearing disclosures are made, a party
7 shall file and serve any objections, along with the grounds for each
8 objection, to the admissibility of evidence.

9 (ii) These objections shall be decided on the first day of the
10 hearing, or at a prehearing conference conducted pursuant to
11 Section 11511.5 of the Government Code. Documents and
12 individuals not timely disclosed without good cause shall be
13 precluded from admission at the hearing.

14 (c) In addition to the disclosures required by subdivision (a),
15 the parties may obtain discovery by oral deposition in California,
16 in accordance with Sections 2025.010 to 2025.620, inclusive, of
17 the Code of Civil Procedure, except as described in this article.
18 The school district may take the depositions of the employee and
19 no more than four other witnesses, and the employee may take
20 depositions of no more than five witnesses. Each witness deposition
21 is limited to seven hours. An administrative law judge may allow
22 the parties to conduct additional depositions only upon a showing
23 of good cause. If a motion to conduct additional depositions is
24 granted by the administrative law judge, the employee shall be
25 given a meaningful opportunity to respond to new evidence
26 introduced as a result of the additional depositions. An order
27 granting a motion for additional depositions shall not constitute
28 an extraordinary circumstance or good cause for purposes of
29 extending the deadlines set forth in paragraph (1) of subdivision
30 (b) of Section 44944.

31 (d) If the right to disclosures or oral depositions is denied by
32 either the employee or the governing board, the exclusive right of
33 a party seeking an order compelling production of discovery shall
34 be pursuant to Section 11507.7 of the Government Code. If a party
35 seeks protection from unreasonable or oppressive discovery
36 demands, the exclusive right of a party seeking an order for
37 protection shall be pursuant to Section 11450.30 of the Government
38 Code.

1 ~~SEC. 90.~~

2 *SEC. 91.* Section 44944.3 of the Education Code is amended
3 to read:

4 44944.3. At a hearing conducted pursuant to Section 44944 or
5 44944.1, the administrative law judge, before admitting any
6 testimony or evidence concerning an individual pupil, shall
7 determine whether the introduction of the testimony or evidence
8 at an open hearing would violate any provision of Article 5
9 (commencing with Section 49073) of Chapter 6.5 of Part 27 of
10 Division 4, relating to privacy of pupil records. If the administrative
11 law judge, in his or her discretion, determines that any of those
12 provisions would be violated, he or she shall order that the hearing,
13 or any portion of the hearing at which the testimony or evidence
14 would be produced, be conducted in executive session.

15 ~~SEC. 91.~~

16 *SEC. 92.* Section 46116 of the Education Code is amended to
17 read:

18 46116. (a) No later than July 1, 2017, the Superintendent shall
19 provide the Legislature with an evaluation of kindergarten program
20 implementation in the state, including part-day and full-day
21 kindergarten programs. The evaluation shall include recommended
22 best practices for providing full-day kindergarten programs.

23 (b) The evaluation shall include a sample of local educational
24 agencies' full-day and part-day kindergarten programs from across
25 the state. It is the intent of the Legislature that this sample be
26 representative of the diversity of the state, and shall include both
27 urban and rural and small and large local educational agencies
28 within school districts.

29 (c) The report required pursuant to this section shall be submitted
30 in compliance with Section 9795 of the Government Code.

31 (d) This section shall not become operative until the Legislature
32 makes an appropriation for these purposes in the annual Budget
33 Act or in any other statute.

34 (e) This section shall become inoperative on July 1, 2017, and,
35 as of January 1, 2018, is repealed, unless a later enacted statute,
36 that becomes operative on or before January 1, 2018, deletes or
37 extends the dates on which it becomes inoperative and is repealed.

1 ~~SEC. 92.~~

2 *SEC. 93.* The heading of Article 3 (commencing with Section
3 46330) of Chapter 3 of Part 26 of Division 4 of Title 2 of the
4 Education Code is repealed.

5 ~~SEC. 93.~~

6 *SEC. 94.* The heading of Article 4 (commencing with Section
7 46340) of Chapter 3 of Part 26 of Division 4 of Title 2 of the
8 Education Code is repealed.

9 ~~SEC. 94.~~

10 *SEC. 95.* Section 47605 of the Education Code is amended to
11 read:

12 47605. (a) (1) Except as set forth in paragraph (2), a petition
13 for the establishment of a charter school within a school district
14 may be circulated by one or more persons seeking to establish the
15 charter school. A petition for the establishment of a charter school
16 shall identify a single charter school that will operate within the
17 geographic boundaries of that school district. A charter school
18 may propose to operate at multiple sites within the school district
19 if each location is identified in the charter school petition. The
20 petition may be submitted to the governing board of the school
21 district for review after either of the following conditions is met:

22 (A) The petition is signed by a number of parents or legal
23 guardians of pupils that is equivalent to at least one-half of the
24 number of pupils that the charter school estimates will enroll in
25 the school for its first year of operation.

26 (B) The petition is signed by a number of teachers that is
27 equivalent to at least one-half of the number of teachers that the
28 charter school estimates will be employed at the school during its
29 first year of operation.

30 (2) A petition that proposes to convert an existing public school
31 to a charter school that would not be eligible for a loan pursuant
32 to subdivision (c) of Section 41365 may be circulated by one or
33 more persons seeking to establish the charter school. The petition
34 may be submitted to the governing board of the school district for
35 review after the petition is signed by not less than 50 percent of
36 the permanent status teachers currently employed at the public
37 school to be converted.

38 (3) A petition shall include a prominent statement that a
39 signature on the petition means that the parent or legal guardian
40 is meaningfully interested in having his or her child or ward attend

1 the charter school, or in the case of a teacher's signature, means
2 that the teacher is meaningfully interested in teaching at the charter
3 school. The proposed charter shall be attached to the petition.

4 (4) After receiving approval of its petition, a charter school that
5 proposes to establish operations at one or more additional sites
6 shall request a material revision to its charter and shall notify the
7 authority that granted its charter of those additional locations. The
8 authority that granted its charter shall consider whether to approve
9 those additional locations at an open, public meeting. If the
10 additional locations are approved, they shall be a material revision
11 to the charter school's charter.

12 (5) A charter school that is unable to locate within the
13 jurisdiction of the chartering school district may establish one site
14 outside the boundaries of the school district, but within the county
15 in which that school district is located, if the school district within
16 the jurisdiction of which the charter school proposes to operate is
17 notified in advance of the charter petition approval, the county
18 superintendent of schools and the Superintendent are notified of
19 the location of the charter school before it commences operations,
20 and either of the following circumstances exists:

21 (A) The school has attempted to locate a single site or facility
22 to house the entire program, but a site or facility is unavailable in
23 the area in which the school chooses to locate.

24 (B) The site is needed for temporary use during a construction
25 or expansion project.

26 (6) Commencing January 1, 2003, a petition to establish a charter
27 school may not be approved to serve pupils in a grade level that
28 is not served by the school district of the governing board
29 considering the petition, unless the petition proposes to serve pupils
30 in all of the grade levels served by that school district.

31 (b) No later than 30 days after receiving a petition, in accordance
32 with subdivision (a), the governing board of the school district
33 shall hold a public hearing on the provisions of the charter, at
34 which time the governing board of the school district shall consider
35 the level of support for the petition by teachers employed by the
36 school district, other employees of the school district, and parents.
37 Following review of the petition and the public hearing, the
38 governing board of the school district shall either grant or deny
39 the charter within 60 days of receipt of the petition, provided,
40 however, that the date may be extended by an additional 30 days

1 if both parties agree to the extension. In reviewing petitions for
2 the establishment of charter schools pursuant to this section, the
3 chartering authority shall be guided by the intent of the Legislature
4 that charter schools are and should become an integral part of the
5 California educational system and that the establishment of charter
6 schools should be encouraged. The governing board of the school
7 district shall grant a charter for the operation of a school under this
8 part if it is satisfied that granting the charter is consistent with
9 sound educational practice. The governing board of the school
10 district shall not deny a petition for the establishment of a charter
11 school unless it makes written factual findings, specific to the
12 particular petition, setting forth specific facts to support one or
13 more of the following findings:

14 (1) The charter school presents an unsound educational program
15 for the pupils to be enrolled in the charter school.

16 (2) The petitioners are demonstrably unlikely to successfully
17 implement the program set forth in the petition.

18 (3) The petition does not contain the number of signatures
19 required by subdivision (a).

20 (4) The petition does not contain an affirmation of each of the
21 conditions described in subdivision (d).

22 (5) The petition does not contain reasonably comprehensive
23 descriptions of all of the following:

24 (A) (i) The educational program of the charter school, designed,
25 among other things, to identify those whom the charter school is
26 attempting to educate, what it means to be an “educated person”
27 in the 21st century, and how learning best occurs. The goals
28 identified in that program shall include the objective of enabling
29 pupils to become self-motivated, competent, and lifelong learners.

30 (ii) The annual goals for the charter school for all pupils and
31 for each subgroup of pupils identified pursuant to Section 52052,
32 to be achieved in the state priorities, as described in subdivision
33 (d) of Section 52060, that apply for the grade levels served, or the
34 nature of the program operated, by the charter school, and specific
35 annual actions to achieve those goals. A charter petition may
36 identify additional school priorities, the goals for the school
37 priorities, and the specific annual actions to achieve those goals.

38 (iii) If the proposed charter school will serve high school pupils,
39 the manner in which the charter school will inform parents about
40 the transferability of courses to other public high schools and the

1 eligibility of courses to meet college entrance requirements.
2 Courses offered by the charter school that are accredited by the
3 Western Association of Schools and Colleges may be considered
4 transferable and courses approved by the University of California
5 or the California State University as creditable under the “A” to
6 “G” admissions criteria may be considered to meet college entrance
7 requirements.

8 (B) The measurable pupil outcomes identified for use by the
9 charter school. “Pupil outcomes,” for purposes of this part, means
10 the extent to which all pupils of the school demonstrate that they
11 have attained the skills, knowledge, and attitudes specified as goals
12 in the school’s educational program. Pupil outcomes shall include
13 outcomes that address increases in pupil academic achievement
14 both schoolwide and for all groups of pupils served by the charter
15 school, as that term is defined in subparagraph (B) of paragraph
16 (3) of subdivision (a) of Section 47607. The pupil outcomes shall
17 align with the state priorities, as described in subdivision (d) of
18 Section 52060, that apply for the grade levels served, or the nature
19 of the program operated, by the charter school.

20 (C) The method by which pupil progress in meeting those pupil
21 outcomes is to be measured. To the extent practicable, the method
22 for measuring pupil outcomes for state priorities shall be consistent
23 with the way information is reported on a school accountability
24 report card.

25 (D) The governance structure of the charter school, including,
26 but not limited to, the process to be followed by the charter school
27 to ensure parental involvement.

28 (E) The qualifications to be met by individuals to be employed
29 by the charter school.

30 (F) The procedures that the charter school will follow to ensure
31 the health and safety of pupils and staff. These procedures shall
32 include the requirement that each employee of the charter school
33 furnish it with a criminal record summary as described in Section
34 44237.

35 (G) The means by which the school will achieve a racial and
36 ethnic balance among its pupils that is reflective of the general
37 population residing within the territorial jurisdiction of the school
38 district to which the charter petition is submitted.

39 (H) Admission requirements, if applicable.

1 (I) The manner in which annual, independent financial audits
2 shall be conducted, which shall employ generally accepted
3 accounting principles, and the manner in which audit exceptions
4 and deficiencies shall be resolved to the satisfaction of the
5 chartering authority.

6 (J) The procedures by which pupils can be suspended or
7 expelled.

8 (K) The manner by which staff members of the charter schools
9 will be covered by the State Teachers' Retirement System, the
10 Public Employees' Retirement System, or federal social security.

11 (L) The public school attendance alternatives for pupils residing
12 within the school district who choose not to attend charter schools.

13 (M) The rights of an employee of the school district upon
14 leaving the employment of the school district to work in a charter
15 school, and of any rights of return to the school district after
16 employment at a charter school.

17 (N) The procedures to be followed by the charter school and
18 the entity granting the charter to resolve disputes relating to
19 provisions of the charter.

20 (O) The procedures to be used if the charter school closes. The
21 procedures shall ensure a final audit of the charter school to
22 determine the disposition of all assets and liabilities of the charter
23 school, including plans for disposing of any net assets and for the
24 maintenance and transfer of pupil records.

25 (6) The petition does not contain a declaration of whether or
26 not the charter school shall be deemed the exclusive public
27 employer of the employees of the charter school for purposes of
28 Chapter 10.7 (commencing with Section 3540) of Division 4 of
29 Title 1 of the Government Code.

30 (c) (1) Charter schools shall meet all statewide standards and
31 conduct the pupil assessments required pursuant to Sections 60605
32 and 60851 and any other statewide standards authorized in statute
33 or pupil assessments applicable to pupils in noncharter public
34 schools.

35 (2) Charter schools shall, on a regular basis, consult with their
36 parents, legal guardians, and teachers regarding the charter school's
37 educational programs.

38 (d) (1) In addition to any other requirement imposed under this
39 part, a charter school shall be nonsectarian in its programs,
40 admission policies, employment practices, and all other operations,

1 shall not charge tuition, and shall not discriminate against a pupil
2 on the basis of the characteristics listed in Section 220. Except as
3 provided in paragraph (2), admission to a charter school shall not
4 be determined according to the place of residence of the pupil, or
5 of his or her parent or legal guardian, within this state, except that
6 an existing public school converting partially or entirely to a charter
7 school under this part shall adopt and maintain a policy giving
8 admission preference to pupils who reside within the former
9 attendance area of that public school.

10 (2) (A) A charter school shall admit all pupils who wish to
11 attend the school.

12 (B) If the number of pupils who wish to attend the charter school
13 exceeds the school's capacity, attendance, except for existing pupils
14 of the charter school, shall be determined by a public random
15 drawing. Preference shall be extended to pupils currently attending
16 the charter school and pupils who reside in the district except as
17 provided for in Section 47614.5. Other preferences may be
18 permitted by the chartering authority on an individual school basis
19 and only if consistent with the law.

20 (C) In the event of a drawing, the chartering authority shall
21 make reasonable efforts to accommodate the growth of the charter
22 school and shall not take any action to impede the charter school
23 from expanding enrollment to meet pupil demand.

24 (3) If a pupil is expelled or leaves the charter school without
25 graduating or completing the school year for any reason, the charter
26 school shall notify the superintendent of the school district of the
27 pupil's last known address within 30 days, and shall, upon request,
28 provide that school district with a copy of the cumulative record
29 of the pupil, including a transcript of grades or report card, and
30 health information. This paragraph applies only to pupils subject
31 to compulsory full-time education pursuant to Section 48200.

32 (e) The governing board of a school district shall not require an
33 employee of the school district to be employed in a charter school.

34 (f) The governing board of a school district shall not require a
35 pupil enrolled in the school district to attend a charter school.

36 (g) The governing board of a school district shall require that
37 the petitioner or petitioners provide information regarding the
38 proposed operation and potential effects of the charter school,
39 including, but not limited to, the facilities to be used by the school,
40 the manner in which administrative services of the school are to

1 be provided, and potential civil liability effects, if any, upon the
2 school and upon the school district. The description of the facilities
3 to be used by the charter school shall specify where the school
4 intends to locate. The petitioner or petitioners shall also be required
5 to provide financial statements that include a proposed first-year
6 operational budget, including startup costs, and cashflow and
7 financial projections for the first three years of operation.

8 (h) In reviewing petitions for the establishment of charter
9 schools within the school district, the governing board of the school
10 district shall give preference to petitions that demonstrate the
11 capability to provide comprehensive learning experiences to pupils
12 identified by the petitioner or petitioners as academically low
13 achieving pursuant to the standards established by the department
14 under Section 54032, as that section read before July 19, 2006.

15 (i) Upon the approval of the petition by the governing board of
16 the school district, the petitioner or petitioners shall provide written
17 notice of that approval, including a copy of the petition, to the
18 applicable county superintendent of schools, the department, and
19 the state board.

20 (j) (1) If the governing board of a school district denies a
21 petition, the petitioner may elect to submit the petition for the
22 establishment of a charter school to the county board of education.
23 The county board of education shall review the petition pursuant
24 to subdivision (b). If the petitioner elects to submit a petition for
25 establishment of a charter school to the county board of education
26 and the county board of education denies the petition, the petitioner
27 may file a petition for establishment of a charter school with the
28 state board, and the state board may approve the petition, in
29 accordance with subdivision (b). A charter school that receives
30 approval of its petition from a county board of education or from
31 the state board on appeal shall be subject to the same requirements
32 concerning geographic location to which it would otherwise be
33 subject if it received approval from the entity to which it originally
34 submitted its petition. A charter petition that is submitted to either
35 a county board of education or to the state board shall meet all
36 otherwise applicable petition requirements, including the
37 identification of the proposed site or sites where the charter school
38 will operate.

39 (2) In assuming its role as a chartering agency, the state board
40 shall develop criteria to be used for the review and approval of

1 charter school petitions presented to the state board. The criteria
2 shall address all elements required for charter approval, as
3 identified in subdivision (b), and shall define “reasonably
4 comprehensive” as used in paragraph (5) of subdivision (b) in a
5 way that is consistent with the intent of this part. Upon satisfactory
6 completion of the criteria, the state board shall adopt the criteria
7 on or before June 30, 2001.

8 (3) A charter school for which a charter is granted by either the
9 county board of education or the state board based on an appeal
10 pursuant to this subdivision shall qualify fully as a charter school
11 for all funding and other purposes of this part.

12 (4) If either the county board of education or the state board
13 fails to act on a petition within 120 days of receipt, the decision
14 of the governing board of the school district to deny a petition shall
15 be subject to judicial review.

16 (5) The state board shall adopt regulations implementing this
17 subdivision.

18 (6) Upon the approval of the petition by the county board of
19 education, the petitioner or petitioners shall provide written notice
20 of that approval, including a copy of the petition to the department
21 and the state board.

22 (k) (1) The state board may, by mutual agreement, designate
23 its supervisory and oversight responsibilities for a charter school
24 approved by the state board to any local educational agency in the
25 county in which the charter school is located or to the governing
26 board of the school district that first denied the petition.

27 (2) The designated local educational agency shall have all
28 monitoring and supervising authority of a chartering agency,
29 including, but not limited to, powers and duties set forth in Section
30 47607, except the power of revocation, which shall remain with
31 the state board.

32 (3) A charter school that is granted its charter through an appeal
33 to the state board and elects to seek renewal of its charter shall,
34 before expiration of the charter, submit its petition for renewal to
35 the governing board of the school district that initially denied the
36 charter. If the governing board of the school district denies the
37 charter school’s petition for renewal, the school may petition the
38 state board for renewal of its charter.

39 (l) Teachers in charter schools shall hold a Commission on
40 Teacher Credentialing certificate, permit, or other document

1 equivalent to that which a teacher in other public schools would
2 be required to hold. These documents shall be maintained on file
3 at the charter school and are subject to periodic inspection by the
4 chartering authority. It is the intent of the Legislature that charter
5 schools be given flexibility with regard to noncore, noncollege
6 preparatory courses.

7 (m) A charter school shall transmit a copy of its annual,
8 independent financial audit report for the preceding fiscal year, as
9 described in subparagraph (I) of paragraph (5) of subdivision (b),
10 to its chartering entity, the Controller, the county superintendent
11 of schools of the county in which the charter school is sited, unless
12 the county board of education of the county in which the charter
13 school is sited is the chartering entity, and the department by
14 December 15 of each year. This subdivision does not apply if the
15 audit of the charter school is encompassed in the audit of the
16 chartering entity pursuant to Section 41020.

17 ~~SEC. 95.~~

18 *SEC. 96.* Section 47605.1 of the Education Code is amended
19 to read:

20 47605.1. (a) (1) Notwithstanding any other law, a charter
21 school that is granted a charter from the governing board of a
22 school district or county office of education after July 1, 2002, and
23 commences providing educational services to pupils on or after
24 July 1, 2002, shall locate in accordance with the geographic and
25 site limitations of this part.

26 (2) Notwithstanding any other law, a charter school that is
27 granted a charter by the state board after July 1, 2002, and
28 commences providing educational services to pupils on or after
29 July 1, 2002, based on the denial of a petition by the governing
30 board of a school district or county board of education, as described
31 in paragraphs (1) and (2) of subdivision (j) of Section 47605, may
32 locate only within the geographic boundaries of the chartering
33 entity that initially denied the petition for the charter.

34 (3) A charter school that receives approval of its charter from
35 a governing board of a school district, a county office of education,
36 or the state board before July 1, 2002, but does not commence
37 operations until after January 1, 2003, shall be subject to the
38 geographic limitations of the part, in accordance with subdivision
39 (e).

1 (b) This section is not intended to affect the admission
2 requirements contained in subdivision (d) of Section 47605.

3 (c) Notwithstanding any other law, a charter school may
4 establish a resource center, meeting space, or other satellite facility
5 located in a county adjacent to that in which the charter school is
6 authorized if the following conditions are met:

7 (1) The facility is used exclusively for the educational support
8 of pupils who are enrolled in nonclassroom-based independent
9 study of the charter school.

10 (2) The charter school provides its primary educational services
11 in, and a majority of the pupils it serves are residents of, the county
12 in which the charter school is authorized.

13 (d) Notwithstanding subdivision (a) or subdivision (a) of Section
14 47605, a charter school that is unable to locate within the
15 geographic boundaries of the chartering school district may
16 establish one site outside the boundaries of the school district, but
17 within the county within which that school district is located, if
18 the school district in which the charter school proposes to operate
19 is notified in advance of the charter petition approval, the county
20 superintendent of schools is notified of the location of the charter
21 school before it commences operations, and either of the following
22 circumstances exist:

23 (1) The school has attempted to locate a single site or facility
24 to house the entire program, but such a facility or site is unavailable
25 in the area in which the school chooses to locate.

26 (2) The site is needed for temporary use during a construction
27 or expansion project.

28 (e) (1) For a charter school that was granted approval of its
29 charter before July 1, 2002, and provided educational services to
30 pupils before July 1, 2002, this section only applies to new
31 educational services or schoolsites established or acquired by the
32 charter school on or after July 1, 2002.

33 (2) For a charter school that was granted approval of its charter
34 before July 1, 2002, but did not provide educational services to
35 pupils before July 1, 2002, this section only applies upon the
36 expiration of a charter that is in existence on January 1, 2003.

37 (3) Notwithstanding other implementation timelines in this
38 section, by June 30, 2005, or upon the expiration of a charter that
39 is in existence on January 1, 2003, whichever is later, all charter
40 schools shall be required to comply with this section for schoolsites

1 at which education services are provided to pupils before or after
2 July 1, 2002, regardless of whether the charter school initially
3 received approval of its charter school petition before July 1, 2002.
4 To achieve compliance with this section, a charter school shall be
5 required to receive approval of a charter petition in accordance
6 with this section and Section 47605.

7 (4) This section is not intended to affect the authority of a
8 governmental entity to revoke a charter that is granted on or before
9 the effective date of this section.

10 (f) A charter school that submits its petition directly to a county
11 board of education, as authorized by Sections 47605.5 or 47605.6,
12 may establish charter school operations only within the
13 geographical boundaries of the county in which that county board
14 of education has jurisdiction.

15 (g) Notwithstanding any other law, the jurisdictional limitations
16 set forth in this section do not apply to a charter school that
17 provides instruction exclusively in partnership with any of the
18 following:

19 (1) The federal Workforce Investment Act of 1998 (29 U.S.C.
20 Sec. 2801 et seq.).

21 (2) Federally affiliated Youth Build programs.

22 (3) Federal job corps training or instruction provided pursuant
23 to a memorandum of understanding with the federal provider.

24 (4) The California Conservation Corps or local conservation
25 corps certified by the California Conservation Corps pursuant to
26 Sections 14507.5 or 14406 of the Public Resources Code.

27 (5) Instruction provided to juvenile court school pupils pursuant
28 to subdivision (b) of Section 42238.18 or pursuant to Section 1981
29 for individuals who are placed in a residential facility.

30 ~~SEC. 96.~~

31 *SEC. 97.* Section 47605.6 of the Education Code is amended
32 to read:

33 47605.6. (a) (1) In addition to the authority provided by
34 Section 47605.5, a county board of education may also approve a
35 petition for the operation of a charter school that operates at one
36 or more sites within the geographic boundaries of the county and
37 that provides instructional services that are not generally provided
38 by a county office of education. A county board of education may
39 approve a countywide charter only if it finds, in addition to the
40 other requirements of this section, that the educational services to

1 be provided by the charter school will offer services to a pupil
2 population that will benefit from those services and that cannot be
3 served as well by a charter school that operates in only one school
4 district in the county. A petition for the establishment of a
5 countywide charter school pursuant to this subdivision may be
6 circulated throughout the county by any one or more persons
7 seeking to establish the charter school. The petition may be
8 submitted to the county board of education for review after either
9 of the following conditions is met:

10 (A) The petition is signed by a number of parents or guardians
11 of pupils residing within the county that is equivalent to at least
12 one-half of the number of pupils that the charter school estimates
13 will enroll in the school for its first year of operation and each of
14 the school districts where the charter school petitioner proposes
15 to operate a facility has received at least 30 days' notice of the
16 petitioner's intent to operate a school pursuant to this section.

17 (B) The petition is signed by a number of teachers that is
18 equivalent to at least one-half of the number of teachers that the
19 charter school estimates will be employed at the school during its
20 first year of operation and each of the school districts where the
21 charter school petitioner proposes to operate a facility has received
22 at least 30 days' notice of the petitioner's intent to operate a school
23 pursuant to this section.

24 (2) An existing public school shall not be converted to a charter
25 school in accordance with this section.

26 (3) After receiving approval of its petition, a charter school that
27 proposes to establish operations at additional sites within the
28 geographic boundaries of the county board of education shall notify
29 the school districts where those sites will be located. The charter
30 school shall also request a material revision of its charter by the
31 county board of education that approved its charter and the county
32 board of education shall consider whether to approve those
33 additional locations at an open, public meeting, held no sooner
34 than 30 days following notification of the school districts where
35 the sites will be located. If approved, the location of the approved
36 sites shall be a material revision of the school's approved charter.

37 (4) A petition shall include a prominent statement indicating
38 that a signature on the petition means that the parent or guardian
39 is meaningfully interested in having his or her child or ward attend
40 the charter school, or in the case of a teacher's signature, means

1 that the teacher is meaningfully interested in teaching at the charter
2 school. The proposed charter shall be attached to the petition.

3 (b) No later than 60 days after receiving a petition, in accordance
4 with subdivision (a), the county board of education shall hold a
5 public hearing on the provisions of the charter, at which time the
6 county board of education shall consider the level of support for
7 the petition by teachers, parents or guardians, and the school
8 districts where the charter school petitioner proposes to place
9 school facilities. Following review of the petition and the public
10 hearing, the county board of education shall either grant or deny
11 the charter within 90 days of receipt of the petition. However, this
12 date may be extended by an additional 30 days if both parties agree
13 to the extension. A county board of education may impose any
14 additional requirements beyond those required by this section that
15 it considers necessary for the sound operation of a countywide
16 charter school. A county board of education may grant a charter
17 for the operation of a school under this part only if it is satisfied
18 that granting the charter is consistent with sound educational
19 practice and that the charter school has reasonable justification for
20 why it could not be established by petition to a school district
21 pursuant to Section 47605. The county board of education shall
22 deny a petition for the establishment of a charter school if it finds
23 one or more of the following:

24 (1) The charter school presents an unsound educational program
25 for the pupils to be enrolled in the charter school.

26 (2) The petitioners are demonstrably unlikely to successfully
27 implement the program set forth in the petition.

28 (3) The petition does not contain the number of signatures
29 required by subdivision (a).

30 (4) The petition does not contain an affirmation of each of the
31 conditions described in subdivision (d).

32 (5) The petition does not contain reasonably comprehensive
33 descriptions of all of the following:

34 (A) (i) The educational program of the charter school, designed,
35 among other things, to identify those pupils whom the charter
36 school is attempting to educate, what it means to be an “educated
37 person” in the 21st century, and how learning best occurs. The
38 goals identified in that program shall include the objective of
39 enabling pupils to become self-motivated, competent, and lifelong
40 learners.

1 (ii) The annual goals for the charter school for all pupils and
2 for each subgroup of pupils identified pursuant to Section 52052,
3 to be achieved in the state priorities, as described in subdivision
4 (d) of Section 52060, that apply for the grade levels served, or the
5 nature of the program operated, by the charter school, and specific
6 annual actions to achieve those goals. A charter petition may
7 identify additional school priorities, the goals for the school
8 priorities, and the specific annual actions to achieve those goals.

9 (iii) If the proposed charter school will enroll high school pupils,
10 the manner in which the charter school will inform parents
11 regarding the transferability of courses to other public high schools.
12 Courses offered by the charter school that are accredited by the
13 Western Association of Schools and Colleges may be considered
14 to be transferable to other public high schools.

15 (iv) If the proposed charter school will enroll high school pupils,
16 information as to the manner in which the charter school will
17 inform parents as to whether each individual course offered by the
18 charter school meets college entrance requirements. Courses
19 approved by the University of California or the California State
20 University as satisfying their prerequisites for admission may be
21 considered as meeting college entrance requirements for purposes
22 of this clause.

23 (B) The measurable pupil outcomes identified for use by the
24 charter school. "Pupil outcomes," for purposes of this part, means
25 the extent to which all pupils of the school demonstrate that they
26 have attained the skills, knowledge, and aptitudes specified as
27 goals in the school's educational program. Pupil outcomes shall
28 include outcomes that address increases in pupil academic
29 achievement both schoolwide and for all groups of pupils served
30 by the charter school, as that term is defined in subparagraph (B)
31 of paragraph (3) of subdivision (a) of Section 47607. The pupil
32 outcomes shall align with the state priorities, as described in
33 subdivision (d) of Section 52060, that apply for the grade levels
34 served, or the nature of the program operated, by the charter school.

35 (C) The method by which pupil progress in meeting those pupil
36 outcomes is to be measured. To the extent practicable, the method
37 for measuring pupil outcomes for state priorities shall be consistent
38 with the way information is reported on a school accountability
39 report card.

1 (D) The location of each charter school facility that the petitioner
2 proposes to operate.

3 (E) The governance structure of the charter school, including,
4 but not limited to, the process to be followed by the charter school
5 to ensure parental involvement.

6 (F) The qualifications to be met by individuals to be employed
7 by the charter school.

8 (G) The procedures that the charter school will follow to ensure
9 the health and safety of pupils and staff. These procedures shall
10 include the requirement that each employee of the charter school
11 furnish it with a criminal record summary as described in Section
12 44237.

13 (H) The means by which the charter school will achieve a racial
14 and ethnic balance among its pupils that is reflective of the general
15 population residing within the territorial jurisdiction of the school
16 district to which the charter petition is submitted.

17 (I) The manner in which annual, independent, financial audits
18 shall be conducted, in accordance with regulations established by
19 the state board, and the manner in which audit exceptions and
20 deficiencies shall be resolved.

21 (J) The procedures by which pupils can be suspended or
22 expelled.

23 (K) The manner by which staff members of the charter school
24 will be covered by the State Teachers' Retirement System, the
25 Public Employees' Retirement System, or federal social security.

26 (L) The procedures to be followed by the charter school and the
27 county board of education to resolve disputes relating to provisions
28 of the charter.

29 (M) Admission requirements of the charter school, if applicable.

30 (N) The public school attendance alternatives for pupils residing
31 within the county who choose not to attend the charter school.

32 (O) The rights of an employee of the county office of education,
33 upon leaving the employment of the county office of education,
34 to be employed by the charter school, and any rights of return to
35 the county office of education that an employee may have upon
36 leaving the employ of the charter school.

37 (P) The procedures to be used if the charter school closes. The
38 procedures shall ensure a final audit of the school to determine the
39 disposition of all assets and liabilities of the charter school,

1 including plans for disposing of any net assets and for the
2 maintenance and transfer of public records.

3 (6) A declaration of whether or not the charter school shall be
4 deemed the exclusive public school employer of the employees of
5 the charter school for purposes of the Educational Employment
6 Relations Act (Chapter 10.7 (commencing with Section 3540) of
7 Division 4 of Title 1 of the Government Code).

8 (7) Any other basis that the county board of education finds
9 justifies the denial of the petition.

10 (c) A county board of education that approves a petition for the
11 operation of a countywide charter may, as a condition of charter
12 approval, enter into an agreement with a third party, at the expense
13 of the charter school, to oversee, monitor, and report to the county
14 board of education on the operations of the charter school. The
15 county board of education may prescribe the aspects of the charter
16 school's operations to be monitored by the third party and may
17 prescribe appropriate requirements regarding the reporting of
18 information concerning the operations of the charter school to the
19 county board of education.

20 (d) (1) Charter schools shall meet all statewide standards and
21 conduct the pupil assessments required pursuant to Section 60605
22 and any other statewide standards authorized in statute or pupil
23 assessments applicable to pupils in noncharter public schools.

24 (2) Charter schools shall on a regular basis consult with their
25 parents and teachers regarding the charter school's educational
26 programs.

27 (e) (1) In addition to any other requirement imposed under this
28 part, a charter school shall be nonsectarian in its programs,
29 admission policies, employment practices, and all other operations,
30 shall not charge tuition, and shall not discriminate against any
31 pupil on the basis of ethnicity, national origin, gender, gender
32 identity, gender expression, or disability. Except as provided in
33 paragraph (2), admission to a charter school shall not be determined
34 according to the place of residence of the pupil, or of his or her
35 parent or guardian, within this state.

36 (2) (A) A charter school shall admit all pupils who wish to
37 attend the charter school.

38 (B) If the number of pupils who wish to attend the charter school
39 exceeds the school's capacity, attendance, except for existing pupils
40 of the charter school, shall be determined by a public random

1 drawing. Preference shall be extended to pupils currently attending
2 the charter school and pupils who reside in the county except as
3 provided for in Section 47614.5. Other preferences may be
4 permitted by the chartering authority on an individual school basis
5 and only if consistent with the law.

6 (C) In the event of a drawing, the county board of education
7 shall make reasonable efforts to accommodate the growth of the
8 charter school and in no event shall take any action to impede the
9 charter school from expanding enrollment to meet pupil demand.

10 (f) The county board of education shall not require an employee
11 of the county or a school district to be employed in a charter school.

12 (g) The county board of education shall not require a pupil
13 enrolled in a county program to attend a charter school.

14 (h) The county board of education shall require that the
15 petitioner or petitioners provide information regarding the proposed
16 operation and potential effects of the charter school, including, but
17 not limited to, the facilities to be used by the charter school, the
18 manner in which administrative services of the charter school are
19 to be provided, and potential civil liability effects, if any, upon the
20 charter school, any school district where the charter school may
21 operate, and upon the county board of education. The petitioner
22 or petitioners shall also be required to provide financial statements
23 that include a proposed first-year operational budget, including
24 startup costs, and cashflow and financial projections for the first
25 three years of operation.

26 (i) In reviewing petitions for the establishment of charter schools
27 within the county, the county board of education shall give
28 preference to petitions that demonstrate the capability to provide
29 comprehensive learning experiences to pupils identified by the
30 petitioner or petitioners as academically low achieving pursuant
31 to the standards established by the department under Section 54032,
32 as that section read before July 19, 2006.

33 (j) Upon the approval of the petition by the county board of
34 education, the petitioner or petitioners shall provide written notice
35 of that approval, including a copy of the petition, to the school
36 districts within the county, the Superintendent, and to the state
37 board.

38 (k) If a county board of education denies a petition, the petitioner
39 may not elect to submit the petition for the establishment of the
40 charter school to the state board.

1 (l) Teachers in charter schools shall be required to hold a
2 Commission on Teacher Credentialing certificate, permit, or other
3 document equivalent to that which a teacher in other public schools
4 would be required to hold. These documents shall be maintained
5 on file at the charter school and shall be subject to periodic
6 inspection by the chartering authority.

7 (m) A charter school shall transmit a copy of its annual,
8 independent, financial audit report for the preceding fiscal year,
9 as described in subparagraph (I) of paragraph (5) of subdivision
10 (b), to the county office of education, the Controller, and the
11 department by December 15 of each year. This subdivision does
12 not apply if the audit of the charter school is encompassed in the
13 audit of the chartering entity pursuant to Section 41020.

14 ~~SEC. 97.~~

15 *SEC. 98.* Section 47614.5 of the Education Code is amended
16 to read:

17 47614.5. (a) The Charter School Facility Grant Program is
18 hereby established, and shall be administered by the California
19 School Finance Authority. The grant program is intended to provide
20 assistance with facilities rent and lease costs for pupils in charter
21 schools.

22 (b) Subject to the annual Budget Act, eligible charter schools
23 shall receive an amount of up to, but not more than, seven hundred
24 fifty dollars (\$750) per unit of average daily attendance, as certified
25 at the second principal apportionment, to provide an amount of up
26 to, but not more than, 75 percent of the annual facilities rent and
27 lease costs for the charter school. In any fiscal year, if the funds
28 appropriated for purposes of this section by the annual Budget Act
29 are insufficient to fully fund the approved amounts, the California
30 School Finance Authority shall apportion the available funds on
31 a pro rata basis.

32 (c) For purposes of this section, the California School Finance
33 Authority shall do all of the following:

34 (1) Inform charter schools of the grant program.

35 (2) Upon application by a charter school, determine eligibility,
36 based on the geographic location of the charter schoolsite, pupil
37 eligibility for free or reduced-price meals, and a preference in
38 admissions, as appropriate. Eligibility for funding shall not be
39 limited to the grade level or levels served by the school whose
40 attendance area is used to determine eligibility. A charter schoolsite

1 is eligible for funding pursuant to this section if the charter
2 schoolsite meets any of the following conditions:

3 (A) The charter schoolsite is physically located in the attendance
4 area of a public elementary school in which 70 percent or more of
5 the pupil enrollment is eligible for free or reduced-price meals and
6 the charter schoolsite gives a preference in admissions to pupils
7 who are currently enrolled in that public elementary school and to
8 pupils who reside in the elementary school attendance area where
9 the charter schoolsite is located.

10 (B) Seventy percent or more of the pupil enrollment at the
11 charter schoolsite is eligible for free or reduced-price meals.

12 (C) In any year in which additional funds remain after state and
13 federal funds have been allocated to applicants that meet the
14 eligibility criteria in subparagraph (A) or (B), the California School
15 Finance Authority shall expand eligibility to additional charter
16 schools that are eligible pursuant to subparagraph (B) by reducing
17 the free and reduced-price meals threshold 1 percentage point at
18 a time, but in no case below 60 percent.

19 (3) Inform charter schools of their grant eligibility.

20 (4) Make apportionments to a charter school for eligible
21 expenditures according to the following schedule:

22 (A) An initial apportionment by August 31 of each fiscal year
23 or 30 days after enactment of the annual Budget Act, whichever
24 is later, provided the charter school has submitted a timely
25 application for funding, as determined by the California School
26 Finance Authority. The initial apportionment shall be 50 percent
27 of the charter school's estimated annual entitlement as determined
28 by this section.

29 (B) A second apportionment by March 1 of each fiscal year.
30 This apportionment shall be 75 percent of the charter school's
31 estimated annual entitlement, as adjusted for any revisions in cost,
32 enrollment, and other data relevant to computing the charter
33 school's annual entitlement, less any funding already apportioned
34 to the charter school.

35 (C) A third apportionment within 30 days of the end of each
36 fiscal year or 30 days after receiving the data and documentation
37 needed to compute the charter school's total annual entitlement,
38 whichever is later. This apportionment shall be the charter school's
39 total annual entitlement less any funding already apportioned to
40 the charter school.

1 (D) Notwithstanding subparagraph (A), the initial apportionment
2 in the 2013–14 fiscal year shall be made by October 15, 2013, or
3 105 days after enactment of the Budget Act of 2013, whichever is
4 later.

5 (d) For purposes of this section:

6 (1) The California School Finance Authority shall use prior year
7 data on pupil eligibility for free or reduced-price meals for the
8 charter schoolsite and prior year rent or lease costs provided by
9 charter schools to determine eligibility for the grant program until
10 current year data and actual rent or lease costs become known or
11 until June 30 of each fiscal year.

12 (2) If prior year rent or lease costs are unavailable, and the
13 current year lease and rent costs are not immediately available,
14 the California School Finance Authority shall use rent or lease
15 cost estimates provided by the charter school.

16 (3) The California School Finance Authority shall verify that
17 the grant amount awarded to each charter school is consistent with
18 eligibility requirements as specified in this section and in
19 regulations adopted by the authority. If it is determined by the
20 California School Finance Authority that a charter school did not
21 receive the proper grant award amount, either the charter school
22 shall transfer funds back to the authority as necessary within 60
23 days of being notified by the authority, or the authority shall
24 provide an additional apportionment as necessary to the charter
25 school within 60 days of notifying the charter school, subject to
26 the availability of funds.

27 (e) Funds appropriated for purposes of this section shall not be
28 apportioned for any of the following:

29 (1) Units of average daily attendance generated through
30 nonclassroom-based instruction as defined by paragraph (2) of
31 subdivision (e) of Section 47612.5 or that does not comply with
32 conditions or limitations set forth in regulations adopted by the
33 California School Finance Authority pursuant to this section.

34 (2) Charter schools occupying existing school district or county
35 office of education facilities, except that charter schools shall be
36 eligible for the portions of their facilities that are not existing
37 school district or county office of education facilities.

38 (3) Charter schools receiving reasonably equivalent facilities
39 from their chartering authorities pursuant to Section 47614, except
40 that charter schools shall be eligible for the portions of their

1 facilities that are not reasonably equivalent facilities received from
2 their chartering authorities.

3 (f) Funds appropriated for purposes of this section shall be used
4 for costs associated with facilities rents and leases, consistent with
5 the definitions used in the California School Accounting Manual
6 or regulations adopted by the California School Finance Authority.
7 These funds also may be used for costs, including, but not limited
8 to, costs associated with remodeling buildings, deferred
9 maintenance, initially installing or extending service systems and
10 other built-in equipment, and improving sites.

11 (g) If an existing charter school located in an elementary
12 attendance area in which less than 50 percent of pupil enrollment
13 is eligible for free or reduced-price meals relocates to an attendance
14 area identified in paragraph (2) of subdivision (c), admissions
15 preference shall be given to pupils who reside in the elementary
16 school attendance area into which the charter school is relocating.

17 (h) The California School Finance Authority annually shall
18 report to the department and the Director of Finance, and post
19 information on its Internet Web site, regarding the use of funds
20 that have been made available during the fiscal year to each charter
21 school pursuant to the grant program.

22 (i) The California School Finance Authority annually shall
23 allocate the facilities grants to eligible charter schools according
24 to the schedule in paragraph (4) of subdivision (c) for the current
25 school year rent and lease costs. However, the California School
26 Finance Authority shall first use the funding appropriated for this
27 program to reimburse eligible charter schools for unreimbursed
28 rent or lease costs for the prior school year.

29 (j) It is the intent of the Legislature that the funding level for
30 the Charter School Facility Grant Program for the 2012–13 fiscal
31 year be considered the base level of funding for subsequent fiscal
32 years.

33 (k) The Controller shall include instructions appropriate to the
34 enforcement of this section in the audit guide required by
35 subdivision (a) of Section 14502.1.

36 (l) The California School Finance Authority, effective with the
37 2013–14 fiscal year, shall be considered the senior creditor for
38 purposes of satisfying audit findings pursuant to the audit
39 instructions to be developed pursuant to subdivision (k).

1 (m) The California School Finance Authority may adopt
 2 regulations to implement this section. Any regulations adopted
 3 pursuant to this section may be adopted as emergency regulations
 4 in accordance with the Administrative Procedure Act (Chapter 3.5
 5 (commencing with Section 11340) of Part 1 of Division 3 of the
 6 Title 2 of the Government Code). The adoption of these regulations
 7 shall be deemed to be an emergency and necessary for the
 8 immediate preservation of the public peace, health and safety, or
 9 general welfare.

10 (n) Notwithstanding any other law, a charter school shall be
 11 subject, with regard to this section, to audit conducted pursuant to
 12 Section 41020.

13 ~~SEC. 98.~~

14 *SEC. 99.* Section 47651 of the Education Code is amended to
 15 read:

16 47651. (a) A charter school may receive the state aid portion
 17 of the charter school’s total local control funding formula allocation
 18 pursuant to Section 42238.02, as implemented by Section 42238.03,
 19 directly or through the local educational agency that either grants
 20 its charter or was designated by the state board.

21 (1) In the case of a charter school that elects to receive its
 22 funding directly, the warrant shall be drawn in favor of the county
 23 superintendent of schools of the county in which the local
 24 educational agency that granted the charter, or was designated by
 25 the state board as the oversight agency pursuant to paragraph (1)
 26 of subdivision (k) of Section 47605, is located, for deposit to the
 27 appropriate funds or accounts of the charter school in the county
 28 treasury. The county superintendent of schools is authorized to
 29 establish appropriate funds or accounts in the county treasury for
 30 each charter school.

31 (2) In the case of a charter school that does not elect to receive
 32 its funding directly pursuant to this section, the warrant shall be
 33 drawn in favor of the county superintendent of schools of the
 34 county in which the local educational agency that granted the
 35 charter is located or was designated the oversight agency by the
 36 state board pursuant to paragraph (1) of subdivision (k) of Section
 37 47605, for deposit to the appropriate funds or accounts of the local
 38 educational agency.

39 (3) In the case of a charter school, the charter of which was
 40 granted by the state board, but for which the state board has not

1 delegated oversight responsibilities pursuant to paragraph (1) of
2 subdivision (k) of Section 47605, the warrant shall be drawn in
3 favor of the county superintendent of schools in the county where
4 the local educational agency is located that initially denied the
5 charter that was later granted by the state board. The county
6 superintendent of schools is authorized to establish appropriate
7 funds or accounts in the county treasury for each charter school.

8 (b) On or before June 1 of each year, a charter school electing
9 to receive its funding directly shall so notify the county
10 superintendent of schools of the county in which the local
11 educational agency that granted the charter is located or, in the
12 case of charters for which the state board has designated an
13 oversight agency pursuant to paragraph (1) of subdivision (k) of
14 Section 47605, the county superintendent of schools of the county
15 in which the designated oversight agency is located. An election
16 to receive funding directly applies to all funding that the charter
17 school is eligible to receive including, but not limited to, the local
18 control funding formula allocation pursuant to Section 42238.02,
19 as implemented by Section 42238.03, other state and federal
20 categorical aid, and lottery funds.

21 ~~SEC. 99.~~

22 *SEC. 100.* Section 48003 of the Education Code is amended
23 to read:

24 48003. Commencing with the 2015–16 school year, a local
25 educational agency shall provide an annual report to the department
26 that contains information on the type of kindergarten program
27 offered by the local educational agency, including part-day,
28 full-day, or both, in a manner determined by the department.

29 ~~SEC. 100.~~

30 *SEC. 101.* Section 48297 of the Education Code is amended
31 to read:

32 48297. (a) (1) A state or local agency conducting a
33 truancy-related mediation or prosecuting a pupil or a pupil’s parent
34 or legal guardian pursuant to Article 5 (commencing with Section
35 48260), this article, Section 48454, Section 270.1 or 272 of the
36 Penal Code, or Section 601 of the Welfare and Institutions Code,
37 as applicable, shall provide, using the most cost-effective method
38 possible, including, but not limited to, by email or telephone, the
39 school district, school attendance review board, county
40 superintendent of schools, probation department, or any other

1 agency that referred a truancy-related mediation, criminal
2 complaint, or petition with the outcome of each referral. For
3 purposes of this section, “outcome” means the imposed conditions
4 or terms placed on a pupil or a pupil’s parent or legal guardian and
5 the acts or actions taken by a state or local agency with respect to
6 a truancy-related mediation, prosecution, criminal complaint, or
7 petition.

8 (2) This subdivision applies to, but is not limited to, the referrals
9 referenced in Article 5 (commencing with Section 48260), this
10 article, Section 48454, Sections 270.1 and 272 of the Penal Code,
11 and Sections 601, 601.2, and 601.3 of the Welfare and Institutions
12 Code.

13 (b) It is the intent of the Legislature to determine the best
14 evidence-based practices to reduce truancy. This section is not
15 intended to encourage additional referrals, complaints, petitions,
16 or prosecutions, or to encourage more serious sanctions for pupils.

17 ~~SEC. 101.~~

18 *SEC. 102.* Section 48321 of the Education Code is amended
19 to read:

20 48321. (a) (1) A county school attendance review board may
21 be established in each county. The county school attendance review
22 board may accept referrals or requests for hearing services from
23 one or more school districts within its jurisdiction pursuant to
24 subdivision (f). A county school attendance review board may be
25 operated through a consortium or partnership of a county with one
26 or more school districts or between two or more counties.

27 (2) A county school attendance review board, if established,
28 shall include, but need not be limited to, all of the following:

29 (A) A parent.

30 (B) A representative of school districts.

31 (C) A representative of the county probation department.

32 (D) A representative of the county welfare department.

33 (E) A representative of the county superintendent of schools.

34 (F) A representative of law enforcement agencies.

35 (G) A representative of community-based youth service centers.

36 (H) A representative of school guidance personnel.

37 (I) A representative of child welfare and attendance personnel.

38 (J) A representative of school or county health care personnel.

39 (K) A representative of school, county, or community mental
40 health personnel.

1 (L) A representative of the county district attorney’s office. If
2 more than one county is represented in a county school attendance
3 review board, a representative from each county’s district attorney’s
4 office may be included.

5 (M) A representative of the county public defender’s office. If
6 more than one county is represented in a county school attendance
7 review board, a representative from each county’s public defender’s
8 office may be included.

9 (3) Notwithstanding paragraph (2), for purposes of conducting
10 hearings, the chairperson of the county school attendance review
11 board is authorized to determine the members needed at a hearing,
12 based on the needs of the pupil, in order to address attendance or
13 behavioral problems.

14 (4) The school district representatives on the county school
15 attendance review board shall be nominated by the governing
16 boards of school districts and shall be appointed by the county
17 superintendent of schools. All other persons and group
18 representatives shall be appointed by the county board of education.

19 (5) (A) If a county school attendance review board exists, the
20 county superintendent of schools shall, at the beginning of each
21 school year, convene a meeting of the county school attendance
22 review board for purposes of adopting plans to promote interagency
23 and community cooperation and to reduce the duplication of
24 services provided to youth who have serious school attendance
25 and behavior problems.

26 (B) Notwithstanding subparagraph (A), for purposes of
27 conducting hearings, a county school attendance review board may
28 meet as needed.

29 (b) (1) Local school attendance review boards may include,
30 but need not be limited to, all of the following:

31 (A) A parent.

32 (B) A representative of school districts.

33 (C) A representative of the county probation department.

34 (D) A representative of the county welfare department.

35 (E) A representative of the county superintendent of schools.

36 (F) A representative of law enforcement agencies.

37 (G) A representative of community-based youth service centers.

38 (H) A representative of school guidance personnel.

39 (I) A representative of child welfare and attendance personnel.

40 (J) A representative of school or county health care personnel.

1 (K) A representative of school, county, or community mental
2 health personnel.

3 (L) A representative of the county district attorney’s office. If
4 more than one county is represented in a local school attendance
5 review board, a representative from each county’s district attorney’s
6 office may be included.

7 (M) A representative of the county public defender’s office. If
8 more than one county is represented in a county school attendance
9 review board, a representative from each county’s public defender’s
10 office may be included.

11 (2) Other persons or group representatives shall be appointed
12 by the county board of education.

13 (c) A county school attendance review board may elect, pursuant
14 to regulations adopted pursuant to Section 48324, one member as
15 chairperson with responsibility for coordinating services of the
16 county school attendance review board.

17 (d) A county school attendance review board may provide for
18 the establishment of local school attendance review boards in any
19 number as shall be necessary to carry out the intent of this article.

20 (e) In any county in which there is no county school attendance
21 review board the governing board of a school district may elect to
22 establish a local school attendance review board, which shall
23 operate in the same manner and have the same authority as a county
24 school attendance review board.

25 (f) A county school attendance review board may provide
26 guidance to local school attendance review boards.

27 (g) If the county school attendance review board determines
28 that the needs of pupils, as defined in this article, can best be served
29 by a single board, the county school attendance review board may
30 then serve as the school attendance review board for all pupils in
31 the county, or, upon the request of any school district in the county,
32 the county school attendance review board may serve as the school
33 attendance review board for pupils of that school district.

34 (h) This article is not intended to prohibit an agreement on the
35 part of counties to provide these services on a regional basis.

36 ~~SEC. 102.~~

37 *SEC. 103.* The heading of Article 2 (commencing with Section
38 48810) of Chapter 5 of Part 27 of Division 4 of Title 2 of the
39 Education Code is repealed.

1 ~~SEC. 103.~~

2 *SEC. 104.* Section 48900.9 of the Education Code is amended
3 to read:

4 48900.9. (a) The superintendent of a school district, the
5 principal of a school, or the principal's designee may refer a victim
6 of, witness to, or other pupil affected by, an act of bullying, as
7 defined in paragraph (1) of subdivision (r) of Section 48900,
8 committed on or after January 1, 2015, to the school counselor,
9 school psychologist, social worker, child welfare attendance
10 personnel, school nurse, or other school support service personnel
11 for case management, counseling, and participation in a restorative
12 justice program, as appropriate.

13 (b) A pupil who has engaged in an act of bullying, as defined
14 in paragraph (1) of subdivision (r) of Section 48900, may also be
15 referred to the school counselor, school psychologist, social worker,
16 child welfare attendance personnel, or other school support service
17 personnel for case management and counseling, or for participation
18 in a restorative justice program, pursuant to Section 48900.5.

19 ~~SEC. 104.~~

20 *SEC. 105.* Section 49452.9 of the Education Code is amended
21 to read:

22 49452.9. (a) For purposes of the 2015–16, 2016–17, and
23 2017–18 school years, a public school, including a charter school,
24 shall add an informational item to its enrollment forms, or amend
25 an existing enrollment form, in order to provide the parent or legal
26 guardian information about health care coverage options and
27 enrollment assistance.

28 (b) To satisfy the requirements of subdivision (a), a school may
29 do either of the following:

30 (1) Use a template developed pursuant to subdivision (d).

31 (2) Develop an informational item or amend an existing
32 enrollment form to provide information about health care coverage
33 options and enrollment assistance.

34 (c) A school may include a factsheet with its enrollment forms
35 explaining basic information about affordable health care coverage
36 options for children and families.

37 (d) (1) The department shall develop a standardized template
38 for both of the following:

39 (A) The informational item or amendment required by
40 subdivision (a).

1 (B) The factsheet described in subdivision (c).

2 (2) The department shall make any templates developed pursuant
3 to this subdivision available on its Internet Web site on or before
4 August 1, 2015, and shall, upon request, provide written copies of
5 the template to a school district.

6 (e) A school district shall not discriminate against a pupil who
7 does not have health care coverage or use any information relating
8 to a pupil's health care coverage or interest in learning about health
9 care coverage in any manner that would bring harm to the pupil
10 or the pupil's family.

11 (f) This section shall remain in effect only until January 1, 2019,
12 and as of that date is repealed, unless a later enacted statute, that
13 is enacted before January 1, 2019, deletes or extends that date.

14 ~~SEC. 105.~~

15 *SEC. 106.* Section 51747.3 of the Education Code, as amended
16 by Section 1 of Chapter 807 of the Statutes of 2014, is amended
17 to read:

18 51747.3. (a) Notwithstanding any other law, a local educational
19 agency, including, but not limited to, a charter school, shall not
20 claim state funding for the independent study of a pupil, whether
21 characterized as home study or otherwise, if the local educational
22 agency has provided any funds or other thing of value to the pupil
23 or his or her parent or guardian that the local educational agency
24 does not provide to pupils who attend regular classes or to their
25 parents or guardians. A charter school shall not claim state funding
26 for the independent study of a pupil, whether characterized as
27 home study or otherwise, if the charter school has provided any
28 funds or other thing of value to the pupil or his or her parent or
29 guardian that a school district could not legally provide to a
30 similarly situated pupil of the school district or to his or her parent
31 or guardian.

32 (b) (1) Notwithstanding paragraph (1) of subdivision (d) of
33 Section 47605 or any other law, and except as specified in
34 paragraph (2), community school and independent study average
35 daily attendance shall be claimed by school districts, county
36 superintendents of schools, and charter schools only for pupils
37 who are residents of the county in which the apportionment claim
38 is reported, or who are residents of a county immediately adjacent
39 to the county in which the apportionment claim is reported.

1 (2) In addition to claiming independent study average daily
2 attendance pursuant to paragraph (1), a virtual or online charter
3 school may also claim independent study average daily attendance
4 for a pupil who is enrolled in the school and moves to a residence
5 located outside of the geographic boundaries of the virtual or online
6 charter school. The virtual or online charter school may claim
7 independent study average daily attendance for the pupil under
8 this paragraph only for the duration of the course or courses in
9 which the pupil is enrolled or until the end of the school year,
10 whichever occurs first.

11 (c) The Superintendent shall not apportion funds for reported
12 average daily attendance, through full-time independent study, of
13 pupils who are enrolled in school pursuant to subdivision (b) of
14 Section 48204.

15 (d) In conformity with Provisions 25 and 28 of Item
16 6110-101-001 of Section 2.00 of the Budget Act of 1992, this
17 section is applicable to average daily attendance reported for
18 apportionment purposes beginning July 1, 1992. The provisions
19 of this section are not subject to waiver by the state board, by the
20 Superintendent, or under any provision of Part 26.8 (commencing
21 with Section 47600).

22 (e) For purposes of this section, “virtual or online charter school”
23 means a charter school in which at least 80 percent of teaching
24 and pupil interaction occurs via the Internet.

25 (f) This section shall remain in effect only until January 1, 2018,
26 and as of that date is repealed, unless a later enacted statute, that
27 is enacted before January 1, 2018, deletes or extends that date.

28 ~~SEC. 106.~~

29 *SEC. 107.* Section 52064.5 of the Education Code is amended
30 to read:

31 52064.5. (a) On or before October 1, 2015, the state board
32 shall adopt evaluation rubrics for all of the following purposes:

33 (1) To assist a school district, county office of education, or
34 charter school in evaluating its strengths, weaknesses, and areas
35 that require improvement.

36 (2) To assist a county superintendent of schools in identifying
37 school districts and charter schools in need of technical assistance
38 pursuant to Section 52071 or 47607.3, as applicable, and the
39 specific priorities upon which the technical assistance should be
40 focused.

1 (3) To assist the Superintendent in identifying school districts
2 for which intervention pursuant to Section 52072 is warranted.

3 (b) The evaluation rubrics shall reflect a holistic,
4 multidimensional assessment of school district and individual
5 schoolsite performance and shall include all of the state priorities
6 described in subdivision (d) of Section 52060.

7 (c) As part of the evaluation rubrics, the state board shall adopt
8 standards for school district and individual schoolsite performance
9 and expectations for improvement in regard to each of the state
10 priorities described in subdivision (d) of Section 52060.

11 ~~SEC. 107.~~

12 *SEC. 108.* Section 52852 of the Education Code is amended
13 to read:

14 52852. (a) A schoolsite council shall be established at each
15 school that participates in school-based program coordination. The
16 schoolsite council shall be composed of the principal and
17 representatives of: teachers selected by teachers at the school; other
18 school personnel selected by other school personnel at the school;
19 parents of pupils attending the school selected by the parents; and,
20 in secondary schools, pupils selected by pupils attending the school.

21 (b) (1) At the elementary level, the schoolsite council shall be
22 constituted to ensure parity between (A) the principal, classroom
23 teachers, and other school personnel; and (B) parents or other
24 community members selected by parents.

25 (2) At the secondary level, the schoolsite council shall be
26 constituted to ensure parity between (A) the principal, classroom
27 teachers, and other school personnel; and (B) an equal number of
28 parents, or other community members selected by parents, and
29 pupils.

30 (3) At both the elementary and secondary levels, classroom
31 teachers shall comprise the majority of persons represented under
32 subparagraph (A) of paragraphs (1) and (2).

33 (c) Existing schoolwide advisory groups or school support
34 groups may be utilized as the schoolsite council if those groups
35 conform to this section.

36 (d) The Superintendent shall provide several examples of
37 selection and replacement procedures that may be considered by
38 schoolsite councils.

39 (e) An employee of a school who is also a parent or guardian
40 of a pupil who attends a school other than the school of the parent's

1 or guardian’s employment is not disqualified by virtue of this
2 employment from serving as a parent representative on the
3 schoolsite council established for the school that his or her child
4 or ward attends.

5 ~~SEC. 108.~~

6 *SEC. 109.* The heading of Chapter 14 (commencing with
7 Section 52980) of Part 28 of Division 4 of Title 2 of the Education
8 Code is repealed.

9 ~~SEC. 109.~~

10 *SEC. 110.* The heading of Article 8 (commencing with Section
11 54750) of Chapter 9 of Part 29 of Division 4 of Title 2 of the
12 Education Code is repealed.

13 ~~SEC. 110.~~

14 *SEC. 111.* The heading of Chapter 8.5 (commencing with
15 Section 56867) of Part 30 of Division 4 of Title 2 of the Education
16 Code is repealed.

17 ~~SEC. 111.~~

18 *SEC. 112.* The heading of Article 7 (commencing with Section
19 66080) of Chapter 2 of Part 40 of Division 5 of Title 3 of the
20 Education Code, as added by Section 2 of Chapter 200 of the
21 Statutes of 1995, is amended and renumbered to read:

22

23 Article 8. English Proficiency in Higher Education

24

25 ~~SEC. 112.~~

26 *SEC. 113.* Section 66261.5 of the Education Code, as added
27 by Section 38 of Chapter 569 of the Statutes of 2007, is amended
28 and renumbered to read:

29 66261.3. “Nationality” includes citizenship, country of origin,
30 and national origin.

31 ~~SEC. 113.~~

32 *SEC. 114.* Section 66281.7 of the Education Code is amended
33 to read:

34 66281.7. (a) It is the policy of the State of California, pursuant
35 to Section 66251, that all persons, regardless of their sex, should
36 enjoy freedom from discrimination of any kind, including, but not
37 limited to, pregnancy discrimination as described in Title IX of
38 the Education Amendments of 1972 (20 U.S.C. Sec. 1681, et seq.),
39 in the postsecondary educational institutions of the state.

1 (b) Each of the following requirements apply to postsecondary
2 educational institutions in this state:

3 (1) A postsecondary educational institution, including the
4 faculty, staff, or other employees of the institution, shall not require
5 a graduate student to take a leave of absence, withdraw from the
6 graduate program, or limit his or her graduate studies solely due
7 to pregnancy or pregnancy-related issues.

8 (2) A postsecondary educational institution, including the
9 faculty, staff, or other employees of the institution, shall reasonably
10 accommodate pregnant graduate students so they may complete
11 their graduate courses of study and research. Reasonable
12 accommodation within the meaning of this subdivision may
13 include, but is not necessarily limited to, allowances for the
14 pregnant student's health and safety, such as allowing the student
15 to maintain a safe distance from hazardous substances, allowing
16 the student to make up tests and assignments that are missed for
17 pregnancy-related reasons, or allowing the student to take a leave
18 of absence. Reasonable accommodation shall include the excusing
19 of absences that are medically necessary, as required under Title
20 IX.

21 (3) A graduate student who chooses to take a leave of absence
22 because she is pregnant or has recently given birth shall be allowed
23 a period consistent with the policies of the postsecondary
24 educational institution, or a period of 12 additional months,
25 whichever period is longer, to prepare for and take preliminary
26 and qualifying examinations and an extension of at least 12 months
27 toward normative time to degree while in candidacy for a graduate
28 degree, unless a longer extension is medically necessary.

29 (4) A graduate student who is not the birth parent and who
30 chooses to take a leave of absence because of the birth of his or
31 her child shall be allowed a period consistent with the policies of
32 the postsecondary educational institution, or a period of one month,
33 whichever period is longer, to prepare for and take preliminary
34 and qualifying examinations, and an extension of at least one month
35 toward normative time to degree while in candidacy for a graduate
36 degree, unless a longer period or extension is medically necessary
37 to care for his or her partner or their child.

38 (5) An enrolled graduate student in good academic standing
39 who chooses to take a leave of absence because she is pregnant or
40 has recently given birth shall return to her program in good

1 academic standing following a leave period consistent with the
2 policies of the postsecondary educational institution or of up to
3 one academic year, whichever period is longer, subject to the
4 reasonable administrative requirements of the institution, unless
5 there is a medical reason for a longer absence, in which case her
6 standing in the graduate program shall be maintained during that
7 period of absence.

8 (6) An enrolled graduate student in good academic standing
9 who is not the birth parent and who chooses to take a leave of
10 absence because of the birth of his or her child shall return to his
11 or her program in good academic standing following a leave period
12 consistent with the policies of the postsecondary educational
13 institution, or of up to one month, whichever period is longer,
14 subject to the reasonable administrative requirements of the
15 institution.

16 (c) Each postsecondary educational institution shall have a
17 written policy for graduate students on pregnancy discrimination
18 and procedures for addressing pregnancy discrimination complaints
19 under Title IX or this section. A copy of this policy shall be made
20 available to faculty, staff, and employees in their required training.
21 This policy shall be made available to all graduate students
22 attending orientation sessions at a postsecondary educational
23 institution.

24 ~~SEC. 114.~~

25 *SEC. 115.* Section 67386 of the Education Code is amended
26 to read:

27 67386. (a) In order to receive state funds for student financial
28 assistance, the governing board of each community college district,
29 the Trustees of the California State University, the Regents of the
30 University of California, and the governing boards of independent
31 postsecondary institutions shall adopt a policy concerning sexual
32 assault, domestic violence, dating violence, and stalking, as defined
33 in the federal Higher Education Act of 1965 (20 U.S.C. Sec.
34 1092(f)), involving a student, both on and off campus. The policy
35 shall include all of the following:

36 (1) An affirmative consent standard in the determination of
37 whether consent was given by both parties to sexual activity.
38 “Affirmative consent” means affirmative, conscious, and voluntary
39 agreement to engage in sexual activity. It is the responsibility of
40 each person involved in the sexual activity to ensure that he or she

1 has the affirmative consent of the other or others to engage in the
2 sexual activity. Lack of protest or resistance does not mean consent,
3 nor does silence mean consent. Affirmative consent must be
4 ongoing throughout a sexual activity and can be revoked at any
5 time. The existence of a dating relationship between the persons
6 involved, or the fact of past sexual relations between them, should
7 never by itself be assumed to be an indicator of consent.

8 (2) A policy that, in the evaluation of complaints in any
9 disciplinary process, it shall not be a valid excuse to alleged lack
10 of affirmative consent that the accused believed that the
11 complainant consented to the sexual activity under either of the
12 following circumstances:

13 (A) The accused's belief in affirmative consent arose from the
14 intoxication or recklessness of the accused.

15 (B) The accused did not take reasonable steps, in the
16 circumstances known to the accused at the time, to ascertain
17 whether the complainant affirmatively consented.

18 (3) A policy that the standard used in determining whether the
19 elements of the complaint against the accused have been
20 demonstrated is the preponderance of the evidence.

21 (4) A policy that, in the evaluation of complaints in the
22 disciplinary process, it shall not be a valid excuse that the accused
23 believed that the complainant affirmatively consented to the sexual
24 activity if the accused knew or reasonably should have known that
25 the complainant was unable to consent to the sexual activity under
26 any of the following circumstances:

27 (A) The complainant was asleep or unconscious.

28 (B) The complainant was incapacitated due to the influence of
29 drugs, alcohol, or medication, so that the complainant could not
30 understand the fact, nature, or extent of the sexual activity.

31 (C) The complainant was unable to communicate due to a mental
32 or physical condition.

33 (b) In order to receive state funds for student financial assistance,
34 the governing board of each community college district, the
35 Trustees of the California State University, the Regents of the
36 University of California, and the governing boards of independent
37 postsecondary institutions shall adopt detailed and victim-centered
38 policies and protocols regarding sexual assault, domestic violence,
39 dating violence, and stalking involving a student that comport with

1 best practices and current professional standards. At a minimum,
2 the policies and protocols shall cover all of the following:

3 (1) A policy statement on how the institution will provide
4 appropriate protections for the privacy of individuals involved,
5 including confidentiality.

6 (2) Initial response by the institution's personnel to a report of
7 an incident, including requirements specific to assisting the victim,
8 providing information in writing about the importance of preserving
9 evidence, and the identification and location of witnesses.

10 (3) Response to stranger and nonstranger sexual assault.

11 (4) The preliminary victim interview, including the development
12 of a victim interview protocol, and a comprehensive followup
13 victim interview, as appropriate.

14 (5) Contacting and interviewing the accused.

15 (6) Seeking the identification and location of witnesses.

16 (7) Providing written notification to the victim about the
17 availability of, and contact information for, on- and off-campus
18 resources and services, and coordination with law enforcement,
19 as appropriate.

20 (8) Participation of victim advocates and other supporting
21 people.

22 (9) Investigating allegations that alcohol or drugs were involved
23 in the incident.

24 (10) Providing that an individual who participates as a
25 complainant or witness in an investigation of sexual assault,
26 domestic violence, dating violence, or stalking will not be subject
27 to disciplinary sanctions for a violation of the institution's student
28 conduct policy at or near the time of the incident, unless the
29 institution determines that the violation was egregious, including,
30 but not limited to, an action that places the health or safety of any
31 other person at risk or involves plagiarism, cheating, or academic
32 dishonesty.

33 (11) The role of the institutional staff supervision.

34 (12) A comprehensive, trauma-informed training program for
35 campus officials involved in investigating and adjudicating sexual
36 assault, domestic violence, dating violence, and stalking cases.

37 (13) Procedures for confidential reporting by victims and third
38 parties.

39 (c) In order to receive state funds for student financial assistance,
40 the governing board of each community college district, the

1 Trustees of the California State University, the Regents of the
2 University of California, and the governing boards of independent
3 postsecondary institutions shall, to the extent feasible, enter into
4 memoranda of understanding, agreements, or collaborative
5 partnerships with existing on-campus and community-based
6 organizations, including rape crisis centers, to refer students for
7 assistance or make services available to students, including
8 counseling, health, mental health, victim advocacy, and legal
9 assistance, and including resources for the accused.

10 (d) In order to receive state funds for student financial assistance,
11 the governing board of each community college district, the
12 Trustees of the California State University, the Regents of the
13 University of California, and the governing boards of independent
14 postsecondary institutions shall implement comprehensive
15 prevention and outreach programs addressing sexual violence,
16 domestic violence, dating violence, and stalking. A comprehensive
17 prevention program shall include a range of prevention strategies,
18 including, but not limited to, empowerment programming for
19 victim prevention, awareness raising campaigns, primary
20 prevention, bystander intervention, and risk reduction. Outreach
21 programs shall be provided to make students aware of the
22 institution's policy on sexual assault, domestic violence, dating
23 violence, and stalking. At a minimum, an outreach program shall
24 include a process for contacting and informing the student body,
25 campus organizations, athletic programs, and student groups about
26 the institution's overall sexual assault policy, the practical
27 implications of an affirmative consent standard, and the rights and
28 responsibilities of students under the policy.

29 (e) Outreach programming shall be included as part of every
30 incoming student's orientation.

31 ~~SEC. 115.~~

32 *SEC. 116.* The heading of Article 7 (commencing with Section
33 68090) of Chapter 1 of Part 41 of Division 5 of Title 3 of the
34 Education Code is repealed.

35 ~~SEC. 116.~~

36 *SEC. 117.* Section 69437 of the Education Code is amended
37 to read:

38 69437. (a) Commencing with the 2001–02 academic year, and
39 each academic year thereafter, there shall be established the
40 Competitive Cal Grant A and B award program for students who

1 did not receive a Cal Grant A or B entitlement award pursuant to
2 Article 2 (commencing with Section 69434), Article 3
3 (commencing with Section 69435), or Article 4 (commencing with
4 Section 69436). Awards made under this section are not
5 entitlements. The submission of an application by a student under
6 this section does not entitle that student to an award. The selection
7 of students under this article shall be determined pursuant to
8 subdivision (c) and other relevant criteria established by the
9 commission.

10 (b) A total of 22,500 Cal Grant A and B awards shall be granted
11 annually under this article on a competitive basis for applicants
12 who meet the general eligibility criteria established in Article 1
13 (commencing with Section 69430) and the priorities established
14 by the commission pursuant to subdivision (c).

15 (1) Fifty percent of the awards referenced in this subdivision
16 are available to all students, including California community
17 college students, who meet the financial need and academic
18 requirements established pursuant to this article. A student
19 enrolling at a qualifying baccalaureate degree granting institution
20 shall apply by the March 2 deadline. A California community
21 college student is eligible to apply at the March 2 or the September
22 2 deadline.

23 (2) Fifty percent of the awards referenced in this subdivision
24 are reserved for students who will be enrolled at a California
25 community college. The commission shall establish a second
26 application deadline of September 2 for community college
27 students to apply for these awards effective with the fall term or
28 semester of the 2001–02 academic year.

29 (3) If any awards are not distributed pursuant to paragraphs (1)
30 and (2) upon initial allocation of the awards under this article, the
31 commission shall make awards to as many eligible students as
32 possible, beginning with the students with the lowest expected
33 family contribution and highest academic merit, consistent with
34 the criteria adopted by the commission pursuant to subdivision
35 (c), as practicable without exceeding an annual cumulative total
36 of 22,500 awards.

37 (c) (1) On or before February 1, 2001, acting pursuant to a
38 public hearing process that is consistent with the Bagley-Keene
39 Open Meeting Act (Article 9 (commencing with Section 11120)
40 of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government

1 Code), the commission shall establish selection criteria for Cal
2 Grant A and B awards under the competitive program that give
3 special consideration to disadvantaged students, taking into
4 consideration those financial, educational, cultural, language,
5 home, community, environmental, and other conditions that hamper
6 a student's access to, and ability to persist in, postsecondary
7 education programs.

8 (2) Additional consideration shall be given to both of the
9 following:

10 (A) Students pursuing Cal Grant B awards who reestablish their
11 grade point averages.

12 (B) Students who did not receive awards pursuant to Article 2
13 (commencing with Section 69434), Article 3 (commencing with
14 Section 69435), or Article 4 (commencing with Section 69436).

15 (d) All other students who meet the eligibility requirements
16 pursuant to Article 1 (commencing with Section 69430) are eligible
17 to compete for an award pursuant to this article.

18 ~~SEC. 117.~~

19 *SEC. 118.* Section 70022 of the Education Code is amended
20 to read:

21 70022. (a) (1) Subject to an available and sufficient
22 appropriation, commencing with the 2014–15 academic year, an
23 undergraduate student enrolled in the California State University
24 or the University of California who meets the requirements of
25 paragraph (2) is eligible for a scholarship award as described in
26 that paragraph.

27 (2) Each academic year, except as provided in paragraphs (3)
28 and (4), a student shall receive a scholarship award in an amount
29 that, combined with other federal, state, or institutionally
30 administered student grants or fee waivers received by an eligible
31 student, is up to 40 percent of the amount charged to that student
32 in that academic year for mandatory systemwide tuition and fees,
33 if all of the following requirements are met:

34 (A) The student's annual household income does not exceed
35 one hundred fifty thousand dollars (\$150,000). For purposes of
36 this article, annual household income shall be calculated in a
37 manner that is consistent with the requirements applicable to the
38 Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program
39 (Chapter 1.7 (commencing with Section 69430)) and Section
40 69506.

1 (B) The student satisfies the eligibility requirements for a Cal
2 Grant award pursuant to Section 69433.9, except that a student
3 who is exempt from nonresident tuition under Section 68130.5
4 shall not be required to satisfy the requirements of subdivision (a)
5 of Section 69433.9.

6 (C) The student is exempt from paying nonresident tuition.

7 (D) The student completes and submits a Free Application for
8 Federal Student Aid (FAFSA) application. The FAFSA must be
9 submitted or postmarked by no later than March 2. If the student
10 is not able to complete a FAFSA application, the student may
11 satisfy this subparagraph by submitting an application determined
12 by the commission to be equivalent to the FAFSA application for
13 purposes of this article by March 2.

14 (E) The student makes a timely application or applications for
15 all other federal, state, or institutionally administered grants or fee
16 waivers for which the student is eligible.

17 (F) The student maintains satisfactory academic progress in a
18 manner that is consistent with the requirements applicable to the
19 Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program
20 pursuant to subdivision (m) of Section 69432.7.

21 (G) The student is pursuing his or her first undergraduate
22 baccalaureate degree or has completed a baccalaureate degree and
23 has been admitted to, and is enrolled in, a program of professional
24 teacher preparation at an institution approved by the California
25 Commission on Teacher Credentialing.

26 (H) The student is enrolled at least part time.

27 (3) (A) The percentage specified in paragraph (2) shall be
28 reduced by 0.6-percent increments per one thousand dollars
29 (\$1,000) of annual household income in excess of one hundred
30 thousand dollars (\$100,000), to a minimum 10 percent of
31 mandatory systemwide tuition and fees for an academic year,
32 provided that no scholarship award shall be provided to a student
33 with an annual household income exceeding one hundred fifty
34 thousand dollars (\$150,000). This reduction shall be in addition
35 to any reduction required by subdivision (e) of Section 70023.

36 (B) Notwithstanding subparagraph (A), for any student who
37 qualifies for a scholarship award of at least one dollar (\$1), the
38 minimum annual scholarship amount for full-time enrollment is
39 ninety dollars (\$90).

1 (4) For the 2014–15, 2015–16, and 2016–17 academic years,
2 the maximum amount of a student’s scholarship award shall be 35
3 percent, 50 percent, and 75 percent, respectively, of the total
4 scholarship award amount that the student would otherwise be
5 eligible to receive.

6 (b) In order for students enrolled in their respective segments
7 to remain eligible to receive a scholarship award under this article,
8 the University of California and the California State University
9 shall not supplant their respective institutional need-based grants
10 with the funds provided for scholarships under this article, and
11 shall maintain their funding amounts at a level that, at a minimum,
12 is equal to the level maintained for undergraduate students during
13 the 2013–14 academic year.

14 (c) The University of California and the California State
15 University shall report on the implementation of this article as part
16 of the report made pursuant to Section 66021.1.

17 (d) A Middle Class Scholarship Program award authorized
18 pursuant to this article shall be defined as a full-time equivalent
19 grant. An award to a part-time student shall be a fraction of a
20 full-time grant, as determined by the proportionate amount charged
21 for systemwide tuition and fees. A part-time student shall not be
22 discriminated against in the selection of Middle Class Scholarship
23 Program awards. For purposes of this section, “full-time” and
24 “part-time” have the same meaning as specified in subdivision (f)
25 of Section 69432.7.

26 ~~SEC. 118:~~

27 *SEC. 119.* Section 70037 of the Education Code is amended
28 to read:

29 70037. (a) The Trustees of the California State University and
30 the Regents of the University of California shall adopt regulations
31 providing for the withholding of institutional services from a
32 student or former student who has been notified in writing at the
33 student’s or former student’s last known address that he or she is
34 in default on a loan or loans under the DREAM Program.

35 (b) (1) The regulations adopted pursuant to subdivision (a) shall
36 provide that the services withheld may be provided during a period
37 when the facts are in dispute or when the student or former student
38 demonstrates to either the Trustees of the California State
39 University or the Regents of the University of California, as
40 applicable, that reasonable progress has been made to repay the

1 loan or that there exists a reasonable justification for the delay as
2 determined by the institution. The regulations shall specify the
3 services to be withheld from the student, which may include, but
4 are not limited to, the following:

5 (A) The provision of grades.

6 (B) The provision of transcripts.

7 (C) The provision of diplomas.

8 (2) The services withheld pursuant to paragraph (1) shall not
9 include the withholding of registration privileges.

10 (c) "Default," for purposes of this section, means the failure of
11 a borrower to make an installment payment when due, or to meet
12 other terms of the promissory note under circumstances in which
13 the institution holding the loan finds it reasonable to conclude that
14 the borrower no longer intends to honor the obligation to repay,
15 provided that this failure persists for 180 days for a loan repayable
16 in monthly installments, or 240 days for a loan repayable in less
17 frequent installments.

18 (d) This section does not impose any requirement upon the
19 University of California unless the Regents of the University of
20 California, by resolution, makes this section applicable.

21 ~~SEC. 119.~~

22 *SEC. 120.* The heading of Article 3 (commencing with Section
23 72632) of Chapter 6 of Part 45 of Division 7 of Title 3 of the
24 Education Code is repealed.

25 ~~SEC. 120.~~

26 *SEC. 121.* Section 76030 of the Education Code is amended
27 to read:

28 76030. (a) Consistent with requirements of due process of law,
29 with this article, and with the rules of student conduct adopted by
30 the governing board under Section 66300, the governing board,
31 the president of a community college or the president's designee,
32 or an instructor shall suspend a student for good cause. In addition,
33 the governing board is authorized to expel a student for good cause
34 when other means of correction fail to bring about proper conduct,
35 or when the presence of the student causes a continuing danger to
36 the physical safety of the student or others. The suspension or
37 expulsion of a student shall be accompanied by a hearing conducted
38 pursuant to the requirements of Section 66017.

39 (b) (1) Notwithstanding any other law, if an order requested
40 by a community college district to protect a campus of a

1 community college district or any person regularly present on a
2 campus of that district is issued upon a finding of good cause by
3 a court against a student of that community college district, and
4 the order prevents that student from attending classes and
5 maintaining his or her academic standing, the community college
6 district may require the student to apply for reinstatement after the
7 expiration of that order. If the district requires the student to apply
8 for reinstatement, it shall do so before the expiration of the
9 protective order. If a student applies for reinstatement under this
10 paragraph, a review with respect to the application shall be
11 conducted. This review, at a minimum, shall include consideration
12 of all of the following issues:

13 (A) The gravity of the offense.

14 (B) Evidence of subsequent offenses, if any.

15 (C) The likelihood that the student would cause substantial
16 disruption if he or she is reinstated.

17 (2) The governing board of the community college district, or
18 the person to whom authority is delegated pursuant to subdivision
19 (f) of Section 76038, shall take one of the following actions after
20 conducting a review under paragraph (1):

21 (A) Deny reinstatement.

22 (B) Permit reinstatement.

23 (C) Permit conditional reinstatement and specify the conditions
24 under which reinstatement will be permitted.

25 ~~SEC. 121.~~

26 *SEC. 122.* Section 78261.5 of the Education Code is amended
27 to read:

28 78261.5. (a) A community college registered nursing program
29 that determines that the number of applicants to that program
30 exceeds its capacity may admit students in accordance with any
31 of the following procedures:

32 (1) Administration of a multicriteria screening process, as
33 authorized by Section 78261.3, in a manner that is consistent with
34 the standards set forth in subdivision (b).

35 (2) A random selection process.

36 (3) A blended combination of random selection and a
37 multicriteria screening process.

38 (b) A community college registered nursing program that elects,
39 on or after January 1, 2008, to use a multicriteria screening process

1 to evaluate applicants pursuant to this article shall apply those
2 measures in accordance with all of the following:

3 (1) The criteria applied in a multicriteria screening process under
4 this article shall include, but shall not necessarily be limited to, all
5 of the following:

6 (A) Academic degrees or diplomas, or relevant certificates, held
7 by an applicant.

8 (B) Grade-point average in relevant coursework.

9 (C) Any relevant work or volunteer experience.

10 (D) Life experiences or special circumstances of an applicant,
11 including, but not necessarily limited to, the following experiences
12 or circumstances:

13 (i) Disabilities.

14 (ii) Low family income.

15 (iii) First generation of family to attend college.

16 (iv) Need to work.

17 (v) Disadvantaged social or educational environment.

18 (vi) Difficult personal and family situations or circumstances.

19 (vii) Refugee or veteran status.

20 (E) Proficiency or advanced level coursework in languages other
21 than English. Credit for languages other than English shall be
22 received for languages that are identified by the chancellor as
23 high-frequency languages, as based on census data. These
24 languages may include, but are not necessarily limited to, any of
25 the following:

26 (i) American Sign Language.

27 (ii) Arabic.

28 (iii) Chinese, including its various dialects.

29 (iv) Farsi.

30 (v) Russian.

31 (vi) Spanish.

32 (vii) Tagalog.

33 (viii) The various languages of the Indian subcontinent and
34 Southeast Asia.

35 (2) Additional criteria, such as a personal interview, a personal
36 statement, letter of recommendation, or the number of repetitions
37 of prerequisite classes, or other criteria, as approved by the
38 chancellor, may be used, but are not required.

39 (3) A community college registered nursing program using a
40 multicriteria screening process under this article may use an

1 approved diagnostic assessment tool, in accordance with Section
2 78261.3, before, during, or after the multicriteria screening process.

3 (4) As used in this section:

4 (A) “Disabilities” has the same meaning as used in Section 2626
5 of the Unemployment Insurance Code.

6 (B) “Disadvantaged social or educational environment” includes,
7 but is not necessarily limited to, the status of a student who has
8 participated in Extended Opportunity Programs and Services
9 (EOPS).

10 (C) “Grade-point average” refers to the same fixed set of
11 required prerequisite courses that all applicants to the nursing
12 program administering the multicriteria screening process are
13 required to complete.

14 (D) “Low family income” shall be measured by a community
15 college registered nursing program in terms of a student’s eligibility
16 for, or receipt of, financial aid under a program that may include,
17 but is not necessarily limited to, a fee waiver from the board of
18 governors under Section 76300, the Cal Grant Program under
19 Chapter 1.7 (commencing with Section 69430) of Part 42 of
20 Division 5, the federal Pell Grant program, or CalWORKs.

21 (E) “Need to work” means that the student is working at least
22 part time while completing academic work that is a prerequisite
23 for admission to the nursing program.

24 (5) A community college registered nursing program that uses
25 a multicriteria screening process pursuant to this article shall report
26 its nursing program admissions policies to the chancellor annually,
27 in writing. The admissions policies reported under this paragraph
28 shall include the weight given to any criteria used by the program,
29 and shall include demographic information relating to both the
30 persons admitted to the program and the persons of that group who
31 successfully completed that program.

32 (c) The chancellor is encouraged to develop, and make available
33 to community college registered nursing programs by July 1, 2008,
34 a model admissions process based on this section.

35 (d) (1) The chancellor shall submit a report on or before March
36 1, 2015, and on or before each March 1 thereafter, to the
37 Legislature and the Governor that examines and includes, but is
38 not necessarily limited to, both of the following:

39 (A) The participation, retention, and completion rates in
40 community college registered nursing programs of students

1 admitted through a multicriteria screening process, as described
2 in this section, disaggregated by the age, gender, ethnicity, and the
3 language spoken at the home of those students.

4 (B) Information on the annual impact, if any, the
5 Seymour-Campbell Student Success Act had on the matriculation
6 services for students admitted through the multicriteria screening
7 process, as described in this section.

8 (2) The chancellor shall submit the annual report required in
9 paragraph (1) in conjunction with its annual report on associate
10 degree nursing programs required by subdivision (h) of Section
11 78261.

12 (e) This section shall remain in effect only until January 1, 2020,
13 and as of that date is repealed, unless a later enacted statute, that
14 is enacted before January 1, 2020, deletes or extends that date.

15 ~~SEC. 122.~~

16 *SEC. 123.* The heading of Article 8 (commencing with Section
17 78310) of Chapter 2 of Part 48 of Division 7 of Title 3 of the
18 Education Code is repealed.

19 ~~SEC. 123.~~

20 *SEC. 124.* The heading of Article 3 (commencing with Section
21 78440) of Chapter 3 of Part 48 of Division 7 of Title 3 of the
22 Education Code is repealed.

23 ~~SEC. 124.~~

24 *SEC. 125.* The heading of Chapter 4 (commencing with Section
25 78600) of Part 48 of Division 7 of Title 3 of the Education Code
26 is repealed.

27 ~~SEC. 125.~~

28 *SEC. 126.* The heading of Article 4 (commencing with Section
29 82360) of Chapter 7 of Part 49 of Division 7 of Title 3 of the
30 Education Code is repealed.

31 ~~SEC. 126.~~

32 *SEC. 127.* Section 82542 of the Education Code, as amended
33 by Section 1 of Chapter 233 of the Statutes of 2014, is amended
34 to read:

35 82542. (a) Except as provided in subdivision (b), the governing
36 board of a community college district shall grant without charge
37 the use of any college facilities or grounds under its control,
38 pursuant to the requirements of this article, when an alternative
39 location is not available, to nonprofit organizations and clubs and

1 associations organized for general character building or welfare
2 purposes, such as:

- 3 (1) Student clubs and organizations.
- 4 (2) Fundraising entertainments or meetings where admission
5 fees charged or contributions solicited are expended for the welfare
6 of the students of the district.
- 7 (3) Parent-teachers' associations.
- 8 (4) School-community advisory councils.
- 9 (5) Camp Fire Girls, Girl Scout troops, and Boy Scout troops.
- 10 (6) Senior citizens' organizations.
- 11 (7) Other public agencies.
- 12 (8) Organizations, clubs, or associations organized for cultural
13 activities and general character building or welfare purposes, such
14 as folk and square dancing.
- 15 (9) Groups organized for the purpose specified in subdivision
16 (k).

17 (b) The governing board may charge those organizations and
18 activities listed in subdivision (a) an amount not to exceed the
19 following:

- 20 (1) The cost of opening and closing the facilities, if no college
21 employees would otherwise be available to perform that function
22 as a part of their normal duties.
- 23 (2) The cost of a college employee's presence during the
24 organization's use of the facilities, if the governing board
25 determines that the supervision is needed, and if that employee
26 would not otherwise be present as part of his or her normal duties.
- 27 (3) The cost of janitorial services, if the services are necessary,
28 and would not have otherwise been performed as part of the
29 janitor's normal duties.
- 30 (4) The cost of utilities directly attributable to the organization's
31 use of the facilities.

32 (c) The governing board may charge an amount not to exceed
33 its direct costs or not to exceed fair rental value of college facilities
34 and grounds under its control, and pursuant to the requirements of
35 this article, for activities other than those specified in subdivision
36 (a). A governing board that decides to levy these charges shall first
37 adopt a policy specifying which activities shall be charged an
38 amount not to exceed direct costs and which activities shall be
39 charged an amount not to exceed fair rental value.

1 (d) (1) As used in this section, “direct costs” to the district for
2 the use of college facilities or grounds includes all of the following:

3 (A) The share of the costs of supplies, utilities, janitorial
4 services, services of any other district employees, and salaries paid
5 to community college district employees to operate and maintain
6 college facilities or grounds that is proportional to the
7 organization’s use of the college facilities and grounds of the
8 district under this section.

9 (B) The share of the costs for maintenance, repair, restoration,
10 and refurbishment, proportional to the use of the college facilities
11 or grounds by the organization using the college facilities or
12 grounds under this section. For purposes of this subparagraph,
13 “college facilities” shall be limited to only nonclassroom space,
14 and “grounds” shall include, but not be limited to, playing fields,
15 athletic fields, track and field venues, tennis courts, and outdoor
16 basketball courts.

17 (2) The share of the costs for maintenance, repair, restoration,
18 and refurbishment shall not apply to either of the following:

19 (A) Classroom-based programs that operate after school hours,
20 including, but not limited to, after school programs, tutoring
21 programs, or child care programs.

22 (B) Organizations retained by the college or community college
23 district to provide instruction or instructional activities to students
24 during school hours.

25 (3) Funds collected pursuant to this subdivision shall be
26 deposited into a special fund that shall only be used for purposes
27 of this section.

28 (e) By December 31, 2015, the Chancellor of the California
29 Community Colleges shall develop, and the Board of Governors
30 of the California Community Colleges shall adopt, regulations to
31 be used by a governing board of a community college district in
32 determining the proportionate share and the specific allowable
33 costs that a community college district may include as direct costs
34 for the use of its college facilities or grounds.

35 (f) As used in this section, “fair rental value” means the direct
36 costs to the district, plus the amortized costs of the college facilities
37 or grounds used for the duration of the activity authorized.

38 (g) The governing board of a community college district that
39 authorizes the use of college facilities or grounds for the purpose
40 specified in subdivision (h) shall charge the church or religious

1 denomination an amount at least equal to the fair rental value of
2 the facilities or grounds.

3 (h) The governing board of a community college district may
4 grant the use of college facilities or grounds to any church or
5 religious organization for the conduct of religious services for
6 temporary periods where the church or organization has no suitable
7 meeting place for the conduct of these services upon the terms and
8 conditions as the board deems proper, and subject to the limitations,
9 requirements, and restrictions set forth in this article. The governing
10 board shall charge the church or religious organization using the
11 property for the conduct of religious services a fee as specified in
12 subdivision (g).

13 (i) For entertainment or a meeting where an admission fee is
14 charged or a contribution is solicited and the net receipts of the
15 admission fees or contributions are not expended for the welfare
16 of the students of the district or for charitable purposes, a charge
17 equal to fair rental value shall be levied for the use of the college
18 facilities, property, and grounds, as determined by the governing
19 board of the district.

20 (j) The governing board may permit the use, without charge,
21 by organizations, clubs, or associations organized for senior citizens
22 and for cultural activities and general character building or welfare
23 purposes, when membership dues or contributions solely for the
24 support of the organization, club, or association, or the
25 advancement of its cultural, character building, or welfare work,
26 are accepted.

27 (k) The governing board of a community college district may
28 grant the use of college facilities, grounds, and equipment to public
29 agencies, including the American Red Cross, for mass care and
30 welfare shelters during disasters or other emergencies affecting
31 the public health and welfare, and may cooperate with these
32 agencies in furnishing and maintaining services deemed by the
33 governing board to be necessary to meet the needs of the
34 community.

35 (l) This section shall remain in effect only until January 1, 2020,
36 and as of that date is repealed, unless a later enacted statute, that
37 is enacted before January 1, 2020, deletes or extends that date.

1 ~~SEC. 127.~~

2 *SEC. 128.* Section 82542 of the Education Code, as added by
3 Section 2 of Chapter 233 of the Statutes of 2014, is amended to
4 read:

5 82542. (a) Except as provided in subdivision (b), the governing
6 board of a community college district shall grant without charge
7 the use of any college facilities or grounds under its control,
8 pursuant to the requirements of this article, when an alternative
9 location is not available, to nonprofit organizations and clubs and
10 associations organized for general character building or welfare
11 purposes, such as:

12 (1) Student clubs and organizations.

13 (2) Fundraising entertainments or meetings where admission
14 fees charged or contributions solicited are expended for the welfare
15 of the students of the district.

16 (3) Parent-teachers' associations.

17 (4) School-community advisory councils.

18 (5) Camp Fire Girls, Girl Scout troops, and Boy Scout troops.

19 (6) Senior citizens' organizations.

20 (7) Other public agencies.

21 (8) Organizations, clubs, or associations organized for cultural
22 activities and general character building or welfare purposes, such
23 as folk and square dancing.

24 (9) Groups organized for the purpose specified in subdivision
25 (g).

26 (b) The governing board may charge those organizations and
27 activities listed in subdivision (a) an amount not to exceed the
28 following:

29 (1) The cost of opening and closing the facilities, if no college
30 employees would otherwise be available to perform that function
31 as a part of their normal duties.

32 (2) The cost of a college employee's presence during the
33 organization's use of the facilities, if the governing board
34 determines that the supervision is needed, and if that employee
35 would not otherwise be present as part of his or her normal duties.

36 (3) The cost of janitorial services, if the services are necessary,
37 and would not have otherwise been performed as part of the
38 janitor's normal duties.

39 (4) The cost of utilities directly attributable to the organization's
40 use of the facilities.

1 (c) The governing board may charge an amount not to exceed
2 its direct costs or not to exceed fair rental value of college facilities
3 and grounds under its control, and pursuant to the requirements of
4 this article, for activities other than those specified in subdivision
5 (a). A governing board that decides to levy these charges shall first
6 adopt a policy specifying which activities shall be charged an
7 amount not to exceed direct costs and which activities shall be
8 charged an amount not to exceed fair rental value.

9 (1) As used in this section, “direct costs” to the district for the
10 use of college facilities or grounds means those costs of supplies,
11 utilities, janitorial services, services of any other district employees,
12 and salaries paid community college district employees necessitated
13 by the organization’s use of the college facilities and grounds of
14 the district.

15 (2) As used in this section, “fair rental value” means the direct
16 costs to the district, plus the amortized costs of the college facilities
17 or grounds used for the duration of the activity authorized.

18 (d) The governing board of a community college district that
19 authorizes the use of college facilities or grounds for the purpose
20 specified in subdivision (e) shall charge the church or religious
21 denomination an amount at least equal to the fair rental value of
22 the facilities or grounds.

23 (e) The governing board of a community college district may
24 grant the use of college facilities or grounds to any church or
25 religious organization for the conduct of religious services for
26 temporary periods where the church or organization has no suitable
27 meeting place for the conduct of these services upon the terms and
28 conditions as the board deems proper, and subject to the limitations,
29 requirements, and restrictions set forth in this article. The governing
30 board shall charge the church or religious organization using the
31 property for the conduct of religious services a fee as specified in
32 subdivision (d).

33 (f) For entertainment or a meeting where an admission fee is
34 charged or a contribution is solicited and the net receipts of the
35 admission fees or contributions are not expended for the welfare
36 of the students of the district or for charitable purposes, a charge
37 shall be made for the use of the college facilities, property, and
38 grounds, which charge shall not be less than the fair rental value
39 for the use of the college facilities, property, and grounds, as
40 determined by the governing board of the district.

1 (g) The governing board may permit the use, without charge,
2 by organizations, clubs, or associations organized for senior citizens
3 and for cultural activities and general character building or welfare
4 purposes, when membership dues or contributions solely for the
5 support of the organization, club, or association, or the
6 advancement of its cultural, character building, or welfare work,
7 are accepted.

8 (h) The governing board of a community college district may
9 grant the use of college facilities, grounds, and equipment to public
10 agencies, including the American Red Cross, for mass care and
11 welfare shelters during disasters or other emergencies affecting
12 the public health and welfare, and may cooperate with these
13 agencies in furnishing and maintaining services deemed by the
14 governing board to be necessary to meet the needs of the
15 community.

16 (i) This section is operative on and after January 1, 2020.

17 ~~SEC. 128.~~

18 *SEC. 129.* The heading of Article 1 (commencing with Section
19 84300) of Chapter 3 of Part 50 of Division 7 of Title 3 of the
20 Education Code is repealed.

21 ~~SEC. 129.~~

22 *SEC. 130.* The heading of Article 2 (commencing with Section
23 85210) of Chapter 8 of Part 50 of Division 7 of Title 3 of the
24 Education Code is repealed.

25 ~~SEC. 130.~~

26 *SEC. 131.* Section 87782 of the Education Code is amended
27 to read:

28 87782. (a) An academic employee of a community college
29 district who has been an employee of that district for a period of
30 one school year or more shall have transferred with him or her to
31 a second district the total amount of leave of absence for illness
32 or injury to which he or she is entitled under Section 87781 in any
33 of the following circumstances:

34 (1) The person accepts an academic position in a school district
35 or community college district at any time during the second or any
36 succeeding school year of his or her employment with the first
37 district.

38 (2) The person, within the three school years succeeding the
39 school year in which the employment in the first district is

1 terminated, signifies acceptance of his or her election or
 2 employment in an academic position in another district.

3 (3) The person, prior to the expiration of a period greater than
 4 three years during which the employee’s reemployment rights are
 5 in effect under a local bargaining agreement in the first district,
 6 signifies acceptance of his or her election or employment in an
 7 academic position in another district.

8 (b) The board of governors shall adopt rules and regulations
 9 prescribing the manner in which the first district shall certify to
 10 the second district the total amount of leave of absence for illness
 11 or injury to be transferred. No governing board shall adopt any
 12 policy or rule, written or unwritten, that requires any employee
 13 transferring to its district to waive any part or all of the leave of
 14 absence that he or she may be entitled to have transferred in
 15 accordance with this section.

16 ~~SEC. 131.~~

17 *SEC. 132.* Section 87784.5 of the Education Code is amended
 18 to read:

19 87784.5. (a) An academic employee may take up to 30 days
 20 of leave in a school year, less any days of leave authorized pursuant
 21 to Sections 87781.5 and 87784, in either of the following
 22 circumstances:

23 (1) A biological parent may use leave pursuant to this section
 24 within the first year of his or her infant’s birth.

25 (2) A nonbiological parent may use leave pursuant to this section
 26 within the first year of legally adopting a child.

27 (b) If the provisions of this section are in conflict with the terms
 28 of a collective bargaining agreement in effect before January 1,
 29 2015, the provisions of this section do not apply to the public
 30 employer and public employees subject to that agreement until the
 31 expiration or renewal of the agreement.

32 ~~SEC. 132.~~

33 *SEC. 133.* Section 88207.5 of the Education Code is amended
 34 to read:

35 88207.5. (a) A contract or regular employee may use up to 30
 36 days of leave in a school year, less any days of leave authorized
 37 pursuant to Section 88207, in either of the following circumstances:

38 (1) A biological parent may use leave pursuant to this section
 39 within the first year of his or her infant’s birth.

1 (2) A nonbiological parent may use leave pursuant to this section
2 within the first year of legally adopting a child.

3 (b) If the provisions of this section are in conflict with the terms
4 of a collective bargaining agreement in effect before January 1,
5 2015, the provisions of this section do not apply to the public
6 employer and public employees subject to that agreement until the
7 expiration or renewal of the agreement.

8 ~~SEC. 133.~~

9 *SEC. 134.* Section 89005 of the Education Code is amended
10 to read:

11 89005. All references in law or regulation to the “California
12 State Colleges,” to the “California State University and Colleges,”
13 or to “state colleges” shall be deemed to refer to the California
14 State University and to the system of institutions of higher
15 education that comprises the California State University as
16 authorized in Section 89001. The term “campus” shall mean any
17 of the institutions included within the California State University
18 specified in Section 89001.

19 ~~SEC. 134.~~

20 *SEC. 135.* Section 89295 of the Education Code is amended
21 to read:

22 89295. (a) For purposes of this section, the following terms
23 are defined as follows:

24 (1) The “four-year graduation rate” means the percentage of a
25 cohort of undergraduate students who entered the university as
26 freshmen at any campus and graduated from any campus within
27 four years.

28 (2) The “six-year graduation rate” means the percentage of a
29 cohort of undergraduate students who entered the university as
30 freshmen at any campus and graduated from any campus within
31 six years.

32 (3) The “two-year transfer graduation rate” means the percentage
33 of a cohort of undergraduate students who entered the university
34 at any campus as junior-level transfer students from the California
35 Community Colleges and graduated from any campus within two
36 years.

37 (4) The “three-year transfer graduation rate” means the
38 percentage of a cohort of undergraduate students who entered the
39 university at any campus as junior-level transfer students from the

1 California Community Colleges and graduated from any campus
2 within three years.

3 (5) The “four-year transfer graduation rate” means the
4 percentage of a cohort of undergraduate students who entered the
5 university at any campus as junior-level transfer students from the
6 California Community Colleges and graduated from any campus
7 within four years.

8 (6) “Low-income student” means an undergraduate student who
9 has an expected family contribution, as defined in subdivision (g)
10 of Section 69432.7, at any time during the student’s matriculation
11 at the institution that would qualify the student to receive a federal
12 Pell Grant. The calculation of a student’s expected family
13 contribution shall be based on the Free Application for Federal
14 Student Aid (FAFSA) application or an application determined by
15 the Student Aid Commission to be equivalent to the FAFSA
16 application submitted by that applicant.

17 (b) Commencing with the 2013–14 academic year, the California
18 State University shall report, by March 15 of each year, on the
19 following performance measures for the preceding academic year,
20 to inform budget and policy decisions and promote the effective
21 and efficient use of available resources:

22 (1) The number of California Community College transfer
23 students enrolled and the percentage of California Community
24 College transfer students as a proportion of the total number of
25 undergraduate students enrolled.

26 (2) The number of new California Community College transfer
27 students enrolled and the percentage of new California Community
28 College transfer students as a proportion of the total number of
29 new undergraduate students enrolled.

30 (3) The number of low-income students enrolled and the
31 percentage of low-income students as a proportion of the total
32 number of undergraduate students enrolled.

33 (4) The number of new low-income students enrolled and the
34 percentage of new low-income students as a proportion of the total
35 number of new undergraduate students enrolled.

36 (5) The four-year graduation rate for students who entered the
37 university four years prior and, separately, for low-income students
38 in that cohort.

1 (6) The four-year and six-year graduation rates for students who
2 entered the university six years prior and, separately, for
3 low-income students in that cohort.

4 (7) The two-year transfer graduation rate for students who
5 entered the university two years prior and, separately, for
6 low-income students in that cohort.

7 (8) The two-year and three-year transfer graduation rates for
8 students who entered the university three years prior and,
9 separately, for low-income students in that cohort.

10 (9) The two-year, three-year, and four-year transfer graduation
11 rates for students who entered the university four years prior and,
12 separately, for low-income students in that cohort.

13 (10) The number of degree completions annually, in total and
14 for the following categories:

15 (A) Freshman entrants.

16 (B) California Community College transfer students.

17 (C) Graduate students.

18 (D) Low-income students.

19 (11) The percentage of freshman entrants who have earned
20 sufficient course credits by the end of their first year of enrollment
21 to indicate that they will graduate within four years.

22 (12) The percentage of California Community College transfer
23 students who have earned sufficient course credits by the end of
24 their first year of enrollment to indicate that they will graduate
25 within two years.

26 (13) For all students, the total amount of funds received from
27 all sources identified in subdivision (c) of Section 89290 for the
28 year, divided by the number of degrees awarded that same year.

29 (14) For undergraduate students, the total amount of funds
30 received from all sources identified in subdivision (c) of Section
31 89290 for the year expended for undergraduate education, divided
32 by the number of undergraduate degrees awarded that same year.

33 (15) The average number of California State University course
34 credits and the total course credits, including credits accrued at
35 other institutions, accumulated by all undergraduate students who
36 graduated, and separately for freshman entrants and California
37 Community College transfer students.

38 (16) (A) The number of degree completions in science,
39 technology, engineering, and mathematics (STEM) fields, in total,

1 and separately for undergraduate students, graduate students, and
2 low-income students.

3 (B) For purposes of subparagraph (A), “STEM fields” include,
4 but are not necessarily limited to, all of the following: computer
5 and information sciences, engineering and engineering
6 technologies, biological and biomedical sciences, mathematics
7 and statistics, physical sciences, and science technologies.

8 (c) It is the intent of the Legislature that the appropriate policy
9 and fiscal committees of the Legislature review these performance
10 measures in a collaborative process with the Department of
11 Finance, the Legislative Analyst’s Office, individuals with
12 expertise in statewide accountability efforts, the University of
13 California, the California State University, and, for purposes of
14 data integrity and consistency, the California Community Colleges,
15 and consider any recommendations for their modification and
16 refinement. It is further the intent of the Legislature that any
17 modification or refinement of these measures be guided by the
18 legislative intent expressed in Section 66010.93.

19 ~~SEC. 135.~~

20 *SEC. 136.* Section 89500.7 of the Education Code is amended
21 to read:

22 89500.7. (a) The trustees shall offer, on at least a semiannual
23 basis, to each of the university’s filers, an orientation course on
24 the relevant ethics statutes and regulations that govern the official
25 conduct of university officials.

26 (b) As used in this section, “filer” means each member, officer,
27 or designated employee of the California State University,
28 including a trustee, who, because of his or her affiliation with the
29 university or any subdivision or campus thereof, is required to file
30 a Statement of Economic Interests in accordance with Chapter 7
31 (commencing with Section 87100) of Title 9 of the Government
32 Code.

33 (c) The trustees shall maintain records indicating the specific
34 attendees, each attendee’s job title, and dates of their attendance
35 for each orientation course offered pursuant to this section. These
36 records shall be maintained for a period of at least five years after
37 each course is offered. These records shall be public records subject
38 to inspection and copying in accordance with Section 81008 of
39 the Government Code and any other public records disclosure laws
40 that are applicable to the university.

1 (d) Except as provided in subdivision (e), each filer shall attend
2 the orientation course established pursuant to subdivision (a) in
3 accordance with both of the following:

4 (1) For a person who, as of January 1, 2005, is a filer, as defined
5 in subdivision (b), not later than December 31, 2005, and thereafter,
6 at least once during each consecutive period of two calendar years
7 commencing on January 1, 2007.

8 (2) For a person who becomes a filer, as defined in subdivision
9 (b), after January 1, 2005, within six months after he or she
10 becomes a filer, and at least once during each consecutive period
11 of two calendar years commencing on January 1 of the first
12 odd-numbered year thereafter.

13 (e) The requirements of subdivision (d) do not apply to a filer,
14 as defined in subdivision (b), who has taken an ethics orientation
15 course through another state agency or the Legislature within the
16 periods set forth in paragraphs (1) and (2) of subdivision (d) if, in
17 the determination of the trustees, that course covered substantially
18 the same material as the course the university would offer to the
19 filer pursuant to this section.

20 ~~SEC. 136.~~

21 *SEC. 137.* Section 89770 of the Education Code is amended
22 to read:

23 89770. (a) (1) The California State University may pledge,
24 in addition to any of its other revenues that the university chooses
25 to pledge, its annual General Fund support appropriation less the
26 amount of that appropriation required to fund general obligation
27 bond payments and State Public Works Board rental payments, to
28 secure the payment of debt obligations issued by the Trustees of
29 the California State University pursuant to the State University
30 Revenue Bond Act of 1947 (Article 2 (commencing with Section
31 90010) of Chapter 8).

32 (2) To the extent the university pledges any part of its support
33 appropriation as a source of revenue securing any obligation, it
34 shall provide that this commitment of revenue is subject to annual
35 appropriation by the Legislature.

36 (3) The university may fund debt service for capital expenditures
37 defined in subdivision (b), and the costs or expenses incidental to
38 the issuance and sale of bonds to finance those costs, including,
39 but not limited to, capitalized interest on the bonds, from its

1 General Fund support appropriation pursuant to Sections 89772
2 and 89773.

3 (4) The state hereby covenants with the holders of the
4 university's obligations, secured by the pledge of the university
5 authorized by this section, that so long as any of the obligations
6 referred to in this subdivision remain outstanding, the state will
7 not impair or restrict the ability of the university to pledge any
8 support appropriation or support appropriations that may be enacted
9 for the university. The university may include this covenant of the
10 state in the agreements or other documents underlying the
11 university's obligations to this effect.

12 (b) For purposes of this section, "capital expenditures" means
13 any of the following:

14 (1) The costs to acquire real property to design, construct, or
15 equip academic facilities to address seismic and life safety needs,
16 enrollment growth, or modernization of out-of-date facilities, and
17 renewal or expansion of infrastructure to serve academic programs.

18 (2) The debt service amount associated with refunding,
19 defeasing, or retiring State Public Works Board lease revenue
20 bonds.

21 (3) The costs to design, construct, or equip energy conservation
22 projects.

23 (4) The costs of deferred maintenance of academic facilities
24 and related infrastructure.

25 (c) This section does not require the Legislature to make an
26 appropriation from the General Fund in any specific amount to
27 support the California State University.

28 (d) The ability to utilize its support appropriation as stated in
29 this section shall not be used as a justification for future increases
30 in student tuition, additional employee layoffs, or reductions in
31 employee compensation at the California State University.

32 ~~SEC. 137.~~

33 *SEC. 138.* Section 92611.7 of the Education Code is amended
34 to read:

35 92611.7. (a) The regents are urged to offer, on at least a
36 semiannual basis, to each of the university's filers, an orientation
37 course on the relevant ethics statutes and regulations that govern
38 the official conduct of university officials.

39 (b) As used in this section, "filer" means each member, officer,
40 or designated employee of the University of California, including

1 a regent, who, because of his or her affiliation with the university
2 or any subdivision or campus thereof, is required to file a statement
3 of economic interests in accordance with Chapter 7 (commencing
4 with Section 87100) of Title 9 of the Government Code.

5 (c) The regents shall maintain records indicating the specific
6 attendees, each attendee's job title, and dates of their attendance
7 for each orientation course offered pursuant to this section. These
8 records shall be maintained for a period of at least five years after
9 each course is offered. These records shall be public records subject
10 to inspection and copying in accordance with Section 81008 of
11 the Government Code and any other public records disclosure laws
12 that are applicable to the university.

13 (d) Except as provided in subdivision (e), each filer shall attend
14 the orientation course established pursuant to subdivision (a) in
15 accordance with both of the following:

16 (1) For a person who, as of January 1, 2005, is a filer, as defined
17 in subdivision (b), not later than December 31, 2005, and thereafter,
18 at least once during each consecutive period of two calendar years
19 commencing on January 1, 2007.

20 (2) For a person who becomes a filer, as defined in subdivision
21 (b), after January 1, 2005, within six months after he or she
22 becomes a filer, and at least once during each consecutive period
23 of two calendar years commencing on January 1 of the first
24 odd-numbered year thereafter.

25 (e) The requirements of subdivision (d) do not apply to a filer,
26 as defined in subdivision (b), who has taken an ethics orientation
27 course through another state agency or the Legislature within the
28 periods set forth in paragraphs (1) and (2) of subdivision (d) if, in
29 the determination of the regents, that course covered substantially
30 the same material as the course the university would offer to the
31 filer pursuant to this section.

32 ~~SEC. 138.~~

33 *SEC. 139.* Section 92675 of the Education Code is amended
34 to read:

35 92675. (a) For purposes of this section, the following terms
36 are defined as follows:

37 (1) The "four-year graduation rate" means the percentage of a
38 cohort of undergraduate students who entered the university as
39 freshmen at any campus and graduated from any campus within
40 four years.

1 (2) The “two-year transfer graduation rate” means the percentage
2 of a cohort of undergraduate students who entered the university
3 at any campus as junior-level transfer students from the California
4 Community Colleges and graduated from any campus within two
5 years.

6 (3) “Low-income student” means an undergraduate student who
7 has an expected family contribution, as defined in subdivision (g)
8 of Section 69432.7, at any time during the student’s matriculation
9 at the institution that would qualify the student to receive a federal
10 Pell Grant. The calculation of a student’s expected family
11 contribution shall be based on the Free Application for Federal
12 Student Aid (FAFSA) application or an application determined by
13 the Student Aid Commission to be equivalent to the FAFSA
14 application submitted by that applicant.

15 (b) Commencing with the 2013–14 academic year, the
16 University of California shall report, by March 15 of each year,
17 on the following performance measures for the preceding academic
18 year, to inform budget and policy decisions and promote the
19 effective and efficient use of available resources:

20 (1) The number of transfer students enrolled from the California
21 Community Colleges, and the percentage of California Community
22 College transfer students as a proportion of the total number of
23 undergraduate students enrolled.

24 (2) The number of new transfer students enrolled from the
25 California Community Colleges, and the percentage of new
26 California Community College transfer students as a proportion
27 of the total number of new undergraduate students enrolled.

28 (3) The number of low-income students enrolled and the
29 percentage of low-income students as a proportion of the total
30 number of undergraduate students enrolled.

31 (4) The number of new low-income students enrolled and the
32 percentage of new low-income students as a proportion of the total
33 number of new undergraduate students enrolled.

34 (5) The four-year graduation rate for students who entered the
35 university four years prior and, separately, for low-income students
36 in that cohort.

37 (6) The two-year transfer graduation rate for students who
38 entered the university two years prior and, separately, for
39 low-income students in that cohort.

1 (7) The number of degree completions, in total and for the
2 following categories:

3 (A) Freshman entrants.

4 (B) California Community College transfer students.

5 (C) Graduate students.

6 (D) Low-income students.

7 (8) The percentage of freshman entrants who have earned
8 sufficient course credits by the end of their first year of enrollment
9 to indicate they will graduate within four years.

10 (9) The percentage of California Community College transfer
11 students who have earned sufficient course credits by the end of
12 their first year of enrollment to indicate they will graduate within
13 two years.

14 (10) For all students, the total amount of funds received from
15 all sources identified in subdivision (c) of Section 92670 for the
16 year, divided by the number of degrees awarded that same year.

17 (11) For undergraduate students, the total amount of funds
18 received from the sources identified in subdivision (c) of Section
19 92670 for the year expended for undergraduate education, divided
20 by the number of undergraduate degrees awarded that same year.

21 (12) The average number of University of California course
22 credits and total course credits, including credit accrued at other
23 institutions, accumulated by all undergraduate students who
24 graduated, and separately for freshman entrants and California
25 Community College transfer students.

26 (13) (A) The number of degree completions in science,
27 technology, engineering, and mathematics (STEM) fields, in total,
28 and separately for undergraduate students, graduate students, and
29 low-income students.

30 (B) For purposes of subparagraph (A), “STEM fields” include,
31 but are not necessarily limited to, all of the following: computer
32 and information sciences, engineering and engineering
33 technologies, biological and biomedical sciences, mathematics
34 and statistics, physical sciences, and science technologies.

35 (c) It is the intent of the Legislature that the appropriate policy
36 and fiscal committees of the Legislature review these performance
37 measures in a collaborative process with the Department of
38 Finance, the Legislative Analyst’s Office, individuals with
39 expertise in statewide accountability efforts, the University of
40 California, the California State University, and, for purposes of

1 data integrity and consistency, the California Community Colleges,
2 and consider any recommendations for their modification and
3 refinement. It is further the intent of the Legislature that any
4 modification or refinement of these measures be guided by the
5 legislative intent expressed in Section 66010.93.

6 ~~SEC. 139.~~

7 *SEC. 140.* Section 94143 of the Education Code is amended
8 to read:

9 94143. The authority is authorized from time to time to issue
10 its notes for any corporate purpose and renew from time to time
11 any notes by the issuance of new notes, whether the notes to be
12 renewed have or have not matured. The authority may issue notes
13 partly to renew notes or to discharge other obligations then
14 outstanding and partly for any other purpose. The notes may be
15 authorized, sold, executed, and delivered in the same manner as
16 bonds. A resolution or resolutions authorizing notes of the authority
17 or any issue of notes of the authority may contain any provisions
18 that the authority is authorized to include in a resolution or
19 resolutions authorizing bonds of the authority or any issue of bonds
20 of the authority, and the authority may include in the notes any
21 terms, covenants, or conditions that it is authorized to include in
22 bonds. Notes issued by the authority shall be payable from revenues
23 of the authority or other moneys available for payment of notes
24 and not otherwise pledged, subject only to any contractual rights
25 of the holders of its notes or other obligations then outstanding.

26 ~~SEC. 140.~~

27 *SEC. 141.* Section 94145.5 of the Education Code is amended
28 to read:

29 94145.5. A provision that the authority may include in a trust
30 agreement or resolution providing for the issuance of bonds
31 pursuant to this chapter may also be included in a bond and shall
32 have the same effect.

33 ~~SEC. 141.~~

34 *SEC. 142.* Section 94880 of the Education Code is amended
35 to read:

36 94880. (a) There is within the bureau a 14-member advisory
37 committee. On or before July 1, 2015, the members of the
38 committee shall be appointed as follows:

39 (1) Three members, who shall have a demonstrated record of
40 advocacy on behalf of consumers, of which the director, the Senate

1 Committee on Rules, and the Speaker of the Assembly shall each
2 appoint one member.

3 (2) Two members, who shall be current or past students of
4 institutions, appointed by the director.

5 (3) Three members, who shall be representatives of institutions,
6 appointed by the director.

7 (4) Two members, who shall be employers who hire students,
8 appointed by the director.

9 (5) One public member appointed by the Senate Committee on
10 Rules.

11 (6) One public member appointed by the Speaker of the
12 Assembly.

13 (7) Two nonvoting, ex officio members as follows:

14 (A) The chair of the policy committee of the Assembly with
15 jurisdiction over legislation relating to the bureau or designee
16 appointed by the Speaker of the Assembly.

17 (B) The chair of the policy committee of the Senate with
18 jurisdiction over legislation relating to the bureau or designee
19 appointed by the Senate Committee on Rules.

20 (b) (1) A public member shall not, either at the time of his or
21 her appointment or during his or her tenure in office, have any
22 financial interest in any organization currently or previously subject
23 to regulation by the bureau, be a close family member of an
24 employee, officer, or the director of any institution subject to
25 regulation by the bureau, or currently have, or previously have
26 had, a business relationship, in the five years preceding his or her
27 appointment, with any institution subject to regulation by the
28 bureau.

29 (2) A public member shall not, within the five years immediately
30 preceding his or her appointment, have engaged in pursuits on
31 behalf of an institution or institutional accreditor or have provided
32 representation to the postsecondary educational industry or a
33 profession regulated by the bureau, if he or she is employed in the
34 industry or a member of the profession, respectively, and he or
35 she shall not engage in those pursuits or provide that representation
36 during his or her term of office.

37 (c) The advisory committee shall examine the oversight
38 functions and operational policies of the bureau and advise the
39 bureau with respect to matters relating to private postsecondary
40 education and the administration of this chapter, including annually

1 reviewing the fee schedule and the equity of the schedule relative
2 to the way institutions are structured, and the licensing and
3 enforcement provisions of this chapter. The advisory committee
4 shall make recommendations with respect to policies, practices,
5 and regulations relating to private postsecondary education, and
6 shall provide any assistance as may be requested by the bureau.

7 (d) The bureau shall actively seek input from, and consult with,
8 the advisory committee regarding the development of regulations
9 to implement this chapter prior to the adoption, amendment, or
10 repeal of its regulations, and provide the advisory committee with
11 sufficient time to review and comment on those regulations. The
12 bureau shall take into consideration and respond to all feedback
13 provided by members of the advisory committee.

14 (e) The bureau chief shall attend all advisory committee
15 meetings and shall designate staff to provide ongoing
16 administrative support to the advisory committee.

17 (f) Until January 1, 2017, the director shall personally attend,
18 and testify and answer questions at, each meeting of the advisory
19 committee.

20 (g) The advisory committee shall have the same access to
21 records within the Department of Consumer Affairs related to the
22 operation and administration of this chapter as do members of
23 constituent boards of the department in regard to records related
24 to their functions.

25 (h) Advisory committee meetings shall be subject to the
26 Bagley-Keene Open Meeting Act (Article 9 (commencing with
27 Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of
28 the Government Code). Advisory committee meeting materials
29 shall be posted on the Internet.

30 (i) The advisory committee shall meet at least quarterly and
31 shall appoint a member of the committee to represent the committee
32 for purposes of communicating with the Legislature.

33 (j) The Department of Consumer Affairs shall review, and revise
34 if necessary, the department's conflicts of interest regulations to
35 ensure that each advisory committee member is required to disclose
36 conflicts of interest to the public.

37 ~~SEC. 142.~~

38 *SEC. 143.* Section 2150 of the Elections Code, as amended by
39 Section 3 of Chapter 619 of the Statutes of 2014, is amended to
40 read:

1 2150. (a) The affidavit of registration shall show:

2 (1) The facts necessary to establish the affiant as an elector.

3 (2) The affiant's name at length, including his or her given
4 name, and a middle name or initial, or if the initial of the given
5 name is customarily used, then the initial and middle name. The
6 affiant's given name may be preceded, at affiant's option, by the
7 designation of Miss, Ms., Mrs., or Mr. A person shall not be denied
8 the right to register because of his or her failure to mark a prefix
9 to the given name and shall be so advised on the voter registration
10 card. This subdivision shall not be construed as requiring the
11 printing of prefixes on an affidavit of registration.

12 (3) The affiant's place of residence, residence telephone number,
13 if furnished, and email address, if furnished. A person shall not be
14 denied the right to register because of his or her failure to furnish
15 a telephone number or email address, and shall be so advised on
16 the voter registration card.

17 (4) The affiant's mailing address, if different from the place of
18 residence.

19 (5) The affiant's date of birth to establish that he or she will be
20 at least 18 years of age on or before the date of the next election.
21 In the case of an affidavit of registration submitted pursuant to
22 subdivision (d) of Section 2102, the affiant's date of birth to
23 establish that he or she is at least 16 years of age.

24 (6) The state or country of the affiant's birth.

25 (7) (A) In the case of an applicant who has been issued a current
26 and valid driver's license, the applicant's driver's license number.

27 (B) In the case of any other applicant, other than an applicant
28 to whom subparagraph (C) applies, the last four digits of the
29 applicant's social security number.

30 (C) If an applicant for voter registration has not been issued a
31 current and valid driver's license or a social security number, the
32 state shall assign the applicant a number that will serve to identify
33 the applicant for voter registration purposes. To the extent that the
34 state has a computerized list in effect under this subdivision and
35 the list assigns unique identifying numbers to registrants, the
36 number assigned under this subparagraph shall be the unique
37 identifying number assigned under the list.

38 (8) The affiant's political party preference.

39 (9) That the affiant is currently not imprisoned or on parole for
40 the conviction of a felony.

1 (10) A prior registration portion indicating whether the affiant
2 has been registered at another address, under another name, or as
3 preferring another party. If the affiant has been so registered, he
4 or she shall give an additional statement giving that address, name,
5 or party.

6 (b) The affiant shall certify the content of the affidavit as to its
7 truth and correctness, under penalty of perjury, with the signature
8 of his or her name and the date of signing. If the affiant is unable
9 to write he or she shall sign with a mark or cross.

10 (c) The affidavit of registration shall also contain a space that
11 would enable the affiant to state his or her ethnicity or race, or
12 both. An affiant shall not be denied the ability to register because
13 he or she declines to state his or her ethnicity or race.

14 (d) If a person, including a deputy registrar, assists the affiant
15 in completing the affidavit, that person shall sign and date the
16 affidavit below the signature of the affiant.

17 (e) The affidavit of registration shall also contain a space to
18 permit the affiant to apply for permanent vote by mail status.

19 (f) The Secretary of State may continue to supply existing
20 affidavits of registration to county elections officials before printing
21 new or revised forms that reflect the changes made to this section
22 by the act that added this subdivision.

23 ~~SEC. 143.~~

24 *SEC. 144.* Section 2157 of the Elections Code is amended to
25 read:

26 2157. (a) Subject to this chapter, the paper affidavit of
27 registration shall be in a form prescribed by regulations adopted
28 by the Secretary of State. The affidavit shall comply with all of
29 the following:

30 (1) Contain the information prescribed in Section 2150.

31 (2) Be sufficiently uniform among the separate counties to allow
32 for the processing and use by one county of an affidavit completed
33 in another county.

34 (3) Allow for the inclusion of informational language to meet
35 the specific needs of that county, including, but not limited to, the
36 return address of the elections official in that county, and a
37 telephone number at which a voter can obtain elections information
38 in that county.

39 (4) Be included on one portion of a multipart card, to be known
40 as a voter registration card, the other portions of which shall include

1 information sufficient to facilitate completion and mailing of the
2 affidavit. The affidavit portion of the multipart card shall be
3 numbered according to regulations adopted by the Secretary of
4 State. For purposes of facilitating the distribution of voter
5 registration cards as provided in Section 2158, there shall be
6 attached to the affidavit portion a receipt. The receipt shall be
7 separated from the body of the affidavit by a perforated line.

8 (5) Contain, in a type size and color of ink that is clearly
9 distinguishable from surrounding text, a statement identical or
10 substantially similar to the following:

11 “Certain voters facing life-threatening situations may qualify
12 for confidential voter status. For more information, please contact
13 the Secretary of State’s Safe at Home program or visit the Secretary
14 of State’s Web site.”

15 (6) Contain, in a type size and color of ink that is clearly
16 distinguishable from surrounding text, a statement that the use of
17 voter registration information for commercial purposes is a
18 misdemeanor pursuant to subdivision (a) of Section 2194 and
19 Section 18109, and any suspected misuse shall be reported to the
20 Secretary of State.

21 (7) Contain a toll-free fraud hotline telephone number
22 maintained by the Secretary of State that the public may use to
23 report suspected fraudulent activity concerning misuse of voter
24 registration information.

25 (8) Be returnable to the county elections official as a
26 self-enclosed mailer with postage prepaid by the Secretary of State.

27 (b) This division does not prevent the use of voter registration
28 cards and affidavits of registration in existence on the effective
29 date of this section and produced pursuant to regulations of the
30 Secretary of State, and all references to voter registration cards
31 and affidavits in this division shall be applied to the existing voter
32 registration cards and affidavits of registration.

33 (c) The Secretary of State may continue to supply existing
34 affidavits of registration before printing new or revised forms that
35 reflect the changes required pursuant to this section, Section 2150,
36 or Section 2160.

37 (d) An affidavit of registration shall not be submitted
38 electronically on a county’s Internet Web site. However, a county
39 may provide a hyperlink on the county’s Internet Web site to the
40 Secretary of State’s electronic voter registration system.

1 ~~SEC. 144.~~ Section 8040 of the Elections Code is amended to
 2 read:
 3 8040. (a) The declaration of candidacy by a candidate shall
 4 be substantially as follows:

5
 6 ~~DECLARATION OF CANDIDACY~~

7
 8 ~~—I hereby declare myself a candidate for nomination to the office of _____~~
 9 ~~District Number _____ to be voted for at the primary election to be held~~
 10 ~~_____, 20___, and declare the following to be true:~~

11 ~~—My name is _____.~~

12 ~~—I want my name and occupational designation to appear on the ballot as~~
 13 ~~follows: _____.~~

14 ~~Addresses:~~

15 ~~Residence _____~~

16 ~~_____~~

17 ~~Business _____~~

18 ~~_____~~

19 ~~Mailing _____~~

20 ~~_____~~

21 ~~—Telephone numbers: Day _____ Evening _____~~

22 ~~—Web site: _____~~

23 ~~—I meet the statutory and constitutional qualifications for this office (including,~~
 24 ~~but not limited to, citizenship, residency, and party preference, if required).~~

25 ~~—I am at present an incumbent of the following public office~~
 26 ~~(if any) _____.~~

27 ~~—If nominated, I will accept the nomination and not withdraw.~~

28 ~~_____~~

29 ~~_____ Signature of candidate _____~~

30

31 ~~A candidate for voter-nominated office shall also complete all of the following:~~

32

33 ~~(1) I hereby certify that:~~

34 ~~(a) At the time of presentation of this declaration, as shown by my current~~
 35 ~~affidavit of registration, I have disclosed the following political party~~
 36 ~~preference, if any: _____.~~

37 ~~(b) My complete voter registration and party affiliation/preference history,~~
 38 ~~from [10 years prior to current year] through the date of signing this~~
 39 ~~document, is as follows:~~

40

1	Party Registration	County	Timeframe (by year)
2	_____	_____	_____
3	_____	_____	_____
4	_____	_____	_____

5

6 (2) Pursuant to Section 8002.5 of the Elections Code, select one of the
7 following:

8

9 _____ Party Preference: _____ (insert the name of the
10 qualified political party as disclosed upon your affidavit of registration):

11

12 _____ Party Preference: None (if you have declined to disclose a preference
13 for a qualified political party upon your affidavit of registration):

14

15 Dated this ____ day of _____, 20____.

16

17 _____
18 — Signature of candidate

19 State of California — → -

20 County of _____ → ss. -

21 - → -

22

23 —Subscribed and sworn to before me this ____ day of _____, 20____.

24

25 _____
26 —Notary Public (or other official)—

26 —Examined and certified by me this _____ day of _____, 20____.

27

28 _____
29 —County Elections Official—

30 ~~WARNING: Every person acting on behalf of a candidate is guilty of a~~
31 ~~misdemeanor who deliberately fails to file at the proper time and in the proper~~
32 ~~place any declaration of candidacy in his or her possession which is entitled~~
33 ~~to be filed under the provisions of the Elections Code Section 18202.~~

34

35 (b) ~~At the discretion of the elections official, a candidate for a~~
36 ~~judicial office, or a candidate for any office whose voter registration~~
37 ~~information is confidential under Section 2166, 2166.5, or 2166.7,~~
38 ~~may withhold his or her residence address from the declaration of~~
39 ~~candidacy. If a candidate does not state his or her residence address~~
40 ~~on the declaration of candidacy, the elections official shall verify~~

1 if the candidate’s address is within the appropriate political
2 subdivision and add the notation “verified” where appropriate on
3 the declaration.

4 SEC. 145. Section 3201 of the Family Code, as added by
5 Section 2 of Chapter 1004 of the Statutes of 1999, is amended and
6 renumbered to read:

7 3201.5. (a) The programs described in this chapter shall be
8 administered by the family law division of the superior court in
9 the county.

10 (b) For purposes of this chapter, “education about protecting
11 children during family disruption” includes education on parenting
12 skills and the impact of parental conflict on children, how to put
13 a parenting agreement into effect, and the responsibility of both
14 parents to comply with custody and visitation orders.

15 SEC. 146. Section 3690 of the Family Code, as added by
16 Section 6 of Chapter 653 of the Statutes of 1999, is repealed.

17 SEC. 147. The heading of Article 3 (commencing with Section
18 3780) of Chapter 7 of Part 1 of Division 9 of the Family Code is
19 repealed.

20 SEC. 148. Section 4051 of the Family Code is repealed.

21 SEC. 149. Section 6203 of the Family Code is amended to
22 read:

23 6203. (a) For purposes of this act, “abuse” means any of the
24 following:

25 (1) To intentionally or recklessly cause or attempt to cause
26 bodily injury.

27 (2) Sexual assault.

28 (3) To place a person in reasonable apprehension of imminent
29 serious bodily injury to that person or to another.

30 (4) To engage in any behavior that has been or could be enjoined
31 pursuant to Section 6320.

32 (b) Abuse is not limited to the actual infliction of physical injury
33 or assault.

34 SEC. 150. Section 6301 of the Family Code is amended to
35 read:

36 6301. (a) An order under this part may be granted to any person
37 described in Section 6211, including a minor pursuant to
38 subdivision (b) of Section 372 of the Code of Civil Procedure.

39 (b) The right to petition for relief shall not be denied because
40 the petitioner has vacated the household to avoid abuse, and in the

1 case of a marital relationship, notwithstanding that a petition for
2 dissolution of marriage, for nullity of marriage, or for legal
3 separation of the parties has not been filed.

4 (c) The length of time since the most recent act of abuse is not,
5 by itself, determinative. The court shall consider the totality of the
6 circumstances in determining whether to grant or deny a petition
7 for relief.

8 ~~SEC. 151. Section 7613.5 of the Family Code is amended to~~
9 ~~read:~~

10 ~~7613.5. (a) An intended parent may, but is not required to, use~~
11 ~~the forms set forth in this section to demonstrate his or her intent~~
12 ~~to be a legal parent of a child conceived through assisted~~
13 ~~reproduction. These forms shall satisfy the writing requirement~~
14 ~~specified in Section 7613, and are designed to provide clarity~~
15 ~~regarding the intentions, at the time of conception, of intended~~
16 ~~parents using assisted reproduction. These forms do not affect any~~
17 ~~presumptions of parentage based on Section 7611, and do not~~
18 ~~preclude a court from considering any other claims to parentage~~
19 ~~under California statute or case law.~~

20 ~~(b) These forms apply only in very limited circumstances. Please~~
21 ~~read the forms carefully to see if you qualify for use of the forms.~~

22 ~~(c) These forms do not apply to assisted reproduction agreements~~
23 ~~for gestational carriers or surrogacy agreements.~~

24 ~~(d) This section shall not be interpreted to require the use of~~
25 ~~one of these forms to satisfy the writing requirement of Section~~
26 ~~7613.~~

27 ~~(e) The following are the optional California Statutory Forms~~
28 ~~for Assisted Reproduction:~~

29

30 **~~California Statutory Forms for Assisted Reproduction, Form 1:~~**

31

32 ~~Married Spouses or Registered Domestic Partners Using Assisted Reproduction~~
33 ~~to Conceive a Child~~

34 Use this form if: (1) You and the other person are married spouses or registered
35 domestic partners (including registered domestic partners or civil union partners
36 from another jurisdiction); (2) you and the other person are conceiving a child
37 through assisted reproduction using sperm and/or egg donation; and (3) one
38 of you will be giving birth.

39

1 **WARNING: Signing this form does not terminate the parentage claim of**
2 **a sperm donor.** A sperm donor’s claim to parentage is terminated if the sperm
3 is provided to a licensed physician or surgeon or to a licensed sperm bank prior
4 to insemination as required by Section 7613(b) of the Family Code.

5
6 The laws about parentage of a child are complicated. **You are strongly**
7 **encouraged to consult with an attorney about your rights.** Even if you do
8 not fill out this form, a spouse or domestic partner of the parent giving birth
9 is presumed to be a legal parent of any child born during the marriage or
10 domestic partnership.

11
12 _____
13 _____

14 This form demonstrates your intent to be parents of the child you plan to
15 conceive through assisted reproduction using sperm and/or egg donation.

16
17 I, _____ (print name of spouse/partner), am married to, or
18 in a registered domestic partnership (including a registered domestic partnership
19 or civil union from another jurisdiction) with, a person who will give birth to
20 a child we plan to conceive through assisted reproduction using sperm and/or
21 egg donation. I consent to the use of assisted reproduction by my
22 spouse/domestic partner to conceive a child. I INTEND to be a parent of the
23 child conceived.

24
25 **SIGNATURES**

26
27 Intended parent who will give birth: _____ (print name)
28 _____ (signature) _____ (date)

29
30 Intended parent spouse or registered domestic partner: _____ (print
31 name)
32 _____ (signature) _____ (date)

33
34 -
35
36 _____
37 _____

38 **NOTARY ACKNOWLEDGMENT**

39
40 State of California

1 County of _____)

2

3 On _____ before me, _____ -

4

(insert name and title of the officer)

5 personally appeared _____,

6

who proved to me on the basis of satisfactory evidence to be the person(s)

7

whose name(s) is/are subscribed to the within instrument and acknowledged

8

to me that he/she/they executed the same in his/her/their authorized capacity;

9

and that by his/her/their signature(s) on the instrument the person(s), or the

10

entity upon behalf of which the person(s) acted, executed the instrument.

11

12 I certify under PENALTY OF PERJURY under the laws of the State of

13

California that the foregoing paragraph is true and correct.

14

15 WITNESS my hand and official seal.

16

17 Signature _____ (Seal)

18

19

20 -

21

22

23

24 **California Statutory Forms for Assisted Reproduction, Form 2:**

25

26 Unmarried, Intended Parents Using Intended Parent's Sperm to Conceive a

27

Child

28

Use this form if: (1) Neither you or the other person are married or in a

29

registered domestic partnership (including a registered domestic partnership

30

or civil union from another state); (2) one of you will give birth to a child

31

conceived through assisted reproduction using the intended parent's sperm;

32

and (3) you both intend to be parents of that child.

33

34 Do not use this form if you are conceiving using a surrogate.

35

36 ~~WARNING: If you do not sign this form, you may be treated as a sperm donor~~

37

~~if your sperm is provided to a licensed physician or surgeon or to a licensed~~

38

~~sperm bank prior to insemination according to Section 7613(b) of the Family~~

39

~~Code.~~

40

1 The laws about parentage of a child are complicated. **You are strongly**
2 **encouraged to consult with an attorney about your rights.**

3 _____
4 _____
5 _____

6 This form demonstrates your intent to be parents of the child you plan to
7 conceive through assisted reproduction using sperm donation.

8
9 I, _____ (print name of parent giving birth), plan to use
10 assisted reproduction with another intended parent who is providing sperm to
11 conceive the child. I am not married and am not in a registered domestic
12 partnership (including a registered domestic partnership or civil union from
13 another jurisdiction), and I INTEND for the person providing sperm to be a
14 parent of the child to be conceived.

15
16 I, _____ (print name of parent providing sperm), plan to
17 use assisted reproduction to conceive a child using my sperm with the parent
18 giving birth. I am not married and am not in a registered domestic partnership
19 (including a registered domestic partnership or civil union from another
20 jurisdiction), and I INTEND to be a parent of the child to be conceived.

21
22 **SIGNATURES**

23
24 Intended parent giving birth: _____ (print name)
25 _____ (signature) _____ (date)

26
27 Intended parent providing sperm: _____ (print name)
28 _____ (signature) _____ (date)

29
30 -
31
32 _____
33 _____

34 **NOTARY ACKNOWLEDGMENT**

35
36 State of California
37 County of _____)

38
39 On _____ before me, _____ -
40 (insert name and title of the officer)

1 personally appeared _____,
 2 who proved to me on the basis of satisfactory evidence to be the person(s)
 3 whose name(s) is/are subscribed to the within instrument and acknowledged
 4 to me that he/she/they executed the same in his/her/their authorized capacity;
 5 and that by his/her/their signature(s) on the instrument the person(s), or the
 6 entity upon behalf of which the person(s) acted, executed the instrument.

7
 8 I certify under PENALTY OF PERJURY under the laws of the State of
 9 California that the foregoing paragraph is true and correct.

10
 11 WITNESS my hand and official seal:

12
 13 Signature _____ (Seal)
 14
 15
 16 _____
 17

18 **California Statutory Forms for Assisted Reproduction, Form 3:**

19
 20 Intended Parents Conceiving a Child Using Eggs from One Parent and the
 21 Other Parent Will Give Birth

22 Use this form if: You are conceiving a child using the eggs from one of you
 23 and the other person will give birth to the child; (2) and you both intend to be
 24 parents to that child.

25
 26 Do not use this form if you are conceiving using a surrogate.

27
 28 **WARNING: Signing this form does not terminate the parentage claim of**
 29 **a sperm donor.** A sperm donor's claim to parentage is terminated if the sperm
 30 is provided to a licensed physician or surgeon or to a licensed sperm bank prior
 31 to insemination as required by Section 7613(b) of the Family Code.

32
 33 The laws about parentage of a child are complicated. **You are strongly**
 34 **encouraged to consult with an attorney about your rights.**

35
 36 _____
 37
 38 This form demonstrates your intent to be parents of the child you plan to
 39 conceive through assisted reproduction using eggs from one parent and the
 40 other parent will give birth to the child.

1
 2 I, _____ (print name of parent giving birth), plan to use
 3 assisted reproduction to conceive and give birth to a child with another person
 4 who will provide eggs to conceive the child. ~~I INTEND for the person providing~~
 5 ~~eggs to be a parent of the child to be conceived.~~

6
 7 I, _____ (print name of parent providing eggs), plan to use
 8 assisted reproduction to conceive a child with another person who will give
 9 birth to the child conceived using my eggs. ~~I INTEND to be a parent of the~~
 10 ~~child to be conceived.~~

11 SIGNATURES

12
 13
 14 Intended parent giving birth: _____ (print name)
 15 _____ (signature) _____ (date)

16
 17 Intended parent providing eggs: _____ (print name)
 18 _____ (signature) _____ (date)

19
 20 _____

21 NOTARY ACKNOWLEDGMENT

22
 23
 24 State of California
 25 County of _____)

26
 27 On _____ before me, _____ -
 28 (insert name and title of the officer)

29 personally appeared _____,
 30 who proved to me on the basis of satisfactory evidence to be the person(s)
 31 whose name(s) is/are subscribed to the within instrument and acknowledged
 32 to me that he/she/they executed the same in his/her/their authorized capacity;
 33 and that by his/her/their signature(s) on the instrument the person(s), or the
 34 entity upon behalf of which the person(s) acted, executed the instrument.

35
 36 I certify under PENALTY OF PERJURY under the laws of the State of
 37 California that the foregoing paragraph is true and correct.

38
 39 WITNESS my hand and official seal.

40

1 Signature _____ (Seal)

2
3

4 ~~SEC. 152.~~

5 *SEC. 151.* Section 8712 of the Family Code is amended to
6 read:

7 8712. (a) The department, county adoption agency, or licensed
8 adoption agency shall require each person who files an application
9 for adoption to be fingerprinted and shall secure from an
10 appropriate law enforcement agency any criminal record of that
11 person to determine whether the person has ever been convicted
12 of a crime other than a minor traffic violation. The department,
13 county adoption agency, or licensed adoption agency may also
14 secure the person’s full criminal record, if any, with the exception
15 of any convictions for which relief has been granted pursuant to
16 Section 1203.49 of the Penal Code. Any federal-level criminal
17 offender record requests to the Department of Justice shall be
18 submitted with fingerprint images and related information required
19 by the Department of Justice for the purposes of obtaining
20 information as to the existence and content of a record of an
21 out-of-state or federal conviction or arrest of a person or
22 information regarding any out-of-state or federal crimes or arrests
23 for which the Department of Justice establishes that the person is
24 free on bail, or on his or her own recognizance pending trial or
25 appeal. The Department of Justice shall forward to the Federal
26 Bureau of Investigation any requests for federal summary criminal
27 history information received pursuant to this section. The
28 Department of Justice shall review the information returned from
29 the Federal Bureau of Investigation and shall compile and
30 disseminate a response to the department, county adoption agency,
31 or licensed adoption agency.

32 (b) Notwithstanding subdivision (c), the criminal record, if any,
33 shall be taken into consideration when evaluating the prospective
34 adoptive parent, and an assessment of the effects of any criminal
35 history on the ability of the prospective adoptive parent to provide
36 adequate and proper care and guidance to the child shall be
37 included in the report to the court.

38 (c) (1) The department, county adoption agency, or licensed
39 adoption agency shall not give final approval for an adoptive
40 placement in any home in which the prospective adoptive parent

1 or any adult living in the prospective adoptive home has either of
2 the following:

3 (A) A felony conviction for child abuse or neglect, spousal
4 abuse, crimes against a child, including child pornography, or for
5 a crime involving violence, including rape, sexual assault, or
6 homicide, but not including other physical assault and battery. For
7 purposes of this subdivision, crimes involving violence means
8 those violent crimes contained in clause (i) of subparagraph (A),
9 and subparagraph (B), of paragraph (1) of subdivision (g) of
10 Section 1522 of the Health and Safety Code.

11 (B) A felony conviction that occurred within the last five years
12 for physical assault, battery, or a drug- or alcohol-related offense.

13 (2) This subdivision shall become operative on October 1, 2008,
14 and shall remain operative only to the extent that compliance with
15 its provisions is required by federal law as a condition of receiving
16 funding under Title IV-E of the federal Social Security Act (42
17 U.S.C. Sec. 670 et seq.).

18 (d) Any fee charged by a law enforcement agency for
19 fingerprinting or for checking or obtaining the criminal record of
20 the applicant shall be paid by the applicant. The department, county
21 adoption agency, or licensed adoption agency may defer, waive,
22 or reduce the fee when its payment would cause economic hardship
23 to prospective adoptive parents detrimental to the welfare of the
24 adopted child, when the child has been in the foster care of the
25 prospective adoptive parents for at least one year, or if necessary
26 for the placement of a special-needs child.

27 ~~SEC. 153.~~

28 *SEC. 152.* Section 8811 of the Family Code is amended to
29 read:

30 8811. (a) The department or delegated county adoption agency
31 shall require each person who files an adoption petition to be
32 fingerprinted and shall secure from an appropriate law enforcement
33 agency any criminal record of that person to determine whether
34 the person has ever been convicted of a crime other than a minor
35 traffic violation. The department or delegated county adoption
36 agency may also secure the person's full criminal record, if any,
37 with the exception of any convictions for which relief has been
38 granted pursuant to Section 1203.49 of the Penal Code. Any
39 federal-level criminal offender record requests to the Department
40 of Justice shall be submitted with fingerprint images and related

1 information required by the Department of Justice for the purposes
2 of obtaining information as to the existence and content of a record
3 of an out-of-state or federal conviction or arrest of a person or
4 information regarding any out-of-state or federal crimes or arrests
5 for which the Department of Justice establishes that the person is
6 free on bail, or on his or her own recognizance pending trial or
7 appeal. The Department of Justice shall forward to the Federal
8 Bureau of Investigation any requests for federal summary criminal
9 history information received pursuant to this section. The
10 Department of Justice shall review the information returned from
11 the Federal Bureau of Investigation and shall compile and
12 disseminate a response to the department or delegated county
13 adoption agency.

14 (b) Notwithstanding subdivision (c), the criminal record, if any,
15 shall be taken into consideration when evaluating the prospective
16 adoptive parent, and an assessment of the effects of any criminal
17 history on the ability of the prospective adoptive parent to provide
18 adequate and proper care and guidance to the child shall be
19 included in the report to the court.

20 (c) (1) The department or a delegated county adoption agency
21 shall not give final approval for an adoptive placement in any home
22 in which the prospective adoptive parent or any adult living in the
23 prospective adoptive home has either of the following:

24 (A) A felony conviction for child abuse or neglect, spousal
25 abuse, crimes against a child, including child pornography, or for
26 a crime involving violence, including rape, sexual assault, or
27 homicide, but not including other physical assault and battery. For
28 purposes of this subdivision, crimes involving violence means
29 those violent crimes contained in clause (i) of subparagraph (A),
30 and subparagraph (B), of paragraph (1) of subdivision (g) of
31 Section 1522 of the Health and Safety Code.

32 (B) A felony conviction that occurred within the last five years
33 for physical assault, battery, or a drug- or alcohol-related offense.

34 (2) This subdivision shall become operative on October 1, 2008,
35 and shall remain operative only to the extent that compliance with
36 its provisions is required by federal law as a condition of receiving
37 funding under Title IV-E of the federal Social Security Act (42
38 U.S.C. 670 et seq.).

39 (d) Any fee charged by a law enforcement agency for
40 fingerprinting or for checking or obtaining the criminal record of

1 the petitioner shall be paid by the petitioner. The department or
2 delegated county adoption agency may defer, waive, or reduce the
3 fee when its payment would cause economic hardship to the
4 prospective adoptive parents detrimental to the welfare of the
5 adopted child, when the child has been in the foster care of the
6 prospective adoptive parents for at least one year, or if necessary
7 for the placement of a special-needs child.

8 ~~SEC. 154.~~

9 *SEC. 153.* Section 8908 of the Family Code is amended to
10 read:

11 8908. (a) A licensed adoption agency shall require each person
12 filing an application for adoption to be fingerprinted and shall
13 secure from an appropriate law enforcement agency any criminal
14 record of that person to determine whether the person has ever
15 been convicted of a crime other than a minor traffic violation. The
16 licensed adoption agency may also secure the person's full criminal
17 record, if any, with the exception of any convictions for which
18 relief has been granted pursuant to Section 1203.49 of the Penal
19 Code. Any federal-level criminal offender record requests to the
20 Department of Justice shall be submitted with fingerprint images
21 and related information required by the Department of Justice for
22 the purposes of obtaining information as to the existence and
23 content of a record of an out-of-state or federal conviction or arrest
24 of a person or information regarding any out-of-state or federal
25 crimes or arrests for which the Department of Justice establishes
26 that the person is free on bail, or on his or her own recognizance
27 pending trial or appeal. The Department of Justice shall forward
28 to the Federal Bureau of Investigation any requests for federal
29 summary criminal history information received pursuant to this
30 section. The Department of Justice shall review the information
31 returned from the Federal Bureau of Investigation and shall compile
32 and disseminate a fitness determination to the licensed adoption
33 agency.

34 (b) Notwithstanding subdivision (c), the criminal record, if any,
35 shall be taken into consideration when evaluating the prospective
36 adoptive parent, and an assessment of the effects of any criminal
37 history on the ability of the prospective adoptive parent to provide
38 adequate and proper care and guidance to the child shall be
39 included in the report to the court.

1 (c) (1) A licensed adoption agency shall not give final approval
2 for an adoptive placement in any home in which the prospective
3 adoptive parent, or any adult living in the prospective adoptive
4 home, has a felony conviction for either of the following:

5 (A) Any felony conviction for child abuse or neglect, spousal
6 abuse, crimes against a child, including child pornography, or for
7 a crime involving violence, including rape, sexual assault, or
8 homicide, but not including other physical assault and battery. For
9 purposes of this subdivision, crimes involving violence means
10 those violent crimes contained in clause (i) of subparagraph (A),
11 and subparagraph (B), of paragraph (1) of subdivision (g) of
12 Section 1522 of the Health and Safety Code.

13 (B) A felony conviction that occurred within the last five years
14 for physical assault, battery, or a drug- or alcohol-related offense.

15 (2) This subdivision shall become operative on October 1, 2008,
16 and shall remain operative only to the extent that compliance with
17 its provisions is required by federal law as a condition of receiving
18 funding under Title IV-E of the federal Social Security Act (42
19 U.S.C. 670 et seq.).

20 (d) Any fee charged by a law enforcement agency for
21 fingerprinting or for checking or obtaining the criminal record of
22 the applicant shall be paid by the applicant. The licensed adoption
23 agency may defer, waive, or reduce the fee when its payment would
24 cause economic hardship to the prospective adoptive parents
25 detrimental to the welfare of the adopted child.

26 ~~SEC. 155.~~

27 *SEC. 154.* Section 12201 of the Financial Code is amended to
28 read:

29 12201. (a) An application for a license shall be in writing,
30 under oath, and in a form prescribed by the commissioner and shall
31 contain the name, and the address both of the residence and place
32 of business, of the applicant and if the applicant is a partnership
33 or association, of every member thereof, and if a corporation, of
34 every officer and director thereof.

35 (b) Notwithstanding any other law, the commissioner may by
36 rule or order prescribe circumstances under which to accept
37 electronic records or electronic signatures. This section does not
38 require the commissioner to accept electronic records or electronic
39 signatures.

1 (c) For purposes of this section, the following terms have the
 2 following meanings:

3 (1) “Electronic record” means an initial license application, or
 4 material modification of that license application, and any other
 5 record created, generated, sent, communicated, received, or stored
 6 by electronic means. “Electronic record” also includes, but is not
 7 limited to, all of the following:

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

10 (B) A financial statement, report, or advertising.

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

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

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

17 (F) The transcripts of a hearing.

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

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

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

27 (d) The Legislature finds and declares that the Department of
 28 Business Oversight has continuously implemented methods to
 29 accept records filed electronically, and is encouraged to continue
 30 to expand its use of electronic filings to the extent feasible, as
 31 budget, resources, and equipment are made available to accomplish
 32 that goal.

33 ~~SEC. 156.~~

34 *SEC. 155.* Section 17201 of the Financial Code is amended to
 35 read:

36 17201. (a) An application for a license as an escrow agent
 37 shall be in writing and in such form as is prescribed by the
 38 commissioner. The application shall be verified by the oath of the
 39 applicant.

1 (b) Notwithstanding any other law, the commissioner may by
2 rule or order prescribe circumstances under which to accept
3 electronic records or electronic signatures. This section does not
4 require the commissioner to accept electronic records or electronic
5 signatures.

6 (c) For purposes of this section, the following terms have the
7 following meanings:

8 (1) “Electronic record” means an initial license application, or
9 material modification of that license application, and any other
10 record created, generated, sent, communicated, received, or stored
11 by electronic means. “Electronic records” also includes, but is not
12 limited to, all of the following:

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

15 (B) A financial statement, report, or advertising.

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

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

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

22 (F) The transcripts of a hearing and correspondence between a
23 party and the commissioner directly relating to the record.

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

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

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

33 (d) The Legislature finds and declares that the Department of
34 Business Oversight has continuously implemented methods to
35 accept records filed electronically, and is encouraged to continue
36 to expand its use of electronic filings to the extent feasible, as
37 budget, resources, and equipment are made available to accomplish
38 that goal.

1 ~~SEC. 157.~~

2 *SEC. 156.* Section 22066 of the Financial Code is amended to
3 read:

4 22066. (a) The Legislature finds and declares that nonprofit
5 organizations have an important role to play in helping individuals
6 obtain access to affordable, credit-building small dollar loans.
7 California law should refrain from creating statutory barriers that
8 risk slowing the growth of these loans. This section shall be
9 liberally construed to encourage nonprofit organizations to help
10 facilitate the making of zero-interest, low-cost loans, through
11 lending circles and other programs and services that allow
12 individuals to establish and build credit histories or to improve
13 their credit scores.

14 (b) For the purposes of this section, an organization described
15 in subdivision (c) shall be known as an exempt organization, and
16 an organization described in subdivision (d) shall be known as a
17 partnering organization.

18 (c) There shall be exempted from this division a nonprofit
19 organization that facilitates one or more zero-interest, low-cost
20 loans, provided all of the following conditions are met:

21 (1) The organization is exempt from federal income taxes under
22 Section 501(c)(3) of the Internal Revenue Code and is organized
23 and operated exclusively for one or more of the purposes described
24 in Section 501(c)(3) of the Internal Revenue Code.

25 (2) No part of the net earnings of the organization inures to the
26 benefit of a private shareholder or individual.

27 (3) A broker's fee is not paid in connection with the making of
28 the loan that is facilitated by the organization.

29 (4) An organization wishing to operate pursuant to an exemption
30 granted under this section shall file an application for exemption
31 with the commissioner, in a manner prescribed by the
32 commissioner, and shall pay a fee to the commissioner, in an
33 amount calculated by the commissioner to cover his or her costs
34 to administer this section and Section 22067. The commissioner
35 may refuse to grant an exemption, or to suspend or revoke a
36 previously issued exemption if he or she finds that one or more of
37 the provisions of this section were not met or are not being met
38 by the organization and that denial, suspension, or revocation of
39 the exemption is in the best interests of the public.

1 (5) Every organization whose exemption is approved by the
2 commissioner shall file an annual report with the commissioner
3 on or before March 15 of each year, containing relevant information
4 that the commissioner reasonably requires concerning lending
5 facilitated by the organization within the state during the preceding
6 calendar year at all locations at which the organization facilitates
7 lending. The commissioner shall compile the information submitted
8 pursuant to this paragraph for use in preparing the report required
9 by Section 22067.

10 (6) Any loan made pursuant to this section shall comply with
11 the following requirements:

12 (A) The loan shall be unsecured.

13 (B) Interest shall not be imposed.

14 (C) An administrative fee may be charged in an amount not to
15 exceed the following:

16 (i) Seven percent of the principal amount, exclusive of the
17 administrative fee, or ninety dollars (\$90), whichever is less, on
18 the first loan made to a borrower.

19 (ii) Six percent of the principal amount, exclusive of the
20 administrative fee, or seventy-five dollars (\$75), whichever is less,
21 on the second and subsequent loans made to that borrower.

22 (D) An organization shall not charge the same borrower an
23 administrative fee more than once in any four-month period. Each
24 administrative fee shall be fully earned immediately upon
25 consummation of a loan agreement.

26 (E) Notwithstanding subdivision (a) of Section 22320.5 and in
27 lieu of any other type of delinquency fee or late fee, an organization
28 may require reimbursement from a borrower of up to ten dollars
29 (\$10) to cover an insufficient funds fee incurred by that
30 organization due to actions of the borrower. An organization shall
31 not charge more than two insufficient funds fees to the same
32 borrower in a single month.

33 (F) The following information shall be disclosed to the consumer
34 in writing, in a typeface no smaller than 12-point type, at the time
35 of the loan application:

36 (i) The amount to be borrowed, the total dollar cost of the loan
37 to the consumer if the loan is paid back on time, including the sum
38 of the administrative fee and principal amount borrowed, the
39 corresponding annual percentage rate, calculated in accordance
40 with Federal Reserve Board Regulation Z (12 C.F.R. 226.1), the

1 periodic payment amount, the payment frequency, and the
2 insufficient funds fee, if applicable.

3 (ii) An explanation of whether, and under what circumstances,
4 a borrower may exit a loan agreement.

5 (G) The loan shall have a minimum principal amount upon
6 origination of two hundred fifty dollars (\$250) and a maximum
7 principal amount upon origination of two thousand five hundred
8 dollars (\$2,500), and a term of not less than the following:

9 (i) Ninety days for loans whose principal balance upon
10 origination is less than five hundred dollars (\$500).

11 (ii) One hundred twenty days for loans whose principal balance
12 upon origination is at least five hundred dollars (\$500), but is less
13 than one thousand five hundred dollars (\$1,500).

14 (iii) One hundred eighty days for loans whose principal balance
15 upon origination is at least one thousand five hundred dollars
16 (\$1,500).

17 (H) The loan shall not be refinanced.

18 (I) The organization or any of its wholly owned subsidiaries
19 shall not sell or assign unpaid debt to an independent party for
20 collection before at least 90 days have passed since the start of the
21 delinquency.

22 (7) Prior to disbursement of loan proceeds, the organization
23 shall either (A) offer a credit education program or seminar to the
24 borrower that has been previously reviewed and approved by the
25 commissioner for use in complying with this section, or (B) invite
26 the borrower to a credit education program or seminar offered by
27 an independent third party that has been previously reviewed and
28 approved by the commissioner for use in complying with this
29 section. A credit education program or seminar offered pursuant
30 to this paragraph shall be provided at no cost to the borrower.

31 (8) The organization shall report each borrower's payment
32 performance to at least one consumer reporting agency that
33 compiles and maintains files on consumers on a nationwide basis,
34 upon acceptance as a data furnisher by that consumer reporting
35 agency. For purposes of this section, a consumer reporting agency
36 that compiles and maintains files on consumers on a nationwide
37 basis is one that meets the definition in Section 603(p) of the
38 federal Fair Credit Reporting Act (15 U.S.C. Sec. 1681a(p)). An
39 organization that is accepted as a data furnisher after being granted
40 an exemption by the commissioner pursuant to this subdivision

1 shall report all borrower payment performance since its inception
2 of lending under the program, as soon as practicable after its
3 acceptance into the program, but in no event more than six months
4 after its acceptance into the program.

5 (9) The organization shall underwrite each loan and shall ensure
6 that a loan is not made if, through its underwriting, the organization
7 determines that the borrower's total monthly debt service payments,
8 at the time of loan origination, including the loan for which the
9 borrower is being considered, and across all outstanding forms of
10 credit that can be independently verified by the organization,
11 exceed 50 percent of the borrower's gross monthly household
12 income except as specified in clause (iii) of subparagraph (D).

13 (A) The organization shall seek information and documentation
14 pertaining to all of a borrower's outstanding debt obligations during
15 the loan application and underwriting process, including loans that
16 are self-reported by the borrower but not available through
17 independent verification. The organization shall verify that
18 information using a credit report from at least one consumer
19 reporting agency that compiles and maintains files on consumers
20 on a nationwide basis or through other available electronic debt
21 verification services that provide reliable evidence of a borrower's
22 outstanding debt obligations.

23 (B) The organization shall also request from the borrower and
24 include all information obtained from the borrower regarding
25 outstanding deferred deposit transactions in the calculation of the
26 borrower's outstanding debt obligations.

27 (C) The organization shall not be required to consider, for
28 purposes of debt-to-income ratio evaluation, loans from friends or
29 family.

30 (D) The organization shall also verify the borrower's household
31 income that the organization relies on to determine the borrower's
32 debt-to-income ratio using information from any of the following:

33 (i) Electronic means or services that provide reliable evidence
34 of the borrower's actual income.

35 (ii) Internal Revenue Service Form W-2, tax returns, payroll
36 receipts, bank statements, or other third-party documents that
37 provide reasonably reliable evidence of the borrower's actual
38 income.

39 (iii) A signed statement from the borrower stating sources and
40 amounts of income, if the borrower's actual income cannot be

1 independently verified using electronic means or services, Internal
2 Revenue Service forms, tax returns, payroll receipts, bank
3 statements, or other third-party documents. If income is verified
4 using a signed statement from a borrower, a loan shall not be made
5 if the borrower's total monthly debt service payments, at the time
6 of loan origination, including the loan for which the borrower is
7 being considered, and across all outstanding forms of credit, exceed
8 25 percent of the borrower's gross monthly household income.

9 (10) The organization shall notify each borrower, at least two
10 days prior to each payment due date, informing the borrower of
11 the amount due and the payment due date. Notification may be
12 provided by any means mutually acceptable to the borrower and
13 the organization. A borrower shall have the right to opt out of this
14 notification at any time, upon electronic or written request to the
15 organization. The organization shall notify each borrower of this
16 right prior to disbursing loan proceeds.

17 (11) Notwithstanding Sections 22311 to 22315, inclusive, no
18 organization, in connection with, or incidental to, the facilitating
19 of any loan made pursuant to this section, may offer, sell, or require
20 a borrower to contract for "credit insurance" as defined in
21 paragraph (1) of subdivision (a) of Section 22314 or insurance on
22 tangible personal or real property of the type specified in Section
23 22313.

24 (12) An organization shall not require, as a condition of making
25 a loan, that a borrower waive any right, penalty, remedy, forum,
26 or procedure provided for in any law applicable to the loan,
27 including the right to file and pursue a civil action or file a
28 complaint with or otherwise communicate with the commissioner
29 or any court or other public entity, or that the borrower agree to
30 resolve disputes in a jurisdiction outside of California or to the
31 application of laws other than those of California, as provided by
32 law. Any waiver by a borrower must be knowing, voluntary, and
33 in writing, and expressly not made a condition of doing business
34 with the organization. Any waiver that is required as a condition
35 of doing business with the organization shall be presumed
36 involuntary, unconscionable, against public policy, and
37 unenforceable. The organization has the burden of proving that a
38 waiver of any rights, penalties, forums, or procedures was knowing,
39 voluntary, and not made a condition of the contract with the
40 borrower.

1 (13) An organization shall not refuse to do business with or
2 discriminate against a borrower or applicant on the basis that the
3 borrower or applicant refuses to waive any right, penalty, remedy,
4 forum, or procedure, including the right to file and pursue a civil
5 action or complaint with, or otherwise notify, the commissioner
6 or any court or other public entity. The exercise of a person's right
7 to refuse to waive any right, penalty, remedy, forum, or procedure,
8 including a rejection of a contract requiring a waiver, shall not
9 affect any otherwise legal terms of a contract or an agreement.

10 (14) This section does not apply to any agreement to waive any
11 right, penalty, remedy, forum, or procedure, including any
12 agreement to arbitrate a claim or dispute, after a claim or dispute
13 has arisen. This section does not affect the enforceability or validity
14 of any other provision of the contract.

15 (d) This division does not apply to a nonprofit organization that
16 partners with an organization granted an exemption pursuant to
17 subdivision (c) for the purpose of facilitating zero-interest, low-cost
18 loans, provided that the requirements of paragraphs (6) to (14),
19 inclusive, of subdivision (c), and the following additional
20 conditions are met:

21 (1) The partnership of each exempt organization and each
22 partnering organization shall be formalized through a written
23 agreement that specifies the obligations of each party. Each written
24 agreement shall contain a provision establishing that the partnering
25 organization agrees to comply with the provisions of this section
26 and any regulations that may be adopted by the commissioner
27 pursuant to this section. Each written agreement shall be provided
28 to the commissioner upon request.

29 (2) Each partnering organization shall meet the requirements
30 for federal income tax exemption under Section 501(c)(3) of the
31 Internal Revenue Code and shall be organized and operated
32 exclusively for one or more of the purposes described in Section
33 501(c)(3) of the Internal Revenue Code.

34 (3) No part of the net earnings of the partnering organization
35 shall inure to the benefit of a private shareholder or individual.

36 (4) Each exempt organization shall notify the commissioner
37 within 30 days of entering into a written agreement with a
38 partnering organization, on such form and in such manner as the
39 commissioner may prescribe. At a minimum, this notification shall
40 include the name of the partnering organization, the contact

1 information for a person responsible for the lending activities
2 facilitated by that partnering organization, and the address or
3 addresses at which the organization facilitates lending activities.

4 (5) Upon a determination that a partnering organization has
5 acted in violation of this section or any regulation adopted
6 thereunder, the commissioner may disqualify that partnering
7 organization from performing services under this section, bar that
8 organization from performing services at one or more specific
9 locations of that organization, terminate a written agreement
10 between a partnering organization and an exempt organization,
11 and, if the commissioner deems such action to be in the public
12 interest, prohibit the use of that partnering organization by all
13 organizations granted exemptions by the commissioner pursuant
14 to subdivision (c).

15 (6) The exempt organization shall include information regarding
16 the loans facilitated by the partnering organization in the annual
17 report required pursuant to paragraph (5) of subdivision (c).

18 (e) The commissioner may examine each exempt organization
19 and each partnering organization for compliance with the
20 provisions of this section, upon reasonable notice to the party
21 responsible for the lending activities facilitated by that
22 organization. An organization so examined shall make available
23 to the commissioner or his or her representative all books and
24 records requested by the commissioner related to the lending
25 activities facilitated by that organization. The cost of the
26 examination shall be paid by the exempt organization.

27 (f) This section does not apply to any loan of a bona fide
28 principal amount of two thousand five hundred dollars (\$2,500)
29 or more as determined in accordance with Section 22251. For
30 purposes of this subdivision, “bona fide principal amount” shall
31 be determined in accordance with Section 22251.

32 ~~SEC. 158.~~

33 *SEC. 157.* Section 22101 of the Financial Code is amended to
34 read:

35 22101. (a) An application for a license as a finance lender or
36 broker under this division shall be in the form and contain the
37 information that the commissioner may by rule or order require
38 and shall be filed upon payment of the fee specified in Section
39 22103.

1 (b) Notwithstanding any other law, an applicant who does not
2 currently hold a license as a finance lender or broker under this
3 division shall furnish, with his or her application, a full set of
4 fingerprints and related information for purposes of the
5 commissioner conducting a criminal history record check. The
6 commissioner shall obtain and receive criminal history information
7 from the Department of Justice and the Federal Bureau of
8 Investigation pursuant to Section 22101.5.

9 (c) This section shall not be construed to prevent a licensee from
10 engaging in the business of a finance lender through a subsidiary
11 corporation if the subsidiary corporation is licensed pursuant to
12 this division.

13 (d) For purposes of this section, “subsidiary corporation” means
14 a corporation that is wholly owned by a licensee.

15 (e) A new application shall not be required for a change in the
16 address of an existing location previously licensed under this
17 division. However, the licensee shall comply with the requirements
18 of Section 22153.

19 (f) Notwithstanding subdivisions (a) to (e), inclusive, the
20 commissioner may by rule require an application to be made
21 through the Nationwide Mortgage Licensing System and Registry,
22 and may require fees, fingerprints, financial statements, supporting
23 documents, changes of address, and any other information, and
24 amendments or modifications thereto, to be submitted in the same
25 manner.

26 (g) Notwithstanding any other law, the commissioner may by
27 rule or order prescribe circumstances under which to accept
28 electronic records or electronic signatures. This section does not
29 require the commissioner to accept electronic records or electronic
30 signatures.

31 (h) For purposes of this section, the following terms have the
32 following meanings:

33 (1) “Electronic record” means an initial license application, or
34 material modification of that license application, and any other
35 record created, generated, sent, communicated, received, or stored
36 by electronic means. “Electronic records” also includes, but is not
37 limited to, all of the following:

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

40 (B) A financial statement, report, or advertising.

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

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

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

7 (F) The transcripts of a hearing and correspondence between a
8 party and the commissioner directly relating to the record.

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

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

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

18 (i) The Legislature finds and declares that the Department of
19 Business Oversight has continuously implemented methods to
20 accept records filed electronically, and is encouraged to continue
21 to expand its use of electronic filings to the extent feasible, as
22 budget, resources, and equipment are made available to accomplish
23 that goal.

24 ~~SEC. 159.~~

25 *SEC. 158.* Section 23005 of the Financial Code is amended to
26 read:

27 23005. (a) A person shall not offer, originate, or make a
28 deferred deposit transaction, arrange a deferred deposit transaction
29 for a deferred deposit originator, act as an agent for a deferred
30 deposit originator, or assist a deferred deposit originator in the
31 origination of a deferred deposit transaction without first obtaining
32 a license from the commissioner and complying with the provisions
33 of this division. The requirements of this subdivision shall not
34 apply to persons or entities that are excluded from the definition
35 of “licensee” as set forth in Section 23001. This division shall not
36 be construed to require the commissioner to create separate classes
37 of licenses.

38 (b) An application for a license under this division shall be in
39 the form and contain the information that the commissioner may

1 by rule require and shall be filed upon payment of the fee specified
2 in Section 23006.

3 (c) A licensee with one or more licensed locations seeking an
4 additional location license may file a short form license application
5 as may be established by the commissioner pursuant to subdivision
6 (b) of this section.

7 (d) Notwithstanding any other law, the commissioner may by
8 rule or order prescribe circumstances under which to accept
9 electronic records or electronic signatures. This section does not
10 require the commissioner to accept electronic records or electronic
11 signatures.

12 (e) For purposes of this section, the following terms have the
13 following meanings:

14 (1) “Electronic record” means an initial license application, or
15 material modification of that license application, and any other
16 record created, generated, sent, communicated, received, or stored
17 by electronic means. “Electronic records” also includes, but is not
18 limited to, all of the following:

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

21 (B) A financial statement, report, or advertising.

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

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

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

28 (F) The transcripts of a hearing.

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

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

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

38 (f) The Legislature finds and declares that the Department of
39 Business Oversight has continuously implemented methods to
40 accept records filed electronically, and is encouraged to continue

1 to expand its use of electronic filings to the extent feasible, as
2 budget, resources, and equipment are made available to accomplish
3 that goal.

4 ~~SEC. 160.~~

5 *SEC. 159.* Section 23015 of the Financial Code, as added by
6 Section 25 of Chapter 101 of the Statutes of 2007, is amended and
7 renumbered to read:

8 23015.5. (a) It is unlawful for any person to knowingly alter,
9 destroy, mutilate, conceal, cover up, falsify, or make a false entry
10 in any record, document, or tangible object with the intent to
11 impede, obstruct, or influence the administration or enforcement
12 of any provision of this division.

13 (b) It is unlawful for any person to knowingly make an untrue
14 statement to the commissioner during the course of licensing,
15 investigation, or examination, with the intent to impede, obstruct,
16 or influence the administration or enforcement of any provision
17 of this division.

18 ~~SEC. 161.~~

19 *SEC. 160.* Section 24058 of the Financial Code is repealed.

20 ~~SEC. 162.~~

21 *SEC. 161.* Section 32208 of the Financial Code is amended to
22 read:

23 32208. “Energy Commission” means the State Energy
24 Resources Conservation and Development Commission.

25 ~~SEC. 163.~~

26 *SEC. 162.* The heading of Article 1 (commencing with Section
27 32700) of Chapter 6 of Division 15.5 of the Financial Code is
28 repealed.

29 ~~SEC. 164.~~

30 *SEC. 163.* The heading of Article 2 (commencing with Section
31 32710) of Chapter 6 of Division 15.5 of the Financial Code is
32 repealed.

33 ~~SEC. 165.~~

34 *SEC. 164.* The heading of Chapter 8 (commencing with Section
35 50601) of Division 20 of the Financial Code is repealed.

36 ~~SEC. 166.~~

37 *SEC. 165.* Section 1652 of the Fish and Game Code is amended
38 to read:

39 1652. (a) A project proponent may submit a written request
40 to approve a habitat restoration or enhancement project to the

1 director pursuant to this section if the project has not received
2 certification pursuant to the State Water Resources Control Board's
3 Order for Clean Water Act Section 401 General Water Quality
4 Certification for Small Habitat Restoration Projects, or its current
5 equivalent at the time the project proponent submits the written
6 request. If the project has received certification pursuant to that
7 order, or its current equivalent, the project proponent may submit
8 a request for approval of the project pursuant to Section 1653.

9 (b) A written request to approve a habitat restoration or
10 enhancement project pursuant to this section shall contain all of
11 the following:

12 (1) The name, address, title, organization, telephone number,
13 and email address of the natural person or persons who will be the
14 main point of contact for the project proponent.

15 (2) A full description of the habitat restoration or enhancement
16 project that includes the designs and techniques to be used for the
17 project, restoration or enhancement methods, an estimate of
18 temporary restoration- or enhancement-related disturbance, project
19 schedule, anticipated activities, and how the project is expected
20 to result in a net benefit to any affected habitat and species,
21 consistent with paragraph (4) of subdivision (c).

22 (3) An assessment of the project area that provides a description
23 of the existing flora and fauna and the potential presence of
24 sensitive species or habitat. The assessment shall include preproject
25 photographs of the project area that include a descriptive title, date
26 taken, the photographic monitoring point, and photographic
27 orientation.

28 (4) A geographic description of the project site including maps,
29 land ownership information, and other relevant location
30 information.

31 (5) A description of the environmental protection measures
32 incorporated into the project design, so that no potentially
33 significant adverse effects on the environment, as defined in
34 Section 15382 of Title 14 of the California Code of Regulations,
35 are likely to occur with application of the specified environmental
36 protection measures. Environmental protection measures may
37 include, but are not limited to, appropriate seasonal work
38 limitations, measures to avoid and minimize impacts to water
39 quality and potentially present species protected by state and
40 federal law, and the use of qualified professionals for standard

1 preconstruction surveys where protected species are potentially
2 present.

3 (6) Substantial evidence to support a conclusion that the project
4 meets the requirements set forth in this section. Substantial
5 evidence shall include references to relevant design criteria and
6 environmental protection measures found in the documents
7 specified in paragraph (4) of subdivision (c).

8 (7) A certifying statement that the project will comply with the
9 California Environmental Quality Act (Division 13 (commencing
10 with Section 21000) of the Public Resources Code), which may
11 include, but not be limited to, the requirements of Section 15333
12 of Title 14 of the California Code of Regulations.

13 (c) Notwithstanding any other law, within 60 days after receiving
14 a written request to approve a habitat restoration or enhancement
15 project, the director shall approve a habitat restoration or
16 enhancement project if the director determines that the written
17 request includes all of the required information set forth in
18 subdivision (b), and the project meets all of the following
19 requirements:

20 (1) The project purpose is voluntary habitat restoration and the
21 project is not required as mitigation.

22 (2) The project is not part of a regulatory permit for a nonhabitat
23 restoration or enhancement construction activity, a regulatory
24 settlement, a regulatory enforcement action, or a court order.

25 (3) The project meets the eligibility requirements of the State
26 Water Resources Control Board's Order for Clean Water Act
27 Section 401 General Water Quality Certification for Small Habitat
28 Restoration Projects, or its current equivalent at the time the project
29 proponent submits the written request, but has not received
30 certification pursuant to that order or its equivalent.

31 (4) The project is consistent with, or identified in, sources that
32 describe best available restoration and enhancement methodologies,
33 including one or more of the following:

34 (A) Federal- and state-listed species recovery plans or published
35 protection measures, or previously approved department
36 agreements and permits issued for voluntary habitat restoration or
37 enhancement projects.

38 (B) Department and National Marine Fisheries Service fish
39 screening criteria or fish passage guidelines.

1 (C) The department's California Salmonid Stream Habitat
2 Restoration Manual.

3 (D) Guidance documents and practice manuals that describe
4 best available habitat restoration or enhancement methodologies
5 that are utilized or approved by the department.

6 (5) The project will not result in cumulative adverse
7 environmental impacts that are significant when viewed in
8 connection with the effects of past, current, or probable future
9 projects.

10 (d) If the director determines that the written request does not
11 contain all of the information required by subdivision (b), or fails
12 to meet the requirements set forth in subdivision (c), or both, the
13 director shall deny the written request and inform the project
14 proponent of the reason or reasons for the denial.

15 (e) The project proponent shall submit a notice of completion
16 to the department no later than 30 days after the project approved
17 pursuant to this section is completed. The notice of completion
18 shall demonstrate that the project has been carried out in
19 accordance with the project's description. The notice of completion
20 shall include a map of the project location, including the final
21 boundaries of the restoration area or areas and postproject
22 photographs. Each photograph shall include a descriptive title,
23 date taken, photographic monitoring point, and photographic
24 orientation.

25 (f) The project proponent shall submit a monitoring report
26 describing whether the restoration project is meeting each of the
27 restoration goals stated in the project application. Each report shall
28 include photographs with a descriptive title, date taken,
29 photographic monitoring point, and photographic orientation. The
30 monitoring reports for Section 401 Water Quality Certification or
31 waste discharge requirements of the State Water Resources Control
32 Board or a regional water quality control board, or for department
33 or federal voluntary habitat restoration programs, including, but
34 not limited to, the Fisheries Restoration Grant Program, may be
35 submitted in lieu of this requirement.

36 ~~SEC. 167.~~

37 *SEC. 166.* Section 1653 of the Fish and Game Code is amended
38 to read:

39 1653. (a) A project proponent may submit a written request
40 to approve a habitat restoration or enhancement project to the

1 director pursuant to this section if the project has received
2 certification pursuant to the State Water Resources Control Board's
3 Order for Clean Water Act Section 401 General Water Quality
4 Certification for Small Habitat Restoration Projects, or its current
5 equivalent at the time the project proponent submits the written
6 request.

7 (b) A written request to approve a habitat restoration or
8 enhancement project pursuant to this section shall include all of
9 the following:

10 (1) Notice that the project proponent has received a notice of
11 applicability that indicates that the project is authorized pursuant
12 to the State Water Resources Control Board's Order for Clean
13 Water Act Section 401 General Water Quality Certification for
14 Small Habitat Restoration Projects, or its equivalent at the time
15 the project proponent submits the written request.

16 (2) A copy of the notice of applicability.

17 (3) A copy of the notice of intent provided to the State Water
18 Resources Control Board or a regional water quality control board.

19 (4) A description of species protection measures incorporated
20 into the project design, but not already included in the notice of
21 intent, to avoid and minimize impacts to potentially present species
22 protected by state and federal law, such as appropriate seasonal
23 work limitations and the use of qualified professionals for standard
24 preconstruction surveys where protected species are potentially
25 present.

26 (5) The fees required pursuant to Section 1655.

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

31 (d) Within 30 days after the director has received the notice of
32 applicability described in subdivision (b), the director shall
33 determine whether the written request accompanying the notice
34 of applicability is complete.

35 (e) If the director determines within that 30-day period, based
36 upon substantial evidence, that the written request is not complete,
37 then the project may be authorized under Section 1652.

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

1 (g) The project proponent shall submit the monitoring plan,
2 monitoring report, and notice of completion to the department as
3 required by the State Water Resources Control Board's Order for
4 Clean Water Act Section 401 General Water Quality Certification
5 for Small Habitat Restoration Projects, or its current equivalent at
6 the time the project proponent submits the written request. The
7 order or its current equivalent may include programmatic waivers
8 or waste discharge requirements for small scale restoration projects.

9 ~~SEC. 168.~~

10 *SEC. 167.* Section 1654 of the Fish and Game Code is amended
11 to read:

12 1654. (a) The director's approval of a habitat restoration or
13 enhancement project pursuant to Section 1652 or 1653 shall be in
14 lieu of any other permit, agreement, license, or other approval
15 issued by the department, including, but not limited to, those issued
16 pursuant to Chapter 6 (commencing with Section 1600) and
17 Chapter 10 (commencing with Section 1900) of this division and
18 Chapter 1.5 (commencing with Section 2050) of Division 3.

19 (b) This chapter shall not be construed as expanding the scope
20 of projects requiring a permit, agreement, license, or other approval
21 issued by the department.

22 (c) (1) If the director determines at any time that the project is
23 no longer consistent with subdivision (c) of Section 1652 or
24 subdivision (b) of Section 1653, as applicable, due to a material
25 change between the project as submitted and the project being
26 implemented or a change in the environmental circumstances in
27 the area of implementation, the director shall notify the project
28 proponent in writing and project implementation shall be
29 suspended. Written notice from the director shall be delivered in
30 person, by certified mail, or by electronic communication to the
31 project proponent and shall specify the reasons why approval of
32 the project was suspended. The approval for a project shall not be
33 revoked pursuant to this subdivision unless it has first been
34 suspended pursuant to this subdivision.

35 (2) Within 30 days of receipt of a notice of suspension, the
36 project proponent may file an objection with the director. Any
37 objection shall be in writing and state the reasons why the project
38 proponent objects to the suspension. The project proponent may
39 provide additional environmental protection measures, design
40 modifications, or other evidence that the project is consistent with

1 subdivision (c) of Section 1652 or subdivision (b) of Section 1653,
2 as applicable, and request that the notice of suspension be lifted
3 and approval granted.

4 (3) The director shall revoke approval or lift the suspension of
5 project approval within 30 days after receiving the project
6 proponent's objection pursuant to paragraph (2).

7 (d) Pursuant to Section 818.4 of the Government Code, the
8 department and any other state agency exercising authority under
9 this section shall not be liable with regard to any determination or
10 authorization made pursuant to this section.

11 ~~SEC. 169.~~

12 *SEC. 168.* Section 1745.2 of the Fish and Game Code is
13 amended to read:

14 1745.2. (a) The department shall do both of the following:

15 (1) Consider permitting apiculture on department-managed
16 wildlife areas, where deemed appropriate by the department.

17 (2) Determine, when developing or amending its land
18 management plans, the following:

19 (A) If the department-managed wildlife areas, or any portions
20 of those areas, are suitable for apiculture and whether apiculture
21 is consistent with the management goals and objectives for those
22 areas on a temporary, seasonal, or long-term basis.

23 (B) If the administration of apiculture on department-managed
24 wildlife areas, where deemed appropriate by the department, is
25 meeting the management goals and objectives for those areas.

26 (C) The appropriate use or permit fee to be assessed for
27 conducting apiculture on department-managed wildlife areas.

28 (b) The department, in implementing this section, may consult
29 with apiculture experts, including, but not limited to, the
30 Department of Food and Agriculture, the University of California,
31 other academic or professional experts, and interested stakeholders,
32 for permitting apiculture on department-managed wildlife areas
33 consistent with the respective management goals and objectives
34 for those areas.

35 (c) Moneys collected for conducting apiculture on
36 department-managed wildlife areas pursuant to subparagraph (C)
37 of paragraph (2) of subdivision (a) shall be deposited by the
38 department into the Wildlife Restoration Fund and, upon
39 appropriation by the Legislature, be used to support the

1 management, maintenance, restoration, and operation of
2 department-managed wildlife areas.

3 ~~SEC. 170.~~

4 *SEC. 169.* Section 12002 of the Fish and Game Code is
5 amended to read:

6 12002. (a) Unless otherwise provided, the punishment for a
7 violation of this code that is a misdemeanor is a fine of not more
8 than one thousand dollars (\$1,000), imprisonment in a county jail
9 for not more than six months, or by both that fine and
10 imprisonment.

11 (b) The punishment for a violation of any of the following
12 provisions is a fine of not more than two thousand dollars (\$2,000),
13 imprisonment in a county jail for not more than one year, or both
14 the fine and imprisonment:

15 (1) Section 1059.

16 (2) Subdivision (c) of Section 4004.

17 (3) Section 4600.

18 (4) Paragraph (1) or (2) of subdivision (a) of Section 5650.

19 (5) A first violation of Section 8670.

20 (6) Section 10500.

21 (7) Unless a greater punishment is otherwise provided, a
22 violation subject to subdivision (a) of Section 12003.1.

23 (c) Except as specified in Sections 12001 and 12010, the
24 punishment for violation of Section 3503, 3503.5, 3513, or 3800
25 is a fine of not more than five thousand dollars (\$5,000),
26 imprisonment in the county jail for not more than six months, or
27 by both that fine and imprisonment.

28 (d) (1) A license, tag, stamp, reservation, permit, or other
29 entitlement or privilege issued pursuant to this code to a defendant
30 who fails to appear at a court hearing for a violation of this code,
31 or who fails to pay a fine imposed pursuant to this code, shall be
32 immediately suspended or revoked. The license, tag, stamp,
33 reservation, permit, or other entitlement or privilege shall not be
34 reinstated or renewed, and no other license, tag, stamp, reservation,
35 permit, or other entitlement or privilege shall be issued to that
36 person pursuant to this code, until the court proceeding is
37 completed or the fine is paid.

38 (2) This subdivision does not apply to any violation of Section
39 1052, 1059, 1170, 5650, 5653.9, 6454, 6650, or 6653.5.

1 ~~SEC. 171.~~

2 *SEC. 170.* The heading of Article 5 (commencing with Section
3 491) of Chapter 3 of Part 1 of Division 1 of the Food and
4 Agricultural Code, as added by Section 1 of Chapter 589 of the
5 Statutes of 2000, is amended and renumbered to read:

6

7 Article 4.5. Food Biotechnology Task Force

8

9 ~~SEC. 172.~~

10 *SEC. 171.* Section 6045 of the Food and Agricultural Code is
11 amended to read:

12 6045. (a) The Legislature finds and declares that the plant
13 killing bacterium, *Xyella Fastidiosa*, and the resulting pathogen,
14 Pierce's disease, and its vectors present a clear and present danger
15 to California's sixty-billion-dollar grape industry, as well as to
16 many other commodities and plant life.

17 (b) There exists an ongoing need for at least fifteen million
18 dollars (\$15,000,000) annually in research and programs to combat
19 Pierce's disease and its vectors in California.

20 ~~SEC. 173.~~

21 *SEC. 172.* Section 6047.9 of the Food and Agricultural Code
22 is amended to read:

23 6047.9. (a) For purposes of calculating the amount to be
24 collected by the processor for purchased grapes, the assessment
25 shall be based on the gross dollar value of the grapes, which is the
26 gross dollar amount payable for the grapes before any deductions
27 for governmental assessments and fees.

28 (b) For purposes of calculating the assessment for grapes not
29 purchased, the assessment shall be based on the following:

30 (1) The tonnage of grapes delivered less material other than
31 grapes and defects or other weight adjustments deducted from
32 gross weight.

33 (2) The weighted average price per ton delivered basis purchased
34 from all nonrelated sources for wine, concentrate, juice, wine
35 vinegar, and beverage brandy by processors, by type, variety, and
36 reporting district where grown for the grapes delivered, sources
37 as reported by the secretary pursuant to Section 55601.5 for the
38 immediately preceding marketing season.

1 ~~SEC. 174.~~

2 *SEC. 173.* Section 12996 of the Food and Agricultural Code
3 is amended to read:

4 12996. (a) Every person who violates any provision of this
5 division relating to pesticides, or any regulation issued pursuant
6 to a provision of this division relating to pesticides, is guilty of a
7 misdemeanor and upon conviction shall be punished by a fine of
8 not less than five hundred dollars (\$500) nor more than five
9 thousand dollars (\$5,000), or by imprisonment of not more than
10 six months, or by both the fine and imprisonment. Upon a second
11 or subsequent conviction of the same provision of this division
12 relating to pesticides, a person shall be punished by a fine of not
13 less than one thousand dollars (\$1,000) nor more than ten thousand
14 dollars (\$10,000), or by imprisonment of not more than six months,
15 or by both the fine and imprisonment. Each violation constitutes
16 a separate offense.

17 (b) Notwithstanding the penalties prescribed in subdivision (a),
18 if the offense involves an intentional or negligent violation that
19 created or reasonably could have created a hazard to human health
20 or the environment, the convicted person shall be punished by
21 imprisonment in a county jail not exceeding one year or in the
22 state prison or by a fine of not less than five thousand dollars
23 (\$5,000) nor more than fifty thousand dollars (\$50,000), or by both
24 the fine and imprisonment.

25 (c) This section does not apply to violations of Chapter 7.5
26 (commencing with Section 15300) or Section 13186.5.

27 ~~SEC. 175.~~

28 *SEC. 174.* Section 12999.5 of the Food and Agricultural Code
29 is amended to read:

30 12999.5. (a) In lieu of civil prosecution by the director, the
31 county agricultural commissioner may levy a civil penalty against
32 a person violating Division 6 (commencing with Section 11401),
33 Article 10 (commencing with Section 12971) or Article 10.5
34 (commencing with Section 12980) of this chapter, Section 12995,
35 Article 1 (commencing with Section 14001) of Chapter 3, Chapter
36 3.7 (commencing with Section 14160), Chapter 7.5 (commencing
37 with Section 15300), or a regulation adopted pursuant to any of
38 these provisions, of not more than one thousand dollars (\$1,000)
39 for each violation. Any violation determined by the county
40 agricultural commissioner to be a Class A violation as defined in

1 Section 6130 of Title 3 of the California Code of Regulations is
2 subject to a fine of not more than five thousand dollars (\$5,000)
3 for each violation. It is unlawful and grounds for denial of a permit
4 under Section 14008 for a person to refuse or neglect to pay a civil
5 penalty levied pursuant to this section once the order is final.

6 (b) If a person has received a civil penalty for pesticide drift in
7 a school area subject to Section 11503.5 that results in a Class A
8 violation as defined in subdivision (a), the county agricultural
9 commissioner shall charge a fee, not to exceed fifty dollars (\$50),
10 for processing and monitoring each subsequent pesticide
11 application that may pose a risk of pesticide drift made in a school
12 area subject to Section 11503.5. The county agricultural
13 commissioner shall continue to impose the fee for each subsequent
14 application that may pose a risk of drift, until the person has
15 completed 24 months without another Class A violation as defined
16 in subdivision (a).

17 (c) Before a civil penalty is levied, the person charged with the
18 violation shall be given a written notice of the proposed action,
19 including the nature of the violation and the amount of the proposed
20 penalty, and shall have the right to request a hearing within 20
21 days after receiving notice of the proposed action. A notice of the
22 proposed action that is sent by certified mail to the last known
23 address of the person charged shall be considered received even
24 if delivery is refused or the notice is not accepted at that address.
25 If a hearing is requested, notice of the time and place of the hearing
26 shall be given at least 10 days before the date set for the hearing.
27 At the hearing, the person shall be given an opportunity to review
28 the county agricultural commissioner's evidence and to present
29 evidence on his or her own behalf. If a hearing is not timely
30 requested, the county agricultural commissioner may take the
31 action proposed without a hearing.

32 (d) If the person upon whom the county agricultural
33 commissioner levied a civil penalty requested and appeared at a
34 hearing, the person may appeal the county agricultural
35 commissioner's decision to the director within 30 days of the date
36 of receiving a copy of the county agricultural commissioner's
37 decision. The following procedures apply to the appeal:

38 (1) The appeal shall be in writing and signed by the appellant
39 or his or her authorized agent, state the grounds for the appeal, and
40 include a copy of the county agricultural commissioner's decision.

1 The appellant shall file a copy of the appeal with the county
2 agricultural commissioner at the same time it is filed with the
3 director.

4 (2) The appellant and the county agricultural commissioner
5 may, at the time of filing the appeal or within 10 days thereafter
6 or at a later time prescribed by the director, present the record of
7 the hearing, including written evidence that was submitted at the
8 hearing, and a written argument to the director stating grounds for
9 affirming, modifying, or reversing the county agricultural
10 commissioner's decision.

11 (3) The director may grant oral arguments upon application
12 made at the time written arguments are filed.

13 (4) If an application to present an oral argument is granted,
14 written notice of the time and place for the oral argument shall be
15 given at least 10 days before the date set for the oral argument.
16 The times may be altered by mutual agreement of the appellant,
17 the county agricultural commissioner, and the director.

18 (5) The director shall decide the appeal on the record of the
19 hearing, including the written evidence and the written argument
20 described in paragraph (2), that he or she has received. If the
21 director finds substantial evidence in the record to support the
22 county agricultural commissioner's decision, the director shall
23 affirm the decision.

24 (6) The director shall render a written decision within 45 days
25 of the date of appeal or within 15 days of the date of oral arguments
26 or as soon thereafter as practical.

27 (7) On an appeal pursuant to this section, the director may affirm
28 the county agricultural commissioner's decision, modify the county
29 agricultural commissioner's decision by reducing or increasing
30 the amount of the penalty levied so that it is within the director's
31 guidelines for imposing civil penalties, or reverse the county
32 agricultural commissioner's decision. A civil penalty increased by
33 the director shall not be higher than that proposed in the county
34 agricultural commissioner's notice of proposed action given
35 pursuant to subdivision (c). A copy of the director's decision shall
36 be delivered or mailed to the appellant and the county agricultural
37 commissioner.

38 (8) Any person who does not request a hearing pursuant to
39 subdivision (c) may not file an appeal pursuant to this subdivision.

1 (9) Review of a decision of the director may be sought by the
2 appellant within 30 days of the date of the decision pursuant to
3 Section 1094.5 of the Code of Civil Procedure.

4 (e) The county agricultural commissioner may levy a civil
5 penalty pursuant to subdivisions (a), (c), and (d) against a person
6 violating paragraph (1), (2), or (8) of subdivision (a) of Section
7 1695 of the Labor Code, which pertains to registration with the
8 county agricultural commissioner, carrying proof of that
9 registration, and filing changes of address with the county
10 agricultural commissioner.

11 (f) After the exhaustion of the appeal and review procedures
12 provided in this section, the county agricultural commissioner or
13 his or her representative may file a certified copy of a final decision
14 of the county agricultural commissioner that directs the payment
15 of a civil penalty and, if applicable, a copy of any decision of the
16 director or his or her authorized representative rendered on an
17 appeal from the county agricultural commissioner's decision and
18 a copy of any order that denies a petition for a writ of
19 administrative mandamus, with the clerk of the superior court of
20 any county. Judgment shall be entered immediately by the clerk
21 in conformity with the decision or order. Fees shall not be charged
22 by the clerk of the superior court for the performance of official
23 service required in connection with the entry of judgment pursuant
24 to this section.

25 ~~SEC. 176.~~

26 *SEC. 175.* Section 13186.5 of the Food and Agricultural Code
27 is amended to read:

28 13186.5. (a) Commencing July 1, 2016, and except as provided
29 in subdivision (b), a school designee, as defined in Section 17609
30 of the Education Code, and any person, including, but not
31 necessarily limited to, a schoolsite or school district employee,
32 who, in the course of his or her work, intends to apply a pesticide
33 at a schoolsite subject to this article, shall annually complete a
34 training course provided by the department or an agent authorized
35 by the department. The training course shall include integrated
36 pest management and the safe use of pesticides in relation to the
37 unique nature of schoolsites and children's health.

38 (b) (1) Commencing July 1, 2016, any person hired to apply a
39 pesticide at a schoolsite subject to this article shall complete at
40 least a one-hour training course in integrated pest management

1 and the safe use of pesticides in relation to the unique nature of
2 schoolsites and children’s health before applying pesticides at a
3 schoolsite subject to this article and during each subsequent
4 licensing period in which the person applies a pesticide at a
5 schoolsite subject to this article. The training course may be applied
6 to his or her professional continuing education requirement required
7 by the Structural Pest Control Board or the department.

8 (2) The training course required by paragraph (1) shall be
9 developed by the department and may also be developed by a
10 provider approved by the Structural Pest Control Board if the
11 training course has been approved by the department.

12 (3) The department shall ensure that the training course it
13 develops or approves pursuant to paragraph (2) meets the
14 requirements for continuing education credit required by the
15 Structural Pest Control Board and the department.

16 ~~SEC. 177.~~

17 *SEC. 176.* Section 19227 of the Food and Agricultural Code
18 is amended to read:

19 19227. (a) In addition to the license fee required pursuant to
20 Section 19225, the department may charge each licensed renderer
21 and collection center an additional fee necessary to cover the
22 reasonable costs of administering Article 6 (commencing with
23 Section 19300) and Article 6.5 (commencing with Section 19310).
24 The additional fees authorized to be imposed by this section shall
25 not exceed three thousand dollars (\$3,000) per year per each
26 licensed rendering plant or collection center.

27 (b) The secretary shall fix the annual fee established pursuant
28 to this section and may fix different fees for renderers and
29 collection centers. The secretary shall also fix the date the fee is
30 due and the method of collecting the fee. If an additional fee is
31 imposed on licensed renderers pursuant to subdivision (a) and an
32 additional fee is imposed on registered transporters pursuant to
33 subdivision (a) of Section 19315, only one additional fee may be
34 imposed on a person or firm that is both licensed as a renderer
35 pursuant to Article 6 (commencing with Section 19300) and
36 registered as a transporter of inedible kitchen grease pursuant to
37 Article 6.5 (commencing with Section 19310), which fee shall be
38 the higher of the two fees.

39 (c) If the fee established pursuant to this section is not paid
40 within one calendar month of the date it is due, a penalty shall be

1 imposed in the amount of 10 percent per annum on the amount of
2 the unpaid fee.

3 (d) This section shall become inoperative on July 1, 2020, and,
4 as of January 1, 2021, is repealed, unless a later enacted statute,
5 that becomes operative on or before January 1, 2021, deletes or
6 extends the dates on which it becomes inoperative and is repealed.

7 ~~SEC. 178.~~

8 *SEC. 177.* Section 55462 of the Food and Agricultural Code,
9 as added by Section 5 of Chapter 651 of the Statutes of 1997, is
10 repealed.

11 ~~SEC. 179.~~

12 *SEC. 178.* Section 77103 of the Food and Agricultural Code
13 is repealed.

14 ~~SEC. 180.~~

15 *SEC. 179.* Section 78579 of the Food and Agricultural Code
16 is amended to read:

17 78579. (a) Unless funds are otherwise provided by the
18 Secretary for Environmental Protection, before the referendum
19 vote is conducted by the secretary, the proponents of the council
20 shall deposit with the secretary the amount that the secretary
21 determines is necessary to defray the expenses of preparing the
22 necessary lists and information and conducting the referendum
23 vote.

24 (b) Any funds not used in carrying out this article shall be
25 returned to the proponents of the council who deposited the funds
26 with the secretary.

27 (c) Upon the establishment of the council, the council may
28 reimburse the proponents of the council for any funds deposited
29 by the proponents with the secretary that were used in carrying
30 out this article, and for any legal expenses and costs incurred in
31 establishing the council.

32 ~~SEC. 181.~~

33 *SEC. 180.* The heading of Chapter 3 (commencing with Section
34 980) of Part 5 of Division 3.6 of Title 1 of the Government Code
35 is repealed.

36 ~~SEC. 182.~~

37 *SEC. 181.* Section 4420.5 of the Government Code, as added
38 by Section 18 of Chapter 407 of the Statutes of 1998, is repealed.

1 ~~SEC. 183.~~

2 *SEC. 182.* The heading of Chapter 14 (commencing with
3 Section 5970) of Division 6 of Title 1 of the Government Code,
4 as added by Section 1 of Chapter 309 of the Statutes of 1996, is
5 amended and renumbered to read:

6

7

CHAPTER 15. AWARDING OF CONTRACTS

8

9 ~~SEC. 184.~~

10 *SEC. 183.* Section 6254 of the Government Code is amended
11 to read:

12 6254. Except as provided in Sections 6254.7 and 6254.13, this
13 chapter does not require the disclosure of any of the following
14 records:

15 (a) Preliminary drafts, notes, or interagency or intra-agency
16 memoranda that are not retained by the public agency in the
17 ordinary course of business, if the public interest in withholding
18 those records clearly outweighs the public interest in disclosure.

19 (b) Records pertaining to pending litigation to which the public
20 agency is a party, or to claims made pursuant to Division 3.6
21 (commencing with Section 810), until the pending litigation or
22 claim has been finally adjudicated or otherwise settled.

23 (c) Personnel, medical, or similar files, the disclosure of which
24 would constitute an unwarranted invasion of personal privacy.

25 (d) Records contained in or related to any of the following:

26 (1) Applications filed with any state agency responsible for the
27 regulation or supervision of the issuance of securities or of financial
28 institutions, including, but not limited to, banks, savings and loan
29 associations, industrial loan companies, credit unions, and
30 insurance companies.

31 (2) Examination, operating, or condition reports prepared by,
32 on behalf of, or for the use of, any state agency referred to in
33 paragraph (1).

34 (3) Preliminary drafts, notes, or interagency or intra-agency
35 communications prepared by, on behalf of, or for the use of, any
36 state agency referred to in paragraph (1).

37 (4) Information received in confidence by any state agency
38 referred to in paragraph (1).

39 (e) Geological and geophysical data, plant production data, and
40 similar information relating to utility systems development, or

1 market or crop reports, that are obtained in confidence from any
2 person.

3 (f) Records of complaints to, or investigations conducted by,
4 or records of intelligence information or security procedures of,
5 the office of the Attorney General and the Department of Justice,
6 the Office of Emergency Services and any state or local police
7 agency, or any investigatory or security files compiled by any other
8 state or local police agency, or any investigatory or security files
9 compiled by any other state or local agency for correctional, law
10 enforcement, or licensing purposes. However, state and local law
11 enforcement agencies shall disclose the names and addresses of
12 persons involved in, or witnesses other than confidential informants
13 to, the incident, the description of any property involved, the date,
14 time, and location of the incident, all diagrams, statements of the
15 parties involved in the incident, the statements of all witnesses,
16 other than confidential informants, to the victims of an incident,
17 or an authorized representative thereof, an insurance carrier against
18 which a claim has been or might be made, and any person suffering
19 bodily injury or property damage or loss, as the result of the
20 incident caused by arson, burglary, fire, explosion, larceny,
21 robbery, carjacking, vandalism, vehicle theft, or a crime as defined
22 by subdivision (b) of Section 13951, unless the disclosure would
23 endanger the safety of a witness or other person involved in the
24 investigation, or unless disclosure would endanger the successful
25 completion of the investigation or a related investigation. However,
26 this division does not require the disclosure of that portion of those
27 investigative files that reflects the analysis or conclusions of the
28 investigating officer.

29 Customer lists provided to a state or local police agency by an
30 alarm or security company at the request of the agency shall be
31 construed to be records subject to this subdivision.

32 Notwithstanding any other provision of this subdivision, state
33 and local law enforcement agencies shall make public the following
34 information, except to the extent that disclosure of a particular
35 item of information would endanger the safety of a person involved
36 in an investigation or would endanger the successful completion
37 of the investigation or a related investigation:

38 (1) The full name and occupation of every individual arrested
39 by the agency, the individual's physical description including date
40 of birth, color of eyes and hair, sex, height and weight, the time

1 and date of arrest, the time and date of booking, the location of
2 the arrest, the factual circumstances surrounding the arrest, the
3 amount of bail set, the time and manner of release or the location
4 where the individual is currently being held, and all charges the
5 individual is being held upon, including any outstanding warrants
6 from other jurisdictions and parole or probation holds.

7 (2) Subject to the restrictions imposed by Section 841.5 of the
8 Penal Code, the time, substance, and location of all complaints or
9 requests for assistance received by the agency and the time and
10 nature of the response thereto, including, to the extent the
11 information regarding crimes alleged or committed or any other
12 incident investigated is recorded, the time, date, and location of
13 occurrence, the time and date of the report, the name and age of
14 the victim, the factual circumstances surrounding the crime or
15 incident, and a general description of any injuries, property, or
16 weapons involved. The name of a victim of any crime defined by
17 Section 220, 236.1, 261, 261.5, 262, 264, 264.1, 265, 266, 266a,
18 266b, 266c, 266e, 266f, 266j, 267, 269, 273a, 273d, 273.5, 285,
19 286, 288, 288a, 288.2, 288.3 (as added by Chapter 337 of the
20 Statutes of 2006), 288.3 (as added by Section 6 of Proposition 83
21 of the November 7, 2006, statewide general election), 288.5, 288.7,
22 289, 422.6, 422.7, 422.75, 646.9, or 647.6 of the Penal Code may
23 be withheld at the victim's request, or at the request of the victim's
24 parent or guardian if the victim is a minor. When a person is the
25 victim of more than one crime, information disclosing that the
26 person is a victim of a crime defined in any of the sections of the
27 Penal Code set forth in this subdivision may be deleted at the
28 request of the victim, or the victim's parent or guardian if the
29 victim is a minor, in making the report of the crime, or of any
30 crime or incident accompanying the crime, available to the public
31 in compliance with the requirements of this paragraph.

32 (3) Subject to the restrictions of Section 841.5 of the Penal Code
33 and this subdivision, the current address of every individual
34 arrested by the agency and the current address of the victim of a
35 crime, if the requester declares under penalty of perjury that the
36 request is made for a scholarly, journalistic, political, or
37 governmental purpose, or that the request is made for investigation
38 purposes by a licensed private investigator as described in Chapter
39 11.3 (commencing with Section 7512) of Division 3 of the Business
40 and Professions Code. However, the address of the victim of any

1 crime defined by Section 220, 236.1, 261, 261.5, 262, 264, 264.1,
2 265, 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 273a,
3 273d, 273.5, 285, 286, 288, 288a, 288.2, 288.3 (as added by
4 Chapter 337 of the Statutes of 2006), 288.3 (as added by Section
5 6 of Proposition 83 of the November 7, 2006, statewide general
6 election), 288.5, 288.7, 289, 422.6, 422.7, 422.75, 646.9, or 647.6
7 of the Penal Code shall remain confidential. Address information
8 obtained pursuant to this paragraph shall not be used directly or
9 indirectly, or furnished to another, to sell a product or service to
10 any individual or group of individuals, and the requester shall
11 execute a declaration to that effect under penalty of perjury. This
12 paragraph shall not be construed to prohibit or limit a scholarly,
13 journalistic, political, or government use of address information
14 obtained pursuant to this paragraph.

15 (g) Test questions, scoring keys, and other examination data
16 used to administer a licensing examination, examination for
17 employment, or academic examination, except as provided for in
18 Chapter 3 (commencing with Section 99150) of Part 65 of Division
19 14 of Title 3 of the Education Code.

20 (h) The contents of real estate appraisals or engineering or
21 feasibility estimates and evaluations made for or by the state or
22 local agency relative to the acquisition of property, or to
23 prospective public supply and construction contracts, until all of
24 the property has been acquired or all of the contract agreement
25 obtained. However, the law of eminent domain shall not be affected
26 by this provision.

27 (i) Information required from any taxpayer in connection with
28 the collection of local taxes that is received in confidence and the
29 disclosure of the information to other persons would result in unfair
30 competitive disadvantage to the person supplying the information.

31 (j) Library circulation records kept for the purpose of identifying
32 the borrower of items available in libraries, and library and museum
33 materials made or acquired and presented solely for reference or
34 exhibition purposes. The exemption in this subdivision shall not
35 apply to records of fines imposed on the borrowers.

36 (k) Records, the disclosure of which is exempted or prohibited
37 pursuant to federal or state law, including, but not limited to,
38 provisions of the Evidence Code relating to privilege.

39 (l) Correspondence of and to the Governor or employees of the
40 Governor's office or in the custody of or maintained by the

1 Governor's Legal Affairs Secretary. However, public records shall
2 not be transferred to the custody of the Governor's Legal Affairs
3 Secretary to evade the disclosure provisions of this chapter.

4 (m) In the custody of or maintained by the Legislative Counsel,
5 except those records in the public database maintained by the
6 Legislative Counsel that are described in Section 10248.

7 (n) Statements of personal worth or personal financial data
8 required by a licensing agency and filed by an applicant with the
9 licensing agency to establish his or her personal qualification for
10 the license, certificate, or permit applied for.

11 (o) Financial data contained in applications for financing under
12 Division 27 (commencing with Section 44500) of the Health and
13 Safety Code, if an authorized officer of the California Pollution
14 Control Financing Authority determines that disclosure of the
15 financial data would be competitively injurious to the applicant
16 and the data is required in order to obtain guarantees from the
17 United States Small Business Administration. The California
18 Pollution Control Financing Authority shall adopt rules for review
19 of individual requests for confidentiality under this section and for
20 making available to the public those portions of an application that
21 are subject to disclosure under this chapter.

22 (p) Records of state agencies related to activities governed by
23 Chapter 10.3 (commencing with Section 3512), Chapter 10.5
24 (commencing with Section 3525), and Chapter 12 (commencing
25 with Section 3560) of Division 4, that reveal a state agency's
26 deliberative processes, impressions, evaluations, opinions,
27 recommendations, meeting minutes, research, work products,
28 theories, or strategy, or that provide instruction, advice, or training
29 to employees who do not have full collective bargaining and
30 representation rights under these chapters. This subdivision shall
31 not be construed to limit the disclosure duties of a state agency
32 with respect to any other records relating to the activities governed
33 by the employee relations acts referred to in this subdivision.

34 (q) (1) Records of state agencies related to activities governed
35 by Article 2.6 (commencing with Section 14081), Article 2.8
36 (commencing with Section 14087.5), and Article 2.91
37 (commencing with Section 14089) of Chapter 7 of Part 3 of
38 Division 9 of the Welfare and Institutions Code, that reveal the
39 special negotiator's deliberative processes, discussions,
40 communications, or any other portion of the negotiations with

1 providers of health care services, impressions, opinions,
2 recommendations, meeting minutes, research, work product,
3 theories, or strategy, or that provide instruction, advice, or training
4 to employees.

5 (2) Except for the portion of a contract containing the rates of
6 payment, contracts for inpatient services entered into pursuant to
7 these articles, on or after April 1, 1984, shall be open to inspection
8 one year after they are fully executed. If a contract for inpatient
9 services that is entered into prior to April 1, 1984, is amended on
10 or after April 1, 1984, the amendment, except for any portion
11 containing the rates of payment, shall be open to inspection one
12 year after it is fully executed. If the California Medical Assistance
13 Commission enters into contracts with health care providers for
14 other than inpatient hospital services, those contracts shall be open
15 to inspection one year after they are fully executed.

16 (3) Three years after a contract or amendment is open to
17 inspection under this subdivision, the portion of the contract or
18 amendment containing the rates of payment shall be open to
19 inspection.

20 (4) Notwithstanding any other law, the entire contract or
21 amendment shall be open to inspection by the Joint Legislative
22 Audit Committee and the Legislative Analyst's Office. The
23 committee and that office shall maintain the confidentiality of the
24 contracts and amendments until the time a contract or amendment
25 is fully open to inspection by the public.

26 (r) Records of Native American graves, cemeteries, and sacred
27 places and records of Native American places, features, and objects
28 described in Sections 5097.9 and 5097.993 of the Public Resources
29 Code maintained by, or in the possession of, the Native American
30 Heritage Commission, another state agency, or a local agency.

31 (s) A final accreditation report of the Joint Commission on
32 Accreditation of Hospitals that has been transmitted to the State
33 Department of Health Care Services pursuant to subdivision (b)
34 of Section 1282 of the Health and Safety Code.

35 (t) Records of a local hospital district, formed pursuant to
36 Division 23 (commencing with Section 32000) of the Health and
37 Safety Code, or the records of a municipal hospital, formed
38 pursuant to Article 7 (commencing with Section 37600) or Article
39 8 (commencing with Section 37650) of Chapter 5 of Part 2 of
40 Division 3 of Title 4 of this code, that relate to any contract with

1 an insurer or nonprofit hospital service plan for inpatient or
2 outpatient services for alternative rates pursuant to Section 10133
3 of the Insurance Code. However, the record shall be open to
4 inspection within one year after the contract is fully executed.

5 (u) (1) Information contained in applications for licenses to
6 carry firearms issued pursuant to Section 26150, 26155, 26170,
7 or 26215 of the Penal Code by the sheriff of a county or the chief
8 or other head of a municipal police department that indicates when
9 or where the applicant is vulnerable to attack or that concerns the
10 applicant's medical or psychological history or that of members
11 of his or her family.

12 (2) The home address and telephone number of prosecutors,
13 public defenders, peace officers, judges, court commissioners, and
14 magistrates that are set forth in applications for licenses to carry
15 firearms issued pursuant to Section 26150, 26155, 26170, or 26215
16 of the Penal Code by the sheriff of a county or the chief or other
17 head of a municipal police department.

18 (3) The home address and telephone number of prosecutors,
19 public defenders, peace officers, judges, court commissioners, and
20 magistrates that are set forth in licenses to carry firearms issued
21 pursuant to Section 26150, 26155, 26170, or 26215 of the Penal
22 Code by the sheriff of a county or the chief or other head of a
23 municipal police department.

24 (v) (1) Records of the Managed Risk Medical Insurance Board
25 and the State Department of Health Care Services related to
26 activities governed by Part 6.3 (commencing with Section 12695),
27 Part 6.5 (commencing with Section 12700), Part 6.6 (commencing
28 with Section 12739.5), or Part 6.7 (commencing with Section
29 12739.70) of Division 2 of the Insurance Code, or Chapter 2
30 (commencing with Section 15810) or Chapter 4 (commencing with
31 Section 15870) of Part 3.3 of Division 9 of the Welfare and
32 Institutions Code, and that reveal any of the following:

33 (A) The deliberative processes, discussions, communications,
34 or any other portion of the negotiations with entities contracting
35 or seeking to contract with the board or the department, entities
36 with which the board or the department is considering a contract,
37 or entities with which the board or department is considering or
38 enters into any other arrangement under which the board or the
39 department provides, receives, or arranges services or
40 reimbursement.

1 (B) The impressions, opinions, recommendations, meeting
2 minutes, research, work product, theories, or strategy of the board
3 or its staff or the department or its staff, or records that provide
4 instructions, advice, or training to their employees.

5 (2) (A) Except for the portion of a contract that contains the
6 rates of payment, contracts entered into pursuant to Part 6.3
7 (commencing with Section 12695), Part 6.5 (commencing with
8 Section 12700), Part 6.6 (commencing with Section 12739.5), or
9 Part 6.7 (commencing with Section 12739.70) of Division 2 of the
10 Insurance Code, or Chapter 2 (commencing with Section 15810)
11 or Chapter 4 (commencing with Section 15870) of Part 3.3 of
12 Division 9 of the Welfare and Institutions Code, on or after July
13 1, 1991, shall be open to inspection one year after their effective
14 dates.

15 (B) If a contract that is entered into prior to July 1, 1991, is
16 amended on or after July 1, 1991, the amendment, except for any
17 portion containing the rates of payment, shall be open to inspection
18 one year after the effective date of the amendment.

19 (3) Three years after a contract or amendment is open to
20 inspection pursuant to this subdivision, the portion of the contract
21 or amendment containing the rates of payment shall be open to
22 inspection.

23 (4) Notwithstanding any other law, the entire contract or
24 amendments to a contract shall be open to inspection by the Joint
25 Legislative Audit Committee. The committee shall maintain the
26 confidentiality of the contracts and amendments thereto, until the
27 contracts or amendments to the contracts are open to inspection
28 pursuant to paragraph (3).

29 (w) (1) Records of the Managed Risk Medical Insurance Board
30 related to activities governed by Chapter 8 (commencing with
31 Section 10700) of Part 2 of Division 2 of the Insurance Code, and
32 that reveal the deliberative processes, discussions, communications,
33 or any other portion of the negotiations with health plans, or the
34 impressions, opinions, recommendations, meeting minutes,
35 research, work product, theories, or strategy of the board or its
36 staff, or records that provide instructions, advice, or training to
37 employees.

38 (2) Except for the portion of a contract that contains the rates
39 of payment, contracts for health coverage entered into pursuant to
40 Chapter 8 (commencing with Section 10700) of Part 2 of Division

1 2 of the Insurance Code, on or after January 1, 1993, shall be open
2 to inspection one year after they have been fully executed.

3 (3) Notwithstanding any other law, the entire contract or
4 amendments to a contract shall be open to inspection by the Joint
5 Legislative Audit Committee. The committee shall maintain the
6 confidentiality of the contracts and amendments thereto, until the
7 contracts or amendments to the contracts are open to inspection
8 pursuant to paragraph (2).

9 (x) Financial data contained in applications for registration, or
10 registration renewal, as a service contractor filed with the Director
11 of Consumer Affairs pursuant to Chapter 20 (commencing with
12 Section 9800) of Division 3 of the Business and Professions Code,
13 for the purpose of establishing the service contractor's net worth,
14 or financial data regarding the funded accounts held in escrow for
15 service contracts held in force in this state by a service contractor.

16 (y) (1) Records of the Managed Risk Medical Insurance Board
17 and the State Department of Health Care Services related to
18 activities governed by Part 6.2 (commencing with Section 12693)
19 or Part 6.4 (commencing with Section 12699.50) of Division 2 of
20 the Insurance Code or Sections 14005.26 and 14005.27 of, or
21 Chapter 3 (commencing with Section 15850) of Part 3.3 of Division
22 9 of, the Welfare and Institutions Code, if the records reveal any
23 of the following:

24 (A) The deliberative processes, discussions, communications,
25 or any other portion of the negotiations with entities contracting
26 or seeking to contract with the board or the department, entities
27 with which the board or department is considering a contract, or
28 entities with which the board or department is considering or enters
29 into any other arrangement under which the board or department
30 provides, receives, or arranges services or reimbursement.

31 (B) The impressions, opinions, recommendations, meeting
32 minutes, research, work product, theories, or strategy of the board
33 or its staff, or the department or its staff, or records that provide
34 instructions, advice, or training to employees.

35 (2) (A) Except for the portion of a contract that contains the
36 rates of payment, contracts entered into pursuant to Part 6.2
37 (commencing with Section 12693) or Part 6.4 (commencing with
38 Section 12699.50) of Division 2 of the Insurance Code, on or after
39 January 1, 1998, or Sections 14005.26 and 14005.27 of, or Chapter
40 3 (commencing with Section 15850) of Part 3.3 of Division 9 of,

1 the Welfare and Institutions Code shall be open to inspection one
2 year after their effective dates.

3 (B) If a contract entered into pursuant to Part 6.2 (commencing
4 with Section 12693) or Part 6.4 (commencing with Section
5 12699.50) of Division 2 of the Insurance Code or Sections
6 14005.26 and 14005.27 of, or Chapter 3 (commencing with Section
7 15850) of Part 3.3 of Division 9 of, the Welfare and Institutions
8 Code, is amended, the amendment shall be open to inspection one
9 year after the effective date of the amendment.

10 (3) Three years after a contract or amendment is open to
11 inspection pursuant to this subdivision, the portion of the contract
12 or amendment containing the rates of payment shall be open to
13 inspection.

14 (4) Notwithstanding any other law, the entire contract or
15 amendments to a contract shall be open to inspection by the Joint
16 Legislative Audit Committee. The committee shall maintain the
17 confidentiality of the contracts and amendments thereto until the
18 contract or amendments to a contract are open to inspection
19 pursuant to paragraph (2) or (3).

20 (5) The exemption from disclosure provided pursuant to this
21 subdivision for the contracts, deliberative processes, discussions,
22 communications, negotiations, impressions, opinions,
23 recommendations, meeting minutes, research, work product,
24 theories, or strategy of the board or its staff, or the department or
25 its staff, shall also apply to the contracts, deliberative processes,
26 discussions, communications, negotiations, impressions, opinions,
27 recommendations, meeting minutes, research, work product,
28 theories, or strategy of applicants pursuant to Part 6.4 (commencing
29 with Section 12699.50) of Division 2 of the Insurance Code or
30 Chapter 3 (commencing with Section 15850) of Part 3.3 of Division
31 9 of the Welfare and Institutions Code.

32 (z) Records obtained pursuant to paragraph (2) of subdivision
33 (f) of Section 2891.1 of the Public Utilities Code.

34 (aa) A document prepared by or for a state or local agency that
35 assesses its vulnerability to terrorist attack or other criminal acts
36 intended to disrupt the public agency's operations and that is for
37 distribution or consideration in a closed session.

38 (ab) Critical infrastructure information, as defined in Section
39 131(3) of Title 6 of the United States Code, that is voluntarily
40 submitted to the Office of Emergency Services for use by that

1 office, including the identity of the person who or entity that
2 voluntarily submitted the information. As used in this subdivision,
3 “voluntarily submitted” means submitted in the absence of the
4 office exercising any legal authority to compel access to or
5 submission of critical infrastructure information. This subdivision
6 shall not affect the status of information in the possession of any
7 other state or local governmental agency.

8 (ac) All information provided to the Secretary of State by a
9 person for the purpose of registration in the Advance Health Care
10 Directive Registry, except that those records shall be released at
11 the request of a health care provider, a public guardian, or the
12 registrant’s legal representative.

13 (ad) The following records of the State Compensation Insurance
14 Fund:

15 (1) Records related to claims pursuant to Chapter 1
16 (commencing with Section 3200) of Division 4 of the Labor Code,
17 to the extent that confidential medical information or other
18 individually identifiable information would be disclosed.

19 (2) Records related to the discussions, communications, or any
20 other portion of the negotiations with entities contracting or seeking
21 to contract with the fund, and any related deliberations.

22 (3) Records related to the impressions, opinions,
23 recommendations, meeting minutes of meetings or sessions that
24 are lawfully closed to the public, research, work product, theories,
25 or strategy of the fund or its staff, on the development of rates,
26 contracting strategy, underwriting, or competitive strategy pursuant
27 to the powers granted to the fund in Chapter 4 (commencing with
28 Section 11770) of Part 3 of Division 2 of the Insurance Code.

29 (4) Records obtained to provide workers’ compensation
30 insurance under Chapter 4 (commencing with Section 11770) of
31 Part 3 of Division 2 of the Insurance Code, including, but not
32 limited to, any medical claims information, policyholder
33 information provided that nothing in this paragraph shall be
34 interpreted to prevent an insurance agent or broker from obtaining
35 proprietary information or other information authorized by law to
36 be obtained by the agent or broker, and information on rates,
37 pricing, and claims handling received from brokers.

38 (5) (A) Records that are trade secrets pursuant to Section
39 6276.44, or Article 11 (commencing with Section 1060) of Chapter
40 4 of Division 8 of the Evidence Code, including without limitation,

1 instructions, advice, or training provided by the State Compensation
2 Insurance Fund to its board members, officers, and employees
3 regarding the fund's special investigation unit, internal audit unit,
4 and informational security, marketing, rating, pricing, underwriting,
5 claims handling, audits, and collections.

6 (B) Notwithstanding subparagraph (A), the portions of records
7 containing trade secrets shall be available for review by the Joint
8 Legislative Audit Committee, the Bureau of State Audits, Division
9 of Workers' Compensation, and the Department of Insurance to
10 ensure compliance with applicable law.

11 (6) (A) Internal audits containing proprietary information and
12 the following records that are related to an internal audit:

13 (i) Personal papers and correspondence of any person providing
14 assistance to the fund when that person has requested in writing
15 that his or her papers and correspondence be kept private and
16 confidential. Those papers and correspondence shall become public
17 records if the written request is withdrawn, or upon order of the
18 fund.

19 (ii) Papers, correspondence, memoranda, or any substantive
20 information pertaining to any audit not completed or an internal
21 audit that contains proprietary information.

22 (B) Notwithstanding subparagraph (A), the portions of records
23 containing proprietary information, or any information specified
24 in subparagraph (A) shall be available for review by the Joint
25 Legislative Audit Committee, the Bureau of State Audits, Division
26 of Workers' Compensation, and the Department of Insurance to
27 ensure compliance with applicable law.

28 (7) (A) Except as provided in subparagraph (C), contracts
29 entered into pursuant to Chapter 4 (commencing with Section
30 11770) of Part 3 of Division 2 of the Insurance Code shall be open
31 to inspection one year after the contract has been fully executed.

32 (B) If a contract entered into pursuant to Chapter 4 (commencing
33 with Section 11770) of Part 3 of Division 2 of the Insurance Code
34 is amended, the amendment shall be open to inspection one year
35 after the amendment has been fully executed.

36 (C) Three years after a contract or amendment is open to
37 inspection pursuant to this subdivision, the portion of the contract
38 or amendment containing the rates of payment shall be open to
39 inspection.

1 (D) Notwithstanding any other law, the entire contract or
2 amendments to a contract shall be open to inspection by the Joint
3 Legislative Audit Committee. The committee shall maintain the
4 confidentiality of the contracts and amendments thereto until the
5 contract or amendments to a contract are open to inspection
6 pursuant to this paragraph.

7 (E) This paragraph is not intended to apply to documents related
8 to contracts with public entities that are not otherwise expressly
9 confidential as to that public entity.

10 (F) For purposes of this paragraph, “fully executed” means the
11 point in time when all of the necessary parties to the contract have
12 signed the contract.

13 This section does not prevent any agency from opening its
14 records concerning the administration of the agency to public
15 inspection, unless disclosure is otherwise prohibited by law.

16 This section does not prevent any health facility from disclosing
17 to a certified bargaining agent relevant financing information
18 pursuant to Section 8 of the National Labor Relations Act (29
19 U.S.C. Sec. 158).

20 ~~SEC. 185.~~

21 *SEC. 184.* Section 6276.22 of the Government Code is amended
22 to read:

23 6276.22. Gambling Control Act, exemption from disclosure
24 for records of the California Gambling Control Commission and
25 the Department of Justice, Sections 19819 and 19821, Business
26 and Professions Code.

27 Genetically Handicapped Persons Program, confidentiality of
28 factor replacement therapy contracts, Section 125191, Health and
29 Safety Code.

30 Governor, correspondence of and to Governor and Governor’s
31 office, subdivision (I), Section 6254.

32 Governor, transfer of public records in control of, restrictions
33 on public access, Section 6268.

34 Grand jury, confidentiality of request for special counsel, Section
35 936.7, Penal Code.

36 Grand jury, confidentiality of transcription of indictment or
37 accusation, Section 938.1, Penal Code.

38 Group Insurance, public employees, Section 53202.25.

39 Guardianship, confidentiality of report regarding the suitability
40 of the proposed guardian, Section 1543, Probate Code.

1 Guardianship, disclosure of report and recommendation
2 concerning proposed guardianship of person or estate, Section
3 1513, Probate Code.

4 ~~SEC. 186.~~

5 *SEC. 185.* Section 6700 of the Government Code is amended
6 to read:

7 6700. (a) The holidays in this state are:

8 (1) Every Sunday.

9 (2) January 1st.

10 (3) The third Monday in January, known as “Dr. Martin Luther
11 King, Jr. Day.”

12 (4) February 12th, known as “Lincoln Day.”

13 (5) The third Monday in February.

14 (6) March 31st, known as “Cesar Chavez Day.”

15 (7) The last Monday in May.

16 (8) July 4th.

17 (9) The first Monday in September.

18 (10) September 9th, known as “Admission Day.”

19 (11) The fourth Friday in September, known as “Native
20 American Day.”

21 (12) The second Monday in October, known as “Columbus
22 Day.”

23 (13) November 11th, known as “Veterans Day.”

24 (14) December 25th.

25 (15) Good Friday from 12 noon until 3 p.m.

26 (16) (A) Every day appointed by the President or Governor for
27 a public fast, thanksgiving, or holiday.

28 (B) Except for the Thursday in November appointed as
29 Thanksgiving Day, this paragraph and paragraphs (3) and (6) shall
30 not apply to a city, county, or district unless made applicable by
31 charter, or by ordinance or resolution of the governing body
32 thereof.

33 (b) If the provisions of this section are in conflict with the
34 provisions of a memorandum of understanding reached pursuant
35 to Chapter 12 (commencing with Section 3560) of Division 4 of
36 Title 1, the memorandum of understanding shall be controlling
37 without further legislative action, except that if those provisions
38 of a memorandum of understanding require the expenditure of
39 funds, the provisions shall not become effective unless approved
40 by the Legislature in the annual Budget Act.

1 ~~SEC. 187.~~

2 *SEC. 186.* The heading of Article 8.5 (commencing with
3 Section 8601) of Chapter 7 of Division 1 of Title 2 of the
4 Government Code is repealed.

5 ~~SEC. 188.~~

6 *SEC. 187.* Section 8753.6 of the Government Code is amended
7 to read:

8 8753.6. (a) The California Arts Council Contribution and
9 Donations Fund is hereby created in the State Treasury to receive
10 funds pursuant to subdivision (m) of Section 8753. Notwithstanding
11 Section 13340, the moneys in the fund are continuously
12 appropriated, without regard to fiscal years, to the Arts Council
13 for the purposes of this chapter.

14 (b) Any moneys in the Art Council Donations Account in the
15 Special Deposit Fund shall be transferred to the California Arts
16 Council Contribution and Donations Fund.

17 ~~SEC. 189.~~

18 *SEC. 188.* Section 11146.2 of the Government Code is amended
19 to read:

20 11146.2. Each state agency shall maintain records indicating
21 the specific attendees, each attendee's job title, and dates of their
22 attendance for each orientation course offered pursuant to Section
23 11146.1 for a period of not less than five years after each course
24 is given. These records shall be public records subject to inspection
25 and copying consistent with Section 81008 and otherwise subject
26 to the California Public Records Act (Chapter 3.5 (commencing
27 with Section 6250) of Division 7 of Title 1).

28 ~~SEC. 190.~~

29 *SEC. 189.* The heading of Article 8 (commencing with Section
30 11350) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the
31 Government Code, as added by Chapter 567 of the Statutes of
32 1979, is repealed.

33 ~~SEC. 191.~~

34 *SEC. 190.* The heading of Article 1 (commencing with Section
35 11370) of Chapter 4 of Part 1 of Division 3 of Title 2 of the
36 Government Code, as added by Chapter 1425 of the Statutes of
37 1947, is repealed.

38 ~~SEC. 192.~~

39 *SEC. 191.* The heading of Article 6 (commencing with Section
40 12099) of Chapter 1.6 of Part 2 of Division 3 of Title 2 of the

1 Government Code, as added by Section 1 of Chapter 530 of the
2 Statutes of 2013, is amended and renumbered to read:

3

4 Article 6.2. California Innovation Initiatives

5

6 ~~SEC. 193.~~

7 *SEC. 192.* Section 12804 of the Government Code, as amended
8 by Section 27 of Chapter 46 of the Statutes of 2012, is repealed.

9 ~~SEC. 194.~~

10 *SEC. 193.* Section 13312 of the Government Code is repealed.

11 ~~SEC. 195.~~

12 *SEC. 194.* Section 13956 of the Government Code is amended
13 to read:

14 13956. Notwithstanding Section 13955, a person is not eligible
15 for compensation under the following conditions:

16 (a) An application shall be denied if the board finds that the
17 victim or, if compensation is sought by or on behalf of a derivative
18 victim, either the victim or derivative victim, knowingly and
19 willingly participated in the commission of the crime that resulted
20 in the pecuniary loss for which compensation is being sought
21 pursuant to this chapter. However, this subdivision does not apply
22 if the injury or death occurred as a direct result of a crime
23 committed in violation of Section 261, 262, or 273.5 of, or a crime
24 of unlawful sexual intercourse with a minor committed in violation
25 of subdivision (d) of Section 261.5 of, the Penal Code.

26 (b) (1) An application shall be denied if the board finds that
27 the victim or, if compensation is sought by, or on behalf of, a
28 derivative victim, either the victim or derivative victim failed to
29 cooperate reasonably with a law enforcement agency in the
30 apprehension and conviction of a criminal committing the crime.
31 However, in determining whether cooperation has been reasonable,
32 the board shall consider the victim's or derivative victim's age,
33 physical condition, and psychological state, cultural or linguistic
34 barriers, any compelling health and safety concerns, including, but
35 not limited to, a reasonable fear of retaliation or harm that would
36 jeopardize the well-being of the victim or the victim's family or
37 the derivative victim or the derivative victim's family, and giving
38 due consideration to the degree of cooperation of which the victim
39 or derivative victim is capable in light of the presence of any of
40 these factors.

1 (2) An application for a claim based on domestic violence shall
2 not be denied solely because no police report was made by the
3 victim. The board shall adopt guidelines that allow the board to
4 consider and approve applications for assistance based on domestic
5 violence relying upon evidence other than a police report to
6 establish that a domestic violence crime has occurred. Factors
7 evidencing that a domestic violence crime has occurred may
8 include, but are not limited to, medical records documenting
9 injuries consistent with allegations of domestic violence, mental
10 health records, or the fact that the victim has obtained a temporary
11 or permanent restraining order, or all of these.

12 (3) An application for a claim based on human trafficking as
13 defined in Section 236.1 of the Penal Code shall not be denied
14 solely because a police report was not made by the victim. The
15 board shall adopt guidelines that allow the board to consider and
16 approve applications for assistance based on human trafficking
17 relying upon evidence other than a police report to establish that
18 a human trafficking crime as defined in Section 236.1 of the Penal
19 Code has occurred. That evidence may include any reliable
20 corroborating information approved by the board, including, but
21 not limited to, the following:

22 (A) A Law Enforcement Agency Endorsement issued pursuant
23 to Section 236.2 of the Penal Code.

24 (B) A human trafficking caseworker as identified in Section
25 1038.2 of the Evidence Code, has attested by affidavit that the
26 individual was a victim of human trafficking.

27 (4) (A) An application for a claim by a military personnel victim
28 based on a sexual assault by another military personnel shall not
29 be denied solely because it was not reported to a superior officer
30 or law enforcement at the time of the crime.

31 (B) Factors that the board shall consider for purposes of
32 determining if a claim qualifies for compensation include, but are
33 not limited to, evidence of the following:

34 (i) Restricted or unrestricted reports to a military victim
35 advocate, sexual assault response coordinator, chaplain, attorney,
36 or other military personnel.

37 (ii) Medical or physical evidence consistent with sexual assault.

38 (iii) A written or oral report from military law enforcement or
39 a civilian law enforcement agency concluding that a sexual assault
40 crime was committed against the victim.

- 1 (iv) A letter or other written statement from a sexual assault
2 counselor, as defined in Section 1035.2 of the Evidence Code,
3 licensed therapist, or mental health counselor, stating that the
4 victim is seeking services related to the allegation of sexual assault.
- 5 (v) A credible witness to whom the victim disclosed the details
6 that a sexual assault crime occurred.
- 7 (vi) A restraining order from a military or civilian court against
8 the perpetrator of the sexual assault.
- 9 (vii) Other behavior by the victim consistent with sexual assault.
- 10 (C) For purposes of this subdivision, the sexual assault at issue
11 shall have occurred during military service, including deployment.
- 12 (D) For purposes of this subdivision, the sexual assault may
13 have been committed offbase.
- 14 (E) For purposes of this subdivision, a “perpetrator” means an
15 individual who is any of the following at the time of the sexual
16 assault:
- 17 (i) An active duty military personnel from the United States
18 Army, Navy, Marine Corps, Air Force, or Coast Guard.
- 19 (ii) A civilian employee of any military branch specified in
20 clause (i), military base, or military deployment.
- 21 (iii) A contractor or agent of a private military or private security
22 company.
- 23 (iv) A member of the California National Guard.
- 24 (F) For purposes of this subdivision, “sexual assault” means an
25 offense included in Section 261, 262, 264.1, 286, 288a, or 289 of
26 the Penal Code, as of the date the act that added this paragraph
27 was enacted.
- 28 (c) An application for compensation may be denied, in whole
29 or in part, if the board finds that denial is appropriate because of
30 the nature of the victim’s or other applicant’s involvement in the
31 events leading to the crime or the involvement of the persons whose
32 injury or death gives rise to the application. In the case of a minor,
33 the board shall consider the minor’s age, physical condition, and
34 psychological state, as well as any compelling health and safety
35 concerns, in determining whether the minor’s application should
36 be denied pursuant to this section. The application of a derivative
37 victim of domestic violence under the age of 18 years of age or a
38 derivative victim of trafficking under 18 years of age may not be
39 denied on the basis of the denial of the victim’s application under
40 this subdivision.

1 (d) (1) Notwithstanding Section 13955, no person who is
2 convicted of a felony may be granted compensation until that
3 person has been discharged from probation or has been released
4 from a correctional institution and has been discharged from parole,
5 if any. In no case shall compensation be granted to an applicant
6 pursuant to this chapter during any period of time the applicant is
7 held in a correctional institution.

8 (2) A person who has been convicted of a felony may apply for
9 compensation pursuant to this chapter at any time, but the award
10 of that compensation may not be considered until the applicant
11 meets the requirements for compensation set forth in paragraph
12 (1).

13 (3) Applications of victims who are not felons shall receive
14 priority in the award of compensation over an application submitted
15 by a felon who has met the requirements for compensation set
16 forth in paragraph (1).

17 ~~SEC. 196.~~

18 *SEC. 195.* The heading of Article 7 (commencing with Section
19 13968) of Chapter 5 of Part 4 of Division 3 of Title 2 of the
20 Government Code is repealed.

21 ~~SEC. 197.~~

22 *SEC. 196.* Section 13994 of the Government Code is amended
23 and renumbered to read:

24 13998. Unless the context otherwise requires, the definitions
25 in this section govern the construction of this chapter.

26 (a) “Agency” means the Business, Transportation and Housing
27 Agency.

28 (b) “California-based foundation” means an organization defined
29 in the Internal Revenue Code as a private foundation, which is
30 incorporated in, and primarily conducts its activities within, the
31 state and receives funding in whole or in substantial part from
32 California-based companies.

33 (c) “Collaborative research” means technological or scientific
34 research that accelerates existing research toward the
35 commercialization of products, processes, and services, and is
36 conducted jointly or funded jointly by some or all of the following:

37 (1) The private sector, including intraindustry groups,
38 California-based private foundations, industry associations, and
39 nonprofit cooperative associations.

40 (2) The federal government.

1 (3) The state.

2 (4) Public or private universities, colleges, and laboratories.

3 (d) “Consortia” means jointly funded or jointly operated
4 nonprofit independent research and development organizations.

5 “Consortia development” means the establishment of consortia to
6 manage and fund a variety of technology transfer projects within
7 a specific technology or industry priority.

8 (e) “Industry association” is a nonprofit organization with a
9 substantial presence in California whose membership consists in
10 whole or in part of California-based companies, and whose funding
11 is derived in whole or in part from California-based companies.

12 (f) “Information technology” includes, but is not limited to, all
13 electronic technology systems and services, automated information
14 handling, system design and analysis, conversion of data, computer
15 programming, information storage and retrieval,
16 telecommunications that include voice, video, and data
17 communications, requisite system controls, simulation, electronic
18 commerce, and all related interactions between people and
19 machines.

20 (g) “Nonprofit cooperative association” means an association,
21 organized and operating pursuant to either Chapter 1 (commencing
22 with Section 54001) of Division 20 of the Food and Agricultural
23 Code or Part 2 (commencing with Section 12200) of Division 3
24 of Title 1 of the Corporations Code.

25 (h) “Technology” includes, but is not limited to, the application
26 of science and engineering to research and development, especially
27 for industrial or commercial objectives, in sectors that include
28 telecommunications, information technologies, electronics,
29 biochemistry, medicine, agriculture, transportation, space, and
30 aerospace.

31 (i) “Technology transfer” means the movement of the results
32 of basic or applied technological or scientific research to the design,
33 development, and production of new or improved products,
34 services, or processes.

35 ~~SEC. 198.~~

36 *SEC. 197.* Section 13994.1 of the Government Code is amended
37 and renumbered to read:

38 13998.1. (a) (1) There is within the agency the Regional
39 Technology Alliance Program. The intent of the regional
40 technology alliances is to decentralize the delivery of services and

1 resources, programs and activities for technology development,
2 commercialization, application, and competitiveness at a regional
3 level.

4 (2) The agency may designate new regional technology alliances
5 upon application to carry out activities described in this section.

6 (3) The agency may establish criteria for designation that
7 includes, but need not be limited to, criteria previously established
8 by the Defense Conversion Council pursuant to Article 3.7
9 (commencing with Section 15346) of Chapter 1, as it read on
10 December 31, 1998.

11 (b) Each alliance shall perform the following activities:

12 (1) Raise and leverage funds from multiple public and private
13 sources to support technology development, commercialization,
14 and application and industry competitiveness particularly in
15 response to defense industry conversion and diversification.

16 (2) Assist in the formation of new businesses.

17 (3) Maintain an electronic network and access to databases that
18 encourages business ventures.

19 (4) Coordinate with activities and efforts of industry, academia,
20 federal laboratories, and governments.

21 (5) Recommend administrative actions or programs that could
22 assist California's defense-dependent industries to successfully
23 convert to commercial markets.

24 (6) Provide information about state and federal defense
25 conversion programs, including, but not limited to, job training,
26 economic development, industrial modernization, dual-use
27 technology, new management techniques, and technology
28 development and transfer.

29 (7) Identify emerging industries that may include commercial
30 space applications, transportation, environment, high performance
31 computing and communications, biotechnology and advanced
32 materials, and processing and critical existing industries.

33 (c) Each alliance may also perform, but need not be limited to,
34 the following activities:

35 (1) Assist in identifying businesses that could benefit from
36 defense conversion programs and defense-dislocated workers who
37 require employment and training opportunities.

38 (2) Assist and provide coordination in determining job
39 opportunities within and outside of the defense industry for which
40 displaced workers could be retrained and placed.

1 (3) Serve as a forum for industrywide networking linking
2 producers, suppliers, and consumers.

3 (4) Assist individual businesses and industry consortia in
4 applying for state and federal defense conversion program funds.

5 (5) Provide information and assistance in upgrading individual
6 businesses and industrywide production and management
7 processes.

8 (6) Provide information on available state and federal resources
9 to aid businesses and workers affected by defense spending
10 reductions, base closures, plant closures, and layoffs, to foster
11 long-term economic vitality, industrial growth, and job
12 opportunities.

13 (d) Each alliance is encouraged to develop activities that achieve
14 the following results:

15 (1) Creation and retention of jobs.

16 (2) Creation of new businesses.

17 (3) Development of new commercial or dual-use products.

18 (4) Establishment of industry partnerships and consortia.

19 (5) Demonstration of productivity enhancement such as return
20 on investment, reduced cost, employee training, and upgrades.

21 (6) Establishment of public and private partnerships.

22 (7) Commitment of industry support, participation, and capital.

23 (8) Leverage of state funds.

24 (9) Loan repayment ratio.

25 (10) Participation of small businesses and minority-, women-,
26 and disabled veteran-owned businesses.

27 (11) Workforce training.

28 (e) The agency shall be authorized to enter into a contract for
29 services with any alliance to provide services to the office. These
30 contracts shall be sole source contracts, and exempt from the
31 competitive bid process.

32 (f) During the first two years following selection of an alliance,
33 the alliance shall monitor the performance of any application
34 funded pursuant to Section 13998.2, and each invoice for payment
35 shall be reviewed and approved by the alliance, but the contract
36 for services shall be directly between the agency and the entity
37 receiving grant funding. Commencing with the third year of
38 designation, any alliance with procedures and processes approved
39 by the agency shall be authorized to directly contract with grant
40 recipients. The agency shall audit these grants on a regular basis.

1 ~~SEC. 199.~~

2 *SEC. 198.* Section 13994.2 of the Government Code is amended
3 and renumbered to read:

4 13998.2. (a) There is within the agency the Challenge Grant
5 Program, consisting of technology transfer grants and defense
6 industry conversion and diversification grants. Challenge grant
7 projects funded shall include, but not be limited to, the following:
8 defense industry conversion and diversification, access to ongoing
9 research and research findings, exchange or transfer of personnel
10 and research support services, including capital outlay, consortia
11 development, and collaborative research.

12 (b) All funds appropriated or received by the Challenge Grant
13 Program shall administratively be divided into either the
14 Technology Transfer Grant Program or the Defense Industry
15 Conversion and Diversification Program. Funding awards for the
16 Technology Transfer Grant Program shall be made pursuant to the
17 requirements set forth in Sections 13998.3 and 13998.6.

18 (c) The agency shall award grants based upon a competitive
19 application process addressing the project's eligibility and ability
20 to fulfill the goals of the program.

21 (d) The agency shall report on this program to the Governor
22 and the Legislature.

23 ~~SEC. 200.~~

24 *SEC. 199.* Section 13994.3 of the Government Code is amended
25 and renumbered to read:

26 13998.3. (a) An eligible technology transfer or defense industry
27 conversion and diversification project shall, at least, do all of the
28 following:

- 29 (1) Identify the sources of funding for the entire project.
30 (2) Not supplant other funding.
31 (3) Demonstrate that a significant portion of the project will be
32 undertaken in California.

33 (b) In addition to the requirements contained in subdivision (a),
34 a defense industry conversion and diversification project shall not
35 receive more than 25 percent of the total project costs requested
36 in the proposal.

37 (c) In addition to the requirements contained in subdivision (a),
38 a technology transfer project shall:

- 39 (1) Represent a technology or industry, or both, targeted in the
40 application.

- 1 (2) Include a significant amount of matching contributions from
- 2 either of the following:
- 3 (A) A private sector company or companies.
- 4 (B) A California-based foundation or foundations, an industry
- 5 association or associations, or a nonprofit cooperative association
- 6 or associations.
- 7 (3) Include either of the following:
- 8 (A) A private sector company or companies that have significant
- 9 operations in the state.
- 10 (B) A California-based foundation or foundations, an industry
- 11 association or associations, or a nonprofit cooperative association
- 12 or associations.
- 13 ~~SEC. 201.~~
- 14 *SEC. 200.* Section 13994.4 of the Government Code is amended
- 15 and renumbered to read:
- 16 13998.4. The technology transfer grantee shall not incur
- 17 expenses to be paid with grant funds without evidence of a
- 18 workable agreement between the parties participating in the project
- 19 that includes at least both of the following:
- 20 (a) A resolution of the intellectual property rights relative to the
- 21 project.
- 22 (b) A direct and ongoing involvement of the public and private
- 23 sectors, when applicable in the project.
- 24 ~~SEC. 202.~~
- 25 *SEC. 201.* Section 13994.5 of the Government Code is amended
- 26 and renumbered to read:
- 27 13998.5. (a) In awarding technology transfer grants, the agency
- 28 shall consider the following:
- 29 (1) The likelihood of commercialization of a product, service,
- 30 or process.
- 31 (2) The potential impact on the state’s economy.
- 32 (3) The cost-effectiveness of the project.
- 33 (4) The importance of state funding for the viability of the
- 34 project.
- 35 (5) Cost sharing by other participants.
- 36 (6) The involvement of small businesses and minority-, disabled
- 37 veteran-, and women-owned businesses.
- 38 (7) Projects that will result in a prototype by the end of the grant
- 39 period.

1 (8) Other criteria that the agency determines are consistent with
2 the purposes of the program.

3 (b) The agency shall target industries and technologies with a
4 potential for enhancing the California economy, and shall fund
5 projects within those industries and utilizing those technologies.

6 ~~SEC. 203.~~

7 *SEC. 202.* Section 13994.6 of the Government Code is amended
8 and renumbered to read:

9 13998.6. Technology transfer projects may include reasonable
10 overhead costs incurred by a research institute and related to the
11 project that shall not exceed the allowable federal overhead costs
12 for research. All other projects may include any costs authorized
13 by the principal funding agency, and not precluded by state
14 requirements.

15 ~~SEC. 204.~~

16 *SEC. 203.* Section 13994.7 of the Government Code is amended
17 and renumbered to read:

18 13998.7. Except for defense industry conversion and
19 diversification projects, only a public agency or a not-for-profit
20 or nonprofit organization shall receive funds under this chapter.
21 Any person or entity is authorized to receive a defense industry
22 conversion and diversification grant.

23 ~~SEC. 205.~~

24 *SEC. 204.* Section 13994.8 of the Government Code is amended
25 and renumbered to read:

26 13998.8. (a) The agency may obtain scientific and
27 technological expertise as needed to provide advice and input on
28 the program, the establishment of targeted technologies and
29 industries, the review of grant applications, and the review of
30 project performance.

31 (b) The agency may award funds over a multiyear period to a
32 grantee without requiring the grantee to reapply, so long as the
33 funds in multiple years are utilized for the same project originally
34 funded.

35 ~~SEC. 206.~~

36 *SEC. 205.* Section 13994.9 of the Government Code is amended
37 and renumbered to read:

38 13998.9. (a) Notwithstanding Sections ~~13994.2, 13994.3,~~
39 ~~13994.4, and 13994.5,~~ 13998.2, 13998.3, 13998.4, and 13998.5
40 and the regulations implementing this chapter, the secretary may

1 award discretionary technology transfer grants totaling not more
2 than 5 percent or one hundred thousand dollars (\$100,000),
3 whichever is greater, of the funds appropriated each year for this
4 program.

5 (b) Notwithstanding Sections 13998.2, 13998.3, 13998.4,
6 13998.5, and subdivision (a) of this section, the secretary may
7 award up to 15 percent of the funds appropriated for a given fiscal
8 year for consortia development projects that do not have private
9 sector match but will have private sector match within six months
10 from the date of the award of funding. For purposes of this
11 subdivision, “private sector match” means a cash or in-kind
12 contribution available for expenditure or use to a consortium
13 development project. If, after six months, a private sector match
14 is not available, funding under the program shall cease and all
15 moneys previously received shall be returned to the state.

16 ~~SEC. 207.~~

17 *SEC. 206.* Section 13994.10 of the Government Code is
18 amended and renumbered to read:

19 13998.10. (a) In order to carry out this chapter, there is hereby
20 created in the State Treasury the California Competitive
21 Technology Fund.

22 (b) The fund shall receive state funds appropriated to it,
23 contributions from nonstate sources, reimbursements, federal funds,
24 and interest that accrues to the moneys in the fund pursuant to
25 subdivision (c).

26 (c) The Treasurer shall invest moneys contained in the fund not
27 needed to meet current obligations in the same manner as other
28 public funds are invested.

29 (d) Notwithstanding Section 13340, all moneys in the fund are
30 continuously appropriated without regard to fiscal years to the
31 agency for the purposes of this chapter, and for the purposes for
32 which moneys were provided. Except for state funds appropriated
33 to, or transferred into, the fund for local assistance, moneys in the
34 fund, including all interest, may be spent for support.

35 ~~SEC. 208.~~

36 *SEC. 207.* Section 13994.11 of the Government Code is
37 amended and renumbered to read:

38 13998.11. The agency shall report on this program to the
39 Governor and the Legislature.

1 ~~SEC. 209.~~

2 *SEC. 208.* Section 13994.12 of the Government Code is
3 amended and renumbered to read:

4 13998.12. There is hereby established within the agency the
5 Technology Planning Program. The program shall provide grants
6 and technical assistance to California nonprofit organizations and
7 public entities working within specific industries to identify
8 conversion or expansion projects. Grants may be awarded in the
9 areas of strategic planning and strategic alliances. The program
10 shall award grants based upon a competitive application process
11 addressing the project's eligibility, a review of the proposal's
12 scientific and technological aspects, and ability to fulfill goals of
13 the program. Priority shall be given to those projects with the
14 identified support of industry representatives, matching funding,
15 projects likely to receive federal funds requiring matching funds,
16 and any other criteria determined by the agency. A project example
17 is a joint effort to develop and commercialize defense-related
18 technologies by federal laboratories, universities, and companies
19 in close geographical proximity.

20 ~~SEC. 210.~~

21 *SEC. 209.* Section 14254.5 of the Government Code is repealed.

22 ~~SEC. 211.~~

23 *SEC. 210.* Section 14670.2 of the Government Code, as added
24 by Section 2 of Chapter 681 of the Statutes of 2007, is amended
25 and renumbered to read:

26 14670.22. (a) Notwithstanding any other provision of law, the
27 Director of General Services, with the consent of the Department
28 of Motor Vehicles, may lease or exchange, if the director deems
29 the leasing or exchanging to be in the best interest of the state, for
30 a term of years, as determined by the director, and for fair market
31 value, all or portions of parcels of real property, that are acquired
32 and used by the state for the benefit of the Department of Motor
33 Vehicles, as described in subdivision (b), for the purpose of
34 developing mixed public and private use facilities, including
35 adequate parking for the Department of Motor Vehicles field office,
36 as determined by that department, subject to all of the following
37 conditions:

38 (1) All proceeds from the lease or exchange of the Department
39 of Motor Vehicles property shall be deposited into the Motor

1 Vehicle Account in the State Transportation Fund and shall be
2 available for expenditure by the Department of Motor Vehicles.

3 (2) Each lease shall provide that the lessee may sublease for
4 commercial, retail or residential uses that portion of the developed
5 property that is not required for use of the state.

6 (3) A mixed-use facility developed pursuant to this section shall
7 be located at the current state-owned site unless there are mitigating
8 circumstances requiring relocation. If relocation does become
9 necessary, the replacement facility shall be located within the
10 geographic area that serves the current customer base.

11 (b) For purposes of this section, the following parcels of real
12 properties may be leased or exchanged pursuant to subdivision

13 (a):

14 (1) A parcel of real property located at 1377 Fell Street, San
15 Francisco.

16 (2) 3960 Normal Street, San Diego, provided that any lease or
17 exchange of property shall include a condition that a local farmer's
18 market may continue to conduct regular business.

19 (3) 8629 Hellman Avenue, Rancho Cucamonga.

20 (c) The Department of General Services and the Department
21 of Motor Vehicles, jointly, shall notify the Joint Legislative Budget
22 Committee when the Department of General Services, with the
23 consent of the Department of Motor Vehicles, enters into any lease
24 for a period of 30 years or more and shall report to the committee
25 the terms and conditions of any lease at least 45 days prior to
26 entering into that lease.

27 (d) Any lease or exchange of properties carried out pursuant to
28 this section shall be for no less than fair market value and upon
29 terms and conditions that the Director of General Services
30 determines to be in the best interest of the state. Compensation for
31 the property may include land, improvements, money, or any
32 combination thereof.

33 (e) The Department of General Services shall be reimbursed
34 for any cost or expense incurred in the disposition or lease of any
35 parcels described in this section by the Department of Motor
36 Vehicles or from the proceeds of the lease or exchange of those
37 parcels.

38 (f) The properties identified in this section are not subject to
39 Section 11011.1 or Article 8 (commencing with Section 54220)
40 of Chapter 5 of Part 1 of Division 2 of Title 5, and the properties

1 shall be or have been offered to the public through a competitive
2 process determined by the director to be in the best interest of the
3 state.

4 ~~SEC. 212.~~

5 *SEC. 211.* The heading of Article 18 (commencing with Section
6 14717) of Chapter 2 of Part 5.5 of Division 3 of Title 2 of the
7 Government Code is amended and renumbered to read:

8

9 Article 8. Integrated Pest Management

10

11 ~~SEC. 213.~~

12 *SEC. 212.* The heading of Chapter 4 (commencing with Section
13 14730) of Part 5.5 of Division 3 of Title 2 of the Government Code
14 is repealed.

15 ~~SEC. 214.~~

16 *SEC. 213.* Section 14829.2 of the Government Code is repealed.

17 ~~SEC. 215.~~

18 *SEC. 214.* Section 15155 of the Government Code is amended
19 to read:

20 15155. The committee shall consist of representatives from
21 the following organizations:

22 (a) Two representatives from the California Peace Officers'
23 Association.

24 (b) One representative from the California State Sheriffs'
25 Association.

26 (c) One representative from the League of California Cities.

27 (d) One representative from the County Supervisors Association
28 of California.

29 (e) One representative from the Department of Justice.

30 (f) One representative from the Department of Motor Vehicles.

31 (g) One representative from the Office of Emergency Services.

32 (h) One representative from the Department of the California
33 Highway Patrol.

34 (i) One representative from the California Police Chiefs
35 Association.

36 ~~SEC. 216.~~

37 *SEC. 215.* Section 15814.22 of the Government Code is
38 amended to read:

39 15814.22. The Department of General Services, in consultation
40 with the State Energy Resources Conservation and Development

1 Commission and other state agencies and departments, shall
2 develop a multiyear plan, to be updated biennially, with the goal
3 of exploiting all practicable and cost-effective energy efficiency
4 measures in state facilities. The department shall coordinate plan
5 implementation efforts, and make recommendations to the
6 Governor and the Legislature to achieve energy efficiency goals
7 for state facilities.

8 ~~SEC. 217.~~

9 *SEC. 216.* Section 16183 of the Government Code is amended
10 to read:

11 16183. (a) From the time a payment is made pursuant to
12 Section 16180, the amount of that payment shall bear interest at a
13 rate (not compounded), determined as follows:

14 (1) Beginning July 1, 2016, the rate of interest shall be 7 percent
15 per annum.

16 (2) The Controller shall establish an adjusted rate of interest for
17 the purpose of this subdivision not later than July 15th of any year
18 if the effective annual yield of the Pooled Money Investment
19 Account for the prior fiscal year is at least a full percentage point
20 more or less than the interest rate which is then in effect. The
21 adjusted rate of interest shall be equal per annum to the effective
22 annual yield earned in the prior fiscal year by the Pooled Money
23 Investment Account rounded to the nearest full percent, and shall
24 become effective for new deferrals, beginning on July 1, 1984,
25 and on July 1 of each immediately succeeding year, until June 30,
26 2016.

27 (3) The rate of interest provided pursuant to this subdivision for
28 the first fiscal year commencing after payment is made pursuant
29 to Section 16180 shall apply for that fiscal year and each fiscal
30 year thereafter until these postponed property taxes are repaid.

31 (b) The interest provided for in subdivision (a) shall be applied
32 beginning the first day of the month following the month in which
33 that payment is made and continuing on the first day of each month
34 thereafter until that amount is paid. In the event that any payments
35 are applied, in any month, to reduce the amount paid pursuant to
36 Section 16180, the interest provided for herein shall be applied to
37 the balance of that amount beginning on the first day of the
38 following month.

39 (c) In computing interest in accordance with this section,
40 fractions of a cent shall be disregarded.

1 (d) For the purpose of this section, the time a payment is made
2 shall be deemed to be the time a certificate of eligibility is
3 countersigned by the tax collector or the delinquency date of the
4 respective tax installment, whichever is later.

5 (e) The Controller shall include on forms supplied to claimants
6 pursuant to Sections 20621, 20630.5, 20639.9, 20640.9, and 20641
7 of the Revenue and Taxation Code, a statement of the interest rate
8 which shall apply to amounts postponed for the fiscal year to which
9 the form applies.

10 ~~SEC. 218.~~

11 *SEC. 217.* Article 12 (commencing with Section 16429.30) of
12 Chapter 2 of Part 2 of Division 4 of Title 2 of the Government
13 Code is repealed.

14 ~~SEC. 219.~~

15 *SEC. 218.* Section 17581.6 of the Government Code is amended
16 to read:

17 17581.6. (a) Funding apportioned pursuant to this section shall
18 constitute reimbursement pursuant to Section 6 of Article XIII B
19 of the California Constitution for the performance of any state
20 mandates included in the statutes and executive orders identified
21 in subdivision (e).

22 (b) Any school district, county office of education, or charter
23 school may elect to receive block grant funding pursuant to this
24 section.

25 (c) (1) A school district, county office of education, or charter
26 school that elects to receive block grant funding pursuant to this
27 section in a given fiscal year shall submit a letter requesting
28 funding to the Superintendent of Public Instruction on or before
29 August 30 of that fiscal year.

30 (2) The Superintendent of Public Instruction shall, in the month
31 of November of each year, apportion block grant funding
32 appropriated pursuant to Item 6110-296-0001 of Section 2.00 of
33 the annual Budget Act to all school districts, county offices of
34 education, and charter schools that submitted letters requesting
35 funding in that fiscal year according to the provisions of that item.

36 (3) A school district or county office of education that receives
37 block grant funding pursuant to this section shall not be eligible
38 to submit claims to the Controller for reimbursement pursuant to
39 Section 17560 for any costs of any state mandates included in the
40 statutes and executive orders identified in subdivision (e) incurred

1 in the same fiscal year during which the school district or county
2 office of education received funding pursuant to this section.

3 (d) Block grant funding apportioned pursuant to this section is
4 subject to annual financial and compliance audits required by
5 Section 41020 of the Education Code.

6 (e) Block grant funding apportioned pursuant to this section is
7 specifically intended to fund the costs of the following programs
8 and activities:

9 (1) Academic Performance Index (01-TC-22; Chapter 3 of the
10 Statutes of 1999, First Extraordinary Session; and Chapter 695 of
11 the Statutes of 2000).

12 (2) Agency Fee Arrangements (00-TC-17 and 01-TC-14;
13 Chapter 893 of the Statutes of 2000 and Chapter 805 of the Statutes
14 of 2001).

15 (3) AIDS Instruction and AIDS Prevention Instruction (CSM
16 4422, 99-TC-07, and 00-TC-01; Chapter 818 of the Statutes of
17 1991; and Chapter 403 of the Statutes of 1998).

18 (4) California State Teachers' Retirement System (CalSTRS)
19 Service Credit (02-TC-19; Chapter 603 of the Statutes of 1994;
20 Chapters 383, 634, and 680 of the Statutes of 1996; Chapter 838
21 of the Statutes of 1997; Chapter 965 of the Statutes of 1998;
22 Chapter 939 of the Statutes of 1999; and Chapter 1021 of the
23 Statutes of 2000).

24 (5) Caregiver Affidavits (CSM 4497; Chapter 98 of the Statutes
25 of 1994).

26 (6) Charter Schools I, II, and III (CSM 4437, 99-TC-03, and
27 99-TC-14; Chapter 781 of the Statutes of 1992; Chapters 34 and
28 673 of the Statutes of 1998; Chapter 34 of the Statutes of 1998;
29 and Chapter 78 of the Statutes of 1999).

30 (7) Charter Schools IV (03-TC-03; Chapter 1058 of the Statutes
31 of 2002).

32 (8) Child Abuse and Neglect Reporting (01-TC-21; Chapters
33 640 and 1459 of the Statutes of 1987; Chapter 132 of the Statutes
34 of 1991; Chapter 459 of the Statutes of 1992; Chapter 311 of the
35 Statutes of 1998; Chapter 916 of the Statutes of 2000; and Chapters
36 133 and 754 of the Statutes of 2001).

37 (9) Collective Bargaining (CSM 4425; Chapter 961 of the
38 Statutes of 1975).

1 (10) Comprehensive School Safety Plans (98-TC-01 and
2 99-TC-10; Chapter 736 of the Statutes of 1997; Chapter 996 of
3 the Statutes of 1999; and Chapter 828 of the Statutes of 2003).

4 (11) Consolidation of Annual Parent Notification/Schoolsite
5 Discipline Rules/Alternative Schools (CSM 4488, CSM 4461,
6 99-TC-09, 00-TC-12, 97-TC-24, CSM 4453, CSM 4474, CSM
7 4462; Chapter 448 of the Statutes of 1975; Chapter 965 of the
8 Statutes of 1977; Chapter 975 of the Statutes of 1980; Chapter 469
9 of the Statutes of 1981; Chapter 459 of the Statutes of 1985;
10 Chapters 87 and 97 of the Statutes of 1986; Chapter 1452 of the
11 Statutes of 1987; Chapters 65 and 1284 of the Statutes of 1988;
12 Chapter 213 of the Statutes of 1989; Chapters 10 and 403 of the
13 Statutes of 1990; Chapter 906 of the Statutes of 1992; Chapter
14 1296 of the Statutes of 1993; Chapter 929 of the Statutes of 1997;
15 Chapters 846 and 1031 of the Statutes of 1998; Chapter 1 of the
16 Statutes of 1999, First Extraordinary Session; Chapter 73 of the
17 Statutes of 2000; Chapter 650 of the Statutes of 2003; Chapter 895
18 of the Statutes of 2004; and Chapter 677 of the Statutes of 2005).

19 (12) Consolidation of Law Enforcement Agency Notification
20 and Missing Children Reports (CSM 4505; Chapter 1117 of the
21 Statutes of 1989 and 01-TC-09; Chapter 249 of the Statutes of
22 1986; and Chapter 832 of the Statutes of 1999).

23 (13) Consolidation of Notification to Teachers: Pupils Subject
24 to Suspension or Expulsion I and II, and Pupil Discipline Records
25 (00-TC-10 and 00-TC-11; Chapter 345 of the Statutes of 2000).

26 (14) County Office of Education Fiscal Accountability Reporting
27 (97-TC-20; Chapters 917 and 1452 of the Statutes of 1987;
28 Chapters 1461 and 1462 of the Statutes of 1988; Chapter 1372 of
29 the Statutes of 1990; Chapter 1213 of the Statutes of 1991; Chapter
30 323 of the Statutes of 1992; Chapters 923 and 924 of the Statutes
31 of 1993; Chapters 650 and 1002 of the Statutes of 1994; and
32 Chapter 525 of the Statutes of 1995).

33 (15) Criminal Background Checks (97-TC-16; Chapters 588
34 and 589 of the Statutes of 1997).

35 (16) Criminal Background Checks II (00-TC-05; Chapters 594
36 and 840 of the Statutes of 1998; and Chapter 78 of the Statutes of
37 1999).

38 (17) Developer Fees (02-TC-42; Chapter 955 of the Statutes of
39 1977; Chapter 282 of the Statutes of 1979; Chapter 1354 of the
40 Statutes of 1980; Chapter 201 of the Statutes of 1981; Chapter 923

1 of the Statutes of 1982; Chapter 1254 of the Statutes of 1983;
2 Chapter 1062 of the Statutes of 1984; Chapter 1498 of the Statutes
3 of 1985; Chapters 136 and 887 of the Statutes of 1986; and Chapter
4 1228 of the Statutes of 1994).

5 (18) Differential Pay and Reemployment (99-TC-02; Chapter
6 30 of the Statutes of 1998).

7 (19) Expulsion of Pupil: Transcript Cost for Appeals (SMAS;
8 Chapter 1253 of the Statutes of 1975).

9 (20) Financial and Compliance Audits (CSM 4498 and CSM
10 4498-A; Chapter 36 of the Statutes of 1977).

11 (21) Graduation Requirements (CSM 4181; Chapter 498 of the
12 Statutes of 1983).

13 (22) Habitual Truants (CSM 4487 and CSM 4487-A; Chapter
14 1184 of the Statutes of 1975).

15 (23) High School Exit Examination (00-TC-06; Chapter 1 of
16 the Statutes of 1999, First Extraordinary Session; and Chapter 135
17 of the Statutes of 1999).

18 (24) Immunization Records (SB 90-120; Chapter 1176 of the
19 Statutes of 1977).

20 (25) Immunization Records—Hepatitis B (98-TC-05; Chapter
21 325 of the Statutes of 1978; Chapter 435 of the Statutes of 1979;
22 Chapter 472 of the Statutes of 1982; Chapter 984 of the Statutes
23 of 1991; Chapter 1300 of the Statutes of 1992; Chapter 1172 of
24 the Statutes of 1994; Chapters 291 and 415 of the Statutes of 1995;
25 Chapter 1023 of the Statutes of 1996; and Chapters 855 and 882
26 of the Statutes of 1997).

27 (26) Interdistrict Attendance Permits (CSM 4442; Chapters 172
28 and 742 of the Statutes of 1986; Chapter 853 of the Statutes of
29 1989; Chapter 10 of the Statutes of 1990; and Chapter 120 of the
30 Statutes of 1992).

31 (27) Intradistrict Attendance (CSM 4454; Chapters 161 and 915
32 of the Statutes of 1993).

33 (28) Juvenile Court Notices II (CSM 4475; Chapters 1011 and
34 1423 of the Statutes of 1984; Chapter 1019 of the Statutes of 1994;
35 and Chapter 71 of the Statutes of 1995).

36 (29) Notification of Truancy (CSM 4133; Chapter 498 of the
37 Statutes of 1983; Chapter 1023 of the Statutes of 1994; and Chapter
38 19 of the Statutes of 1995).

1 (30) Parental Involvement Programs (03-TC-16; Chapter 1400
2 of the Statutes of 1990; Chapters 864 and 1031 of the Statutes of
3 1998; Chapter 1037 of the Statutes of 2002).

4 (31) Physical Performance Tests (96-365-01; Chapter 975 of
5 the Statutes of 1995).

6 (32) Prevailing Wage Rate (01-TC-28; Chapter 1249 of the
7 Statutes of 1978).

8 (33) Public Contracts (02-TC-35; Chapter 1073 of the Statutes
9 of 1985; Chapter 1408 of the Statutes 1988; Chapter 330 of the
10 Statutes of 1989; Chapter 1414 of the Statutes of 1990; Chapter
11 321 of the Statutes of 1990; Chapter 799 of the Statutes of 1992;
12 and Chapter 726 of the Statutes of 1994).

13 (34) Pupil Health Screenings (CSM 4440; Chapter 1208 of the
14 Statutes of 1976; Chapter 373 of the Statutes of 1991; and Chapter
15 750 of the Statutes of 1992).

16 (35) Pupil Promotion and Retention (98-TC-19; Chapter 100
17 of the Statutes of 1981; Chapter 1388 of the Statutes of 1982;
18 Chapter 498 of the Statutes of 1983; Chapter 1263 of the Statutes
19 of 1990; and Chapters 742 and 743 of the Statutes of 1998).

20 (36) Pupil Safety Notices (02-TC-13; Chapter 498 of the Statutes
21 of 1983; Chapter 482 of the Statutes of 1984; Chapter 948 of the
22 Statutes of 1984; Chapter 196 of the Statutes of 1986; Chapter 332
23 of the Statutes of 1986; Chapter 445 of the Statutes of 1992;
24 Chapter 1317 of the Statutes of 1992; Chapter 589 of the Statutes
25 of 1993; Chapter 1172 of the Statutes of 1994; Chapter 1023 of
26 the Statutes of 1996; and Chapter 492 of the Statutes of 2000).

27 (37) Pupil Expulsions (CSM 4455; Chapter 1253 of the Statutes
28 of 1975; Chapter 965 of the Statutes of 1977; Chapter 668 of the
29 Statutes of 1978; Chapter 318 of the Statutes of 1982; Chapter 498
30 of the Statutes of 1983; Chapter 622 of the Statutes of 1984;
31 Chapter 942 of the Statutes of 1987; Chapter 1231 of the Statutes
32 of 1990; Chapter 152 of the Statutes of 1992; Chapters 1255, 1256,
33 and 1257 of the Statutes of 1993; and Chapter 146 of the Statutes
34 of 1994).

35 (38) Pupil Expulsion Appeals (CSM 4463; Chapter 1253 of the
36 Statutes of 1975; Chapter 965 of the Statutes of 1977; Chapter 668
37 of the Statutes of 1978; and Chapter 498 of the Statutes of 1983).

38 (39) Pupil Suspensions (CSM 4456; Chapter 965 of the Statutes
39 of 1977; Chapter 668 of the Statutes of 1978; Chapter 73 of the

1 Statutes of 1980; Chapter 498 of the Statutes of 1983; Chapter 856
2 of the Statutes of 1985; and Chapter 134 of the Statutes of 1987).

3 (40) School Accountability Report Cards (97-TC-21, 00-TC-09,
4 00-TC-13, and 02-TC-32; Chapter 918 of the Statutes of 1997;
5 Chapter 912 of the Statutes of 1997; Chapter 824 of the Statutes
6 of 1994; Chapter 1031 of the Statutes of 1993; Chapter 759 of the
7 Statutes of 1992; and Chapter 1463 of the Statutes of 1989).

8 (41) School District Fiscal Accountability Reporting (97-TC-19;
9 Chapter 100 of the Statutes of 1981; Chapter 185 of the Statutes
10 of 1985; Chapter 1150 of the Statutes of 1986; Chapters 917 and
11 1452 of the Statutes of 1987; Chapters 1461 and 1462 of the
12 Statutes of 1988; Chapter 525 of the Statutes of 1990; Chapter
13 1213 of the Statutes of 1991; Chapter 323 of the Statutes of 1992;
14 Chapters 923 and 924 of the Statutes of 1993; Chapters 650 and
15 1002 of the Statutes of 1994; and Chapter 525 of the Statutes of
16 1995).

17 (42) School District Reorganization (98-TC-24; Chapter 1192
18 of the Statutes of 1980; and Chapter 1186 of the Statutes of 1994).

19 (43) Student Records (02-TC-34; Chapter 593 of the Statutes
20 of 1989; Chapter 561 of the Statutes of 1993; Chapter 311 of the
21 Statutes of 1998; and Chapter 67 of the Statutes of 2000).

22 (44) The Stull Act (98-TC-25; Chapter 498 of the Statutes of
23 1983; and Chapter 4 of the Statutes of 1999).

24 (45) Threats Against Peace Officers (CSM 96-365-02; Chapter
25 1249 of the Statutes of 1992; and Chapter 666 of the Statutes of
26 1995).

27 (46) Uniform Complaint Procedures (03-TC-02; Chapter 1117
28 of the Statutes of 1982; Chapter 1514 of the Statutes of 1988; and
29 Chapter 914 of the Statutes of 1998).

30 (47) Williams Case Implementation I, II, and III (05-TC-04,
31 07-TC-06, and 08-TC-01; Chapters 900, 902, and 903 of the
32 Statutes of 2004; Chapter 118 of the Statutes of 2005; Chapter 704
33 of the Statutes of 2006; and Chapter 526 of the Statutes of 2007).

34 (48) Pupil Expulsions II, Pupil Suspensions II, and Educational
35 Services Plan for Expelled Pupils (96-358-03, 03A, 98-TC-22,
36 01-TC-18, 98-TC-23, 97-TC-09; Chapters 972 and 974 of the
37 Statutes of 1995; Chapters 915, 937, and 1052 of the Statutes of
38 1996; Chapter 637 of the Statutes of 1997; Chapter 498 of the
39 Statutes of 1998; Chapter 332 of the Statutes of 1999; Chapter 147
40 of the Statutes of 2000; and Chapter 116 of the Statutes of 2001).

1 (f) Notwithstanding Section 10231.5, on or before November
2 1 of each fiscal year, the Superintendent of Public Instruction shall
3 produce a report that indicates the total amount of block grant
4 funding each school district, county office of education, and charter
5 school received in that fiscal year pursuant to this section. The
6 Superintendent of Public Instruction shall provide this report to
7 the appropriate fiscal and policy committees of the Legislature,
8 the Controller, the Department of Finance, and the Legislative
9 Analyst's Office.

10 ~~SEC. 220.~~

11 *SEC. 219.* Section 18720.45 of the Government Code is
12 amended to read:

13 18720.45. Employment forms used by a state agency shall
14 require a person applying for employment to disclose whether the
15 person has entered into an agreement with the state regarding any
16 previous employment with the state that prohibits that person from
17 seeking or accepting any subsequent employment with the state.

18 ~~SEC. 221.~~

19 *SEC. 220.* The heading of Chapter 5.5 (commencing with
20 Section 19994.20) of Part 2.6 of Division 5 of Title 2 of the
21 Government Code is repealed.

22 ~~SEC. 222.~~

23 *SEC. 221.* Section 19995.5 of the Government Code, as added
24 by Section 71 of Chapter 446 of the Statutes of 1999, is repealed.

25 ~~SEC. 223.~~

26 *SEC. 222.* Section 22960.51 of the Government Code, as added
27 by Section 3 of Chapter 790 of the Statutes of 2014, is amended
28 and renumbered to read:

29 22960.52. Consistent with the requirements of Section
30 401(a)(2) of the Internal Revenue Code (26 U.S.C. Sec. 401(a)(2)),
31 the corpus or income of the plan's trust shall not be diverted to,
32 or used for, purposes other than the exclusive benefit of the
33 members or their beneficiaries nor shall there be a reversion of
34 trust funds except as permitted by Revenue Ruling 91-4, 1991-1
35 C.B. 57, by the Internal Revenue Service.

36 *SEC. 223.* *Section 27491 of the Government Code is amended*
37 *to read:*

38 27491. It shall be the duty of the coroner to inquire into and
39 determine the circumstances, manner, and cause of all violent,
40 sudden, or unusual deaths; unattended deaths; deaths where the

1 deceased has not been attended by either a physician or a registered
 2 nurse, who is a member of a hospice care interdisciplinary team,
 3 as defined by subdivision ~~(e)~~ (g) of Section 1746 of the Health and
 4 Safety Code in the 20 days before death; deaths related to or
 5 following known or suspected self-induced or criminal abortion;
 6 known or suspected homicide, suicide, or accidental poisoning;
 7 deaths known or suspected as resulting in whole or in part from
 8 or related to accident or injury either old or recent; deaths due to
 9 drowning, fire, hanging, gunshot, stabbing, cutting, exposure,
 10 starvation, acute alcoholism, drug addiction, strangulation,
 11 aspiration, or where the suspected cause of death is sudden infant
 12 death syndrome; death in whole or in part occasioned by criminal
 13 means; deaths associated with a known or alleged rape or crime
 14 against nature; deaths in prison or while under sentence; deaths
 15 known or suspected as due to contagious disease and constituting
 16 a public hazard; deaths from occupational diseases or occupational
 17 hazards; deaths of patients in state mental hospitals serving the
 18 mentally disabled and operated by the State Department of State
 19 Hospitals; deaths of patients in state hospitals serving the
 20 developmentally disabled and operated by the State Department
 21 of Developmental Services; deaths under such circumstances as
 22 to afford a reasonable ground to suspect that the death was caused
 23 by the criminal act of another; and any deaths reported by
 24 physicians or other persons having knowledge of death for inquiry
 25 by coroner. Inquiry pursuant to this section does not include those
 26 investigative functions usually performed by other law enforcement
 27 agencies.

28 ~~In~~

29 (a) *In* any case in which the coroner conducts an inquiry
 30 pursuant to this section, the coroner or a deputy shall personally
 31 sign the certificate of death. If the death occurred in a state hospital,
 32 the coroner shall forward a copy of his or her report to the state
 33 agency responsible for the state hospital.

34 ~~The~~

35 (b) *The* coroner shall have discretion to determine the extent of
 36 inquiry to be made into any death occurring under natural
 37 circumstances and falling within the provisions of this section, and
 38 if inquiry determines that the physician of record has sufficient
 39 knowledge to reasonably state the cause of a death occurring under

1 natural circumstances, the coroner may authorize that physician
2 to sign the certificate of death.

3 ~~For~~

4 (c) *For* the purpose of inquiry, the coroner shall have the right
5 to exhume the body of a deceased person when necessary to
6 discharge the responsibilities set forth in this section.

7 ~~Any~~

8 (d) *Any* funeral director, physician, or other person who has
9 charge of a deceased person's body, when death occurred as a
10 result of any of the causes or circumstances described in this
11 section, shall immediately notify the coroner. Any person who
12 does not notify the coroner as required by this section is guilty of
13 a misdemeanor.

14 ~~SEC. 224.~~

15 *SEC. 224.* Section 31685.96 of the Government Code, as added
16 by Section 2 of Chapter 670 of the Statutes of 1994, is amended
17 and renumbered to read:

18 31685.97. This article shall not be operative in any county until
19 the board of supervisors shall, by resolution adopted by a majority
20 vote, make this article applicable in the county.

21 ~~SEC. 225.~~

22 *SEC. 225.* Section 43009 of the Government Code, as added
23 by Section 5 of Chapter 752 of the Statutes of 1995, is repealed.

24 ~~SEC. 226.~~

25 *SEC. 226.* Section 53216.8 of the Government Code, as
26 amended by Section 156 of Chapter 62 of the Statutes of 2003, is
27 amended and renumbered to read:

28 53216.9. (a) Any former member who left the service of a
29 local agency with established reciprocity, and who became a
30 member of a county retirement system, a retirement system
31 established under the Public Employees' Retirement Law, or
32 another reciprocal retirement system and who did not elect to, or
33 was not eligible to, leave his or her contributions on deposit, may
34 elect to redeposit those contributions if he or she is an active
35 member of a reciprocal retirement system or the Public Employees'
36 Retirement System at the time of redeposit. A former member may
37 exercise this right by redepositing in the retirement fund of the
38 local agency he or she left, the amount of accumulated
39 contributions and interest that he or she withdrew from that

1 retirement fund plus regular interest thereon from the date of
2 separation.

3 (b) A former member who redeposits under this section shall
4 have the same rights as a member who elected to leave his or her
5 accumulated contributions on deposit in the local agency's fund.
6 The deferred retirement allowance of the member shall be
7 determined in accordance with provisions applicable to a member
8 retiring directly from local agency employment on the date of his
9 or her retirement.

10 (c) A former member who redeposits under this section shall
11 be entitled to a reduced age at entry, commencing with
12 contributions payable the first day of the month following the date
13 the local agency receives notice of the redeposit, if applicable.

14 (d) This section does not apply to either of the following:

15 (1) A member or former member who is retired.

16 (2) A former member who is not in the service of an employer
17 making him or her a member of a county retirement system, a
18 retirement system established under the Public Employees'
19 Retirement Law, or another reciprocal retirement system.

20 (e) This section only applies to either of the following:

21 (1) A former member who is in the service of an employer as
22 an officer or employee of a law enforcement agency or fire
23 department whose principal duties consist of active law
24 enforcement or firefighting and prevention service, but excluding
25 one whose principal duties are those of a telephone operator, clerk,
26 stenographer, machinist, mechanic, or otherwise, and whose
27 functions do not clearly come within the scope of active law
28 enforcement or firefighting and prevention service, even though
29 the officer or employee is subject to occasional call, or is
30 occasionally called upon, to perform duties within the scope of
31 active law enforcement or firefighting and prevention service.

32 (2) A former member who is in the service of an employer and
33 seeks to redeposit contributions for past employment as an officer
34 or employee of a law enforcement agency or fire department in
35 this system whose principal duties consisted of active law
36 enforcement or firefighting and prevention service, but excluding
37 one whose principal duties were those of a telephone operator,
38 clerk, stenographer, machinist, mechanic, or otherwise, and whose
39 functions did not clearly come within the scope of active law
40 enforcement or firefighting and prevention service, even though

1 the officer or employee was subject to occasional call, or was
2 occasionally called upon, to perform duties within the scope of
3 active law enforcement or firefighting and prevention service.

4 (f) For purposes of this section, a “former member” is a member
5 who left service under a retirement system established under this
6 article and who did not elect to, or was not eligible to, leave his
7 or her contributions on deposit.

8 (g) Each retirement system subject to this section shall establish
9 criteria to determine the eligibility of a former member to redeposit
10 contributions, and the amount of contributions that may be
11 redeposited, in those cases in which the system no longer maintains
12 complete records with respect to the former member.

13 (h) It is the intent of the Legislature in enacting this section to
14 recognize a statewide public obligation to all those whose duties
15 as local public safety officers expose them to more than ordinary
16 risks through their contribution to ensuring public safety and to
17 ensure that those who do serve or have served as local public safety
18 officers shall have the ability to receive pension benefits for past
19 public service in other jurisdictions within the state.

20 ~~SEC. 227.~~

21 *SEC. 227.* Section 53398.52 of the Government Code is
22 amended to read:

23 53398.52. (a) (1) A district may finance any of the following:

24 (A) The purchase, construction, expansion, improvement,
25 seismic retrofit, or rehabilitation of any real or other tangible
26 property with an estimated useful life of 15 years or longer that
27 satisfies the requirements of subdivision (b).

28 (B) The planning and design work that is directly related to the
29 purchase, construction, expansion, or rehabilitation of property.

30 (C) The costs described in Sections 53398.56 and 53398.57.

31 (2) The facilities need not be physically located within the
32 boundaries of the district. However, any facilities financed outside
33 of a district must have a tangible connection to the work of the
34 district, as detailed in the infrastructure financing plan adopted
35 pursuant to Section 53398.69.

36 (3) A district shall not finance routine maintenance, repair work,
37 or the costs of an ongoing operation or providing services of any
38 kind.

39 (b) The district shall finance only public capital facilities or
40 other specified projects of communitywide significance that

- 1 provide significant benefits to the district or the surrounding
2 community, including, but not limited to, all of the following:
- 3 (1) Highways, interchanges, ramps and bridges, arterial streets,
4 parking facilities, and transit facilities.
 - 5 (2) Sewage treatment and water reclamation plants and
6 interceptor pipes.
 - 7 (3) Facilities for the collection and treatment of water for urban
8 uses.
 - 9 (4) Flood control levees and dams, retention basins, and drainage
10 channels.
 - 11 (5) Child care facilities.
 - 12 (6) Libraries.
 - 13 (7) Parks, recreational facilities, and open space.
 - 14 (8) Facilities for the transfer and disposal of solid waste,
15 including transfer stations and vehicles.
 - 16 (9) Brownfield restoration and other environmental mitigation.
 - 17 (10) The development of projects on a former military base,
18 provided that the projects are consistent with the military base
19 authority reuse plan and are approved by the military base reuse
20 authority, if applicable.
 - 21 (11) The repayment of the transfer of funds to a military base
22 reuse authority pursuant to Section 67851 that occurred on or after
23 the creation of the district.
 - 24 (12) The acquisition, construction, or rehabilitation of housing
25 for persons of low and moderate income, as defined in Section
26 50093 of the Health and Safety Code, for rent or purchase.
 - 27 (13) Acquisition, construction, or repair of industrial structures
28 for private use.
 - 29 (14) Transit priority projects, as defined in Section 21155 of
30 the Public Resources Code, that are located within a transit priority
31 project area. For purposes of this paragraph, a transit priority
32 project area may include a military base reuse plan that meets the
33 definition of a transit priority project area and it may include a
34 contaminated site within a transit priority project area.
 - 35 (15) Projects that implement a sustainable communities strategy,
36 when the State Air Resources Board, pursuant to Chapter 2.5
37 (commencing with Section 65080) of Division 1 of Title 7, has
38 accepted a metropolitan planning organization's determination
39 that the sustainable communities strategy or the alternative planning

1 strategy would, if implemented, achieve the greenhouse gas
2 emission reduction targets.

3 (c) The district shall require, by recorded covenants or
4 restrictions, that housing units built pursuant to this section shall
5 remain available at affordable housing costs to, and occupied by,
6 persons and families of low- or moderate-income households for
7 the longest feasible time, but for not less than 55 years for rental
8 units and 45 years for owner-occupied units.

9 (d) The district may finance mixed-income housing
10 developments, but may finance only those units in such a
11 development that are restricted to occupancy by persons of low or
12 moderate incomes as defined in Section 50093 of the Health and
13 Safety Code, and those onsite facilities for child care, after-school
14 care, and social services that are integrally linked to the tenants of
15 the restricted units.

16 (e) A district may utilize any powers under the Polanco
17 Redevelopment Act (Article 12.5 (commencing with Section
18 33459) of Chapter 4 of Part 1 of Division 24 of the Health and
19 Safety Code), and finance any action necessary to implement that
20 act.

21 ~~SEC. 228.~~

22 *SEC. 228.* Section 53398.75 of the Government Code is
23 amended to read:

24 53398.75. (a) Any infrastructure financing plan may contain
25 a provision that taxes, if any, levied upon taxable property in the
26 area included within the enhanced infrastructure financing district
27 each year by or for the benefit of the State of California, or any
28 affected taxing entity after the effective date of the ordinance
29 adopted pursuant to Section 53398.69 to create the district, shall
30 be divided as follows:

31 (1) That portion of the taxes that would be produced by the rate
32 upon which the tax is levied each year by or for each of the affected
33 taxing entities upon the total sum of the assessed value of the
34 taxable property in the district as shown upon the assessment roll
35 used in connection with the taxation of the property by the affected
36 taxing entity, last equalized prior to the effective date of the
37 ordinance adopted pursuant to Section 53398.69 to create the
38 district, shall be allocated to, and when collected shall be paid to,
39 the respective affected taxing entities as taxes by or for the affected
40 taxing entities on all other property are paid.

1 (2) That portion of the levied taxes each year specified in the
2 adopted infrastructure financing plan for the city or county and
3 each affected taxing entity that has agreed to participate pursuant
4 to Section 53398.68 in excess of the amount specified in paragraph
5 (1) shall be allocated to, and when collected shall be paid into a
6 special fund of, the district for all lawful purposes of the district.
7 Unless and until the total assessed valuation of the taxable property
8 in a district exceeds the total assessed value of the taxable property
9 in the district as shown by the last equalized assessment roll
10 referred to in paragraph (1), all of the taxes levied and collected
11 upon the taxable property in the district shall be paid to the
12 respective affected taxing entities. When the district ceases to exist
13 pursuant to the adopted infrastructure financing plan, all moneys
14 thereafter received from taxes upon the taxable property in the
15 district shall be paid to the respective affected taxing entities as
16 taxes on all other property are paid.

17 (b) Notwithstanding subdivision (a), where any district
18 boundaries overlap with the boundaries of any former
19 redevelopment project area, any debt or obligation of a district
20 shall be subordinate to any and all enforceable obligations of the
21 former redevelopment agency, as approved by the Oversight Board
22 and the Department of Finance. For the purposes of this chapter,
23 the division of taxes allocated to the district pursuant to subdivision
24 (a) of this section or of subdivision (b) of Section 53396 shall not
25 include any taxes required to be deposited by the county
26 auditor-controller into the Redevelopment Property Tax Trust Fund
27 created pursuant to subdivision (b) of Section 34170.5 of the Health
28 and Safety Code.

29 (c) The legislative body of the city or county forming the district
30 may choose to dedicate any portion of its net available revenue to
31 the district through the financing plan described in Section
32 53398.63.

33 (d) For the purposes of this section, “net available revenue”
34 means periodic distributions to the city or county from the
35 Redevelopment Property Tax Trust Fund, created pursuant to
36 Section 34170.5 of the Health and Safety Code, that are available
37 to the city or county after all preexisting legal commitments and
38 statutory obligations funded from that revenue are made pursuant
39 to Part 1.85 (commencing with Section 34170) of Division 24 of
40 the Health and Safety Code. “Net available revenue” shall not

1 include any funds deposited by the county auditor-controller into
2 the Redevelopment Property Tax Trust Fund or funds remaining
3 in the Redevelopment Property Tax Trust Fund prior to distribution.
4 Net available revenues shall not include any moneys payable to a
5 school district that maintains kindergarten and grades 1 to 12,
6 inclusive, community college districts, county office of education,
7 or to the Educational Revenue Augmentation Fund, pursuant to
8 paragraph (4) of subdivision (a) of Section 34183 of the Health
9 and Safety Code.

10 (e) (1) That portion of any ad valorem property tax revenue
11 annually allocated to a city or county pursuant to Section 97.70 of
12 the Revenue and Taxation Code that is specified in the adopted
13 infrastructure financing plan for the city or county that has agreed
14 to participate pursuant to Section 53398.68, and that corresponds
15 to the increase in the assessed valuation of taxable property shall
16 be allocated to, and when collected shall be apportioned to a special
17 fund of the district for all lawful purposes of the district.

18 (2) When the district ceases to exist pursuant to the adopted
19 infrastructure financing plan, the revenues described in this
20 subdivision shall be allocated to, and when collected, shall be
21 apportioned to the respective city or county.

22 (f) This section shall not be construed to prevent a district from
23 utilizing revenues from any of the following sources to support its
24 activities provided that the applicable voter approval has been
25 obtained, and the infrastructure financing plan has been approved
26 pursuant to Section 53398.69:

27 (1) The Improvement Act of 1911 (Division 7 (commencing
28 with Section 5000) of the Streets and Highways Code).

29 (2) The Municipal Improvement Act of 1913 (Division 12
30 (commencing with Section 10000) of the Streets and Highways
31 Code).

32 (3) The Improvement Bond Act of 1915 (Division 10
33 (commencing with Section 8500) of the Streets and Highways
34 Code).

35 (4) The Landscaping and Lighting Act of 1972 (Part 2
36 (commencing with Section 22500) of Division 15 of the Streets
37 and Highways Code).

38 (5) The Vehicle Parking District Law of 1943 (Part 1
39 (commencing with Section 31500) of Division 18 of the Streets
40 and Highways Code).

- 1 (6) The Parking District Law of 1951 (Part 4 (commencing with
- 2 Section 35100) of Division 18 of the Streets and Highways Code).
- 3 (7) The Park and Playground Act of 1909 (Chapter 7
- 4 (commencing with Section 38000) of Part 2 of Division 3 of Title
- 5 4 of this code).
- 6 (8) The Mello-Roos Community Facilities Act of 1982 (Chapter
- 7 2.5 (commencing with Section 53311) of Part 1 of Division 2 of
- 8 this title).
- 9 (9) The Benefit Assessment Act of 1982 (Chapter 6.4
- 10 (commencing with Section 54703) of Part 1 of Division 2 of this
- 11 title).
- 12 (10) The so-called facilities benefit assessment levied by the
- 13 charter city of San Diego or any substantially similar assessment
- 14 levied for the same purpose by any other charter city pursuant to
- 15 any ordinance or charter provision.
- 16 ~~SEC. 229.~~
- 17 *SEC. 229.* Section 56378 of the Government Code is amended
- 18 to read:
- 19 56378. (a) In addition to its other powers, the commission
- 20 shall initiate and make studies of existing governmental agencies.
- 21 Those studies shall include, but shall not be limited to, inventorying
- 22 those agencies and determining their maximum service area and
- 23 service capacities. In conducting those studies, the commission
- 24 may request land use information, studies, joint powers agreements,
- 25 and plans of cities, counties, districts, including school districts,
- 26 community college districts, joint powers agencies and joint powers
- 27 authorities, regional agencies, and state agencies and departments.
- 28 Cities, counties, districts, including school districts, community
- 29 college districts, joint powers agencies and joint powers authorities,
- 30 regional agencies, and state agencies and departments, shall comply
- 31 with the request of the commission for that information and the
- 32 commission shall make its studies available to public agencies and
- 33 any interested person. In making these studies, the commission
- 34 may cooperate with the county planning commissions.
- 35 (b) The commission, or the board of supervisors on behalf of
- 36 the commission, may apply for or accept, or both, any financial
- 37 assistance and grants-in-aid from public or private agencies or
- 38 from the state or federal government or from a local government.

1 ~~SEC. 230.~~

2 *SEC. 230.* Section 65080.1 of the Government Code, as added
3 by Section 3 of Chapter 375 of the Statutes of 2007, is amended
4 and renumbered to read:

5 65080.6. Each transportation planning agency designated under
6 Section 29532 or 29532.1 whose jurisdiction includes a portion
7 of the California Coastal Trail, or property designated for the trail,
8 that is located within the coastal zone, as defined in Section 30103
9 of the Public Resources Code, shall coordinate with the State
10 Coastal Conservancy, the California Coastal Commission, and the
11 Department of Transportation regarding development of the
12 California Coastal Trail, and each transportation planning agency
13 shall include provisions for the California Coastal Trail in its
14 regional plan, under Section 65080.

15 ~~SEC. 231.~~

16 *SEC. 231.* Section 65352.5 of the Government Code is amended
17 to read:

18 65352.5. (a) The Legislature finds and declares that it is vital
19 that there be close coordination and consultation between
20 California's water supply or management agencies and California's
21 land use approval agencies to ensure that proper water supply and
22 management planning occurs to accommodate projects that will
23 result in increased demands on water supplies or impact water
24 resource management.

25 (b) It is, therefore, the intent of the Legislature to provide a
26 standardized process for determining the adequacy of existing and
27 planned future water supplies to meet existing and planned future
28 demands on these water supplies and the impact of land use
29 decisions on the management of California's water supply
30 resources.

31 (c) Upon receiving, pursuant to Section 65352, notification of
32 a city's or a county's proposed action to adopt or substantially
33 amend a general plan, a public water system, as defined in Section
34 116275 of the Health and Safety Code, with 3,000 or more service
35 connections, shall provide the planning agency with the following
36 information, as is appropriate and relevant:

37 (1) The current version of its urban water management plan,
38 adopted pursuant to Part 2.6 (commencing with Section 10610)
39 of Division 6 of the Water Code.

1 (2) The current version of its capital improvement program or
2 plan, as reported pursuant to Section 31144.73 of the Water Code.

3 (3) A description of the source or sources of the total water
4 supply currently available to the water supplier by water right or
5 contract, taking into account historical data concerning wet, normal,
6 and dry runoff years.

7 (4) A description of the quantity of surface water that was
8 purveyed by the water supplier in each of the previous five years.

9 (5) A description of the quantity of groundwater that was
10 purveyed by the water supplier in each of the previous five years.

11 (6) A description of all proposed additional sources of water
12 supplies for the water supplier, including the estimated dates by
13 which these additional sources should be available and the
14 quantities of additional water supplies that are being proposed.

15 (7) A description of the total number of customers currently
16 served by the water supplier, as identified by the following
17 categories and by the amount of water served to each category:

18 (A) Agricultural users.

19 (B) Commercial users.

20 (C) Industrial users.

21 (D) Residential users.

22 (8) Quantification of the expected reduction in total water
23 demand, identified by each customer category set forth in paragraph
24 (7), associated with future implementation of water use reduction
25 measures identified in the water supplier's urban water
26 management plan.

27 (9) Any additional information that is relevant to determining
28 the adequacy of existing and planned future water supplies to meet
29 existing and planned future demands on these water supplies.

30 (d) Upon receiving, pursuant to Section 65352, notification of
31 a city's or a county's proposed action to adopt or substantially
32 amend a general plan, a groundwater sustainability agency, as
33 defined in Section 10721 of the Water Code, or an entity that
34 submits an alternative under Section 10733.6 of the Water Code
35 shall provide the planning agency with the following information,
36 as is appropriate and relevant:

37 (1) The current version of its groundwater sustainability plan
38 or alternative adopted pursuant to Part 2.74 (commencing with
39 Section 10720) of Division 6 of the Water Code.

1 (2) If the groundwater sustainability agency manages
2 groundwater pursuant to a court order, judgment, decree, or
3 agreement among affected water rights holders, or if the State
4 Water Resources Control Board has adopted an interim plan
5 pursuant to Chapter 11 (commencing with Section 10735) of Part
6 2.74 of Division 6 of the Water Code, the groundwater
7 sustainability agency shall provide the planning agency with maps
8 of recharge basins and percolation ponds, extraction limitations,
9 and other relevant information, or the court order, judgment, or
10 decree.

11 (3) A report on the anticipated effect of proposed action to adopt
12 or substantially amend a general plan on implementation of a
13 groundwater sustainability plan pursuant to Part 2.74 (commencing
14 with Section 10720) of Division 6 of the Water Code.

15 ~~SEC. 232.~~

16 *SEC. 232.* Section 65583.2 of the Government Code, as
17 amended by Chapter 883 of the Statutes of 2014, is amended to
18 read:

19 65583.2. (a) A city's or county's inventory of land suitable
20 for residential development pursuant to paragraph (3) of
21 subdivision (a) of Section 65583 shall be used to identify sites that
22 can be developed for housing within the planning period and that
23 are sufficient to provide for the jurisdiction's share of the regional
24 housing need for all income levels pursuant to Section 65584. As
25 used in this section, "land suitable for residential development"
26 includes all of the following:

27 (1) Vacant sites zoned for residential use.

28 (2) Vacant sites zoned for nonresidential use that allows
29 residential development.

30 (3) Residentially zoned sites that are capable of being developed
31 at a higher density.

32 (4) Sites zoned for nonresidential use that can be redeveloped
33 for, and as necessary, rezoned for, residential use.

34 (b) The inventory of land shall include all of the following:

35 (1) A listing of properties by parcel number or other unique
36 reference.

37 (2) The size of each property listed pursuant to paragraph (1),
38 and the general plan designation and zoning of each property.

39 (3) For nonvacant sites, a description of the existing use of each
40 property.

1 (4) A general description of any environmental constraints to
2 the development of housing within the jurisdiction, the
3 documentation for which has been made available to the
4 jurisdiction. This information need not be identified on a
5 site-specific basis.

6 (5) A general description of existing or planned water, sewer,
7 and other dry utilities supply, including the availability and access
8 to distribution facilities. This information need not be identified
9 on a site-specific basis.

10 (6) Sites identified as available for housing for above
11 moderate-income households in areas not served by public sewer
12 systems. This information need not be identified on a site-specific
13 basis.

14 (7) A map that shows the location of the sites included in the
15 inventory, such as the land use map from the jurisdiction’s general
16 plan, for reference purposes only.

17 (c) Based on the information provided in subdivision (b), a city
18 or county shall determine whether each site in the inventory can
19 accommodate some portion of its share of the regional housing
20 need by income level during the planning period, as determined
21 pursuant to Section 65584. The analysis shall determine whether
22 the inventory can provide for a variety of types of housing,
23 including multifamily rental housing, factory-built housing,
24 mobilehomes, housing for agricultural employees, emergency
25 shelters, and transitional housing. The city or county shall
26 determine the number of housing units that can be accommodated
27 on each site as follows:

28 (1) If local law or regulations require the development of a site
29 at a minimum density, the department shall accept the planning
30 agency’s calculation of the total housing unit capacity on that site
31 based on the established minimum density. If the city or county
32 does not adopt a law or regulations requiring the development of
33 a site at a minimum density, then it shall demonstrate how the
34 number of units determined for that site pursuant to this subdivision
35 will be accommodated.

36 (2) The number of units calculated pursuant to paragraph (1)
37 shall be adjusted as necessary, based on the land use controls and
38 site improvements requirement identified in paragraph (5) of
39 subdivision (a) of Section 65583.

1 (3) For the number of units calculated to accommodate its share
2 of the regional housing need for lower income households pursuant
3 to paragraph (2), a city or county shall do either of the following:

4 (A) Provide an analysis demonstrating how the adopted densities
5 accommodate this need. The analysis shall include, but is not
6 limited to, factors such as market demand, financial feasibility, or
7 information based on development project experience within a
8 zone or zones that provide housing for lower income households.

9 (B) The following densities shall be deemed appropriate to
10 accommodate housing for lower income households:

11 (i) For an incorporated city within a nonmetropolitan county
12 and for a nonmetropolitan county that has a micropolitan area:
13 sites allowing at least 15 units per acre.

14 (ii) For an unincorporated area in a nonmetropolitan county not
15 included in clause (i): sites allowing at least 10 units per acre.

16 (iii) For a suburban jurisdiction: sites allowing at least 20 units
17 per acre.

18 (iv) For a jurisdiction in a metropolitan county: sites allowing
19 at least 30 units per acre.

20 (d) For purposes of this section, a metropolitan county,
21 nonmetropolitan county, and nonmetropolitan county with a
22 micropolitan area shall be as determined by the United States
23 Census Bureau. A nonmetropolitan county with a micropolitan
24 area includes the following counties: Del Norte, Humboldt, Lake,
25 Mendocino, Nevada, Tehama, and Tuolumne and other counties
26 as may be determined by the United States Census Bureau to be
27 nonmetropolitan counties with micropolitan areas in the future.

28 (e) (1) Except as provided in paragraph (2), a jurisdiction shall
29 be considered suburban if the jurisdiction does not meet the
30 requirements of clauses (i) and (ii) of subparagraph (B) of
31 paragraph (3) of subdivision (c) and is located in a Metropolitan
32 Statistical Area (MSA) of less than 2,000,000 in population, unless
33 that jurisdiction's population is greater than 100,000, in which
34 case it shall be considered metropolitan. A county, not including
35 the City and County of San Francisco, shall be considered suburban
36 unless the county is in an MSA of 2,000,000 or greater in
37 population in which case the county shall be considered
38 metropolitan.

39 (2) (A) (i) Notwithstanding paragraph (1), if a county that is
40 in the San Francisco-Oakland-Fremont California MSA has a

1 population of less than 400,000, that county shall be considered
 2 suburban. If this county includes an incorporated city that has a
 3 population of less than 100,000, this city shall also be considered
 4 suburban. This paragraph shall apply to a housing element revision
 5 cycle, as described in subparagraph (A) of paragraph (3) of
 6 subdivision (e) of Section 65588, that is in effect from July 1,
 7 2014, to December 31, 2023, inclusive.

8 (ii) A county subject to this subparagraph shall utilize the sum
 9 existing in the county’s housing trust fund as of June 30, 2013, for
 10 the development and preservation of housing affordable to low- and
 11 very low income households.

12 (B) A jurisdiction that is classified as suburban pursuant to this
 13 paragraph shall report to the Assembly Committee on Housing
 14 and Community Development, the Senate Committee on
 15 Transportation and Housing, and the Department of Housing and
 16 Community Development regarding its progress in developing
 17 low- and very low income housing consistent with the requirements
 18 of Section 65400. The report shall be provided twice: once, on or
 19 before December 31, 2019, which report shall address the initial
 20 four years of the housing element cycle, and a second time, on or
 21 before December 31, 2023, which report shall address the
 22 subsequent four years of the housing element cycle and the cycle
 23 as a whole. The reports shall be provided consistent with the
 24 requirements of Section 9795.

25 (f) A jurisdiction shall be considered metropolitan if the
 26 jurisdiction does not meet the requirements for “suburban area”
 27 above and is located in an MSA of 2,000,000 or greater in
 28 population, unless that jurisdiction’s population is less than 25,000
 29 in which case it shall be considered suburban.

30 (g) For sites described in paragraph (3) of subdivision (b), the
 31 city or county shall specify the additional development potential
 32 for each site within the planning period and shall provide an
 33 explanation of the methodology used to determine the development
 34 potential. The methodology shall consider factors including the
 35 extent to which existing uses may constitute an impediment to
 36 additional residential development, development trends, market
 37 conditions, and regulatory or other incentives or standards to
 38 encourage additional residential development on these sites.

39 (h) The program required by subparagraph (A) of paragraph (1)
 40 of subdivision (c) of Section 65583 shall accommodate 100 percent

1 of the need for housing for very low and low-income households
2 allocated pursuant to Section 65584 for which site capacity has
3 not been identified in the inventory of sites pursuant to paragraph
4 (3) of subdivision (a) on sites that shall be zoned to permit
5 owner-occupied and rental multifamily residential use by right
6 during the planning period. These sites shall be zoned with
7 minimum density and development standards that permit at least
8 16 units per site at a density of at least 16 units per acre in
9 jurisdictions described in clause (i) of subparagraph (B) of
10 paragraph (3) of subdivision (c) and at least 20 units per acre in
11 jurisdictions described in clauses (iii) and (iv) of subparagraph (B)
12 of paragraph (3) of subdivision (c). At least 50 percent of the very
13 low and low-income housing need shall be accommodated on sites
14 designated for residential use and for which nonresidential uses
15 or mixed-uses are not permitted, except that a city or county may
16 accommodate all of the very low and low-income housing need
17 on sites designated for mixed uses if those sites allow 100 percent
18 residential use and require that residential use occupy 50 percent
19 of the total floor area of a mixed-use project.

20 (i) For purposes of this section and Section 65583, the phrase
21 “use by right” shall mean that the local government’s review of
22 the owner-occupied or multifamily residential use may not require
23 a conditional use permit, planned unit development permit, or other
24 discretionary local government review or approval that would
25 constitute a “project” for purposes of Division 13 (commencing
26 with Section 21000) of the Public Resources Code. Any subdivision
27 of the sites shall be subject to all laws, including, but not limited
28 to, the local government ordinance implementing the Subdivision
29 Map Act. A local ordinance may provide that “use by right” does
30 not exempt the use from design review. However, that design
31 review shall not constitute a “project” for purposes of Division 13
32 (commencing with Section 21000) of the Public Resources Code.
33 Use by right for all rental multifamily residential housing shall be
34 provided in accordance with subdivision (f) of Section 65589.5.

35 (j) Notwithstanding any other provision of this section, within
36 one-half mile of a Sonoma-Marín Area Rail Transit station, housing
37 density requirements in place on June 30, 2014, shall apply.

38 (k) This section shall remain in effect only until December 31,
39 2023, and as of that date is repealed, unless a later enacted statute,

1 that is enacted before December 31, 2023, deletes or extends that
2 date.

3 ~~SEC. 233.~~

4 *SEC. 233.* Section 65995.7 of the Government Code is amended
5 to read:

6 65995.7. (a) If state funds for new school facility construction
7 are not available, the governing board of a school district that
8 complies with Section 65995.5 may increase the alternative fee,
9 charge, dedication, or other requirement calculated pursuant to
10 subdivision (c) of Section 65995.5 by an amount that may not
11 exceed the amount calculated pursuant to subdivision (c) of Section
12 65995.5, except that for the purposes of calculating this additional
13 amount, the amount identified in paragraph (2) of subdivision (c)
14 of Section 65995.5 may not be subtracted from the amount
15 determined pursuant to paragraph (1) of subdivision (c) of Section
16 65995.5. For purposes of this section, state funds are not available
17 if the State Allocation Board is no longer approving apportionments
18 for new construction pursuant to Article 5 (commencing with
19 Section 17072.20) of Chapter 12.5 of Part 10 of the Education
20 Code due to a lack of funds available for new construction. Upon
21 making a determination that state funds are no longer available,
22 the State Allocation Board shall notify the Secretary of the Senate
23 and the Chief Clerk of the Assembly, in writing, of that
24 determination and the date when state funds are no longer available
25 for publication in the respective journal of each house. For the
26 purposes of making this determination, the board shall not consider
27 whether funds are available for, or whether it is making preliminary
28 apportionments or final apportionments pursuant to, Article 11
29 (commencing with Section 17078.10).

30 (b) A governing board may offer a reimbursement election to
31 the person subject to the fee, charge, dedication, or other
32 requirement that provides the person with the right to monetary
33 reimbursement of the supplemental amount authorized by this
34 section, to the extent that the district receives funds from state
35 sources for construction of the facilities for which that amount was
36 required, less any amount expended by the district for interim
37 housing. At the option of the person subject to the fee, charge,
38 dedication, or other requirement the reimbursement election may
39 be made on a tract or lot basis. Reimbursement of available funds
40 shall be made within 30 days as they are received by the district.

1 (c) A governing board may offer the person subject to the fee,
2 charge, dedication, or other requirement an opportunity to negotiate
3 an alternative reimbursement agreement if the terms of the
4 agreement are mutually agreed upon.

5 (d) A governing board may provide that the rights granted by
6 the reimbursement election or the alternative reimbursement
7 agreement are assignable.

8 ~~SEC. 234.~~

9 *SEC. 234.* The heading of Article 2 (commencing with Section
10 72054) of Chapter 8 of Title 8 of the Government Code is repealed.

11 ~~SEC. 235.~~

12 *SEC. 235.* The heading of Article 4 (commencing with Section
13 72150) of Chapter 8 of Title 8 of the Government Code is repealed.

14 ~~SEC. 236.~~

15 *SEC. 236.* Section 75070 of the Government Code is amended
16 to read:

17 75070. In lieu of the retirement allowance for his or her life
18 alone, a judge may elect, or revoke or change a previous election
19 prior to the approval of the previous election, to have the actuarial
20 equivalent of his or her retirement allowance as of the date of
21 retirement applied to a lesser retirement allowance, in accordance
22 with one of the optional settlements specified in Section 75071.

23 That election, revocation, or change of election shall be made
24 by a writing filed with the Judges' Retirement System within 30
25 calendar days after the making of the first payment on account of
26 any retirement allowance.

27 ~~SEC. 237.~~

28 *SEC. 237.* Section 75521 of the Government Code is amended
29 to read:

30 75521. (a) A judge who leaves judicial office before accruing
31 at least five years of service shall be paid the amount of his or her
32 contributions to the system, and no other amount.

33 (b) A judge who leaves judicial office after accruing five or
34 more years of service and who is not eligible to elect to retire under
35 Section 75522 shall be paid the amount of his or her monetary
36 credits determined pursuant to Section 75520, including the credits
37 added under subdivision (b) of that section computed to the last
38 day of the month preceding the date of distribution, and no other
39 amount.

1 (c) Judges who leave office as described in subdivision (b) are
 2 “retired judges” for purposes of a concurrent retirement with
 3 respect to the benefits provided under Section 20639 and
 4 assignment pursuant to Article 2 (commencing with Section
 5 68540.7) of Chapter 2 and are eligible for benefits provided under
 6 Section 22814.

7 (d) After a judge has withdrawn his or her accumulated
 8 contributions or the amount of his or her monetary credits upon
 9 leaving judicial office, the service shall not count in the event he
 10 or she later becomes a judge again, until he or she pays into the
 11 Judges’ Retirement System II Fund the amount withdrawn, plus
 12 interest thereon at the rate of interest then being required to be
 13 paid by members of the Public Employees’ Retirement System
 14 under Section 20750 from the date of withdrawal to the date of
 15 payment.

16 ~~SEC. 238.~~

17 *SEC. 238.* Section 82015 of the Government Code is amended
 18 to read:

19 82015. (a) “Contribution” means a payment, a forgiveness of
 20 a loan, a payment of a loan by a third party, or an enforceable
 21 promise to make a payment except to the extent that full and
 22 adequate consideration is received, unless it is clear from the
 23 surrounding circumstances that it is not made for political purposes.

24 (b) (1) A payment made at the behest of a committee, as defined
 25 in subdivision (a) of Section 82013, is a contribution to the
 26 committee unless full and adequate consideration is received from
 27 the committee for making the payment.

28 (2) A payment made at the behest of a candidate is a contribution
 29 to the candidate unless the criteria in either subparagraph (A) or
 30 (B) are satisfied:

31 (A) Full and adequate consideration is received from the
 32 candidate.

33 (B) It is clear from the surrounding circumstances that the
 34 payment was made for purposes unrelated to his or her candidacy
 35 for elective office. The following types of payments are presumed
 36 to be for purposes unrelated to a candidate’s candidacy for elective
 37 office:

38 (i) A payment made principally for personal purposes, in which
 39 case it may be considered a gift under the provisions of Section

1 82028. Payments that are otherwise subject to the limits of Section
2 86203 are presumed to be principally for personal purposes.

3 (ii) A payment made by a state, local, or federal governmental
4 agency or by a nonprofit organization that is exempt from taxation
5 under Section 501(c)(3) of the Internal Revenue Code.

6 (iii) A payment not covered by clause (i), made principally for
7 legislative, governmental, or charitable purposes, in which case it
8 is neither a gift nor a contribution. However, payments of this type
9 that are made at the behest of a candidate who is an elected officer
10 shall be reported within 30 days following the date on which the
11 payment or payments equal or exceed five thousand dollars
12 (\$5,000) in the aggregate from the same source in the same
13 calendar year in which they are made. The report shall be filed by
14 the elected officer with the elected officer's agency and shall be
15 a public record subject to inspection and copying pursuant to
16 Section 81008. The report shall contain the following information:
17 name of payor, address of payor, amount of the payment, date or
18 dates the payment or payments were made, the name and address
19 of the payee, a brief description of the goods or services provided
20 or purchased, if any, and a description of the specific purpose or
21 event for which the payment or payments were made. Once the
22 five-thousand-dollar (\$5,000) aggregate threshold from a single
23 source has been reached for a calendar year, all payments for the
24 calendar year made by that source shall be disclosed within 30
25 days after the date the threshold was reached or the payment was
26 made, whichever occurs later. Within 30 days after receipt of the
27 report, state agencies shall forward a copy of these reports to the
28 Commission, and local agencies shall forward a copy of these
29 reports to the officer with whom elected officers of that agency
30 file their campaign statements.

31 (C) For purposes of subparagraph (B), a payment is made for
32 purposes related to a candidate's candidacy for elective office if
33 all or a portion of the payment is used for election-related activities.
34 For purposes of this subparagraph, "election-related activities"
35 shall include, but are not limited to, the following:

36 (i) Communications that contain express advocacy of the
37 nomination or election of the candidate or the defeat of his or her
38 opponent.

39 (ii) Communications that contain reference to the candidate's
40 candidacy for elective office, the candidate's election campaign,

1 or the candidate's or his or her opponent's qualifications for
2 elective office.

3 (iii) Solicitation of contributions to the candidate or to third
4 persons for use in support of the candidate or in opposition to his
5 or her opponent.

6 (iv) Arranging, coordinating, developing, writing, distributing,
7 preparing, or planning of any communication or activity described
8 in clause (i), (ii), or (iii).

9 (v) Recruiting or coordinating campaign activities of campaign
10 volunteers on behalf of the candidate.

11 (vi) Preparing campaign budgets.

12 (vii) Preparing campaign finance disclosure statements.

13 (viii) Communications directed to voters or potential voters as
14 part of activities encouraging or assisting persons to vote if the
15 communication contains express advocacy of the nomination or
16 election of the candidate or the defeat of his or her opponent.

17 (D) A contribution made at the behest of a candidate for a
18 different candidate or to a committee not controlled by the
19 behesting candidate is not a contribution to the behesting candidate.

20 (3) A payment made at the behest of a member of the Public
21 Utilities Commission, made principally for legislative,
22 governmental, or charitable purposes, is not a contribution.
23 However, payments of this type shall be reported within 30 days
24 following the date on which the payment or payments equal or
25 exceed five thousand dollars (\$5,000) in the aggregate from the
26 same source in the same calendar year in which they are made.
27 The report shall be filed by the member with the Public Utilities
28 Commission and shall be a public record subject to inspection and
29 copying pursuant to Section 81008. The report shall contain the
30 following information: name of payor, address of payor, amount
31 of the payment, date or dates the payment or payments were made,
32 the name and address of the payee, a brief description of the goods
33 or services provided or purchased, if any, and a description of the
34 specific purpose or event for which the payment or payments were
35 made. Once the five-thousand-dollar (\$5,000) aggregate threshold
36 from a single source has been reached for a calendar year, all
37 payments for the calendar year made by that source shall be
38 disclosed within 30 days after the date the threshold was reached
39 or the payment was made, whichever occurs later. Within 30 days
40 after receipt of the report, the Public Utilities Commission shall

1 forward a copy of these reports to the Fair Political Practices
2 Commission.

3 (c) “Contribution” includes the purchase of tickets for events
4 such as dinners, luncheons, rallies, and similar fundraising events;
5 the candidate’s own money or property used on behalf of his or
6 her candidacy, other than personal funds of the candidate used to
7 pay either a filing fee for a declaration of candidacy or a candidate
8 statement prepared pursuant to Section 13307 of the Elections
9 Code; the granting of discounts or rebates not extended to the
10 public generally or the granting of discounts or rebates by television
11 and radio stations and newspapers not extended on an equal basis
12 to all candidates for the same office; the payment of compensation
13 by any person for the personal services or expenses of any other
14 person if the services are rendered or expenses incurred on behalf
15 of a candidate or committee without payment of full and adequate
16 consideration.

17 (d) “Contribution” further includes any transfer of anything of
18 value received by a committee from another committee, unless
19 full and adequate consideration is received.

20 (e) “Contribution” does not include amounts received pursuant
21 to an enforceable promise to the extent those amounts have been
22 previously reported as a contribution. However, the fact that those
23 amounts have been received shall be indicated in the appropriate
24 campaign statement.

25 (f) (1) Except as provided in paragraph (2) or (3), “contribution”
26 does not include a payment made by an occupant of a home or
27 office for costs related to any meeting or fundraising event held
28 in the occupant’s home or office if the costs for the meeting or
29 fundraising event are five hundred dollars (\$500) or less.

30 (2) “Contribution” includes a payment made by a lobbyist or a
31 cohabitant of a lobbyist for costs related to a fundraising event
32 held at the home of the lobbyist, including the value of the use of
33 the home as a fundraising event venue. A payment described in
34 this paragraph shall be attributable to the lobbyist for purposes of
35 Section 85702.

36 (3) “Contribution” includes a payment made by a lobbying firm
37 for costs related to a fundraising event held at the office of the
38 lobbying firm, including the value of the use of the office as a
39 fundraising event venue.

1 (g) Notwithstanding the foregoing definition of “contribution,”
2 the term does not include volunteer personal services or payments
3 made by any individual for his or her own travel expenses if the
4 payments are made voluntarily without any understanding or
5 agreement that they shall be, directly or indirectly, repaid to him
6 or her.

7 (h) “Contribution” further includes the payment of public
8 moneys by a state or local governmental agency for a
9 communication to the public that satisfies both of the following:

10 (1) The communication expressly advocates the election or
11 defeat of a clearly identified candidate or the qualification, passage,
12 or defeat of a clearly identified measure, or, taken as a whole and
13 in context, unambiguously urges a particular result in an election.

14 (2) The communication is made at the behest of the affected
15 candidate or committee.

16 (i) “Contribution” further includes a payment made by a person
17 to a multipurpose organization as defined and described in Section
18 84222.

19 ~~SEC. 239.~~

20 *SEC. 239.* Section 95014 of the Government Code is amended
21 to read:

22 95014. (a) The term “eligible infant or toddler” for the
23 purposes of this title means infants and toddlers from birth through
24 two years of age, for whom a need for early intervention services,
25 as specified in the federal Individuals with Disabilities Education
26 Act (20 U.S.C. Sec. ~~1430~~ *1431* et seq.) and applicable regulations,
27 is documented by means of assessment and evaluation as required
28 in Sections 95016 and 95018 and who meet one of the following
29 criteria:

30 (1) Infants and toddlers with a developmental delay in one or
31 more of the following five areas: cognitive development; physical
32 and motor development, including vision and hearing;
33 communication development; social or emotional development;
34 or adaptive development. Developmentally delayed infants and
35 toddlers are those who are determined to have a significant
36 difference between the expected level of development for their
37 age and their current level of functioning. This determination shall
38 be made by qualified personnel who are recognized by, or part of,
39 a multidisciplinary team, including the parents. A significant

1 difference is defined as a 33-percent delay in one or more
2 developmental areas.

3 (2) Infants and toddlers with established risk conditions, who
4 are infants and toddlers with conditions of known etiology or
5 conditions with established harmful developmental consequences.
6 The conditions shall be diagnosed by qualified personnel
7 recognized by, or part of, a multidisciplinary team, including the
8 parents. The condition shall be certified as having a high
9 probability of leading to developmental delay if the delay is not
10 evident at the time of diagnosis.

11 (3) Infants and toddlers who are at high risk of having substantial
12 developmental disability due to a combination of biomedical risk
13 factors, the presence of which are diagnosed by qualified personnel
14 recognized by, or part of, a multidisciplinary team, including the
15 parents.

16 (b) Regional centers and local educational agencies shall be
17 responsible for ensuring that eligible infants and toddlers are served
18 as follows:

19 (1) The State Department of Developmental Services and
20 regional centers shall be responsible for the provision of
21 appropriate early intervention services that are required for
22 California's participation in Part C of the federal Individuals with
23 Disabilities Education Act (20 U.S.C. Sec. 1431 et seq.) for all
24 infants eligible under this section, except for those infants with
25 solely a visual, hearing, or severe orthopedic impairment, or any
26 combination of those impairments, who meet the criteria in
27 Sections 56026 and 56026.5 of the Education Code, and in Section
28 3030(a) or (b) of, and Section 3031 of, Title 5 of the California
29 Code of Regulations.

30 (2) The State Department of Education and local educational
31 agencies shall be responsible for the provision of appropriate early
32 intervention services in accordance with Part C of the federal
33 Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431
34 et seq.) for infants with solely a visual, hearing, or severe
35 orthopedic impairment, or any combination of those impairments,
36 who meet the criteria in Sections 56026 and 56026.5 of the
37 Education Code, and in Section 3030(a) or (b) of, and Section
38 3031 of, Title 5 of the California Code of Regulations, and who
39 are not eligible for services under the Lanterman Developmental

1 Disabilities Services Act (Division 4.5 (commencing with Section
2 4500) of the Welfare and Institutions Code).

3 (3) The transfer procedures and timelines, as provided under
4 subdivision (d) of Section 4643.5 of the Welfare and Institutions
5 Code, shall apply if the circumstances pertaining to an eligible
6 infant or toddler are that the child (A) has an order for foster care
7 placement, is awaiting foster care placement, or is placed in
8 out-of-home care through voluntary placement as defined in
9 subdivision (o) of Section 11400 of the Welfare and Institutions
10 Code, and (B) transfers between regional centers.

11 (c) For infants and toddlers and their families who are eligible
12 to receive services from both a regional center and a local
13 educational agency, the regional center shall be the agency
14 responsible for providing or purchasing appropriate early
15 intervention services that are beyond the mandated responsibilities
16 of local educational agencies and that are required for California's
17 participation in Part C of the federal Individuals with Disabilities
18 Education Act (20 U.S.C. Sec. 1431 et seq.). The local educational
19 agency shall provide special education services up to its funded
20 program capacity as established annually by the State Department
21 of Education in consultation with the State Department of
22 Developmental Services and the Department of Finance.

23 (d) An agency or multidisciplinary team, including any agency
24 listed in Section 95012, shall not presume or determine eligibility,
25 including eligibility for medical services, for any other agency.
26 However, regional centers and local educational agencies shall
27 coordinate intake, evaluation, assessment, and individualized
28 family service plans for infants and toddlers and their families who
29 are served by an agency.

30 (e) Upon termination of the program pursuant to Section 95003,
31 the State Department of Developmental Services shall be
32 responsible for the payment of services pursuant to this title.

33 (f) This section shall become operative on January 1, 2015.

34 ~~SEC. 240.~~

35 *SEC. 240.* The heading of Chapter 10 (commencing with
36 Section 95030) of Title 14 of the Government Code is repealed.

37 ~~SEC. 241.~~

38 *SEC. 241.* Section 678.3 of the Harbors and Navigation Code
39 is amended to read:

1 678.3. (a) (1) The division shall determine the fees required
2 under this section in amounts sufficient to cover the reasonable
3 costs of the development, establishment, and operation of the
4 program. The fees shall not exceed those costs.

5 (2) The division shall charge a fee not to exceed thirty dollars
6 (\$30) for the initial vessel operator card issued pursuant to
7 subdivision (b) of Section 678.

8 (3) The division shall charge a fee not to exceed ten dollars
9 (\$10) for a duplicate vessel operator card issued pursuant to
10 subdivision (b) of Section 678.

11 (b) In determining the amount of the fees imposed pursuant to
12 this section, the division shall establish, and consult with, a
13 technical advisory group consisting of interested persons, including,
14 but not limited to, representatives of the boating community. The
15 deputy director shall appoint the members of the advisory group.

16 (c) The fees collected pursuant to this section shall be deposited
17 in the Vessel Operator Certification Account, which is hereby
18 established within the Harbors and Watercraft Revolving Fund.

19 (d) The division may expend the moneys in the Vessel Operator
20 Certification Account, upon appropriation by the Legislature, for
21 purposes of implementing this article.

22 ~~SEC. 242.~~

23 *SEC. 242.* Section 1159.1 of the Harbors and Navigation Code
24 is repealed.

25 ~~SEC. 243.~~

26 *SEC. 243.* Section 1159.2 of the Harbors and Navigation Code
27 is amended to read:

28 1159.2. (a) The vessel shall pay a board operations surcharge,
29 the purpose of which is to fully compensate the board and the
30 Transportation Agency for the official services, staff services, and
31 incidental expenses of the board and agency. The amount of the
32 surcharge shall be 7.5 percent of all pilotage fees charged by pilots
33 pursuant to Sections 1190 and 1191 unless the board establishes,
34 with the approval of the Department of Finance, a lesser
35 percentage, not to exceed any percentage consistent with
36 subdivision (d).

37 (b) The surcharge shall be billed and collected by the pilots.
38 The pilots shall pay all surcharges collected by them to the board
39 monthly or at a later time that the board may direct.

1 (c) The board shall quarterly review its ongoing and anticipated
2 expenses and adjust the surcharge to reflect any changes that have
3 occurred since the last adjustment.

4 (d) The board operations surcharge shall not represent a
5 percentage significantly more than that required to support the
6 board and any costs of the Transportation Agency related to the
7 administration of the board pursuant to subdivision (a) in addition
8 to the maintenance of a reasonable reserve.

9 ~~SEC. 244.~~

10 *SEC. 244.* Section 6087 of the Harbors and Navigation Code
11 is amended to read:

12 6087. (a) (1) Notwithstanding the borrowing limit set forth
13 in Section 6084, the Oxnard Harbor District may borrow money
14 by issuance of promissory notes, or execute conditional sales
15 contracts to purchase personal property, in an amount or of a value
16 not exceeding in the aggregate at any one time the sum of ten
17 million dollars (\$10,000,000), for the purposes of acquiring land
18 for and constructing or operating any work, project, or facility
19 authorized by subdivision (d) of Section 6012 or Section 6075 or
20 for the making of improvements or the purchase of equipment or
21 for the maintenance thereof.

22 (2) All moneys borrowed pursuant to this section shall be
23 borrowed for a term not exceeding five years, and the
24 indebtednesses shall not accrue interest in excess of 12 percent
25 per annum. The indebtedness shall be authorized by a resolution
26 of the board of commissioners adopted by a two-thirds vote of the
27 members of the board.

28 (3) As a condition precedent to the borrowing of any money or
29 the execution of any conditional sales contract, as provided in this
30 section, in excess of one hundred thousand dollars (\$100,000), the
31 board shall first, by a two-thirds vote, approve by resolution and
32 have on file a report on the engineering and economic feasibility
33 relating to the project contemplated for the expenditure of the
34 borrowed money or conditional sales contract. The feasibility
35 report shall be prepared and signed by an engineer or engineers
36 licensed and registered under the laws of the state.

37 (4) The district shall budget, levy, and collect taxes and pay for
38 all indebtedness without limitation by any other provision of this
39 part.

1 (b) Subdivision (a) does not apply to any money borrowed from
2 any agency or department of the United States government or of
3 the state.

4 ~~SEC. 245.~~

5 *SEC. 245.* Section 442.5 of the Health and Safety Code is
6 amended to read:

7 442.5. (a) When a health care provider makes a diagnosis that
8 a patient has a terminal illness, the health care provider shall do
9 both of the following:

10 (1) Notify the patient of his or her right, or, when applicable,
11 the right of another person authorized to make health care decisions
12 for the patient, to comprehensive information and counseling
13 regarding legal end-of-life options. This notification may be
14 provided at the time of diagnosis or at a subsequent visit in which
15 the provider discusses treatment options with the patient or the
16 other authorized person.

17 (2) Upon the request of the patient or another person authorized
18 to make health care decisions for the patient, provide the patient
19 or other authorized person with comprehensive information and
20 counseling regarding legal end-of-life care options pursuant to this
21 section. When a terminally ill patient is in a health facility, as
22 defined in Section 1250, the health care provider, or medical
23 director of the health facility if the patient's health care provider
24 is not available, may refer the patient or other authorized person
25 to a hospice provider or private or public agencies and
26 community-based organizations that specialize in end-of-life care
27 case management and consultation to receive comprehensive
28 information and counseling regarding legal end-of-life care options.

29 (b) If a patient or another person authorized to make health care
30 decisions for the patient, requests information and counseling
31 pursuant to paragraph (2) of subdivision (a), the comprehensive
32 information shall include, but not be limited to, the following:

33 (1) Hospice care at home or in a health care setting.

34 (2) A prognosis with and without the continuation of
35 disease-targeted treatment.

36 (3) The patient's right to refusal of or withdrawal from
37 life-sustaining treatment.

38 (4) The patient's right to continue to pursue disease-targeted
39 treatment, with or without concurrent palliative care.

1 (5) The patient’s right to comprehensive pain and symptom
2 management at the end of life, including, but not limited to,
3 adequate pain medication, treatment of nausea, palliative
4 chemotherapy, relief of shortness of breath and fatigue, and other
5 clinical treatments useful when a patient is actively dying.

6 (6) The patient’s right to give individual health care instruction
7 pursuant to Section 4670 of the Probate Code, which provides the
8 means by which a patient may provide written health care
9 instruction, such as an advance health care directive, and the
10 patient’s right to appoint a legally recognized health care
11 decisionmaker.

12 (c) The information described in subdivision (b) may, but is not
13 required to, be in writing. Health care providers may utilize
14 information from organizations specializing in end-of-life care
15 that provide information on factsheets and Internet Web sites to
16 convey the information described in subdivision (b).

17 (d) Counseling may include, but is not limited to, discussions
18 about the outcomes for the patient and his or her family, based on
19 the interest of the patient. Information and counseling, as described
20 in subdivision (b), may occur over a series of meetings with the
21 health care provider or others who may be providing the
22 information and counseling based on the patient’s needs.

23 (e) The information and counseling sessions may include a
24 discussion of treatment options in a culturally sensitive manner
25 that the patient and his or her family, or, when applicable, another
26 person authorized to make health care decisions for the patient,
27 can easily understand. If the patient or other authorized person
28 requests information on the costs of treatment options, including
29 the availability of insurance and eligibility of the patient for
30 coverage, the patient or other authorized person shall be referred
31 to the appropriate entity for that information.

32 (f) The notification made pursuant to paragraph (1) of
33 subdivision (a) shall not be required if the patient or other person
34 authorized to make health care decisions, as defined in Section
35 4617 of the Probate Code, for the patient has already received the
36 notification.

37 (g) For purposes of this section, “health care decisions” has the
38 meaning set forth in Section 4617 of the Probate Code.

1 (h) This section shall not be construed to interfere with the
2 clinical judgment of a health care provider in recommending the
3 course of treatment.

4 *SEC. 246. Section 1255 of the Health and Safety Code is*
5 *amended to read:*

6 1255. (a) In addition to the basic services offered under the
7 license, a general acute care hospital may be approved in
8 accordance with subdivision (c) of Section 1277 to offer special
9 services, including, but not limited to, the following:

- 10 (1) Radiation therapy department.
- 11 (2) Burn center.
- 12 (3) Emergency center.
- 13 (4) Hemodialysis center (or unit).
- 14 (5) Psychiatric.
- 15 (6) Intensive care newborn nursery.
- 16 (7) Cardiac surgery.
- 17 (8) Cardiac catheterization laboratory.
- 18 (9) Renal transplant.
- 19 (10) Other special services as the department may prescribe by
20 regulation.

21 (b) A general acute care hospital that exclusively provides acute
22 medical rehabilitation center services may be approved in
23 accordance with subdivision (b) of Section 1277 to offer special
24 services not requiring surgical facilities.

25 (c) The department shall adopt standards for special services
26 and other regulations as may be necessary to implement this
27 section.

28 (d) (1) For cardiac catheterization laboratory service, the
29 department shall, at a minimum, adopt standards and regulations
30 that specify that only diagnostic services, and what diagnostic
31 services, may be offered by a general acute care hospital or a
32 multispecialty clinic as defined in subdivision (l) of Section 1206
33 that is approved to provide cardiac catheterization laboratory
34 service but is not also approved to provide cardiac surgery service,
35 together with the conditions under which the cardiac catheterization
36 laboratory service may be offered.

37 (2) Except as provided in paragraph (3), a cardiac catheterization
38 laboratory service shall be located in a general acute care hospital
39 that is either licensed to perform cardiovascular procedures
40 requiring extracorporeal coronary artery bypass that meets all of

1 the applicable licensing requirements relating to staff, equipment,
2 and space for service, or shall, at a minimum, have a licensed
3 intensive care service and coronary care service and maintain a
4 written agreement for the transfer of patients to a general acute
5 care hospital that is licensed for cardiac surgery or shall be located
6 in a multispecialty clinic as defined in subdivision (l) of Section
7 1206. The transfer agreement shall include protocols that will
8 minimize the need for duplicative cardiac catheterizations at the
9 hospital in which the cardiac surgery is to be performed.

10 (3) Commencing March 1, 2013, a general acute care hospital
11 that has applied for program flexibility on or before July 1, 2012,
12 to expand cardiac catheterization laboratory services may utilize
13 cardiac catheterization space that is in conformance with applicable
14 building code standards, including those promulgated by the Office
15 of Statewide Health Planning and Development, provided that all
16 of the following conditions are met:

17 (A) The expanded laboratory space is located in the building
18 so that the space is connected to the general acute care hospital by
19 an enclosed all-weather passageway that is accessible by staff and
20 patients who are accompanied by staff.

21 (B) The service performs cardiac catheterization services on no
22 more than 25 percent of the hospital's inpatients who need cardiac
23 catheterizations.

24 (C) The service complies with the same policies and procedures
25 approved by hospital medical staff for cardiac catheterization
26 laboratories that are located within the general acute care hospital,
27 and the same standards and regulations prescribed by the
28 department for cardiac catheterization laboratories located inside
29 general acute care hospitals, including, but not limited to,
30 appropriate nurse-to-patient ratios under Section 1276.4, and with
31 all standards and regulations prescribed by the Office of Statewide
32 Health Planning and Development. Emergency regulations
33 allowing a general acute care hospital to operate a cardiac
34 catheterization laboratory service shall be adopted by the
35 department and by the Office of Statewide Health Planning and
36 Development by February 28, 2013.

37 (D) Emergency regulations implementing this paragraph have
38 been adopted by the department and by the Office of Statewide
39 Health Planning and Development by February 28, 2013.

1 (E) This paragraph shall not apply to more than two general
2 acute care hospitals.

3 (4) After March 1, 2014, an acute care hospital may only operate
4 a cardiac catheterization laboratory service pursuant to paragraph
5 (3) if the department and the Office of Statewide Health Planning
6 and Development have adopted regulations in accordance with the
7 requirements of Chapter 3.5 (commencing with Section 11340) of
8 Part 1 of Division 3 of Title 2 of the Government Code that provide
9 adequate protection to patient health and safety including, but not
10 limited to, building standards contained in Part 2.5 (commencing
11 with Section 18901) of Division 13.

12 (5) Notwithstanding Section 129885, cardiac catheterization
13 laboratory services expanded in accordance with paragraph (3)
14 shall be subject to all applicable building standards. The Office of
15 Statewide Health Planning and Development shall review the
16 services for compliance with the OSHPD 3 requirements of the
17 most recent version of the California Building Standards Code.

18 (e) For purposes of this section, “multispecialty clinic,” as
19 defined in subdivision (l) of Section 1206, includes an entity in
20 which the multispecialty clinic holds at least a 50-percent general
21 partner interest and maintains responsibility for the management
22 of the service, if all of the following requirements are met:

23 (1) The multispecialty clinic existed as of March 1, 1983.

24 (2) Prior to March 1, 1985, the multispecialty clinic did not
25 offer cardiac catheterization services, dynamic multiplane imaging,
26 or other types of coronary or similar angiography.

27 (3) The multispecialty clinic creates only one entity that operates
28 its service at one site.

29 (4) These entities shall have the equipment and procedures
30 necessary for the stabilization of patients in emergency situations
31 prior to transfer and patient transfer arrangements in emergency
32 situations that shall be in accordance with the standards established
33 by the Emergency Medical Services Authority, including the
34 availability of comprehensive care and the qualifications of any
35 general acute care hospital expected to provide emergency
36 treatment.

37 (f) Except as provided in this section and in Sections ~~128525~~
38 ~~and 128530~~, 100921 and 100922, under no circumstances shall
39 cardiac catheterizations be performed outside of a general acute
40 care hospital or a multispecialty clinic, as defined in subdivision

1 (I) of Section 1206, that qualifies for this definition as of March
2 1, 1983.

3 ~~SEC. 246.~~

4 *SEC. 247.* Section 1317.5 of the Health and Safety Code, as
5 amended by Section 92 of Chapter 886 of the Statutes of 1989, is
6 repealed.

7 ~~SEC. 247.~~

8 *SEC. 248.* Section 1339.9 of the Health and Safety Code, as
9 added by Section 1 of Chapter 716 of the Statutes of 1998, is
10 amended and renumbered to read:

11 1339.10. (a) The department may request and maintain
12 employment information for nurse assistants and direct care staff
13 of intermediate care facilities/developmentally disabled, other than
14 state-operated intermediate care facilities/developmentally disabled
15 that secure criminal record clearances for employees through
16 another method, intermediate care facilities/developmentally
17 disabled-habilitative, or intermediate care
18 facilities/developmentally disabled-nursing.

19 (b) Within five working days of receipt of a criminal record or
20 information from the Department of Justice pursuant to Section
21 1338.5, the department shall notify the licensee and applicant of
22 any criminal convictions.

23 (c) The department shall conduct a feasibility study to assess
24 the additional technology requirements necessary to include
25 previous and current employment information on its registry and
26 to make that information available to potential employers. The
27 department shall report to the Legislature by July 1, 2000, as to
28 the results of the study.

29 ~~SEC. 248.~~

30 *SEC. 249.* Section 1347.5 of the Health and Safety Code is
31 amended to read:

32 1347.5. (a) A health care service plan providing individual
33 coverage in the Exchange shall cooperate with requests from the
34 Exchange to collaborate in the development of, and participate in
35 the implementation of, the Medi-Cal program's premium and
36 cost-sharing payments under Sections 14102 and 14148.65 of the
37 Welfare and Institutions Code for eligible Exchange enrollees.

38 (b) A health care service plan providing individual coverage in
39 the Exchange shall not charge, bill, ask, or require an enrollee
40 receiving benefits under Section 14102 or 14148.65 of the Welfare

1 and Institutions Code to make any premium or cost-sharing
2 payments for any services that are subject to premium or
3 cost-sharing payments by the State Department of Health Care
4 Services under Section 14102 or 14148.65 of the Welfare and
5 Institutions Code.

6 (c) For purposes of this section, “Exchange” means the
7 California Health Benefit Exchange established pursuant to Title
8 22 (commencing with Section 100500) of the Government Code.

9 ~~SEC. 249.~~

10 ~~SEC. 250.~~ Section 1357.504 of the Health and Safety Code is
11 amended to read:

12 1357.504. (a) With respect to small employer health care
13 service plan contracts offered outside the Exchange, after a small
14 employer submits a completed application form for a plan contract,
15 the health care service plan shall, within 30 days, notify the
16 employer of the employer’s actual premium charges for that plan
17 contract established in accordance with Section 1357.512. The
18 employer shall have 30 days in which to exercise the right to buy
19 coverage at the quoted premium charges.

20 (b) Except as provided in subdivision (c), when a small employer
21 submits a premium payment, based on the quoted premium charges,
22 and that payment is delivered or postmarked, whichever occurs
23 earlier, within the first 15 days of the month, coverage under the
24 plan contract shall become effective no later than the first day of
25 the following month. When that payment is neither delivered nor
26 postmarked until after the 15th day of a month, coverage shall
27 become effective no later than the first day of the second month
28 following delivery or postmark of the payment.

29 (c) (1) With respect to a small employer health care service
30 plan contract offered through the Exchange, a plan shall apply
31 coverage effective dates consistent with those required under
32 Section 155.720 of Title 45 of the Code of Federal Regulations
33 and of subdivision (e) of Section 1399.849.

34 (2) With respect to a small employer health care service plan
35 contract offered outside the Exchange for which an individual
36 applies during a special enrollment period described in subdivision
37 (b) of Section 1357.503, the following provisions shall apply:

38 (A) Coverage under the plan contract shall become effective no
39 later than the first day of the first calendar month beginning after
40 the date the plan receives the request for special enrollment.

1 (B) Notwithstanding subparagraph (A), in the case of a birth,
2 adoption, or placement for adoption, coverage under the plan
3 contract shall become effective on the date of birth, adoption, or
4 placement for adoption.

5 (d) During the first 30 days after the effective date of the plan
6 contract, the small employer shall have the option of changing
7 coverage to a different plan contract offered by the same health
8 care service plan. If a small employer notifies the plan of the
9 change within the first 15 days of a month, coverage under the
10 new plan contract shall become effective no later than the first day
11 of the following month. If a small employer notifies the plan of
12 the change after the 15th day of a month, coverage under the new
13 plan contract shall become effective no later than the first day of
14 the second month following notification.

15 (e) All eligible employees and dependents listed on a small
16 employer’s completed application shall be covered on the effective
17 date of the health benefit plan.

18 ~~SEC. 250.~~

19 *SEC. 251.* Section 1358.18 of the Health and Safety Code is
20 amended to read:

21 1358.18. In the interest of full and fair disclosure, and to ensure
22 the availability of necessary consumer information to potential
23 subscribers or enrollees not possessing a special knowledge of
24 Medicare, health care service plans, or Medicare supplement
25 contracts, an issuer shall comply with the following provisions:

26 (a) Application forms shall include the following questions
27 designed to elicit information as to whether, as of the date of the
28 application, the applicant currently has Medicare supplement,
29 Medicare Advantage, Medi-Cal coverage, or another health
30 insurance policy or certificate or plan contract in force or whether
31 a Medicare supplement contract is intended to replace any other
32 disability policy or certificate, or plan contract, presently in force.
33 A supplementary application or other form to be signed by the
34 applicant and solicitor containing those questions and statements
35 may be used.

36

“(Statements)”

37

38

39 (1) You do not need more than one Medicare supplement policy
40 or contract.

1 (2) If you purchase this contract, you may want to evaluate your
2 existing health coverage and decide if you need multiple coverages.

3 (3) You may be eligible for benefits under Medi-Cal or Medicaid
4 and may not need a Medicare supplement contract.

5 (4) If, after purchasing this contract, you become eligible for
6 Medi-Cal, the benefits and premiums under your Medicare
7 supplement contract can be suspended, if requested, during your
8 entitlement to benefits under Medi-Cal or Medicaid for 24 months.
9 You must request this suspension within 90 days of becoming
10 eligible for Medi-Cal or Medicaid. If you are no longer entitled to
11 Medi-Cal or Medicaid, your suspended Medicare supplement
12 contract or, if that is no longer available, a substantially equivalent
13 contract, will be reinstated if requested within 90 days of losing
14 Medi-Cal or Medicaid eligibility. If the Medicare supplement
15 contract provided coverage for outpatient prescription drugs and
16 you enrolled in Medicare Part D while your contract was
17 suspended, the reinstated contract will not have outpatient
18 prescription drug coverage, but will otherwise be substantially
19 equivalent to your coverage before the date of the suspension.

20 (5) If you are eligible for, and have enrolled in, a Medicare
21 supplement contract by reason of disability and you later become
22 covered by an employer or union-based group health plan, the
23 benefits and premiums under your Medicare supplement contract
24 can be suspended, if requested, while you are covered under the
25 employer or union-based group health plan. If you suspend your
26 Medicare supplement contract under these circumstances and later
27 lose your employer or union-based group health plan, your
28 suspended Medicare supplement contract or, if that is no longer
29 available, a substantially equivalent contract, will be reinstated
30 if requested within 90 days of losing your employer or union-based
31 group health plan. If the Medicare supplement contract provided
32 coverage for outpatient prescription drugs and you enrolled in
33 Medicare Part D while your contract was suspended, the
34 reinstated contract will not have outpatient prescription drug
35 coverage, but will otherwise be substantially equivalent to your
36 coverage before the date of the suspension.

37 (6) Counseling services are available in this state to provide
38 advice concerning your purchase of Medicare supplement coverage
39 and concerning medical assistance through the Medi-Cal or
40 Medicaid Program, including benefits as a qualified Medicare

1 beneficiary (QMB) and a specified low-income Medicare
2 beneficiary (SLMB). Information regarding counseling services
3 may be obtained from the California Department of Aging.

4
5
6

(Questions)

7 If you lost or are losing other health insurance coverage and
8 received a notice from your prior insurer saying you were eligible
9 for guaranteed issue of a Medicare supplement insurance contract
10 or that you had certain rights to buy such a contract, you may be
11 guaranteed acceptance in one or more of our Medicare supplement
12 plans. Please include a copy of the notice from your prior insurer
13 with your application. PLEASE ANSWER ALL QUESTIONS.

14 [Please mark Yes or No below with an "X."]

15 To the best of your knowledge,

16 (1) (a) Did you turn 65 years of age in the last 6 months

17 Yes ___ No ___

18 (b) Did you enroll in Medicare Part B in the last 6 months

19 Yes ___ No ___

20 (c) If yes, what is the effective date _____

21 (2) Are you covered for medical assistance through California's
22 Medi-Cal program

23 NOTE TO APPLICANT: If you have a share of cost under the
24 Medi-Cal program, please answer NO to this question.

25 Yes ___ No ___

26 If yes,

27 (a) Will Medi-Cal pay your premiums for this Medicare
28 supplement contract

29 Yes ___ No ___

30 (b) Do you receive benefits from Medi-Cal OTHER THAN
31 payments toward your Medicare Part B premium

32 Yes ___ No ___

33 (3) (a) If you had coverage from any Medicare plan other than
34 original Medicare within the past 63 days (for example, a Medicare
35 Advantage plan or a Medicare HMO or PPO), fill in your start and
36 end dates below. If you are still covered under this plan, leave
37 "END" blank.

38 START ___/___/___ END ___/___/___

1 (b) If you are still covered under the Medicare plan, do you
2 intend to replace your current coverage with this new Medicare
3 supplement contract

4 Yes___ No___

5 (c) Was this your first time in this type of Medicare plan

6 Yes___ No___

7 (d) Did you drop a Medicare supplement contract to enroll in
8 the Medicare plan

9 Yes___ No___

10 (4) (a) Do you have another Medicare supplement policy or
11 certificate or contract in force

12 Yes___ No___

13 (b) If so, with what company, and what plan do you have
14 [optional for Direct Mailers]

15 Yes___ No___

16 (c) If so, do you intend to replace your current Medicare
17 supplement policy or certificate or contract with this contract

18 Yes___ No___

19 (5) Have you had coverage under any other health insurance
20 within the past 63 days (For example, an employer, union, or
21 individual plan)

22 Yes___ No___

23 (a) If so, with what companies and what kind of policy

24 _____
25 _____
26 _____
27 _____

28 (b) What are your dates of coverage under the other policy

29 START __/__/__ END __/__/__

30 (If you are still covered under the other policy, leave “END”
31 blank).”

32

33 (b) Solicitors shall list any other health insurance policies or
34 plan contracts they have sold to the applicant as follows:

35 (1) List policies and contracts sold that are still in force.

36 (2) List policies and contracts sold in the past five years that
37 are no longer in force.

38 (c) An issuer issuing Medicare supplement contracts without a
39 solicitor or solicitor firm (a direct response issuer) shall return to
40 the applicant, upon delivery of the contract, a copy of the

1 application or supplemental forms, signed by the applicant and
2 acknowledged by the issuer.

3 (d) Upon determining that a sale will involve replacement of
4 Medicare supplement coverage, an issuer, other than a direct
5 response issuer, or its agent, shall furnish the applicant, prior to
6 issuance for delivery of the Medicare supplement contract, a notice
7 regarding replacement of Medicare supplement coverage. One
8 copy of the notice signed by the applicant and the agent, except
9 where the coverage is sold without an agent, shall be provided to
10 the applicant and an additional signed copy shall be retained by
11 the issuer. A direct response issuer shall deliver to the applicant
12 at the time of the issuance of the contract the notice regarding
13 replacement of Medicare supplement coverage.

14 (e) The notice required by subdivision (d) for an issuer shall be
15 provided in substantially the following form in no less than
16 12-point type:

17
18 NOTICE TO APPLICANT REGARDING REPLACEMENT
19 OF MEDICARE SUPPLEMENT COVERAGE OR MEDICARE
20 ADVANTAGE
21

22
23 (Company name and address)
24

25 SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN
26 THE FUTURE
27

28 According to [your application] [information you have
29 furnished], you intend to lapse or otherwise terminate an existing
30 Medicare supplement policy or contract or Medicare Advantage
31 plan and replace it with a contract to be issued by [Plan Name].
32 Your contract to be issued by [Plan Name] will provide 30 days
33 within which you may decide without cost whether you desire to
34 keep the contract. You should review this new coverage carefully.
35 Compare it with all accident and sickness coverage you now have.
36 Terminate your present policy or contract only if, after due
37 consideration, you find that purchase of this Medicare supplement
38 coverage is a wise decision.
39

1 STATEMENT TO APPLICANT BY PLAN, SOLICITOR,
2 SOLICITOR FIRM, OR OTHER REPRESENTATIVE:

3 (1) I have reviewed your current medical or health coverage.
4 To the best of my knowledge, the replacement of coverage involved
5 in this transaction does not duplicate coverage or, if applicable,
6 Medicare Advantage coverage because you intend to terminate
7 your existing Medicare supplement coverage or leave your
8 Medicare Advantage plan. The replacement contract is being
9 purchased for the following reason (check one):

- 10 Additional benefits.
- 11 No change in benefits, but lower premiums or charges.
- 12 Fewer benefits and lower premiums or charges.
- 13 Plan has outpatient prescription drug coverage and applicant
14 is enrolled in Medicare Part D.
- 15 Disenrollment from a Medicare Advantage plan. Reasons for
16 disenrollment:
- 17 Other. (please specify) _____.

18 (2) If the issuer of the Medicare supplement contract being
19 applied for does not impose, or is otherwise prohibited from
20 imposing, preexisting condition limitations, please skip to statement
21 3 below. Health conditions that you may presently have
22 (preexisting conditions) may not be immediately or fully covered
23 under the new contract. This could result in denial or delay of a
24 claim for benefits under the new contract, whereas a similar claim
25 might have been payable under your present contract.

26 (3) State law provides that your replacement Medicare
27 supplement contract may not contain new preexisting conditions,
28 waiting periods, elimination periods, or probationary periods. The
29 plan will waive any time periods applicable to preexisting
30 conditions, waiting periods, elimination periods, or probationary
31 periods in the new coverage for similar benefits to the extent that
32 time was spent (depleted) under the original contract.

33 (4) If you still wish to terminate your present policy or contract
34 and replace it with new coverage, be certain to truthfully and
35 completely answer any and all questions on the application
36 concerning your medical and health history. Failure to include all
37 material medical information on an application requesting that
38 information may provide a basis for the plan to deny any future
39 claims and to refund your prepaid or periodic payment as though
40 your contract had never been in force. After the application has

1 been completed and before you sign it, review it carefully to be
2 certain that all information has been properly recorded.

3 (5) Do not cancel your present Medicare supplement coverage
4 until you have received your new contract and are sure you want
5 to keep it.

6
7 _____
8 (Signature of Solicitor, Solicitor Firm, or Other Representative)
9 [Typed Name and Address of Plan, Solicitor, or Solicitor Firm]

10 _____
11 (Applicant's Signature)

12 _____
13 (Date)

14
15

16 (f) The application form or other consumer information for
17 persons eligible for Medicare and used by an issuer shall contain,
18 as an attachment, a Medicare supplement buyer's guide in the form
19 approved by the director. The application or other consumer
20 information, containing, as an attachment, the buyer's guide, shall
21 be mailed or delivered to each applicant applying for that coverage
22 at or before the time of application and, to establish compliance
23 with this subdivision, the issuer shall obtain an acknowledgment
24 of receipt of the attached buyer's guide from each applicant. No
25 issuer shall make use of or otherwise disseminate any buyer's
26 guide that does not accurately outline current Medicare supplement
27 benefits. No issuer shall be required to provide more than one copy
28 of the buyer's guide to any applicant.

29 (g) An issuer may comply with the requirement of this section
30 in the case of group contracts by causing the subscriber (1) to
31 disseminate copies of the disclosure form containing as an
32 attachment the buyer's guide to all persons eligible under the group
33 contract at the time those persons are offered the Medicare
34 supplement plan, and (2) collecting and forwarding to the issuer
35 an acknowledgment of receipt of the disclosure form containing,
36 as an attachment, the buyer's guide from each enrollee.

37 (h) An issuer shall not require, request, or obtain health
38 information as part of the application process for an applicant who
39 is eligible for guaranteed issuance of, or open enrollment for, any
40 Medicare supplement coverage pursuant to Section 1358.11 or

1 1358.12, except for purposes of paragraph (1) or (2) of subdivision
2 (a) of Section 1358.11 when the applicant is first enrolled in
3 Medicare Part B. The application form shall include a clear and
4 conspicuous statement that the applicant is not required to provide
5 health information during a period where guaranteed issue or open
6 enrollment applies, as specified in Section 1358.11 or 1358.12,
7 except for purposes of paragraph (1) or (2) of subdivision (a) of
8 Section 1358.11 when the applicant is first enrolled in Medicare
9 Part B, and shall inform the applicant of those periods of
10 guaranteed issuance of Medicare supplement coverage. This
11 subdivision does not prohibit an issuer from requiring proof of
12 eligibility for a guaranteed issuance of Medicare supplement
13 coverage.

14 ~~SEC. 251.~~

15 *SEC. 252.* Section 1367.004 of the Health and Safety Code is
16 amended to read:

17 1367.004. (a) A health care service plan that issues, sells,
18 renews, or offers a specialized health care service plan contract
19 covering dental services shall, no later than September 30, 2015,
20 and each year thereafter, file a report, which shall be known as the
21 MLR annual report, with the department that is organized by
22 market and product type and contains the same information
23 required in the 2013 federal Medical Loss Ratio (MLR) Annual
24 Reporting Form (CMS-10418).

25 (b) The MLR reporting year shall be for the calendar year during
26 which dental coverage is provided by the plan. All terms used in
27 the MLR annual report shall have the same meaning as used in the
28 federal Public Health Service Act (42 U.S.C. Sec. 300gg-18), Part
29 158 (commencing with Section 158.101) of Title 45 of the Code
30 of Federal Regulations, and Section 1367.003.

31 (c) If the director decides to conduct a financial examination,
32 as described in Section 1382, because the director finds it necessary
33 to verify the health care service plan's representations in the MLR
34 annual report, the department shall provide the health care service
35 plan with a notification 30 days before the commencement of the
36 financial examination.

37 (d) The health care service plan shall have 30 days from the
38 date of notification to electronically submit to the department all
39 requested records, books, and papers specified in subdivision (a)
40 of Section 1381. The director may extend the time for a health

1 care service plan to comply with this subdivision upon a finding
 2 of good cause.

3 (e) The department shall make available to the public all of the
 4 data provided to the department pursuant to this section.

5 (f) This section does not apply to a health care service plan
 6 contract issued, sold, renewed, or offered for health care services
 7 or coverage provided in the Medi-Cal program (Chapter 7
 8 (commencing with Section 14000) of Part 3 of Division 9 of the
 9 Welfare and Institutions Code), the Healthy Families Program
 10 (Part 6.2 (commencing with Section 12693) of Division 2 of the
 11 Insurance Code), the Access for Infants and Mothers Program
 12 (Part 6.3 (commencing with Section 12695) of Division 2 of the
 13 Insurance Code), the California Major Risk Medical Insurance
 14 Program (Part 6.5 (commencing with Section 12700) of Division
 15 2 of the Insurance Code), or the Federal Temporary High Risk
 16 Insurance Pool (Part 6.6 (commencing with Section 12739.5) of
 17 Division 2 of the Insurance Code), to the extent consistent with
 18 the federal Patient Protection and Affordable Care Act (Public
 19 Law 111-148).

20 (g) It is the intent of the Legislature that the data reported
 21 pursuant to this section be considered by the Legislature in adopting
 22 a medical loss ratio standard for health care service plans that cover
 23 dental services that would take effect no later than January 1, 2018.

24 (h) Until January 1, 2018, the director may issue guidance to
 25 health care service plans subject to this section regarding
 26 compliance with this section. This guidance shall not be subject
 27 to the Administrative Procedure Act (Chapter 3.5 (commencing
 28 with Section 11340) of Part 1 of Division 3 of Title 2 of the
 29 Government Code). Any guidance issued pursuant to this
 30 subdivision shall be effective only until the director adopts
 31 regulations pursuant to the Administrative Procedure Act. The
 32 department shall consult with the Department of Insurance in
 33 issuing guidance pursuant to this subdivision.

34 ~~SEC. 252.~~

35 *SEC. 253.* Section 1367.035 of the Health and Safety Code is
 36 amended to read:

37 1367.035. (a) As part of the reports submitted to the
 38 department pursuant to subdivision (f) of Section 1367.03 and
 39 regulations adopted pursuant to that section, a health care service
 40 plan shall submit to the department, in a manner specified by the

1 department, data regarding network adequacy, including, but not
2 limited to, the following:

3 (1) Provider office location.

4 (2) Area of specialty.

5 (3) Hospitals where providers have admitting privileges, if any.

6 (4) Providers with open practices.

7 (5) The number of patients assigned to a primary care provider
8 or, for providers who do not have assigned enrollees, information
9 that demonstrates the capacity of primary care providers to be
10 accessible and available to enrollees.

11 (6) Grievances regarding network adequacy and timely access
12 that the health care service plan received during the preceding
13 calendar year.

14 (b) A health care service plan that uses a network for its
15 Medi-Cal managed care product line that is different from the
16 network used for its other product lines shall submit the data
17 required under subdivision (a) for its Medi-Cal managed care
18 product line separately from the data submitted for its other product
19 lines.

20 (c) A health care service plan that uses a network for its
21 individual market product line that is different from the network
22 used for its small group market product line shall submit the data
23 required under subdivision (a) for its individual market product
24 line separate from the data submitted for its small group market
25 product line.

26 (d) The department shall review the data submitted pursuant to
27 this section for compliance with this chapter.

28 (e) In submitting data under this section, a health care service
29 plan that provides services to Medi-Cal beneficiaries pursuant to
30 Chapter 7 (commencing with Section 14000) or Chapter 8
31 (commencing with Section 14200) of Part 3 of Division 9 of the
32 Welfare and Institutions Code shall provide the same data to the
33 State Department of Health Care Services pursuant to Section
34 14456.3 of the Welfare and Institutions Code.

35 (f) In developing the format and requirements for reports, data,
36 or other information provided by plans pursuant to subdivision
37 (a), the department shall not create duplicate reporting
38 requirements, but, instead, shall take into consideration all existing
39 relevant reports, data, or other information provided by plans to
40 the department. This subdivision does not limit the authority of

1 the department to request additional information from the plan as
2 deemed necessary to carry out and complete any enforcement
3 action initiated under this chapter.

4 (g) If the department requests additional information or data to
5 be reported pursuant to subdivision (a), which is different or in
6 addition to the information required to be reported in paragraphs
7 (1) to (6), inclusive, of subdivision (a), the department shall provide
8 health care service plans notice of that change by November 1 of
9 the year prior to the change.

10 (h) A health care service plan may include in the provider
11 contract provisions requiring compliance with the reporting
12 requirements of Section 1367.03 and this section.

13 ~~SEC. 253.~~

14 *SEC. 254.* Section 1367.20 of the Health and Safety Code, as
15 added by Section 2 of Chapter 68 of the Statutes of 1998, is
16 repealed.

17 ~~SEC. 254.~~

18 *SEC. 255.* Section 1367.25 of the Health and Safety Code is
19 amended to read:

20 1367.25. (a) A group health care service plan contract, except
21 for a specialized health care service plan contract, that is issued,
22 amended, renewed, or delivered on or after January 1, 2000,
23 through December 31, 2015, inclusive, and an individual health
24 care service plan contract that is amended, renewed, or delivered
25 on or after January 1, 2000, through December 31, 2015, inclusive,
26 except for a specialized health care service plan contract, shall
27 provide coverage for the following, under general terms and
28 conditions applicable to all benefits:

29 (1) A health care service plan contract that provides coverage
30 for outpatient prescription drug benefits shall include coverage for
31 a variety of federal Food and Drug Administration (FDA)-approved
32 prescription contraceptive methods designated by the plan. In the
33 event the patient's participating provider, acting within his or her
34 scope of practice, determines that none of the methods designated
35 by the plan is medically appropriate for the patient's medical or
36 personal history, the plan shall also provide coverage for another
37 FDA-approved, medically appropriate prescription contraceptive
38 method prescribed by the patient's provider.

1 (2) Benefits for an enrollee under this subdivision shall be the
2 same for an enrollee's covered spouse and covered nonspouse
3 dependents.

4 (b) (1) A health care service plan contract, except for a
5 specialized health care service plan contract, that is issued,
6 amended, renewed, or delivered on or after January 1, 2016, shall
7 provide coverage for all of the following services and contraceptive
8 methods for women:

9 (A) Except as provided in subparagraphs (B) and (C) of
10 paragraph (2), all FDA-approved contraceptive drugs, devices,
11 and other products for women, including all FDA-approved
12 contraceptive drugs, devices, and products available over the
13 counter, as prescribed by the enrollee's provider.

14 (B) Voluntary sterilization procedures.

15 (C) Patient education and counseling on contraception.

16 (D) Followup services related to the drugs, devices, products,
17 and procedures covered under this subdivision, including, but not
18 limited to, management of side effects, counseling for continued
19 adherence, and device insertion and removal.

20 (2) (A) Except for a grandfathered health plan, a health care
21 service plan subject to this subdivision shall not impose a
22 deductible, coinsurance, copayment, or any other cost-sharing
23 requirement on the coverage provided pursuant to this subdivision.
24 Cost sharing shall not be imposed on any Medi-Cal beneficiary.

25 (B) If the FDA has approved one or more therapeutic equivalents
26 of a contraceptive drug, device, or product, a health care service
27 plan is not required to cover all of those therapeutically equivalent
28 versions in accordance with this subdivision, as long as at least
29 one is covered without cost sharing in accordance with this
30 subdivision.

31 (C) If a covered therapeutic equivalent of a drug, device, or
32 product is not available, or is deemed medically inadvisable by
33 the enrollee's provider, a health care service plan shall provide
34 coverage, subject to a plan's utilization management procedures,
35 for the prescribed contraceptive drug, device, or product without
36 cost sharing. Any request by a contracting provider shall be
37 responded to by the health care service plan in compliance with
38 the Knox-Keene Health Care Service Plan Act of 1975, as set forth
39 in this chapter and, as applicable, with the plan's Medi-Cal
40 managed care contract.

1 (3) Except as otherwise authorized under this section, a health
2 care service plan shall not impose any restrictions or delays on the
3 coverage required under this subdivision.

4 (4) Benefits for an enrollee under this subdivision shall be the
5 same for an enrollee's covered spouse and covered nonspouse
6 dependents.

7 (5) For purposes of paragraphs (2) and (3) of this subdivision,
8 "health care service plan" shall include Medi-Cal managed care
9 plans that contract with the State Department of Health Care
10 Services pursuant to Chapter 7 (commencing with Section 14000)
11 and Chapter 8 (commencing with Section 14200) of Part 3 of
12 Division 9 of the Welfare and Institutions Code.

13 (c) Notwithstanding any other provision of this section, a
14 religious employer may request a health care service plan contract
15 without coverage for FDA-approved contraceptive methods that
16 are contrary to the religious employer's religious tenets. If so
17 requested, a health care service plan contract shall be provided
18 without coverage for contraceptive methods.

19 (1) For purposes of this section, a "religious employer" is an
20 entity for which each of the following is true:

21 (A) The inculcation of religious values is the purpose of the
22 entity.

23 (B) The entity primarily employs persons who share the
24 religious tenets of the entity.

25 (C) The entity serves primarily persons who share the religious
26 tenets of the entity.

27 (D) The entity is a nonprofit organization as described in
28 Section 6033(a)(3)(A)(i) or (iii) of the Internal Revenue Code of
29 1986, as amended.

30 (2) Every religious employer that invokes the exemption
31 provided under this section shall provide written notice to
32 prospective enrollees prior to enrollment with the plan, listing the
33 contraceptive health care services the employer refuses to cover
34 for religious reasons.

35 (d) This section shall not be construed to exclude coverage for
36 contraceptive supplies as prescribed by a provider, acting within
37 his or her scope of practice, for reasons other than contraceptive
38 purposes, such as decreasing the risk of ovarian cancer or
39 eliminating symptoms of menopause, or for contraception that is
40 necessary to preserve the life or health of an enrollee.

1 (e) This section shall not be construed to deny or restrict in any
2 way the department’s authority to ensure plan compliance with
3 this chapter when a plan provides coverage for contraceptive drugs,
4 devices, and products.

5 (f) This section shall not be construed to require an individual
6 or group health care service plan contract to cover experimental
7 or investigational treatments.

8 (g) For purposes of this section, the following definitions apply:

9 (1) “Grandfathered health plan” has the meaning set forth in
10 Section 1251 of PPACA.

11 (2) “PPACA” means the federal Patient Protection and
12 Affordable Care Act (Public Law 111-148), as amended by the
13 federal Health Care and Education Reconciliation Act of 2010
14 (Public Law 111-152), and any rules, regulations, or guidance
15 issued thereunder.

16 (3) With respect to health care service plan contracts issued,
17 amended, or renewed on or after January 1, 2016, “provider” means
18 an individual who is certified or licensed pursuant to Division 2
19 (commencing with Section 500) of the Business and Professions
20 Code, or an initiative act referred to in that division, or Division
21 2.5 (commencing with Section 1797) of this code.

22 ~~SEC. 255.~~

23 *SEC. 256.* Section 1368.05 of the Health and Safety Code is
24 amended to read:

25 1368.05. (a) (1) By enacting this section, which was originally
26 enacted by Assembly Bill 922 (Chapter 552 of the Statutes of
27 2011), the Legislature recognizes that, because of the enactment
28 of federal health care reform on March 23, 2010, and the
29 implementation of various provisions by January 1, 2014, and the
30 ongoing complexities of health care reform, it is appropriate to
31 transfer the direct consumer assistance activities that were newly
32 conferred on the Office of Patient Advocate to the Department of
33 Managed Health Care, and the Legislature recognizes that these
34 new duties are necessary to be carried out by the department in
35 partnership with community-based consumer assistance
36 organizations for the purposes of serving California’s health care
37 consumers.

38 (2) In addition to maintaining the toll-free telephone number
39 for the purpose of receiving complaints regarding health care
40 service plans as required in Section 1368.02, the department and

1 its contractors shall carry out these new responsibilities, which
2 include assisting consumers in navigating private and public health
3 care coverage and assisting consumers in determining the regulator
4 that regulates the health care coverage of a particular consumer.
5 In order to further assist in implementing health care reform, the
6 department and its contractors shall also receive and respond to
7 inquiries, complaints, and requests for assistance and education
8 concerning health care coverage available in California.

9 (b) (1) The department shall annually contract with
10 community-based organizations in furtherance of providing
11 assistance to consumers as described in subdivision (a), as
12 authorized by and in accordance with Section 19130 of the
13 Government Code.

14 (2) These organizations shall be community-based nonprofit
15 consumer assistance programs that shall include in their mission
16 the assistance of, and duty to, health care consumers.

17 (3) Contracting consumer assistance organizations shall have
18 experience in assisting consumers in navigating the local health
19 care system, advising consumers regarding their health care
20 coverage options, assisting consumers with problems in accessing
21 health care services, and serving consumers with special needs,
22 including, but not limited to, consumers with limited-English
23 language proficiency, consumers requiring culturally competent
24 services, low-income consumers, consumers with disabilities,
25 consumers with low literacy rates, and consumers with multiple
26 health conditions, including behavioral health. The organizations
27 shall also have experience with, and the capacity for, collecting
28 and reporting data regarding the consumers they assist, including
29 demographic data, source of coverage, regulator, type of problem
30 or issue, and resolution of complaints.

31 ~~SEC. 256.~~

32 *SEC. 257.* Section 1371.36 of the Health and Safety Code, as
33 added by Section 5 of Chapter 825 of the Statutes of 2000, is
34 repealed.

35 ~~SEC. 257.~~

36 *SEC. 258.* Section 1371.37 of the Health and Safety Code, as
37 added by Section 6 of Chapter 825 of the Statutes of 2000, is
38 repealed.

1 ~~SEC. 258.~~

2 *SEC. 259.* Section 1371.38 of the Health and Safety Code, as
3 added by Section 7 of Chapter 825 of the Statutes of 2000, is
4 repealed.

5 ~~SEC. 259.~~

6 *SEC. 260.* Section 1371.39 of the Health and Safety Code, as
7 added by Section 8 of Chapter 825 of the Statutes of 2000, is
8 repealed.

9 ~~SEC. 260.~~

10 *SEC. 261.* Section 1389.4 of the Health and Safety Code, as
11 amended by Section 9 of Chapter 2 of the First Extraordinary
12 Session of the Statutes of 2013, is amended to read:

13 1389.4. (a) A full service health care service plan that issues,
14 renews, or amends individual health plan contracts shall be subject
15 to this section.

16 (b) A health care service plan subject to this section shall have
17 written policies, procedures, or underwriting guidelines establishing
18 the criteria and process whereby the plan makes its decision to
19 provide or to deny coverage to individuals applying for coverage
20 and sets the rate for that coverage. These guidelines, policies, or
21 procedures shall ensure that the plan rating and underwriting
22 criteria comply with Sections 1365.5 and 1389.1 and all other
23 applicable provisions of state and federal law.

24 (c) On or before June 1, 2006, and annually thereafter, every
25 health care service plan shall file with the department a general
26 description of the criteria, policies, procedures, or guidelines the
27 plan uses for rating and underwriting decisions related to individual
28 health plan contracts, which means automatic declinable health
29 conditions, health conditions that may lead to a coverage decline,
30 height and weight standards, health history, health care utilization,
31 lifestyle, or behavior that might result in a decline for coverage or
32 severely limit the plan products for which they would be eligible.
33 A plan may comply with this section by submitting to the
34 department underwriting materials or resource guides provided to
35 plan solicitors or solicitor firms, provided that those materials
36 include the information required to be submitted by this section.

37 (d) Commencing January 1, 2011, the director shall post on the
38 department's Internet Web site, in a manner accessible and
39 understandable to consumers, general, noncompany specific
40 information about rating and underwriting criteria and practices

1 in the individual market and information about the California Major
2 Risk Medical Insurance Program (Part 6.5 (commencing with
3 Section 12700) of Division 2 of the Insurance Code) and the federal
4 temporary high risk pool established pursuant to Part 6.6
5 (commencing with Section 12739.5) of Division 2 of the Insurance
6 Code. The director shall develop the information for the Internet
7 Web site in consultation with the Department of Insurance to
8 enhance the consistency of information provided to consumers.
9 Information about individual health coverage shall also include
10 the following notification:

11 “Please examine your options carefully before declining group
12 coverage or continuation coverage, such as COBRA, that may be
13 available to you. You should be aware that companies selling
14 individual health insurance typically require a review of your
15 medical history that could result in a higher premium or you could
16 be denied coverage entirely.”

17 (e) This section does not authorize public disclosure of company
18 specific rating and underwriting criteria and practices submitted
19 to the director.

20 (f) This section does not apply to a closed block of business, as
21 defined in Section 1367.15.

22 (g) (1) This section shall become inoperative on November 1,
23 2013, or the 91st calendar day following the adjournment of the
24 2013–14 First Extraordinary Session, whichever date is later.

25 (2) If Section 5000A of the Internal Revenue Code, as added
26 by Section 1501 of PPACA, is repealed or amended to no longer
27 apply to the individual market, as defined in Section 2791 of the
28 federal Public Health Service Act (42 U.S.C. Sec. 300gg-91), this
29 section shall become operative 12 months after the date of that
30 repeal or amendment.

31 ~~SEC. 261.~~

32 *SEC. 262.* Section 1389.4 of the Health and Safety Code, as
33 added by Section 10 of Chapter 2 of the First Extraordinary Session
34 of the Statutes of 2013, is amended to read:

35 1389.4. (a) A full service health care service plan that renews
36 individual grandfathered health benefit plans shall be subject to
37 this section.

38 (b) A health care service plan subject to this section shall have
39 written policies, procedures, or underwriting guidelines establishing
40 the criteria and process whereby the plan makes its decision to

1 provide or to deny coverage to dependents applying for an
2 individual grandfathered health plan and sets the rate for that
3 coverage. These guidelines, policies, or procedures shall ensure
4 that the plan rating and underwriting criteria comply with Sections
5 1365.5 and 1389.1 and all other applicable provisions of state and
6 federal law.

7 (c) On or before the June 1 next following the operative date of
8 this section, and annually thereafter, every health care service plan
9 shall file with the department a general description of the criteria,
10 policies, procedures, or guidelines the plan uses for rating and
11 underwriting decisions related to individual grandfathered health
12 plans, which means automatic declinable health conditions, health
13 conditions that may lead to a coverage decline, height and weight
14 standards, health history, health care utilization, lifestyle, or
15 behavior that might result in a decline for coverage or severely
16 limit the plan products for which they would be eligible. A plan
17 may comply with this section by submitting to the department
18 underwriting materials or resource guides provided to plan
19 solicitors or solicitor firms, provided that those materials include
20 the information required to be submitted by this section.

21 (d) This section does not authorize public disclosure of company
22 specific rating and underwriting criteria and practices submitted
23 to the director.

24 (e) For purposes of this section, the following definitions shall
25 apply:

26 (1) “PPACA” means the federal Patient Protection and
27 Affordable Care Act (Public Law 111-148), as amended by the
28 federal Health Care and Education Reconciliation Act of 2010
29 (Public Law 111-152), and any rules, regulations, or guidance
30 issued pursuant to that law.

31 (2) “Grandfathered health plan” has the same meaning as that
32 term is defined in Section 1251 of PPACA.

33 (f) (1) This section shall become operative on November 1,
34 2013, or the 91st calendar day following the adjournment of the
35 2013–14 First Extraordinary Session, whichever date is later.

36 (2) If Section 5000A of the Internal Revenue Code, as added
37 by Section 1501 of PPACA, is repealed or amended to no longer
38 apply to the individual market, as defined in Section 2791 of the
39 federal Public Health Service Act (42 U.S.C. Sec. 300gg-91), this

1 section shall become inoperative 12 months after the date of that
2 repeal or amendment.

3 ~~SEC. 262.~~

4 *SEC. 263.* Section 1389.5 of the Health and Safety Code is
5 amended to read:

6 1389.5. (a) This section applies to a health care service plan
7 that provides coverage under an individual plan contract that is
8 issued, amended, delivered, or renewed on or after January 1, 2007.

9 (b) At least once each year, the health care service plan shall
10 permit an individual who has been covered for at least 18 months
11 under an individual plan contract to transfer, without medical
12 underwriting, to any other individual plan contract offered by that
13 same health care service plan that provides equal or lesser benefits,
14 as determined by the plan.

15 “Without medical underwriting” means that the health care
16 service plan shall not decline to offer coverage to, or deny
17 enrollment of, the individual or impose any preexisting condition
18 exclusion on the individual who transfers to another individual
19 plan contract pursuant to this section.

20 (c) The plan shall establish, for the purposes of subdivision (b),
21 a ranking of the individual plan contracts it offers to individual
22 purchasers and post the ranking on its Internet Web site or make
23 the ranking available upon request. The plan shall update the
24 ranking whenever a new benefit design for individual purchasers
25 is approved.

26 (d) The plan shall notify in writing all enrollees of the right to
27 transfer to another individual plan contract pursuant to this section,
28 at a minimum, when the plan changes the enrollee’s premium rate.
29 Posting this information on the plan’s Internet Web site shall not
30 constitute notice for purposes of this subdivision. The notice shall
31 adequately inform enrollees of the transfer rights provided under
32 this section, including information on the process to obtain details
33 about the individual plan contracts available to that enrollee and
34 advising that the enrollee may be unable to return to his or her
35 current individual plan contract if the enrollee transfers to another
36 individual plan contract.

37 (e) The requirements of this section do not apply to the
38 following:

39 (1) A federally eligible defined individual, as defined in
40 subdivision (c) of Section 1399.801, who is enrolled in an

1 individual health benefit plan contract offered pursuant to Section
2 1366.35.

3 (2) An individual offered conversion coverage pursuant to
4 Section 1373.6.

5 (3) Individual coverage under a specialized health care service
6 plan contract.

7 (4) An individual enrolled in the Medi-Cal program pursuant
8 to Chapter 7 (commencing with Section 14000) of Division 9 of
9 Part 3 of the Welfare and Institutions Code.

10 (5) An individual enrolled in the Access for Infants and Mothers
11 Program pursuant to Part 6.3 (commencing with Section 12695)
12 of Division 2 of the Insurance Code.

13 (6) An individual enrolled in the Healthy Families Program
14 pursuant to Part 6.2 (commencing with Section 12693) of Division
15 2 of the Insurance Code.

16 (f) It is the intent of the Legislature that individuals shall have
17 more choice in their health coverage when health care service plans
18 guarantee the right of an individual to transfer to another product
19 based on the plan's own ranking system. The Legislature does not
20 intend for the department to review or verify the plan's ranking
21 for actuarial or other purposes.

22 (g) (1) This section shall become inoperative January 1, 2014,
23 or the 91st calendar day following the adjournment of the 2013–14
24 First Extraordinary Session, whichever date is later.

25 (2) If Section 5000A of the Internal Revenue Code, as added
26 by Section 1501 of PPACA, is repealed or amended to no longer
27 apply to the individual market, as defined in Section 2791 of the
28 federal Public Health Service Act (42 U.S.C. Sec. 300gg-91), this
29 section shall become operative 12 months after the date of that
30 repeal or amendment.

31 ~~SEC. 263.~~

32 *SEC. 264.* Section 1389.7 of the Health and Safety Code, as
33 amended by Section 12 of Chapter 2 of the First Extraordinary
34 Session of the Statutes of 2013, is amended to read:

35 1389.7. (a) Every health care service plan that offers, issues,
36 or renews individual plan contracts shall offer to any individual,
37 who was covered under an individual plan contract that was
38 rescinded, a new individual plan contract, without medical
39 underwriting, that provides equal benefits. A health care service
40 plan may also permit an individual, who was covered under an

1 individual plan contract that was rescinded, to remain covered
2 under that individual plan contract, with a revised premium rate
3 that reflects the number of persons remaining on the plan contract.

4 (b) “Without medical underwriting” means that the health care
5 service plan shall not decline to offer coverage to, or deny
6 enrollment of, the individual or impose any preexisting condition
7 exclusion on the individual who is issued a new individual plan
8 contract or remains covered under an individual plan contract
9 pursuant to this section.

10 (c) If a new individual plan contract is issued, the plan may
11 revise the premium rate to reflect only the number of persons
12 covered on the new individual plan contract.

13 (d) Notwithstanding subdivisions (a) and (b), if an individual
14 was subject to a preexisting condition provision or a waiting or an
15 affiliation period under the individual plan contract that was
16 rescinded, the health care service plan may apply the same
17 preexisting condition provision or waiting or affiliation period in
18 the new individual plan contract. The time period in the new
19 individual plan contract for the preexisting condition provision or
20 waiting or affiliation period shall not be longer than the one in the
21 individual plan contract that was rescinded and the health care
22 service plan shall credit any time that the individual was covered
23 under the rescinded individual plan contract.

24 (e) The plan shall notify in writing all enrollees of the right to
25 coverage under an individual plan contract pursuant to this section,
26 at a minimum, when the plan rescinds the individual plan contract.
27 The notice shall adequately inform enrollees of the right to
28 coverage provided under this section.

29 (f) The plan shall provide 60 days for enrollees to accept the
30 offered new individual plan contract and this contract shall be
31 effective as of the effective date of the original plan contract and
32 there shall be no lapse in coverage.

33 (g) This section does not apply to any individual whose
34 information in the application for coverage and related
35 communications led to the rescission.

36 (h) (1) This section shall become inoperative on January 1,
37 2014, or the 91st calendar day following the adjournment of the
38 2013–14 First Extraordinary Session, whichever date is later.

39 (2) If Section 5000A of the Internal Revenue Code, as added
40 by Section 1501 of PPACA, is repealed or amended to no longer

1 apply to the individual market, as defined in Section 2791 of the
2 federal Public Health Service Act (42 U.S.C. Sec. 300gg-91), this
3 section shall become operative 12 months after the date of that
4 repeal or amendment.

5 ~~SEC. 264.~~

6 *SEC. 265.* Section 1389.7 of the Health and Safety Code, as
7 added by Section 13 of Chapter 2 of the First Extraordinary Session
8 of the Statutes of 2013, is amended to read:

9 1389.7. (a) Every health care service plan that offers, issues,
10 or renews individual plan contracts shall offer to any individual,
11 who was covered by the plan under an individual plan contract
12 that was rescinded, a new individual plan contract that provides
13 the most equivalent benefits.

14 (b) A health care service plan that offers, issues, or renews
15 individual plan contracts inside or outside the California Health
16 Benefit Exchange may also permit an individual, who was covered
17 by the plan under an individual plan contract that was rescinded,
18 to remain covered under that individual plan contract, with a
19 revised premium rate that reflects the number of persons remaining
20 on the individual plan contract consistent with Section 1399.855.

21 (c) The plan shall notify in writing all enrollees of the right to
22 coverage under an individual plan contract pursuant to this section,
23 at a minimum, when the plan rescinds the individual plan contract.
24 The notice shall adequately inform enrollees of the right to
25 coverage provided under this section.

26 (d) The plan shall provide 60 days for enrollees to accept the
27 offered new individual plan contract under subdivision (a), and
28 this contract shall be effective as of the effective date of the original
29 plan contract and there shall be no lapse in coverage.

30 (e) This section does not apply to any individual whose
31 information in the application for coverage and related
32 communications led to the rescission.

33 (f) This section applies notwithstanding subdivision (a) or (d)
34 of Section 1399.849.

35 (g) (1) This section shall become operative on January 1, 2014,
36 or the 91st calendar day following the adjournment of the 2013–14
37 First Extraordinary Session, whichever date is later.

38 (2) If Section 5000A of the Internal Revenue Code, as added
39 by Section 1501 of PPACA, is repealed or amended to no longer
40 apply to the individual market, as defined in Section 2791 of the

1 federal Public Health Service Act (42 U.S.C. Sec. 300gg-91), this
2 section shall become inoperative 12 months after the date of that
3 repeal or amendment.

4 ~~SEC. 265.~~

5 *SEC. 266.* Section 1399.836 of the Health and Safety Code is
6 amended to read:

7 1399.836. (a) This article shall become inoperative on January
8 1, 2014, or the 91st calendar day following the adjournment of the
9 2013–14 First Extraordinary Session, whichever date is later.

10 (b) If Section 5000A of the Internal Revenue Code, as added
11 by Section 1501 of PPACA, is repealed or amended to no longer
12 apply to the individual market, as defined in Section 2791 of the
13 federal Public Health Service Act (42 U.S.C. Sec. 300gg-91), this
14 article shall become operative 12 months after the date of that
15 repeal or amendment.

16 ~~SEC. 266.~~

17 *SEC. 267.* Section 1399.855 of the Health and Safety Code is
18 amended to read:

19 1399.855. (a) With respect to individual health benefit plans
20 for policy years on or after January 1, 2014, a health care service
21 plan may use only the following characteristics of an individual,
22 and any dependent thereof, for purposes of establishing the rate
23 of the individual health benefit plan covering the individual and
24 the eligible dependents thereof, along with the health benefit plan
25 selected by the individual:

26 (1) Age, pursuant to the age bands established by the United
27 States Secretary of Health and Human Services and the age rating
28 curve established by the federal Centers for Medicare and Medicaid
29 Services pursuant to Section 2701(a)(3) of the federal Public Health
30 Service Act (42 U.S.C. Sec. 300gg(a)(3)). Rates based on age shall
31 be determined using the individual's age as of the date of the health
32 benefit plan contract issuance or renewal, as applicable, and shall
33 not vary by more than three to one for like individuals of different
34 age who are 21 years of age or older as described in federal
35 regulations adopted pursuant to Section 2701(a)(3) of the federal
36 Public Health Service Act (42 U.S.C. Sec. 300gg(a)(3)).

37 (2) (A) Geographic region. The geographic regions for purposes
38 of rating shall be the following:

39 (i) Region 1 shall consist of the Counties of Alpine, Amador,
40 Butte, Calaveras, Colusa, Del Norte, Glenn, Humboldt, Lake,

- 1 Lassen, Mendocino, Modoc, Nevada, Plumas, Shasta, Sierra,
2 Siskiyou, Sutter, Tehama, Trinity, Tuolumne, and Yuba.
3 (ii) Region 2 shall consist of the Counties of Marin, Napa,
4 Solano, and Sonoma.
5 (iii) Region 3 shall consist of the Counties of El Dorado, Placer,
6 Sacramento, and Yolo.
7 (iv) Region 4 shall consist of the City and County of San
8 Francisco.
9 (v) Region 5 shall consist of the County of Contra Costa.
10 (vi) Region 6 shall consist of the County of Alameda.
11 (vii) Region 7 shall consist of the County of Santa Clara.
12 (viii) Region 8 shall consist of the County of San Mateo.
13 (ix) Region 9 shall consist of the Counties of Monterey, San
14 Benito, and Santa Cruz.
15 (x) Region 10 shall consist of the Counties of Mariposa, Merced,
16 San Joaquin, Stanislaus, and Tulare.
17 (xi) Region 11 shall consist of the Counties of Fresno, Kings,
18 and Madera.
19 (xii) Region 12 shall consist of the Counties of San Luis Obispo,
20 Santa Barbara, and Ventura.
21 (xiii) Region 13 shall consist of the Counties of Imperial, Inyo,
22 and Mono.
23 (xiv) Region 14 shall consist of the County of Kern.
24 (xv) Region 15 shall consist of the ZIP Codes in the County of
25 Los Angeles starting with 906 to 912, inclusive, 915, 917, 918,
26 and 935.
27 (xvi) Region 16 shall consist of the ZIP Codes in the County of
28 Los Angeles other than those identified in clause (xv).
29 (xvii) Region 17 shall consist of the Counties of Riverside and
30 San Bernardino.
31 (xviii) Region 18 shall consist of the County of Orange.
32 (xix) Region 19 shall consist of the County of San Diego.
33 (B) No later than June 1, 2017, the department, in collaboration
34 with the Exchange and the Department of Insurance, shall review
35 the geographic rating regions specified in this paragraph and the
36 impacts of those regions on the health care coverage market in
37 California, and make a report to the appropriate policy committees
38 of the Legislature.
39 (3) Whether the plan covers an individual or family, as described
40 in PPACA.

1 (b) The rate for a health benefit plan subject to this section shall
2 not vary by any factor not described in this section.

3 (c) With respect to family coverage under an individual health
4 benefit plan, the rating variation permitted under paragraph (1) of
5 subdivision (a) shall be applied based on the portion of the
6 premium attributable to each family member covered under the
7 plan. The total premium for family coverage shall be determined
8 by summing the premiums for each individual family member. In
9 determining the total premium for family members, premiums for
10 no more than the three oldest family members who are under 21
11 years of age shall be taken into account.

12 (d) The rating period for rates subject to this section shall be
13 from January 1 to December 31, inclusive.

14 (e) This section does not apply to an individual health benefit
15 plan that is a grandfathered health plan.

16 (f) The requirement for submitting a report imposed under
17 subparagraph (B) of paragraph (2) of subdivision (a) is inoperative
18 on June 1, 2021, pursuant to Section 10231.5 of the Government
19 Code.

20 (g) If Section 5000A of the Internal Revenue Code, as added
21 by Section 1501 of PPACA, is repealed or amended to no longer
22 apply to the individual market, as defined in Section 2791 of the
23 federal Public Health Service Act (42 U.S.C. Sec. 300gg-91), this
24 section shall become inoperative 12 months after the date of that
25 repeal or amendment.

26 ~~SEC. 267.~~

27 *SEC. 268.* Section 1502 of the Health and Safety Code is
28 amended to read:

29 1502. As used in this chapter:

30 (a) “Community care facility” means any facility, place, or
31 building that is maintained and operated to provide nonmedical
32 residential care, day treatment, adult day care, or foster family
33 agency services for children, adults, or children and adults,
34 including, but not limited to, the physically handicapped, mentally
35 impaired, incompetent persons, and abused or neglected children,
36 and includes the following:

37 (1) “Residential facility” means any family home, group care
38 facility, or similar facility determined by the director, for 24-hour
39 nonmedical care of persons in need of personal services,

1 supervision, or assistance essential for sustaining the activities of
2 daily living or for the protection of the individual.

3 (2) “Adult day program” means any community-based facility
4 or program that provides care to persons 18 years of age or older
5 in need of personal services, supervision, or assistance essential
6 for sustaining the activities of daily living or for the protection of
7 these individuals on less than a 24-hour basis.

8 (3) “Therapeutic day services facility” means any facility that
9 provides nonmedical care, counseling, educational or vocational
10 support, or social rehabilitation services on less than a 24-hour
11 basis to persons under 18 years of age who would otherwise be
12 placed in foster care or who are returning to families from foster
13 care. Program standards for these facilities shall be developed by
14 the department, pursuant to Section 1530, in consultation with
15 therapeutic day services and foster care providers.

16 (4) “Foster family agency” means any organization engaged in
17 the recruiting, certifying, and training of, and providing
18 professional support to, foster parents, or in finding homes or other
19 places for placement of children for temporary or permanent care
20 who require that level of care as an alternative to a group home.
21 Private foster family agencies shall be organized and operated on
22 a nonprofit basis.

23 (5) “Foster family home” means any residential facility
24 providing 24-hour care for six or fewer foster children that is
25 owned, leased, or rented and is the residence of the foster parent
26 or parents, including their family, in whose care the foster children
27 have been placed. The placement may be by a public or private
28 child placement agency or by a court order, or by voluntary
29 placement by a parent, parents, or guardian. It also means a foster
30 family home described in Section 1505.2.

31 (6) “Small family home” means any residential facility, in the
32 licensee’s family residence, that provides 24-hour care for six or
33 fewer foster children who have mental disorders or developmental
34 or physical disabilities and who require special care and supervision
35 as a result of their disabilities. A small family home may accept
36 children with special health care needs, pursuant to subdivision
37 (a) of Section 17710 of the Welfare and Institutions Code. In
38 addition to placing children with special health care needs, the
39 department may approve placement of children without special
40 health care needs, up to the licensed capacity.

1 (7) “Social rehabilitation facility” means any residential facility
 2 that provides social rehabilitation services for no longer than 18
 3 months in a group setting to adults recovering from mental illness
 4 who temporarily need assistance, guidance, or counseling. Program
 5 components shall be subject to program standards pursuant to
 6 Article 1 (commencing with Section 5670) of Chapter 2.5 of Part
 7 2 of Division 5 of the Welfare and Institutions Code.

8 (8) “Community treatment facility” means any residential
 9 facility that provides mental health treatment services to children
 10 in a group setting and that has the capacity to provide secure
 11 containment. Program components are subject to program standards
 12 developed and enforced by the State Department of Health Care
 13 Services pursuant to Section 4094 of the Welfare and Institutions
 14 Code.

15 This section does not prohibit or discourage placement of persons
 16 who have mental or physical disabilities into any category of
 17 community care facility that meets the needs of the individual
 18 placed, if the placement is consistent with the licensing regulations
 19 of the department.

20 (9) “Full-service adoption agency” means any licensed entity
 21 engaged in the business of providing adoption services, that does
 22 all of the following:

23 (A) Assumes care, custody, and control of a child through
 24 relinquishment of the child to the agency or involuntary termination
 25 of parental rights to the child.

26 (B) Assesses the birth parents, prospective adoptive parents, or
 27 child.

28 (C) Places children for adoption.

29 (D) Supervises adoptive placements.

30 Private full-service adoption agencies shall be organized and
 31 operated on a nonprofit basis. As a condition of licensure to provide
 32 intercountry adoption services, a full-service adoption agency shall
 33 be accredited and in good standing according to Part 96 of Title
 34 22 of the Code of Federal Regulations, or supervised by an
 35 accredited primary provider, or acting as an exempted provider,
 36 in compliance with Subpart F (commencing with Section 96.29)
 37 of Part 96 of Title 22 of the Code of Federal Regulations.

38 (10) “Noncustodial adoption agency” means any licensed entity
 39 engaged in the business of providing adoption services, that does
 40 all of the following:

1 (A) Assesses the prospective adoptive parents.

2 (B) Cooperatively matches children freed for adoption, who are
3 under the care, custody, and control of a licensed adoption agency,
4 for adoption, with assessed and approved adoptive applicants.

5 (C) Cooperatively supervises adoptive placements with a
6 full-service adoptive agency, but does not disrupt a placement or
7 remove a child from a placement.

8 Private noncustodial adoption agencies shall be organized and
9 operated on a nonprofit basis. As a condition of licensure to provide
10 intercountry adoption services, a noncustodial adoption agency
11 shall be accredited and in good standing according to Part 96 of
12 Title 22 of the Code of Federal Regulations, or supervised by an
13 accredited primary provider, or acting as an exempted provider,
14 in compliance with Subpart F (commencing with Section 96.29)
15 of Part 96 of Title 22 of the Code of Federal Regulations.

16 (11) “Transitional shelter care facility” means any group care
17 facility that provides for 24-hour nonmedical care of persons in
18 need of personal services, supervision, or assistance essential for
19 sustaining the activities of daily living or for the protection of the
20 individual. Program components shall be subject to program
21 standards developed by the State Department of Social Services
22 pursuant to Section 1502.3.

23 (12) “Transitional housing placement provider” means an
24 organization licensed by the department pursuant to Section
25 1559.110 and Section 16522.1 of the Welfare and Institutions Code
26 to provide transitional housing to foster children at least 16 years
27 of age and not more than 18 years of age, and nonminor
28 dependents, as defined in subdivision (v) of Section 11400 of the
29 Welfare and Institutions Code, to promote their transition to
30 adulthood. A transitional housing placement provider shall be
31 privately operated and organized on a nonprofit basis.

32 (13) “Group home” means a residential facility that provides
33 24-hour care and supervision to children, delivered at least in part
34 by staff employed by the licensee in a structured environment. The
35 care and supervision provided by a group home shall be
36 nonmedical, except as otherwise permitted by law.

37 (14) “Runaway and homeless youth shelter” means a group
38 home licensed by the department to operate a program pursuant
39 to Section 1502.35 to provide voluntary, short-term, shelter and

1 personal services to runaway youth or homeless youth, as defined
2 in paragraph (2) of subdivision (a) of Section 1502.35.

3 (15) “Enhanced behavioral supports home” means a facility
4 certified by the State Department of Developmental Services
5 pursuant to Article 3.6 (commencing with Section 4684.80) of
6 Chapter 6 of Division 4.5 of the Welfare and Institutions Code,
7 and licensed by the State Department of Social Services as an adult
8 residential facility or a group home that provides 24-hour
9 nonmedical care to individuals with developmental disabilities
10 who require enhanced behavioral supports, staffing, and
11 supervision in a homelike setting. An enhanced behavioral supports
12 home shall have a maximum capacity of four consumers, shall
13 conform to Section 441.530(a)(1) of Title 42 of the Code of Federal
14 Regulations, and shall be eligible for federal Medicaid home- and
15 community-based services funding.

16 (16) “Community crisis home” means a facility certified by the
17 State Department of Developmental Services pursuant to Article
18 8 (commencing with Section 4698) of Chapter 6 of Division 4.5
19 of the Welfare and Institutions Code, and licensed by the State
20 Department of Social Services pursuant to Article 9.7 (commencing
21 with Section 1567.80), as an adult residential facility, providing
22 24-hour nonmedical care to individuals with developmental
23 disabilities receiving regional center service, in need of crisis
24 intervention services, and who would otherwise be at risk of
25 admission to the acute crisis center at Fairview Developmental
26 Center, Sonoma Developmental Center, a general acute care
27 hospital, acute psychiatric hospital, an institution for mental
28 disease, as described in Part 5 (commencing with Section 5900)
29 of Division 5 of the Welfare and Institutions Code, or an
30 out-of-state placement. A community crisis home shall have a
31 maximum capacity of eight consumers, as defined in subdivision
32 (a) of Section 1567.80, shall conform to Section 441.530(a)(1) of
33 Title 42 of the Code of Federal Regulations, and shall be eligible
34 for federal Medicaid home- and community-based services funding.

35 (17) “Crisis nursery” means a facility licensed by the department
36 to operate a program pursuant to Section 1516 to provide short-term
37 care and supervision for children under six years of age who are
38 voluntarily placed for temporary care by a parent or legal guardian
39 due to a family crisis or stressful situation.

1 (b) “Department” or “state department” means the State
2 Department of Social Services.

3 (c) “Director” means the Director of Social Services.

4 ~~SEC. 268.~~

5 *SEC. 269.* Section 1522 of the Health and Safety Code is
6 amended to read:

7 1522. The Legislature recognizes the need to generate timely
8 and accurate positive fingerprint identification of applicants as a
9 condition of issuing licenses, permits, or certificates of approval
10 for persons to operate or provide direct care services in a
11 community care facility, foster family home, or a certified family
12 home of a licensed foster family agency. Therefore, the Legislature
13 supports the use of the fingerprint live-scan technology, as
14 identified in the long-range plan of the Department of Justice for
15 fully automating the processing of fingerprints and other data by
16 the year 1999, otherwise known as the California Crime
17 Information Intelligence System (CAL-CII), to be used for
18 applicant fingerprints. It is the intent of the Legislature in enacting
19 this section to require the fingerprints of those individuals whose
20 contact with community care clients may pose a risk to the clients’
21 health and safety. An individual shall be required to obtain either
22 a criminal record clearance or a criminal record exemption from
23 the State Department of Social Services before his or her initial
24 presence in a community care facility or certified family home.

25 (a) (1) Before and, as applicable, subsequent to issuing a license
26 or special permit to any person or persons to operate or manage a
27 community care facility, the State Department of Social Services
28 shall secure from an appropriate law enforcement agency a criminal
29 record to determine whether the applicant or any other person
30 specified in subdivision (b) has ever been convicted of a crime
31 other than a minor traffic violation or arrested for any crime
32 specified in Section 290 of the Penal Code, or for violating Section
33 245, 273ab, or 273.5 of the Penal Code, subdivision (b) of Section
34 273a of the Penal Code, or, prior to January 1, 1994, paragraph
35 (2) of Section 273a of the Penal Code, or for any crime for which
36 the department is prohibited from granting a criminal record
37 exemption pursuant to subdivision (g).

38 (2) The criminal history information shall include the full
39 criminal record, if any, of those persons, and subsequent arrest
40 information pursuant to Section 11105.2 of the Penal Code.

1 (3) Except during the 2003–04 to the 2014–15 fiscal years,
2 inclusive, the Department of Justice and the State Department of
3 Social Services shall not charge a fee for the fingerprinting of an
4 applicant for a license or special permit to operate a facility
5 providing nonmedical board, room, and care for six or fewer
6 children or for obtaining a criminal record of the applicant pursuant
7 to this section.

8 (4) The following shall apply to the criminal record information:

9 (A) If the State Department of Social Services finds that the
10 applicant, or any other person specified in subdivision (b), has
11 been convicted of a crime other than a minor traffic violation, the
12 application shall be denied, unless the director grants an exemption
13 pursuant to subdivision (g).

14 (B) If the State Department of Social Services finds that the
15 applicant, or any other person specified in subdivision (b), is
16 awaiting trial for a crime other than a minor traffic violation, the
17 State Department of Social Services may cease processing the
18 criminal record information until the conclusion of the trial.

19 (C) If criminal record information has not been recorded, the
20 Department of Justice shall provide the applicant and the State
21 Department of Social Services with a statement of that fact.

22 (D) If the State Department of Social Services finds after
23 licensure that the licensee, or any other person specified in
24 paragraph (1) of subdivision (b), has been convicted of a crime
25 other than a minor traffic violation, the license may be revoked,
26 unless the director grants an exemption pursuant to subdivision
27 (g).

28 (E) An applicant and any other person specified in subdivision
29 (b) shall submit fingerprint images and related information to the
30 Department of Justice for the purpose of searching the criminal
31 records of the Federal Bureau of Investigation, in addition to the
32 criminal records search required by this subdivision. If an applicant
33 and all other persons described in subdivision (b) meet all of the
34 conditions for licensure, except receipt of the Federal Bureau of
35 Investigation's criminal offender record information search
36 response for the applicant or any of the persons described in
37 subdivision (b), the department may issue a license if the applicant
38 and each person described in subdivision (b) has signed and
39 submitted a statement that he or she has never been convicted of
40 a crime in the United States, other than a traffic infraction, as

1 prescribed in paragraph (1) of subdivision (a) of Section 42001 of
2 the Vehicle Code. If, after licensure, or the issuance of a certificate
3 of approval of a certified family home by a foster family agency,
4 the department determines that the licensee or any other person
5 specified in subdivision (b) has a criminal record, the department
6 may revoke the license, or require a foster family agency to revoke
7 the certificate of approval, pursuant to Section 1550. The
8 department may also suspend the license or require a foster family
9 agency to suspend the certificate of approval pending an
10 administrative hearing pursuant to Section 1550.5.

11 (F) The State Department of Social Services shall develop
12 procedures to provide the individual's state and federal criminal
13 history information with the written notification of his or her
14 exemption denial or revocation based on the criminal record.
15 Receipt of the criminal history information shall be optional on
16 the part of the individual, as set forth in the agency's procedures.
17 The procedure shall protect the confidentiality and privacy of the
18 individual's record, and the criminal history information shall not
19 be made available to the employer.

20 (G) Notwithstanding any other law, the department is authorized
21 to provide an individual with a copy of his or her state or federal
22 level criminal offender record information search response as
23 provided to that department by the Department of Justice if the
24 department has denied a criminal background clearance based on
25 this information and the individual makes a written request to the
26 department for a copy specifying an address to which it is to be
27 sent. The state or federal level criminal offender record information
28 search response shall not be modified or altered from its form or
29 content as provided by the Department of Justice and shall be
30 provided to the address specified by the individual in his or her
31 written request. The department shall retain a copy of the
32 individual's written request and the response and date provided.

33 (b) (1) In addition to the applicant, this section shall be
34 applicable to criminal record clearances and exemptions for the
35 following persons:

36 (A) Adults responsible for administration or direct supervision
37 of staff.

38 (B) Any person, other than a client, residing in the facility or
39 certified family home.

1 (C) A person who provides client assistance in dressing,
2 grooming, bathing, or personal hygiene. A nurse assistant or home
3 health aide meeting the requirements of Section 1338.5 or 1736.6,
4 respectively, who is not employed, retained, or contracted by the
5 licensee, and who has been certified or recertified on or after July
6 1, 1998, shall be deemed to meet the criminal record clearance
7 requirements of this section. A certified nurse assistant and certified
8 home health aide who will be providing client assistance and who
9 falls under this exemption shall provide one copy of his or her
10 current certification, prior to providing care, to the community
11 care facility. The facility shall maintain the copy of the certification
12 on file as long as care is being provided by the certified nurse
13 assistant or certified home health aide at the facility or certified
14 family home. This paragraph does not restrict the right of the
15 department to exclude a certified nurse assistant or certified home
16 health aide from a licensed community care facility or certified
17 family home pursuant to Section 1558.

18 (D) A staff person, volunteer, or employee who has contact with
19 the clients.

20 (E) If the applicant is a firm, partnership, association, or
21 corporation, the chief executive officer or other person serving in
22 like capacity.

23 (F) Additional officers of the governing body of the applicant,
24 or other persons with a financial interest in the applicant, as
25 determined necessary by the department by regulation. The criteria
26 used in the development of these regulations shall be based on the
27 person's capability to exercise substantial influence over the
28 operation of the facility.

29 (2) The following persons are exempt from the requirements
30 applicable under paragraph (1):

31 (A) A medical professional as defined in department regulations
32 who holds a valid license or certification from the person's
33 governing California medical care regulatory entity and who is
34 not employed, retained, or contracted by the licensee if all of the
35 following apply:

36 (i) The criminal record of the person has been cleared as a
37 condition of licensure or certification by the person's governing
38 California medical care regulatory entity.

39 (ii) The person is providing time-limited specialized clinical
40 care or services.

1 (iii) The person is providing care or services within the person's
2 scope of practice.

3 (iv) The person is not a community care facility licensee or an
4 employee of the facility.

5 (B) A third-party repair person or similar retained contractor if
6 all of the following apply:

7 (i) The person is hired for a defined, time-limited job.

8 (ii) The person is not left alone with clients.

9 (iii) When clients are present in the room in which the repair
10 person or contractor is working, a staff person who has a criminal
11 record clearance or exemption is also present.

12 (C) Employees of a licensed home health agency and other
13 members of licensed hospice interdisciplinary teams who have a
14 contract with a client or resident of the facility and are in the
15 facility at the request of that client or resident's legal
16 decisionmaker. The exemption does not apply to a person who is
17 a community care facility licensee or an employee of the facility.

18 (D) Clergy and other spiritual caregivers who are performing
19 services in common areas of the community care facility or who
20 are advising an individual client at the request of, or with the
21 permission of, the client or legal decisionmaker, are exempt from
22 fingerprint and criminal background check requirements imposed
23 by community care licensing. This exemption does not apply to a
24 person who is a community care licensee or employee of the
25 facility.

26 (E) Members of fraternal, service, or similar organizations who
27 conduct group activities for clients if all of the following apply:

28 (i) Members are not left alone with clients.

29 (ii) Members do not transport clients off the facility premises.

30 (iii) The same organization does not conduct group activities
31 for clients more often than defined by the department's regulations.

32 (3) In addition to the exemptions in paragraph (2), the following
33 persons in foster family homes, certified family homes, and small
34 family homes are exempt from the requirements applicable under
35 paragraph (1):

36 (A) Adult friends and family of the licensed or certified foster
37 parent, who come into the home to visit for a length of time no
38 longer than defined by the department in regulations, provided
39 that the adult friends and family of the licensee or certified foster
40 parent are not left alone with the foster children. However, the

1 licensee or certified foster parent, acting as a reasonable and
 2 prudent parent, as defined in paragraph (2) of subdivision (a) of
 3 Section 362.04 of the Welfare and Institutions Code, may allow
 4 his or her adult friends and family to provide short-term care to
 5 the foster child and act as an appropriate occasional short-term
 6 babysitter for the child.

7 (B) Parents of a foster child’s friend when the foster child is
 8 visiting the friend’s home and the friend, licensed or certified foster
 9 parent, or both are also present. However, the licensee or certified
 10 foster parent, acting as a reasonable and prudent parent, may allow
 11 the parent of the foster child’s friend to act as an appropriate
 12 short-term babysitter for the child without the friend being present.

13 (C) Individuals who are engaged by any licensed or certified
 14 foster parent to provide short-term care to the child for periods not
 15 to exceed 24 hours. Caregivers shall use a reasonable and prudent
 16 parent standard in selecting appropriate individuals to act as
 17 appropriate occasional short-term babysitters.

18 (4) In addition to the exemptions specified in paragraph (2), the
 19 following persons in adult day care and adult day support centers
 20 are exempt from the requirements applicable under paragraph (1):

21 (A) Unless contraindicated by the client’s individualized
 22 program plan (IPP) or needs and service plan, a spouse, significant
 23 other, relative, or close friend of a client, or an attendant or a
 24 facilitator for a client with a developmental disability if the
 25 attendant or facilitator is not employed, retained, or contracted by
 26 the licensee. This exemption applies only if the person is visiting
 27 the client or providing direct care and supervision to the client.

28 (B) A volunteer if all of the following applies:

29 (i) The volunteer is supervised by the licensee or a facility
 30 employee with a criminal record clearance or exemption.

31 (ii) The volunteer is never left alone with clients.

32 (iii) The volunteer does not provide any client assistance with
 33 dressing, grooming, bathing, or personal hygiene other than
 34 washing of hands.

35 (5) (A) In addition to the exemptions specified in paragraph
 36 (2), the following persons in adult residential and social
 37 rehabilitation facilities, unless contraindicated by the client’s
 38 individualized program plan (IPP) or needs and services plan, are
 39 exempt from the requirements applicable under paragraph (1): a
 40 spouse, significant other, relative, or close friend of a client, or an

1 attendant or a facilitator for a client with a developmental disability
2 if the attendant or facilitator is not employed, retained, or
3 contracted by the licensee. This exemption applies only if the
4 person is visiting the client or providing direct care and supervision
5 to that client.

6 (B) This subdivision does not prevent a licensee from requiring
7 a criminal record clearance of any individual exempt from the
8 requirements of this section, provided that the individual has client
9 contact.

10 (6) Any person similar to those described in this subdivision,
11 as defined by the department in regulations.

12 (c) (1) Subsequent to initial licensure, a person specified in
13 subdivision (b) who is not exempted from fingerprinting shall
14 obtain either a criminal record clearance or an exemption from
15 disqualification pursuant to subdivision (g) from the State
16 Department of Social Services prior to employment, residence, or
17 initial presence in the facility. A person specified in subdivision
18 (b) who is not exempt from fingerprinting shall be fingerprinted
19 and shall sign a declaration under penalty of perjury regarding any
20 prior criminal convictions. The licensee shall submit fingerprint
21 images and related information to the Department of Justice and
22 the Federal Bureau of Investigation, through the Department of
23 Justice, for a state and federal level criminal offender record
24 information search, or comply with paragraph (1) of subdivision
25 (h). These fingerprint images and related information shall be sent
26 by electronic transmission in a manner approved by the State
27 Department of Social Services and the Department of Justice for
28 the purpose of obtaining a permanent set of fingerprints, and shall
29 be submitted to the Department of Justice by the licensee. A
30 licensee's failure to prohibit the employment, residence, or initial
31 presence of a person specified in subdivision (b) who is not exempt
32 from fingerprinting and who has not received either a criminal
33 record clearance or an exemption from disqualification pursuant
34 to subdivision (g) or to comply with paragraph (1) of subdivision
35 (h), as required in this section, shall result in the citation of a
36 deficiency and the immediate assessment of civil penalties in the
37 amount of one hundred dollars (\$100) per violation per day for a
38 maximum of five days, unless the violation is a second or
39 subsequent violation within a 12-month period in which case the
40 civil penalties shall be in the amount of one hundred dollars (\$100)

1 per violation for a maximum of 30 days, and shall be grounds for
2 disciplining the licensee pursuant to Section 1550. The department
3 may assess civil penalties for continued violations as permitted by
4 Section 1548. The fingerprint images and related information shall
5 then be submitted to the Department of Justice for processing.
6 Upon request of the licensee, who shall enclose a self-addressed
7 stamped postcard for this purpose, the Department of Justice shall
8 verify receipt of the fingerprints.

9 (2) Within 14 calendar days of the receipt of the fingerprint
10 images, the Department of Justice shall notify the State Department
11 of Social Services of the criminal record information, as provided
12 for in subdivision (a). If criminal record information has not been
13 recorded, the Department of Justice shall provide the licensee and
14 the State Department of Social Services with a statement of that
15 fact within 14 calendar days of receipt of the fingerprint images.
16 Documentation of the individual's clearance or exemption from
17 disqualification shall be maintained by the licensee and be available
18 for inspection. If new fingerprint images are required for
19 processing, the Department of Justice shall, within 14 calendar
20 days from the date of receipt of the fingerprints, notify the licensee
21 that the fingerprints were illegible, the Department of Justice shall
22 notify the State Department of Social Services, as required by
23 Section 1522.04, and shall also notify the licensee by mail, within
24 14 days of electronic transmission of the fingerprints to the
25 Department of Justice, if the person has no criminal history
26 recorded. A violation of the regulations adopted pursuant to Section
27 1522.04 shall result in the citation of a deficiency and an immediate
28 assessment of civil penalties in the amount of one hundred dollars
29 (\$100) per violation per day for a maximum of five days, unless
30 the violation is a second or subsequent violation within a 12-month
31 period in which case the civil penalties shall be in the amount of
32 one hundred dollars (\$100) per violation for a maximum of 30
33 days, and shall be grounds for disciplining the licensee pursuant
34 to Section 1550. The department may assess civil penalties for
35 continued violations as permitted by Section 1548.

36 (3) Except for persons specified in subdivision (b) who are
37 exempt from fingerprinting, the licensee shall endeavor to ascertain
38 the previous employment history of persons required to be
39 fingerprinted. If it is determined by the State Department of Social
40 Services, on the basis of the fingerprint images and related

1 information submitted to the Department of Justice, that subsequent
2 to obtaining a criminal record clearance or exemption from
3 disqualification pursuant to subdivision (g), the person has been
4 convicted of, or is awaiting trial for, a sex offense against a minor,
5 or has been convicted for an offense specified in Section 243.4,
6 273a, 273ab, 273d, 273g, or 368 of the Penal Code, or a felony,
7 the State Department of Social Services shall notify the licensee
8 to act immediately to terminate the person's employment, remove
9 the person from the community care facility, or bar the person
10 from entering the community care facility. The State Department
11 of Social Services may subsequently grant an exemption from
12 disqualification pursuant to subdivision (g). If the conviction or
13 arrest was for another crime, except a minor traffic violation, the
14 licensee shall, upon notification by the State Department of Social
15 Services, act immediately to either (A) terminate the person's
16 employment, remove the person from the community care facility,
17 or bar the person from entering the community care facility; or
18 (B) seek an exemption from disqualification pursuant to subdivision
19 (g). The State Department of Social Services shall determine if
20 the person shall be allowed to remain in the facility until a decision
21 on the exemption from disqualification is rendered. A licensee's
22 failure to comply with the department's prohibition of employment,
23 contact with clients, or presence in the facility as required by this
24 paragraph shall result in a citation of deficiency and an immediate
25 assessment of civil penalties in the amount of one hundred dollars
26 (\$100) per violation per day and shall be grounds for disciplining
27 the licensee pursuant to Section 1550.

28 (4) The department may issue an exemption from
29 disqualification on its own motion pursuant to subdivision (g) if
30 the person's criminal history indicates that the person is of good
31 character based on the age, seriousness, and frequency of the
32 conviction or convictions. The department, in consultation with
33 interested parties, shall develop regulations to establish the criteria
34 to grant an exemption from disqualification pursuant to this
35 paragraph.

36 (5) Concurrently with notifying the licensee pursuant to
37 paragraph (3), the department shall notify the affected individual
38 of his or her right to seek an exemption from disqualification
39 pursuant to subdivision (g). The individual may seek an exemption
40 from disqualification only if the licensee terminates the person's

1 employment or removes the person from the facility after receiving
2 notice from the department pursuant to paragraph (3).

3 (d) (1) Before and, as applicable, subsequent to issuing a license
4 or certificate of approval to any person or persons to operate a
5 foster family home or certified family home as described in Section
6 1506, the State Department of Social Services or other approving
7 authority shall secure California and Federal Bureau of
8 Investigation criminal history information to determine whether
9 the applicant or any person specified in subdivision (b) who is not
10 exempt from fingerprinting has ever been convicted of a crime
11 other than a minor traffic violation or arrested for any crime
12 specified in subdivision (c) of Section 290 of the Penal Code, for
13 violating Section 245, 273ab, or 273.5, subdivision (b) of Section
14 273a, or, prior to January 1, 1994, paragraph (2) of Section 273a,
15 of the Penal Code, or for any crime for which the department is
16 prohibited from granting a criminal record exemption pursuant to
17 subdivision (g). The State Department of Social Services or other
18 approving authority shall not issue a license or certificate of
19 approval to any foster family home or certified family home
20 applicant who has not obtained both a California and Federal
21 Bureau of Investigation criminal record clearance or exemption
22 from disqualification pursuant to subdivision (g).

23 (2) The criminal history information shall include the full
24 criminal record, if any, of those persons.

25 (3) Neither the Department of Justice nor the State Department
26 of Social Services may charge a fee for the fingerprinting of an
27 applicant for a license, special permit, or certificate of approval
28 described in this subdivision. The record, if any, shall be taken
29 into consideration when evaluating a prospective applicant.

30 (4) The following shall apply to the criminal record information:

31 (A) If the applicant or other persons specified in subdivision
32 (b) who are not exempt from fingerprinting have convictions that
33 would make the applicant's home unfit as a foster family home or
34 a certified family home, the license, special permit, certificate of
35 approval, or presence shall be denied.

36 (B) If the State Department of Social Services finds that the
37 applicant, or any person specified in subdivision (b) who is not
38 exempt from fingerprinting is awaiting trial for a crime other than
39 a minor traffic violation, the State Department of Social Services

1 or other approving authority may cease processing the criminal
2 record information until the conclusion of the trial.

3 (C) For purposes of this subdivision, a criminal record clearance
4 provided under Section 8712 of the Family Code may be used by
5 the department or other approving agency.

6 (D) To the same extent required for federal funding, an applicant
7 for a foster family home license or for certification as a family
8 home, and any other person specified in subdivision (b) who is
9 not exempt from fingerprinting, shall submit a set of fingerprint
10 images and related information to the Department of Justice and
11 the Federal Bureau of Investigation, through the Department of
12 Justice, for a state and federal level criminal offender record
13 information search, in addition to the criminal records search
14 required by subdivision (a).

15 (5) A person specified in this subdivision shall, as a part of the
16 application, be fingerprinted and sign a declaration under penalty
17 of perjury regarding any prior criminal convictions or arrests for
18 any crime against a child, spousal or cohabitant abuse, or any crime
19 for which the department cannot grant an exemption if the person
20 was convicted and shall submit these fingerprints to the licensing
21 agency or other approving authority.

22 (6) (A) Subsequent to initial licensure or certification, a person
23 specified in subdivision (b) who is not exempt from fingerprinting
24 shall obtain both a California and Federal Bureau of Investigation
25 criminal record clearance, or an exemption from disqualification
26 pursuant to subdivision (g), prior to employment, residence, or
27 initial presence in the foster family or certified family home. A
28 foster family home licensee or foster family agency shall submit
29 fingerprint images and related information of persons specified in
30 subdivision (b) who are not exempt from fingerprinting to the
31 Department of Justice and the Federal Bureau of Investigation,
32 through the Department of Justice, for a state and federal level
33 criminal offender record information search, or to comply with
34 paragraph (1) of subdivision (h). A foster family home licensee's
35 or a foster family agency's failure to either prohibit the
36 employment, residence, or initial presence of a person specified
37 in subdivision (b) who is not exempt from fingerprinting and who
38 has not received either a criminal record clearance or an exemption
39 from disqualification pursuant to subdivision (g), or comply with
40 paragraph (1) of subdivision (h), as required in this section, shall

1 result in a citation of a deficiency, and the immediate civil penalties
2 of one hundred dollars (\$100) per violation per day for a maximum
3 of five days, unless the violation is a second or subsequent violation
4 within a 12-month period in which case the civil penalties shall
5 be in the amount of one hundred dollars (\$100) per violation for
6 a maximum of 30 days, and shall be grounds for disciplining the
7 licensee pursuant to Section 1550. A violation of the regulation
8 adopted pursuant to Section 1522.04 shall result in the citation of
9 a deficiency and an immediate assessment of civil penalties in the
10 amount of one hundred dollars (\$100) per violation per day for a
11 maximum of five days, unless the violation is a second or
12 subsequent violation within a 12-month period in which case the
13 civil penalties shall be in the amount of one hundred dollars (\$100)
14 per violation for a maximum of 30 days, and shall be grounds for
15 disciplining the foster family home licensee or the foster family
16 agency pursuant to Section 1550. The State Department of Social
17 Services may assess penalties for continued violations, as permitted
18 by Section 1548. The fingerprint images shall then be submitted
19 to the Department of Justice for processing.

20 (B) Upon request of the licensee, who shall enclose a
21 self-addressed envelope for this purpose, the Department of Justice
22 shall verify receipt of the fingerprints. Within five working days
23 of the receipt of the criminal record or information regarding
24 criminal convictions from the Department of Justice, the
25 department shall notify the applicant of any criminal arrests or
26 convictions. If no arrests or convictions are recorded, the
27 Department of Justice shall provide the foster family home licensee
28 or the foster family agency with a statement of that fact concurrent
29 with providing the information to the State Department of Social
30 Services.

31 (7) If the State Department of Social Services or other approving
32 authority finds that the applicant, or any other person specified in
33 subdivision (b) who is not exempt from fingerprinting, has been
34 convicted of a crime other than a minor traffic violation, the
35 application or presence shall be denied, unless the director grants
36 an exemption from disqualification pursuant to subdivision (g).

37 (8) If the State Department of Social Services or other approving
38 authority finds after licensure or the granting of the certificate of
39 approval that the licensee, certified foster parent, or any other
40 person specified in subdivision (b) who is not exempt from

1 fingerprinting, has been convicted of a crime other than a minor
2 traffic violation, the license or certificate of approval may be
3 revoked by the department or the foster family agency, whichever
4 is applicable, unless the director grants an exemption from
5 disqualification pursuant to subdivision (g). A licensee's failure
6 to comply with the department's prohibition of employment,
7 contact with clients, or presence in the facility as required by
8 paragraph (3) of subdivision (c) shall be grounds for disciplining
9 the licensee pursuant to Section 1550.

10 (e) (1) The State Department of Social Services shall not use
11 a record of arrest to deny, revoke, or terminate any application,
12 license, employment, or residence unless the department
13 investigates the incident and secures evidence, whether or not
14 related to the incident of arrest, that is admissible in an
15 administrative hearing to establish conduct by the person that may
16 pose a risk to the health and safety of any person who is or may
17 become a client.

18 (2) The department shall not issue a criminal record clearance
19 to a person who has been arrested for any crime specified in Section
20 290 of the Penal Code, or for violating Section 245, 273ab, or
21 273.5, or subdivision (b) of Section 273a, of the Penal Code, or,
22 prior to January 1, 1994, paragraph (2) of Section 273a of the Penal
23 Code, or for any crime for which the department is prohibited from
24 granting a criminal record exemption pursuant to subdivision (g),
25 prior to the department's completion of an investigation pursuant
26 to paragraph (1).

27 (3) The State Department of Social Services is authorized to
28 obtain any arrest or conviction records or reports from any law
29 enforcement agency as necessary to the performance of its duties
30 to inspect, license, and investigate community care facilities and
31 individuals associated with a community care facility.

32 (f) (1) For purposes of this section or any other provision of
33 this chapter, a conviction means a plea or verdict of guilty or a
34 conviction following a plea of nolo contendere. Any action that
35 the State Department of Social Services is permitted to take
36 following the establishment of a conviction may be taken when
37 the time for appeal has elapsed, when the judgment of conviction
38 has been affirmed on appeal, or when an order granting probation
39 is made suspending the imposition of sentence, notwithstanding
40 a subsequent order pursuant to Sections 1203.4 and 1203.4a of the

1 Penal Code permitting the person to withdraw his or her plea of
2 guilty and to enter a plea of not guilty, or setting aside the verdict
3 of guilty, or dismissing the accusation, information, or indictment.
4 For purposes of this section or any other provision of this chapter,
5 the record of a conviction, or a copy thereof certified by the clerk
6 of the court or by a judge of the court in which the conviction
7 occurred, shall be conclusive evidence of the conviction. For
8 purposes of this section or any other provision of this chapter, the
9 arrest disposition report certified by the Department of Justice, or
10 documents admissible in a criminal action pursuant to Section
11 969b of the Penal Code, shall be prima facie evidence of the
12 conviction, notwithstanding any other law prohibiting the
13 admission of these documents in a civil or administrative action.

14 (2) For purposes of this section or any other provision of this
15 chapter, the department shall consider criminal convictions from
16 another state or federal court as if the criminal offense was
17 committed in this state.

18 (g) (1) After review of the record, the director may grant an
19 exemption from disqualification for a license or special permit as
20 specified in paragraph (4) of subdivision (a), or for a license,
21 special permit, or certificate of approval as specified in paragraphs
22 (4), (7), and (8) of subdivision (d), or for employment, residence,
23 or presence in a community care facility as specified in paragraphs
24 (3), (4), and (5) of subdivision (c), if the director has substantial
25 and convincing evidence to support a reasonable belief that the
26 applicant and the person convicted of the crime, if other than the
27 applicant, are of good character as to justify issuance of the license
28 or special permit or granting an exemption for purposes of
29 subdivision (c). Except as otherwise provided in this subdivision,
30 an exemption shall not be granted pursuant to this subdivision if
31 the conviction was for any of the following offenses:

32 (A) (i) An offense specified in Section 220, 243.4, or 264.1,
33 subdivision (a) of Section 273a, or, prior to January 1, 1994,
34 paragraph (1) of Section 273a, Section 273ab, 273d, 288, or 289,
35 subdivision (c) of Section 290, or Section 368, of the Penal Code,
36 or was a conviction of another crime against an individual specified
37 in subdivision (c) of Section 667.5 of the Penal Code.

38 (ii) Notwithstanding clause (i), the director may grant an
39 exemption regarding the conviction for an offense described in
40 paragraph (1), (2), (7), or (8) of subdivision (c) of Section 667.5

1 of the Penal Code, if the employee or prospective employee has
2 been rehabilitated as provided in Section 4852.03 of the Penal
3 Code, has maintained the conduct required in Section 4852.05 of
4 the Penal Code for at least 10 years, and has the recommendation
5 of the district attorney representing the employee's county of
6 residence, or if the employee or prospective employee has received
7 a certificate of rehabilitation pursuant to Chapter 3.5 (commencing
8 with Section 4852.01) of Title 6 of Part 3 of the Penal Code. This
9 clause does not apply to foster care providers, including relative
10 caregivers, nonrelated extended family members, or any other
11 person specified in subdivision (b), in those homes where the
12 individual has been convicted of an offense described in paragraph
13 (1) of subdivision (c) of Section 667.5 of the Penal Code.

14 (B) A felony offense specified in Section 729 of the Business
15 and Professions Code or Section 206 or 215, subdivision (a) of
16 Section 347, subdivision (b) of Section 417, or subdivision (a) of
17 Section 451 of the Penal Code.

18 (C) An exemption shall not be granted pursuant to this
19 subdivision to any foster care provider applicant if that applicant,
20 or any other person specified in subdivision (b) in those homes,
21 has a felony conviction for either of the following offenses:

22 (i) A felony conviction for child abuse or neglect, spousal abuse,
23 crimes against a child, including child pornography, or for a crime
24 involving violence, including rape, sexual assault, or homicide,
25 but not including other physical assault and battery. For purposes
26 of this subparagraph, a crime involving violence means a violent
27 crime specified in clause (i) of subparagraph (A), or subparagraph
28 (B).

29 (ii) A felony conviction, within the last five years, for physical
30 assault, battery, or a drug- or alcohol-related offense.

31 (iii) This subparagraph does not apply to licenses or approvals
32 wherein a caregiver was granted an exemption to a criminal
33 conviction described in clause (i) or (ii) prior to the enactment of
34 this subparagraph.

35 (iv) This subparagraph shall remain operative only to the extent
36 that compliance with its provisions is required by federal law as
37 a condition for receiving funding under Title IV-E of the federal
38 Social Security Act (42 U.S.C. Sec. 670 et seq.).

39 (2) The department shall not prohibit a person from being
40 employed or having contact with clients in a facility on the basis

1 of a denied criminal record exemption request or arrest information
2 unless the department complies with the requirements of Section
3 1558.

4 (h) (1) For purposes of compliance with this section, the
5 department may permit an individual to transfer a current criminal
6 record clearance, as defined in subdivision (a), from one facility
7 to another, as long as the criminal record clearance has been
8 processed through a state licensing district office, and is being
9 transferred to another facility licensed by a state licensing district
10 office. The request shall be in writing to the State Department of
11 Social Services, and shall include a copy of the person's driver's
12 license or valid identification card issued by the Department of
13 Motor Vehicles, or a valid photo identification issued by another
14 state or the United States government if the person is not a
15 California resident. Upon request of the licensee, who shall enclose
16 a self-addressed envelope for this purpose, the State Department
17 of Social Services shall verify whether the individual has a
18 clearance that can be transferred.

19 (2) The State Department of Social Services shall hold criminal
20 record clearances in its active files for a minimum of three years
21 after an employee is no longer employed at a licensed facility in
22 order for the criminal record clearance to be transferred.

23 (3) The following applies to a criminal record clearance or
24 exemption from the department or a county office with
25 department-delegated licensing authority:

26 (A) A county office with department-delegated licensing
27 authority may accept a clearance or exemption from the
28 department.

29 (B) The department may accept a clearance or exemption from
30 any county office with department-delegated licensing authority.

31 (C) A county office with department-delegated licensing
32 authority may accept a clearance or exemption from any other
33 county office with department-delegated licensing authority.

34 (4) With respect to notifications issued by the Department of
35 Justice pursuant to Section 11105.2 of the Penal Code concerning
36 an individual whose criminal record clearance was originally
37 processed by the department or a county office with
38 department-delegated licensing authority, all of the following
39 applies:

1 (A) The Department of Justice shall process a request from the
2 department or a county office with department-delegated licensing
3 authority to receive the notice only if all of the following conditions
4 are met:

5 (i) The request shall be submitted to the Department of Justice
6 by the agency to be substituted to receive the notification.

7 (ii) The request shall be for the same applicant type as the type
8 for which the original clearance was obtained.

9 (iii) The request shall contain all prescribed data elements and
10 format protocols pursuant to a written agreement between the
11 department and the Department of Justice.

12 (B) (i) On or before January 7, 2005, the department shall notify
13 the Department of Justice of all county offices that have
14 department-delegated licensing authority.

15 (ii) The department shall notify the Department of Justice within
16 15 calendar days of the date on which a new county office receives
17 department-delegated licensing authority or a county's delegated
18 licensing authority is rescinded.

19 (C) The Department of Justice shall charge the department, a
20 county office with department-delegated licensing authority, or a
21 county child welfare agency with criminal record clearance and
22 exemption authority, a fee for each time a request to substitute the
23 recipient agency is received for purposes of this paragraph. This
24 fee shall not exceed the cost of providing the service.

25 (5) (A) A county child welfare agency with authority to secure
26 clearances pursuant to Section 16504.5 of the Welfare and
27 Institutions Code and to grant exemptions pursuant to Section
28 361.4 of the Welfare and Institutions Code may accept a clearance
29 or exemption from another county with criminal record and
30 exemption authority pursuant to these sections.

31 (B) With respect to notifications issued by the Department of
32 Justice pursuant to Section 11105.2 of the Penal Code concerning
33 an individual whose criminal record clearance was originally
34 processed by a county child welfare agency with criminal record
35 clearance and exemption authority, the Department of Justice shall
36 process a request from a county child welfare agency with criminal
37 record and exemption authority to receive the notice only if all of
38 the following conditions are met:

39 (i) The request shall be submitted to the Department of Justice
40 by the agency to be substituted to receive the notification.

- 1 (ii) The request shall be for the same applicant type as the type
- 2 for which the original clearance was obtained.
- 3 (iii) The request shall contain all prescribed data elements and
- 4 format protocols pursuant to a written agreement between the State
- 5 Department of Social Services and the Department of Justice.
- 6 (i) The full criminal record obtained for purposes of this section
- 7 may be used by the department or by a licensed adoption agency
- 8 as a clearance required for adoption purposes.
- 9 (j) If a licensee or facility is required by law to deny employment
- 10 or to terminate employment of any employee based on written
- 11 notification from the state department that the employee has a prior
- 12 criminal conviction or is determined unsuitable for employment
- 13 under Section 1558, the licensee or facility shall not incur civil
- 14 liability or unemployment insurance liability as a result of that
- 15 denial or termination.
- 16 (k) The State Department of Social Services may charge a fee
- 17 for the costs of processing electronic fingerprint images and related
- 18 information.
- 19 (l) Amendments to this section made in the 1999 portion of the
- 20 1999–2000 Regular Session shall be implemented commencing
- 21 60 days after the effective date of the act amending this section in
- 22 the 1999 portion of the 1999–2000 Regular Session, except that
- 23 those provisions for the submission of fingerprints for searching
- 24 the records of the Federal Bureau of Investigation shall be
- 25 implemented 90 days after the effective date of that act.
- 26 ~~SEC. 269.~~
- 27 *SEC. 270.* The heading of Article 2.6 (commencing with
- 28 Section 1528) of Chapter 3 of Division 2 of the Health and Safety
- 29 Code is repealed.
- 30 ~~SEC. 270.~~
- 31 *SEC. 271.* Section 1531.2 of the Health and Safety Code, as
- 32 added by Section 2 of Chapter 993 of the Statutes of 1989, is
- 33 amended and renumbered to read:
- 34 1531.18. A prospective applicant for licensure shall be notified
- 35 at the time of the initial request for information regarding
- 36 application for licensure that, prior to obtaining licensure, the
- 37 facility shall secure and maintain a fire clearance approval from
- 38 the local fire enforcing agency or the State Fire Marshal, whichever
- 39 has primary fire protection jurisdiction. The prospective applicant
- 40 shall be notified of the provisions of Section 13235, relating to the

1 fire safety clearance application. The prospective applicant for
2 licensure shall be notified that the fire clearance shall be in
3 accordance with state and local fire safety regulations.

4 ~~SEC. 271.~~

5 *SEC. 272.* Section 1534 of the Health and Safety Code is
6 amended to read:

7 1534. (a) (1) (A) Except for foster family homes, every
8 licensed community care facility is subject to unannounced
9 inspections by the department.

10 (B) Foster family homes shall be subject to announced
11 inspections by the department, except that a foster family home
12 shall be subject to unannounced inspections in response to a
13 complaint, a plan of correction, or under any of the circumstances
14 set forth in subparagraph (B) of paragraph (2).

15 (2) (A) The department may inspect these facilities as often as
16 necessary to ensure the quality of care provided.

17 (B) The department shall conduct an annual unannounced
18 inspection of a facility under any of the following circumstances:

19 (i) When a license is on probation.

20 (ii) When the terms of agreement in a facility compliance plan
21 require an annual inspection.

22 (iii) When an accusation against a licensee is pending.

23 (iv) When a facility requires an annual inspection as a condition
24 of receiving federal financial participation.

25 (v) In order to verify that a person who has been ordered out of
26 a facility by the department is no longer at the facility.

27 (C) (i) The department shall conduct annual unannounced
28 inspections of no less than 20 percent of facilities, except for foster
29 family homes, not subject to an inspection under subparagraph
30 (B).

31 (ii) The department shall conduct annual announced inspections
32 of no less than 20 percent of foster family homes not subject to an
33 inspection under subparagraph (B).

34 (iii) These inspections shall be conducted based on a random
35 sampling methodology developed by the department.

36 (iv) If the total citations issued by the department to facilities
37 exceed the previous year's total by 10 percent, the following year
38 the department shall increase the random sample by an additional
39 10 percent of the facilities not subject to an inspection under

1 subparagraph (B). The department may request additional resources
2 to increase the random sample by 10 percent.

3 (v) The department shall not inspect a licensed community care
4 facility less often than once every five years.

5 (3) In order to facilitate direct contact with group home clients,
6 the department may interview children who are clients of group
7 homes at any public agency or private agency at which the client
8 may be found, including, but not limited to, a juvenile hall,
9 recreation or vocational program, or a public or nonpublic school.
10 The department shall respect the rights of the child while
11 conducting the interview, including informing the child that he or
12 she has the right not to be interviewed and the right to have another
13 adult present during the interview.

14 (4) The department shall notify the community care facility in
15 writing of all deficiencies in its compliance with the provisions of
16 this chapter and the rules and regulations adopted pursuant to this
17 chapter, and shall set a reasonable length of time for compliance
18 by the facility.

19 (5) Reports on the results of each inspection, evaluation, or
20 consultation shall be kept on file in the department, and all
21 inspection reports, consultation reports, lists of deficiencies, and
22 plans of correction shall be open to public inspection.

23 (b) (1) This section does not limit the authority of the
24 department to inspect or evaluate a licensed foster family agency,
25 a certified family home, or any aspect of a program in which a
26 licensed community care facility is certifying compliance with
27 licensing requirements.

28 (2) (A) A foster family agency shall conduct an announced
29 inspection of a certified family home during the annual
30 recertification described in Section 1506 in order to ensure that
31 the certified family home meets all applicable licensing standards.
32 A foster family agency may inspect a certified family home as
33 often as necessary to ensure the quality of care provided.

34 (B) In addition to the inspections required pursuant to
35 subparagraph (A), a foster family agency shall conduct an
36 unannounced inspection of a certified family home under any of
37 the following circumstances:

38 (i) When a certified family home is on probation.

39 (ii) When the terms of the agreement in a facility compliance
40 plan require an annual inspection.

1 (iii) When an accusation against a certified family home is
2 pending.

3 (iv) When a certified family home requires an annual inspection
4 as a condition of receiving federal financial participation.

5 (v) In order to verify that a person who has been ordered out of
6 a certified family home by the department is no longer at the home.

7 (3) Upon a finding of noncompliance by the department, the
8 department may require a foster family agency to deny or revoke
9 the certificate of approval of a certified family home, or take other
10 action the department may deem necessary for the protection of a
11 child placed with the certified family home. The certified foster
12 parent or prospective foster parent shall be afforded the due process
13 provided pursuant to this chapter.

14 (4) If the department requires a foster family agency to deny or
15 revoke the certificate of approval, the department shall serve an
16 order of denial or revocation upon the certified or prospective
17 foster parent and foster family agency that shall notify the certified
18 or prospective foster parent of the basis of the department's action
19 and of the certified or prospective foster parent's right to a hearing.

20 (5) Within 15 days after the department serves an order of denial
21 or revocation, the certified or prospective foster parent may file a
22 written appeal of the department's decision with the department.
23 The department's action shall be final if the certified or prospective
24 foster parent does not file a written appeal within 15 days after the
25 department serves the denial or revocation order.

26 (6) The department's order of the denial or revocation of the
27 certificate of approval shall remain in effect until the hearing is
28 completed and the director has made a final determination on the
29 merits.

30 (7) A certified or prospective foster parent who files a written
31 appeal of the department's order with the department pursuant to
32 this section shall, as part of the written request, provide his or her
33 current mailing address. The certified or prospective foster parent
34 shall subsequently notify the department in writing of any change
35 in mailing address, until the hearing process has been completed
36 or terminated.

37 (8) Hearings held pursuant to this section shall be conducted in
38 accordance with Chapter 5 (commencing with Section 11500) of
39 Part 1 of Division 3 of Title 2 of the Government Code. In all

1 proceedings conducted in accordance with this section the standard
2 of proof shall be by a preponderance of the evidence.

3 (9) The department may institute or continue a disciplinary
4 proceeding against a certified or prospective foster parent upon
5 any ground provided by this section or Section 1550, enter an order
6 denying or revoking the certificate of approval, or otherwise take
7 disciplinary action against the certified or prospective foster parent,
8 notwithstanding any resignation, withdrawal of application,
9 surrender of the certificate of approval, or denial or revocation of
10 the certificate of approval by the foster family agency.

11 (10) A foster family agency’s failure to comply with the
12 department’s order to deny or revoke the certificate of approval
13 by placing or retaining children in care shall be grounds for
14 disciplining the licensee pursuant to Section 1550.

15 ~~SEC. 272.~~

16 *SEC. 273.* Section 1546.1 of the Health and Safety Code is
17 amended to read:

18 1546.1. (a) (1) It is the intent of the Legislature in enacting
19 this section to authorize the department to take quick, effective
20 action to protect the health and safety of clients of community care
21 facilities and to minimize the effects of transfer trauma that
22 accompany the abrupt transfer of clients by appointing a temporary
23 manager to assume the operation of a facility that is found to be
24 in a condition in which continued operation by the licensee or his
25 or her representative presents a substantial probability of imminent
26 danger of serious physical harm or death to the clients.

27 (2) A temporary manager appointed pursuant to this section
28 shall assume the operation of the facility in order to bring it into
29 compliance with the law, facilitate a transfer of ownership to a
30 new licensee, or ensure the orderly transfer of clients should the
31 facility be required to close. Upon a final decision and order of
32 revocation of the license or a forfeiture by operation of law, the
33 department shall immediately issue a provisional license to the
34 appointed temporary manager. Notwithstanding the applicable
35 sections of this code governing the revocation of a provisional
36 license, the provisional license issued to a temporary manager shall
37 automatically expire upon the termination of the temporary
38 manager. The temporary manager shall possess the provisional
39 license solely for purposes of carrying out the responsibilities
40 authorized by this section and the duties set forth in the written

1 agreement between the department and the temporary manager.
2 The temporary manager does not have the right to appeal the
3 expiration of the provisional license.

4 (b) For purposes of this section, “temporary manager” means
5 the person, corporation, or other entity appointed temporarily by
6 the department as a substitute facility licensee or administrator
7 with authority to hire, terminate, reassign staff, obligate facility
8 funds, alter facility procedures, and manage the facility to correct
9 deficiencies identified in the facility’s operation. The temporary
10 manager has the final authority to direct the care and supervision
11 activities of any person associated with the facility, including
12 superseding the authority of the licensee and the administrator.

13 (c) The director may appoint a temporary manager when it is
14 determined that it is necessary to temporarily suspend any license
15 of a community care facility pursuant to Section 1550.5 and any
16 of the following circumstances exist:

17 (1) The immediate relocation of the clients is not feasible based
18 on transfer trauma, lack of alternate placements, or other emergency
19 considerations for the health and safety of the clients.

20 (2) The licensee is unwilling or unable to comply with the
21 requirements of Section 1556 for the safe and orderly relocation
22 of clients when ordered to do so by the department.

23 (d) (1) Upon appointment, the temporary manager shall
24 complete its application for a license to operate a community care
25 facility and take all necessary steps and make best efforts to
26 eliminate any substantial threat to the health and safety to clients
27 or complete the transfer of clients to alternative placements
28 pursuant to Section 1556. For purposes of a provisional license
29 issued to a temporary manager, the licensee’s existing fire safety
30 clearance shall serve as the fire safety clearance for the temporary
31 manager’s provisional license.

32 (2) A person shall not impede the operation of a temporary
33 manager. The temporary manager’s access to, or possession of,
34 the property shall not be interfered with during the term of the
35 temporary manager appointment. There shall be an automatic stay
36 for a 60-day period subsequent to the appointment of a temporary
37 manager of any action that would interfere with the functioning
38 of the facility, including, but not limited to, termination of utility
39 services, attachments or setoffs of client trust funds, and
40 repossession of equipment in the facility.

1 (e) (1) The appointment of a temporary manager shall be
2 immediately effective and shall continue for a period not to exceed
3 60 days unless otherwise extended in accordance with paragraph
4 (2) of subdivision (h) at the discretion of the department or
5 otherwise terminated earlier by any of the following events:

6 (A) The temporary manager notifies the department, and the
7 department verifies, that the facility meets state and, if applicable,
8 federal standards for operation, and will be able to continue to
9 maintain compliance with those standards after the termination of
10 the appointment of the temporary manager.

11 (B) The department approves a new temporary manager.

12 (C) A new operator is licensed.

13 (D) The department closes the facility.

14 (E) A hearing or court order ends the temporary manager
15 appointment, including the appointment of a receiver under Section
16 1546.2.

17 (F) The appointment is terminated by the department or the
18 temporary manager.

19 (2) The appointment of a temporary manager shall authorize
20 the temporary manager to act pursuant to this section. The
21 appointment shall be made pursuant to a written agreement between
22 the temporary manager and the department that outlines the
23 circumstances under which the temporary manager may expend
24 funds. The department shall provide the licensee and administrator
25 with a copy of the accusation to appoint a temporary manager at
26 the time of appointment. The accusation shall notify the licensee
27 of the licensee's right to petition the Office of Administrative
28 Hearings for a hearing to contest the appointment of the temporary
29 manager as described in subdivision (f) and shall provide the
30 licensee with a form and appropriate information for the licensee's
31 use in requesting a hearing.

32 (3) The director may rescind the appointment of a temporary
33 manager and appoint a new temporary manager at any time that
34 the director determines the temporary manager is not adhering to
35 the conditions of the appointment.

36 (f) (1) The licensee of a community care facility may contest
37 the appointment of the temporary manager by filing a petition for
38 an order to terminate the appointment of the temporary manager
39 with the Office of Administrative Hearings within 15 days from
40 the date of mailing of the accusation to appoint a temporary

1 manager under subdivision (e). On the same day the petition is
2 filed with the Office of Administrative Hearings, the licensee shall
3 serve a copy of the petition to the office of the director.

4 (2) Upon receipt of a petition under paragraph (1), the Office
5 of Administrative Hearings shall set a hearing date and time within
6 10 business days of the receipt of the petition. The office shall
7 promptly notify the licensee and the department of the date, time,
8 and place of the hearing. The office shall assign the case to an
9 administrative law judge. At the hearing, relevant evidence may
10 be presented pursuant to Section 11513 of the Government Code.
11 The administrative law judge shall issue a written decision on the
12 petition within 10 business days of the conclusion of the hearing.
13 The 10-day time period for holding the hearing and for rendering
14 a decision may be extended by the written agreement of the parties.

15 (3) The administrative law judge shall uphold the appointment
16 of the temporary manager if the department proves, by a
17 preponderance of the evidence, that the circumstances specified
18 in subdivision (c) applied to the facility at the time of the
19 appointment. The administrative law judge shall order the
20 termination of the temporary manager if the burden of proof is not
21 satisfied.

22 (4) The decision of the administrative law judge is subject to
23 judicial review as provided in Section 1094.5 of the Code of Civil
24 Procedure by the superior court of the county where the facility is
25 located. This review may be requested by the licensee of the facility
26 or the department by filing a petition seeking relief from the order.
27 The petition may also request the issuance of temporary injunctive
28 relief pending the decision on the petition. The superior court shall
29 hold a hearing within 10 business days of the filing of the petition
30 and shall issue a decision on the petition within 10 days of the
31 hearing. The department may be represented by legal counsel
32 within the department for purposes of court proceedings authorized
33 under this section.

34 (g) If the licensee of the community care facility does not protest
35 the appointment or does not prevail at either the administrative
36 hearing under paragraph (2) of subdivision (f) or the superior court
37 hearing under paragraph (4) of subdivision (f), the temporary
38 manager shall continue in accordance with subdivision (e).

39 (h) (1) If the licensee of the community care facility petitions
40 the Office of Administrative Hearings pursuant to subdivision (f),

1 the appointment of the temporary manager by the director pursuant
2 to this section shall continue until it is terminated by the
3 administrative law judge or by the superior court, or it shall
4 continue until the conditions of subdivision (e) are satisfied,
5 whichever is earlier.

6 (2) At any time during the appointment of the temporary
7 manager, the director may request an extension of the appointment
8 by filing a petition for hearing with the Office of Administrative
9 Hearings and serving a copy of the petition on the licensee. The
10 office shall proceed as specified in paragraph (2) of subdivision
11 (f). The administrative law judge may extend the appointment of
12 the temporary manager an additional 60 days upon a showing by
13 the department that the conditions specified in subdivision (c)
14 continue to exist.

15 (3) The licensee or the department may request review of the
16 administrative law judge's decision on the extension as provided
17 in paragraph (4) of subdivision (f).

18 (i) The temporary manager appointed pursuant to this section
19 shall meet the following qualifications:

20 (1) Be qualified to oversee correction of deficiencies on the
21 basis of experience and education.

22 (2) Not be the subject of any pending actions by the department
23 or any other state agency nor have ever been excluded from a
24 department licensed facility or had a license or certification
25 suspended or revoked by an administrative action by the
26 department or any other state agency.

27 (3) Not have a financial ownership interest in the facility and
28 not have a member of his or her immediate family who has a
29 financial ownership interest in the facility.

30 (4) Not currently serve, or within the past two years have served,
31 as a member of the staff of the facility.

32 (j) Payment of the costs of the temporary manager shall comply
33 with the following requirements:

34 (1) Upon agreement with the licensee, the costs of the temporary
35 manager and any other expenses in connection with the temporary
36 management shall be paid directly by the facility while the
37 temporary manager is assigned to that facility. Failure of the
38 licensee to agree to the payment of those costs may result in the
39 payment of the costs by the department and subsequent required

1 reimbursement to the department by the licensee pursuant to this
2 section.

3 (2) Direct costs of the temporary manager shall be equivalent
4 to the sum of the following:

5 (A) The prevailing fee paid by licensees for positions of the
6 same type in the facility's geographic area.

7 (B) Additional costs that reasonably would have been incurred
8 by the licensee if the licensee and the temporary manager had been
9 in an employment relationship.

10 (C) Any other reasonable costs incurred by the temporary
11 manager in furnishing services pursuant to this section.

12 (3) Direct costs may exceed the amount specified in paragraph
13 (2) if the department is otherwise unable to attract a qualified
14 temporary manager.

15 (k) (1) The responsibilities of the temporary manager may
16 include, but are not limited to, the following:

17 (A) Paying wages to staff. The temporary manager shall have
18 the full power to hire, direct, manage, and discharge employees
19 of the facility, subject to any contractual rights they may have.
20 The temporary manager shall pay employees at the same rate of
21 compensation, including benefits, that the employees would have
22 received from the licensee or wages necessary to provide adequate
23 staff for the protection of clients and compliance with the law.

24 (B) Preserving client funds. The temporary manager shall be
25 entitled to, and shall take possession of, all property or assets of
26 clients that are in the possession of the licensee or administrator
27 of the facility. The temporary manager shall preserve all property,
28 assets, and records of clients of which the temporary manager takes
29 possession.

30 (C) Contracting for outside services as may be needed for the
31 operation of the facility. Any contract for outside services in excess
32 of five thousand dollars (\$5,000) shall be approved by the director.

33 (D) Paying commercial creditors of the facility to the extent
34 required to operate the facility. The temporary manager shall honor
35 all leases, mortgages, and secured transactions affecting the
36 building in which the facility is located and all goods and fixtures
37 in the building, but only to the extent of payments that, in the case
38 of a rental agreement, are for the use of the property during the
39 period of the temporary management, or that, in the case of a

1 purchase agreement, come due during the period of the temporary
2 management.

3 (E) Doing all things necessary and proper to maintain and
4 operate the facility in accordance with sound fiscal policies. The
5 temporary manager shall take action as is reasonably necessary to
6 protect or conserve the assets or property of which the temporary
7 manager takes possession and may use those assets or property
8 only in the performance of the powers and duties set out in this
9 section.

10 (2) Expenditures by the temporary manager in excess of five
11 thousand dollars (\$5,000) shall be approved by the director. Total
12 encumbrances and expenditures by the temporary manager for the
13 duration of the temporary management shall not exceed the sum
14 of forty-nine thousand nine hundred ninety-nine dollars (\$49,999)
15 unless approved by the director in writing.

16 (3) The temporary manager shall make no capital improvements
17 to the facility in excess of five thousand dollars (\$5,000) without
18 the approval of the director.

19 (l) (1) To the extent department funds are advanced for the
20 costs of the temporary manager or for other expenses in connection
21 with the temporary management, the department shall be
22 reimbursed from the revenues accruing to the facility or to the
23 licensee or an entity related to the licensee. Any reimbursement
24 received by the department shall be redeposited in the account
25 from which the department funds were advanced. If the revenues
26 are insufficient to reimburse the department, the unreimbursed
27 amount shall constitute grounds for a monetary judgment in civil
28 court and a subsequent lien upon the assets of the facility or the
29 proceeds from the sale thereof. Pursuant to Chapter 2 (commencing
30 with Section 697.010) of Division 2 of Title 9 of Part 2 of the Code
31 of Civil Procedure, a lien against the personal assets of the facility
32 or an entity related to the licensee based on the monetary judgment
33 obtained shall be filed with the Secretary of State on the forms
34 required for a notice of judgment lien. A lien against the real
35 property of the facility or an entity related to the licensee based
36 on the monetary judgment obtained shall be recorded with the
37 county recorder of the county where the facility of the licensee is
38 located or where the real property of the entity related to the
39 licensee is located. The lien shall not attach to the interests of a
40 lessor, unless the lessor is operating the facility. The authority to

1 place a lien against the personal and real property of the licensee
2 for the reimbursement of any state funds expended pursuant to this
3 section shall be given judgment creditor priority.

4 (2) For purposes of this section, “entity related to the licensee”
5 means an entity, other than a natural person, of which the licensee
6 is a subsidiary or an entity in which a person who was obligated
7 to disclose information under Section 1520 possesses an interest
8 that would also require disclosure pursuant to Section 1520.

9 (m) Appointment of a temporary manager under this section
10 does not relieve the licensee of any responsibility for the care and
11 supervision of clients under this chapter. The licensee, even if the
12 license is deemed surrendered or the facility abandoned, shall be
13 required to reimburse the department for all costs associated with
14 operation of the facility during the period the temporary manager
15 is in place that are not accounted for by using facility revenues or
16 for the relocation of clients handled by the department if the
17 licensee fails to comply with the relocation requirements of Section
18 1556 when required by the department to do so. If the licensee
19 fails to reimburse the department under this section, then the
20 department, along with using its own remedies available under
21 this chapter, may request that the Attorney General’s office, the
22 city attorney’s office, or the local district attorney’s office seek
23 any available criminal, civil, or administrative remedy, including,
24 but not limited to, injunctive relief, restitution, and damages in the
25 same manner as provided for in Chapter 5 (commencing with
26 Section 17200) of Part 2 of Division 7 of the Business and
27 Professions Code.

28 (n) The department may use funds from the emergency client
29 contingency account pursuant to Section 1546 when needed to
30 supplement the operation of the facility or the transfer of clients
31 under the control of the temporary manager appointed under this
32 section if facility revenues are unavailable or exhausted when
33 needed. Pursuant to subdivision (l), the licensee shall be required
34 to reimburse the department for any funds used from the emergency
35 client contingency account during the period of control of the
36 temporary manager and any incurred costs of collection.

37 (o) This section does not apply to a residential facility that serves
38 six or fewer persons and is also the principal residence of the
39 licensee.

1 (p) Notwithstanding any other provision of law, the temporary
2 manager shall be liable only for damages resulting from gross
3 negligence in the operation of the facility or intentional tortious
4 acts.

5 (q) All governmental immunities otherwise applicable to the
6 state shall also apply to the state in the use of a temporary manager
7 in the operation of a facility pursuant to this section.

8 (r) A licensee shall not be liable for any occurrences during the
9 temporary management under this section except to the extent that
10 the occurrences are the result of the licensee’s conduct.

11 (s) The department may adopt regulations for the administration
12 of this section.

13 ~~SEC. 273.~~

14 *SEC. 274.* Section 1546.2 of the Health and Safety Code is
15 amended to read:

16 1546.2. (a) It is the intent of the Legislature in enacting this
17 section to authorize the department to take quick, effective action
18 to protect the health and safety of residents of community care
19 facilities and to minimize the effects of transfer trauma that
20 accompany the abrupt transfer of clients through a system whereby
21 the department may apply for a court order appointing a receiver
22 to temporarily operate a community care facility. The receivership
23 is not intended to punish a licensee or to replace attempts to secure
24 cooperative action to protect the clients’ health and safety. The
25 receivership is intended to protect the clients in the absence of
26 other reasonably available alternatives. The receiver shall assume
27 the operation of the facility in order to bring it into compliance
28 with law, facilitate a transfer of ownership to a new licensee, or
29 ensure the orderly transfer of clients should the facility be required
30 to close.

31 (b) (1) Whenever circumstances exist indicating that continued
32 management of a community care facility by the current licensee
33 would present a substantial probability or imminent danger of
34 serious physical harm or death to the clients, or the facility is
35 closing or intends to terminate operation as a community care
36 facility and adequate arrangements for the relocation of clients
37 have not been made at least 30 days prior to the closing or
38 termination, the director may petition the superior court for the
39 county in which the community care facility is located for an order

1 appointing a receiver to temporarily operate the community care
2 facility in accordance with this section.

3 (2) The petition shall allege the facts upon which the action is
4 based and shall be supported by an affidavit of the director. A copy
5 of the petition and affidavit, together with an order to appear and
6 show cause why temporary authority to operate the community
7 care facility should not be vested in a receiver pursuant to this
8 section, shall be delivered to the licensee, administrator, or a
9 responsible person at the facility to the attention of the licensee
10 and administrator. The order shall specify a hearing date, which
11 shall be not less than 10, nor more than 15, days following delivery
12 of the petition and order upon the licensee, except that the court
13 may shorten or lengthen the time upon a showing of just cause.

14 (c) (1) If the director files a petition pursuant to subdivision (b)
15 for appointment of a receiver to operate a community care facility,
16 in accordance with Section 564 of the Code of Civil Procedure,
17 the director may also petition the court, in accordance with Section
18 527 of the Code of Civil Procedure, for an order appointing a
19 temporary receiver. A temporary receiver appointed by the court
20 pursuant to this subdivision shall serve until the court has made a
21 final determination on the petition for appointment of a receiver
22 filed pursuant to subdivision (b). A receiver appointed pursuant
23 to this subdivision shall have the same powers and duties as a
24 receiver would have if appointed pursuant to subdivision (b). Upon
25 the director filing a petition for a receiver, the receiver shall
26 complete its application for a provisional license to operate a
27 community care facility. For purposes of a provisional license
28 issued to a receiver, the licensee's existing fire safety clearance
29 shall serve as the fire safety clearance for the receiver's provisional
30 license.

31 (2) At the time of the hearing, the department shall advise the
32 licensee of the name of the proposed receiver. The receiver shall
33 be a certified community care facility administrator or other
34 responsible person or entity, as determined by the court, from a
35 list of qualified receivers established by the department, and, if
36 need be, with input from providers of residential care and consumer
37 representatives. Persons appearing on the list shall have experience
38 in the delivery of care services to clients of community care
39 facilities, and, if feasible, shall have experience with the operation
40 of a community care facility, shall not be the subject of any pending

1 actions by the department or any other state agency, and shall not
2 have ever been excluded from a department licensed facility nor
3 have had a license or certification suspended or revoked by an
4 administrative action by the department or any other state agency.
5 The receivers shall have sufficient background and experience in
6 management and finances to ensure compliance with orders issued
7 by the court. The owner, licensee, or administrator shall not be
8 appointed as the receiver unless authorized by the court.

9 (3) If at the conclusion of the hearing, which may include oral
10 testimony and cross-examination at the option of any party, the
11 court determines that adequate grounds exist for the appointment
12 of a receiver and that there is no other reasonably available remedy
13 to protect the clients, the court may issue an order appointing a
14 receiver to temporarily operate the community care facility and
15 enjoining the licensee from interfering with the receiver in the
16 conduct of his or her duties. In these proceedings, the court shall
17 make written findings of fact and conclusions of law and shall
18 require an appropriate bond to be filed by the receiver and paid
19 for by the licensee. The bond shall be in an amount necessary to
20 protect the licensee in the event of any failure on the part of the
21 receiver to act in a reasonable manner. The bond requirement may
22 be waived by the licensee.

23 (4) The court may permit the licensee to participate in the
24 continued operation of the facility during the pendency of any
25 receivership ordered pursuant to this section and shall issue an
26 order detailing the nature and scope of participation.

27 (5) Failure of the licensee to appear at the hearing on the petition
28 shall constitute an admission of all factual allegations contained
29 in the petition for purposes of these proceedings only.

30 (6) The licensee shall receive notice and a copy of the
31 application each time the receiver applies to the court or the
32 department for instructions regarding his or her duties under this
33 section, when an accounting pursuant to subdivision (i) is
34 submitted, and when any other report otherwise required under
35 this section is submitted. The licensee shall have an opportunity
36 to present objections or otherwise participate in those proceedings.

37 (d) A person shall not impede the operation of a receivership
38 created under this section. The receiver's access to, or possession
39 of, the property shall not be interfered with during the term of the
40 receivership. There shall be an automatic stay for a 60-day period

1 subsequent to the appointment of a receiver of any action that
2 would interfere with the functioning of the facility, including, but
3 not limited to, cancellation of insurance policies executed by the
4 licensees, termination of utility services, attachments or setoffs of
5 client trust funds and working capital accounts, and repossession
6 of equipment in the facility.

7 (e) When a receiver is appointed, the licensee may, at the
8 discretion of the court, be divested of possession and control of
9 the facility in favor of the receiver. If the court divests the licensee
10 of possession and control of the facility in favor of the receiver,
11 the department shall immediately issue a provisional license to the
12 receiver. Notwithstanding the applicable sections of this code
13 governing the revocation of a provisional license, the provisional
14 license issued to a receiver shall automatically expire upon the
15 termination of the receivership. The receiver shall possess the
16 provisional license solely for purposes of carrying out the
17 responsibilities authorized by this section and the duties ordered
18 by the court. The receiver shall have no right to appeal the
19 expiration of the provisional license.

20 (f) A receiver appointed pursuant to this section:

21 (1) May exercise those powers and shall perform those duties
22 ordered by the court, in addition to other duties provided by statute.

23 (2) Shall operate the facility in a manner that ensures the safety
24 and adequate care for the clients.

25 (3) Shall have the same rights to possession of the building in
26 which the facility is located, and of all goods and fixtures in the
27 building at the time the petition for receivership is filed, as the
28 licensee and administrator would have had if the receiver had not
29 been appointed.

30 (4) May use the funds, building, fixtures, furnishings, and any
31 accompanying consumable goods in the provision of care and
32 services to clients and to any other persons receiving services from
33 the facility at the time the petition for receivership was filed.

34 (5) Shall take title to all revenue coming to the facility in the
35 name of the receiver who shall use it for the following purposes
36 in descending order of priority:

37 (A) To pay wages to staff. The receiver shall have full power
38 to hire, direct, manage, and discharge employees of the facility,
39 subject to any contractual rights they may have. The receiver shall
40 pay employees at the same rate of compensation, including

1 benefits, that the employees would have received from the licensee
2 or wages necessary to provide adequate staff for the protection of
3 the clients and compliance with the law.

4 (B) To preserve client funds. The receiver shall be entitled to,
5 and shall take, possession of all property or assets of clients that
6 are in the possession of the licensee or operator of the facility. The
7 receiver shall preserve all property, assets, and records of clients
8 of which the receiver takes possession.

9 (C) To contract for outside services as may be needed for the
10 operation of the community care facility. Any contract for outside
11 services in excess of five thousand dollars (\$5,000) shall be
12 approved by the court.

13 (D) To pay commercial creditors of the facility to the extent
14 required to operate the facility. Except as provided in subdivision
15 (h), the receiver shall honor all leases, mortgages, and secured
16 transactions affecting the building in which the facility is located
17 and all goods and fixtures in the building of which the receiver
18 has taken possession, but only to the extent of payments which,
19 in the case of a rental agreement, are for the use of the property
20 during the period of receivership, or which, in the case of a
21 purchase agreement, come due during the period of receivership.

22 (E) To receive a salary, as approved by the court.

23 (F) To do all things necessary and proper to maintain and operate
24 the facility in accordance with sound fiscal policies. The receiver
25 shall take action as is reasonably necessary to protect or conserve
26 the assets or property of which the receiver takes possession and
27 may use those assets or property only in the performance of the
28 powers and duties set out in this section and by order of the court.

29 (G) To ask the court for direction in the treatment of debts
30 incurred prior to the appointment, if the licensee's debts appear
31 extraordinary, of questionable validity, or unrelated to the normal
32 and expected maintenance and operation of the facility, or if
33 payment of the debts will interfere with the purposes of
34 receivership.

35 (g) (1) A person who is served with notice of an order of the
36 court appointing a receiver and of the receiver's name and address
37 shall be liable to pay the receiver, rather than the licensee, for any
38 goods or services provided by the community care facility after
39 the date of the order. The receiver shall give a receipt for each
40 payment and shall keep a copy of each receipt on file. The receiver

1 shall deposit amounts received in a special account and shall use
2 this account for all disbursements. Payment to the receiver pursuant
3 to this subdivision shall discharge the obligation to the extent of
4 the payment and shall not thereafter be the basis of a claim by the
5 licensee or any other person. A client shall not be evicted nor may
6 any contract or rights be forfeited or impaired, nor may any
7 forfeiture be effected or liability increased, by reason of an
8 omission to pay the licensee, operator, or other person a sum paid
9 to the receiver pursuant to this subdivision.

10 (2) This section shall not be construed to suspend, during the
11 temporary management by the receiver, any obligation of the
12 licensee for payment of local, state, or federal taxes. A licensee
13 shall not be held liable for acts or omissions of the receiver during
14 the term of the temporary management.

15 (3) Upon petition of the receiver, the court may order immediate
16 payment to the receiver for past services that have been rendered
17 and billed, and the court may also order a sum not to exceed one
18 month's advance payment to the receiver of any sums that may
19 become payable under the Medi-Cal program.

20 (h) (1) A receiver shall not be required to honor a lease,
21 mortgage, or secured transaction entered into by the licensee of
22 the facility and another party if the court finds that the agreement
23 between the parties was entered into for a collusive, fraudulent
24 purpose or that the agreement is unrelated to the operation of the
25 facility.

26 (2) A lease, mortgage, or secured transaction or an agreement
27 unrelated to the operation of the facility that the receiver is
28 permitted to dishonor pursuant to this subdivision shall only be
29 subject to nonpayment by the receiver for the duration of the
30 receivership, and the dishonoring of the lease, mortgage, security
31 interest, or other agreement, to this extent, by the receiver shall
32 not relieve the owner or operator of the facility from any liability
33 for the full amount due under the lease, mortgage, security interest,
34 or other agreement.

35 (3) If the receiver is in possession of real estate or goods subject
36 to a lease, mortgage, or security interest that the receiver is
37 permitted to dishonor pursuant to paragraph (1), and if the real
38 estate or goods are necessary for the continued operation of the
39 facility, the receiver may apply to the court to set a reasonable
40 rent, price, or rate of interest to be paid by the receiver during the

1 duration of the receivership. The court shall hold a hearing on this
2 application within 15 days. The receiver shall send notice of the
3 application to any known owner of the property involved at least
4 10 days prior to the hearing.

5 (4) Payment by the receiver of the amount determined by the
6 court to be reasonable is a defense to any action against the receiver
7 for payment or possession of the goods or real estate, subject to
8 the lease or mortgage, which is brought by any person who received
9 the notice required by this subdivision. However, payment by the
10 receiver of the amount determined by the court to be reasonable
11 shall not relieve the owner or operator of the facility from any
12 liability for the difference between the amount paid by the receiver
13 and the amount due under the original lease, mortgage, or security
14 interest.

15 (i) A monthly accounting shall be made by the receiver to the
16 department of all moneys received and expended by the receiver
17 on or before the 15th day of the following month or as ordered by
18 the court, and the remainder of income over expenses for that
19 month shall be returned to the licensee. A copy of the accounting
20 shall be provided to the licensee. The licensee or owner of the
21 community care facility may petition the court for a determination
22 as to the reasonableness of any expenditure made pursuant to
23 paragraph (5) of subdivision (f).

24 (j) (1) The receiver shall be appointed for an initial period of
25 not more than three months. The initial three-month period may
26 be extended for additional periods not exceeding three months, as
27 determined by the court pursuant to this section. At the end of one
28 month, the receiver shall report to the court on its assessment of
29 the probability that the community care facility will meet state
30 standards for operation by the end of the initial three-month period
31 and will continue to maintain compliance with those standards
32 after termination of the receiver's management. If it appears that
33 the facility cannot be brought into compliance with state standards
34 within the initial three-month period, the court shall take
35 appropriate action as follows:

36 (A) Extend the receiver's management for an additional three
37 months if there is a substantial likelihood that the facility will meet
38 state standards within that period and will maintain compliance
39 with the standards after termination of the receiver's management.
40 The receiver shall report to the court in writing upon the facility's

1 progress at the end of six weeks of any extension ordered pursuant
2 to this paragraph.

3 (B) Order the director to revoke or temporarily suspend, or both,
4 the license pursuant to Article 5 (commencing with Section 1550)
5 and extend the receiver's management for the period necessary to
6 transfer clients in accordance with the transfer plan, but for not
7 more than three months from the date of initial appointment of a
8 receiver, or 14 days, whichever is greater. An extension of an
9 additional three months may be granted if deemed necessary by
10 the court.

11 (2) If it appears at the end of six weeks of an extension ordered
12 pursuant to subparagraph (A) of paragraph (1) that the facility
13 cannot be brought into compliance with state standards for
14 operation or that it will not maintain compliance with those
15 standards after the receiver's management is terminated, the court
16 shall take appropriate action as specified in subparagraph (B) of
17 paragraph (1).

18 (3) In evaluating the probability that a community care facility
19 will maintain compliance with state standards of operation after
20 the termination of receiver management ordered by the court, the
21 court shall consider at least the following factors:

22 (A) The duration, frequency, and severity of past violations in
23 the facility.

24 (B) History of compliance in other care facilities operated by
25 the proposed licensee.

26 (C) Efforts by the licensee to prevent and correct past violations.

27 (D) The financial ability of the licensee to operate in compliance
28 with state standards.

29 (E) The recommendations and reports of the receiver.

30 (4) Management of a community care facility operated by a
31 receiver pursuant to this section shall not be returned to the
32 licensee, to any person related to the licensee, or to any person
33 who served as a member of the facility's staff or who was
34 employed by the licensee prior to the appointment of the receiver
35 unless both of the following conditions are met:

36 (A) The department believes that it would be in the best interests
37 of the clients of the facility, requests that the court return the
38 operation of the facility to the former licensee, and provides clear
39 and convincing evidence to the court that it is in the best interests
40 of the facility's clients to take that action.

1 (B) The court finds that the licensee has fully cooperated with
2 the department in the appointment and ongoing activities of a
3 receiver appointed pursuant to this section, and, if applicable, any
4 temporary manager appointed pursuant to Section 1546.1.

5 (5) The owner of the facility may at any time sell, lease, or close
6 the facility, subject to the following provisions:

7 (A) If the owner closes the facility, or the sale or lease results
8 in the closure of the facility, the court shall determine if a transfer
9 plan is necessary. If the court so determines, the court shall adopt
10 and implement a transfer plan consistent with the provisions of
11 Section 1556.

12 (B) If the licensee proposes to sell or lease the facility and the
13 facility will continue to operate as a community care facility, the
14 court and the department shall reevaluate any proposed transfer
15 plan. If the court and the department determine that the sale or
16 lease of the facility will result in compliance with licensing
17 standards, the transfer plan and the receivership shall, subject to
18 those conditions that the court may impose and enforce, be
19 terminated upon the effective date of the sale or lease.

20 (k) (1) The salary of the receiver shall be set by the court
21 commensurate with community care facility industry standards,
22 giving due consideration to the difficulty of the duties undertaken,
23 and shall be paid from the revenue coming to the facility. If the
24 revenue is insufficient to pay the salary in addition to other
25 expenses of operating the facility, the receiver's salary shall be
26 paid from the emergency client contingency account as provided
27 in Section 1546. State advances of funds in excess of five thousand
28 dollars (\$5,000) shall be approved by the director. Total advances
29 for encumbrances and expenditures shall not exceed the sum of
30 forty-nine thousand nine hundred ninety-nine dollars (\$49,999)
31 unless approved by the director in writing.

32 (2) To the extent state funds are advanced for the salary of the
33 receiver or for other expenses in connection with the receivership,
34 as limited by subdivision (g), the state shall be reimbursed from
35 the revenues accruing to the facility or to the licensee or an entity
36 related to the licensee. Any reimbursement received by the state
37 shall be redeposited in the account from which the state funds were
38 advanced. If the revenues are insufficient to reimburse the state,
39 the unreimbursed amount shall constitute grounds for a monetary
40 judgment in civil court and a subsequent lien upon the assets of

1 the facility or the proceeds from the sale thereof. Pursuant to
2 Chapter 2 (commencing with Section 697.010) of Division 2 of
3 Title 9 of Part 2 of the Code of Civil Procedure, a lien against the
4 personal assets of the facility or an entity related to the licensee
5 based on the monetary judgment obtained shall be filed with the
6 Secretary of State on the forms required for a notice of judgment
7 lien. A lien against the real property of the facility or an entity
8 related to the licensee based on the monetary judgment obtained
9 shall be recorded with the county recorder of the county where the
10 facility of the licensee is located or where the real property of the
11 entity related to the licensee is located. The lien shall not attach
12 to the interests of a lessor, unless the lessor is operating the facility.
13 The authority to place a lien against the personal and real property
14 of the licensee for the reimbursement of any state funds expended
15 pursuant to this section shall be given judgment creditor priority.

16 (3) For purposes of this subdivision, "entity related to the
17 licensee" means an entity, other than a natural person, of which
18 the licensee is a subsidiary or an entity in which any person who
19 was obligated to disclose information under Section 1520 possesses
20 an interest that would also require disclosure pursuant to Section
21 1520.

22 (l) (1) This section does not impair the right of the owner of a
23 community care facility to dispose of his or her property interests
24 in the facility, but any facility operated by a receiver pursuant to
25 this section shall remain subject to that administration until
26 terminated by the court. The termination shall be promptly
27 effectuated, provided that the interests of the clients have been
28 safeguarded as determined by the court.

29 (2) This section does not limit the power of the court to appoint
30 a receiver under any other applicable provision of law or to order
31 any other remedy available under law.

32 (m) (1) Notwithstanding any other provision of law, the receiver
33 shall be liable only for damages resulting from gross negligence
34 in the operation of the facility or intentional tortious acts.

35 (2) All governmental immunities otherwise applicable to the
36 State of California shall also apply in the use of a receiver in the
37 operation of a facility pursuant to this section.

38 (3) The licensee shall not be liable for any occurrences during
39 the receivership except to the extent that the occurrences are the
40 result of the licensee's conduct.

1 (n) The department may adopt regulations for the administration
2 of this section. This section does not impair the authority of the
3 department to temporarily suspend licenses under Section 1550.5
4 or to reach a voluntary agreement with the licensee for alternate
5 management of a community care facility including the use of a
6 temporary manager under Section 1546.1. This section does not
7 authorize the department to interfere in a labor dispute.

8 (o) This section does not apply to a residential facility that serves
9 six or fewer persons and is also the principal residence of the
10 licensee.

11 (p) This section does not apply to a licensee that has obtained
12 a certificate of authority to offer continuing care contracts, as
13 defined in paragraph (8) of subdivision (c) of Section 1771.

14 ~~SEC. 274.~~

15 *SEC. 275.* Section 1562 of the Health and Safety Code is
16 amended to read:

17 1562. (a) The director shall ensure that operators and staffs of
18 community care facilities have appropriate training to provide the
19 care and services for which a license or certificate is issued. This
20 section does not apply to a facility licensed as an Adult Residential
21 Facility for Persons with Special Health Care Needs pursuant to
22 Article 9 (commencing with Section 1567.50).

23 (b) It is the intent of the Legislature that children in foster care
24 reside in the least restrictive, family-based settings that can meet
25 their needs, and that group homes will be used only for short-term,
26 specialized, and intensive treatment purposes that are consistent
27 with a case plan that is determined by a child's best interests.
28 Accordingly, the Legislature encourages the department to adopt
29 policies, practices, and guidance that ensure that the education,
30 qualification, and training requirements for child care staff in group
31 homes are consistent with the intended role of group homes to
32 provide short-term, specialized, and intensive treatment, with a
33 particular focus on crisis intervention, behavioral stabilization,
34 and other treatment-related goals, as well as the connections
35 between those efforts and work toward permanency for children.

36 (c) (1) On and after October 1, 2014, each person employed as
37 a facility manager or staff member of a group home, as defined in
38 paragraph (13) of subdivision (a) of Section 1502, who provides
39 direct care and supervision to children and youth residing in the
40 group home shall be at least 21 years of age.

1 (2) Paragraph (1) does not apply to a facility manager or staff
2 member employed at the group home before October 1, 2014.

3 (3) For purposes of this subdivision, “group home” does not
4 include a runaway and homeless youth shelter.

5 ~~SEC. 275.~~

6 *SEC. 276.* Section 1567.62 of the Health and Safety Code is
7 amended to read:

8 1567.62. (a) Each enhanced behavioral supports home shall
9 be licensed as an adult residential facility or a group home and
10 certified by the State Department of Developmental Services.

11 (b) A certificate of program approval issued by the State
12 Department of Developmental Services shall be a condition of
13 licensure for the enhanced behavioral supports home by the State
14 Department of Social Services.

15 (c) An enhanced behavioral supports home shall not be licensed
16 by the State Department of Social Services until the certificate of
17 program approval, granted by the State Department of
18 Developmental Services, has been received.

19 (d) Placements of dual agency clients into enhanced behavioral
20 supports homes that are licensed as group homes shall be subject
21 to the limitations on the duration of the placement set forth in
22 Sections 319.2 and 319.3 of, and subparagraph (A) of paragraph
23 (8) and subparagraph (A) of paragraph (9) of subdivision (e) of
24 Section 361.2 of, the Welfare and Institutions Code.

25 (e) For the purpose of this article, dual agency clients are foster
26 children in temporary custody of the child welfare agency under
27 Section 319 of the Welfare and Institutions Code or under the
28 jurisdiction of the juvenile court pursuant to Section 300, 450, 601,
29 or 602 of the Welfare and Institutions Code who are also either a
30 consumer of regional center services, or who are receiving services
31 under the California Early Intervention Services Act (Title 14
32 (commencing with Section 95000) of the Government Code) but
33 who are under three years of age and have not yet been determined
34 to have a developmental disability.

35 (f) The State Department of Social Services is not responsible
36 for any of the following:

37 (1) Developing and approving a consumer’s individual behavior
38 supports plan in conjunction with the consumer’s individual
39 behavior supports team.

1 (2) (A) Oversight of any services that may be provided by a
2 licensed health professional or licensed mental health professional
3 to a consumer.

4 (B) Services provided by a licensed health or licensed mental
5 health professional means services that may only be provided under
6 the authority of the licensed health service provider’s or licensed
7 mental health service provider’s professional license.

8 (g) Subdivision (f) does not limit the State Department of Social
9 Services’ ability to enforce Chapter 3 (commencing with Section
10 1500), and applicable regulations.

11 ~~SEC. 276.~~

12 *SEC. 277.* Section 1567.69 of the Health and Safety Code is
13 amended to read:

14 1567.69. This article does not interfere with the authority of
15 the State Department of Social Services to temporarily suspend or
16 revoke the license of an enhanced behavioral supports home
17 pursuant to Section 1550.

18 ~~SEC. 277.~~

19 *SEC. 278.* Section 1568.07 of the Health and Safety Code is
20 amended to read:

21 1568.07. (a) (1) Within 90 days after a facility accepts its
22 first resident for placement following its initial licensure, the
23 department shall conduct an unannounced inspection of the facility
24 to evaluate compliance with rules and regulations and to assess
25 the facility’s continuing ability to meet regulatory requirements.
26 The licensee shall notify the department, within five business days
27 after accepting its first resident for placement, that the facility has
28 commenced operating.

29 (2) The department may take appropriate remedial action as
30 provided for in this chapter.

31 (b) (1) Every licensed residential care facility shall be
32 periodically inspected and evaluated for quality of care by a
33 representative or representatives designated by the director.
34 Unannounced inspections shall be conducted at least annually and
35 as often as necessary to ensure the quality of care being provided.

36 (2) During each licensing inspection the department shall
37 determine if the facility meets regulatory standards, including, but
38 not limited to, providing residents with the appropriate level of
39 care based on the facility’s license, providing adequate staffing

1 and services, updated resident records and assessments, and
2 compliance with basic health and safety standards.

3 (3) If the department determines that a resident requires a higher
4 level of care than the facility is authorized to provide, the
5 department may initiate a professional level of care assessment by
6 an assessor approved by the department. An assessment shall be
7 conducted in consultation with the resident, the resident's physician
8 and surgeon, and the resident's case manager, and shall reflect the
9 desires of the resident, the resident's physician and surgeon, and
10 the resident's case manager. The assessment also shall recognize
11 that certain illnesses are episodic in nature and that the resident's
12 need for a higher level of care may be temporary.

13 (4) The department shall notify the residential care facility in
14 writing of all deficiencies in its compliance with this chapter and
15 the rules and regulations adopted pursuant to this chapter, and shall
16 set a reasonable length of time for compliance by the facility.

17 (5) Reports on the results of each inspection or consultation
18 shall be kept on file in the department, and all inspection reports,
19 consultation reports, lists of deficiencies, and plans of correction
20 shall be open to public inspection.

21 (c) Any duly authorized officer, employee, or agent of the
22 department may, upon presentation of proper identification, enter
23 and inspect any place providing personal care, supervision, and
24 services, at any time, with or without advance notice, to secure
25 compliance with, or to prevent a violation of, this chapter.

26 (d) A licensee, or officer or employee of the licensee, shall not
27 discriminate or retaliate in any manner, including, but not limited
28 to, eviction or threat of eviction, against any person receiving the
29 services of the licensee's facility, or against any employee of the
30 licensee's facility, on the basis, or for the reason, that the person
31 or employee or any other person initiated or participated in the
32 filing of a complaint, grievance, or a request for inspection with
33 the department pursuant to this chapter or initiated or participated
34 in the filing of a complaint, grievance, or request for investigation
35 with the appropriate local or state ombudsman.

36 (e) A person who, without lawful authorization from a duly
37 authorized officer, employee, or agent of the department, informs
38 an owner, operator, employee, agent, or resident of a residential
39 care facility, of an impending or proposed inspection of that facility
40 by personnel of the department, is guilty of a misdemeanor and

1 upon conviction thereof shall be punished by a fine not to exceed
2 one thousand dollars (\$1,000), by imprisonment in the county jail
3 for a period not to exceed 180 days, or by both a fine and
4 imprisonment.

5 ~~SEC. 278.~~

6 *SEC. 279.* Section 1568.0823 of the Health and Safety Code,
7 as added by Section 3 of Chapter 888 of the Statutes of 1991, is
8 amended and renumbered to read:

9 1568.0824. A person who, without lawful authorization from
10 a duly authorized officer, employee, or agent of the department,
11 informs an owner, operator, employee, agent, or resident of a
12 residential care facility for persons with a chronic, life-threatening
13 illness of an impending and unannounced site visit to that facility
14 by personnel of the department, is guilty of a misdemeanor and
15 upon conviction thereof shall be punished by a fine not to exceed
16 one thousand dollars (\$1,000), by imprisonment in the county jail
17 for a period not to exceed 180 days, or by both a fine and
18 imprisonment.

19 ~~SEC. 279.~~

20 *SEC. 280.* Section 1569.335 of the Health and Safety Code is
21 amended to read:

22 1569.335. (a) The department shall provide the Office of the
23 State Long-Term Care Ombudsman, as defined in subdivision (c)
24 of Section 9701 of the Welfare and Institutions Code, with a
25 precautionary notification if the department begins to prepare to
26 issue a temporary suspension or revocation of any license, so that
27 the office may properly prepare to provide advocacy services if
28 and when necessary.

29 (b) The department shall notify affected public placement
30 agencies and the Office of the State Long-Term Care Ombudsman
31 whenever the department substantiates that a violation has occurred
32 that poses a serious threat to the health and safety of any resident
33 when the violation results in the assessment of any penalty or
34 causes an accusation to be filed for the revocation of a license.

35 (c) (1) If the violation is appealed by the facility within 10 days,
36 the department shall only notify placement agencies of the violation
37 when the appeal has been exhausted.

38 (2) If the appeal process has not been completed within 60 days,
39 the placement agency shall be notified with a notation that indicates
40 that the case is still under appeal.

1 (3) The notice to each placement agency shall be updated
2 monthly for the following 24-month period and shall include the
3 name and location of the facility, the amount of the fine, the nature
4 of the violation, the corrective action taken, the status of the
5 revocation, and the resolution of the complaint.

6 ~~SEC. 280.~~

7 *SEC. 281.* Section 1569.481 of the Health and Safety Code is
8 amended to read:

9 1569.481. (a) (1) It is the intent of the Legislature in enacting
10 this section to authorize the department to take quick, effective
11 action to protect the health and safety of residents of residential
12 care facilities for the elderly and to minimize the effects of transfer
13 trauma that accompany the abrupt transfer of residents by
14 appointing a temporary manager to assume the operation of a
15 facility that is found to be in a condition in which continued
16 operation by the licensee or his or her representative presents a
17 substantial probability of imminent danger of serious physical
18 harm or death to the residents.

19 (2) A temporary manager appointed pursuant to this section
20 shall assume the operation of the facility in order to bring it into
21 compliance with the law, facilitate a transfer of ownership to a
22 new licensee, or ensure the orderly transfer of residents should the
23 facility be required to close. Upon a final decision and order of
24 revocation of the license, issuance of a temporary suspension, or
25 a forfeiture by operation of law, the department shall immediately
26 issue a provisional license to the appointed temporary manager.
27 Notwithstanding the applicable sections of this code governing
28 the revocation of a provisional license, the provisional license
29 issued to a temporary manager shall automatically expire upon the
30 termination of the temporary manager. The temporary manager
31 shall possess the provisional license solely for purposes of carrying
32 out the responsibilities authorized by this section and the duties
33 set forth in the written agreement between the department and the
34 temporary manager. The temporary manager does not have the
35 right to appeal the expiration of the provisional license.

36 (b) For purposes of this section, “temporary manager” means
37 the person, corporation, or other entity appointed temporarily by
38 the department as a substitute facility licensee or administrator
39 with authority to hire, terminate, reassign staff, obligate facility
40 funds, alter facility procedures, and manage the facility to correct

1 deficiencies identified in the facility's operation. The temporary
2 manager has the final authority to direct the care and supervision
3 activities of any person associated with the facility, including
4 superseding the authority of the licensee and the administrator.

5 (c) The director, in order to protect the residents of the facility
6 from physical or mental abuse, abandonment, or any other
7 substantial threat to health or safety, may appoint a temporary
8 manager when any of the following circumstances exist:

9 (1) The director determines that it is necessary to temporarily
10 suspend the license of a residential care facility for the elderly
11 pursuant to Section 1569.50 and the immediate relocation of the
12 residents is not feasible based on transfer trauma, lack of available
13 alternative placements, or other emergency considerations for the
14 health and safety of the residents.

15 (2) The licensee is unwilling or unable to comply with the
16 requirements of Section 1569.525 or the requirements of Section
17 1569.682 regarding the safe and orderly relocation of residents
18 when ordered to do so by the department or when otherwise
19 required by law.

20 (3) The licensee has opted to secure a temporary manager
21 pursuant to Section 1569.525.

22 (d) (1) Upon appointment, the temporary manager shall
23 complete its application for a license to operate a residential care
24 facility for the elderly and take all necessary steps and make best
25 efforts to eliminate any substantial threat to the health and safety
26 to residents or complete the transfer of residents to alternative
27 placements pursuant to Section 1569.525 or 1569.682. For purposes
28 of a provisional license issued to a temporary manager, the
29 licensee's existing fire safety clearance shall serve as the fire safety
30 clearance for the temporary manager's provisional license.

31 (2) A person shall not impede the operation of a temporary
32 manager. The temporary manager's access to, or possession of,
33 the property shall not be interfered with during the term of the
34 temporary manager's appointment. There shall be an automatic
35 stay for a 60-day period subsequent to the appointment of a
36 temporary manager of any action that would interfere with the
37 functioning of the facility, including, but not limited to, termination
38 of utility services, attachments, or setoffs of resident trust funds,
39 and repossession of equipment in the facility.

1 (e) (1) The appointment of a temporary manager shall be
2 immediately effective and shall continue for a period not to exceed
3 60 days unless otherwise extended in accordance with paragraph
4 (2) of subdivision (h) at the discretion of the department or as
5 permitted by paragraph (2) of subdivision (d) of Section 1569.525,
6 or unless otherwise terminated earlier by any of the following
7 events:

8 (A) The temporary manager notifies the department, and the
9 department verifies, that the facility meets state and, if applicable,
10 federal standards for operation, and will be able to continue to
11 maintain compliance with those standards after the termination of
12 the appointment of the temporary manager.

13 (B) The department approves a new temporary manager.

14 (C) A new operator is licensed.

15 (D) The department closes the facility.

16 (E) A hearing or court order ends the temporary manager
17 appointment, including the appointment of a receiver under Section
18 1569.482.

19 (F) The appointment is terminated by the department or the
20 temporary manager.

21 (2) The appointment of a temporary manager shall authorize
22 the temporary manager to act pursuant to this section. The
23 appointment shall be made pursuant to a written agreement between
24 the temporary manager and the department that outlines the
25 circumstances under which the temporary manager may expend
26 funds. The department shall provide the licensee and administrator
27 with a copy of the accusation to appoint a temporary manager at
28 the time of appointment. The accusation shall notify the licensee
29 of the licensee's right to petition the Office of Administrative
30 Hearings for a hearing to contest the appointment of the temporary
31 manager as described in subdivision (f) and shall provide the
32 licensee with a form and appropriate information for the licensee's
33 use in requesting a hearing.

34 (3) The director may rescind the appointment of a temporary
35 manager and appoint a new temporary manager at any time that
36 the director determines the temporary manager is not adhering to
37 the conditions of the appointment.

38 (f) (1) The licensee of a residential care facility for the elderly
39 may contest the appointment of the temporary manager by filing
40 a petition for an order to terminate the appointment of the

1 temporary manager with the Office of Administrative Hearings
2 within 15 days from the date of mailing of the accusation to appoint
3 a temporary manager under subdivision (e). On the same day the
4 petition is filed with the Office of Administrative Hearings, the
5 licensee shall serve a copy of the petition to the office of the
6 director.

7 (2) Upon receipt of a petition under paragraph (1), the Office
8 of Administrative Hearings shall set a hearing date and time within
9 10 business days of the receipt of the petition. The office shall
10 promptly notify the licensee and the department of the date, time,
11 and place of the hearing. The office shall assign the case to an
12 administrative law judge. At the hearing, relevant evidence may
13 be presented pursuant to Section 11513 of the Government Code.
14 The administrative law judge shall issue a written decision on the
15 petition within 10 business days of the conclusion of the hearing.
16 The 10-day time period for holding the hearing and for rendering
17 a decision may be extended by the written agreement of the parties.

18 (3) The administrative law judge shall uphold the appointment
19 of the temporary manager if the department proves, by a
20 preponderance of the evidence, that the circumstances specified
21 in subdivision (c) applied to the facility at the time of the
22 appointment. The administrative law judge shall order the
23 termination of the temporary manager if the burden of proof is not
24 satisfied.

25 (4) The decision of the administrative law judge is subject to
26 judicial review as provided in Section 1094.5 of the Code of Civil
27 Procedure by the superior court of the county where the facility is
28 located. This review may be requested by the licensee of the facility
29 or the department by filing a petition seeking relief from the order.
30 The petition may also request the issuance of temporary injunctive
31 relief pending the decision on the petition. The superior court shall
32 hold a hearing within 10 business days of the filing of the petition
33 and shall issue a decision on the petition within 10 days of the
34 hearing. The department may be represented by legal counsel
35 within the department for purposes of court proceedings authorized
36 under this section.

37 (g) If the licensee does not protest the appointment or does not
38 prevail at either the administrative hearing under paragraph (2) of
39 subdivision (f) or the superior court hearing under paragraph (4)

1 of subdivision (f), the temporary manager shall continue in
2 accordance with subdivision (e).

3 (h) (1) If the licensee petitions the Office of Administrative
4 Hearings pursuant to subdivision (f), the appointment of the
5 temporary manager by the director pursuant to this section shall
6 continue until it is terminated by the administrative law judge or
7 by the superior court, or it shall continue until the conditions of
8 subdivision (e) are satisfied, whichever is earlier.

9 (2) At any time during the appointment of the temporary
10 manager, the director may request an extension of the appointment
11 by filing a petition for hearing with the Office of Administrative
12 Hearings and serving a copy of the petition on the licensee. The
13 office shall proceed as specified in paragraph (2) of subdivision
14 (f). The administrative law judge may extend the appointment of
15 the temporary manager an additional 60 days upon a showing by
16 the department that the conditions specified in subdivision (c)
17 continue to exist.

18 (3) The licensee or the department may request review of the
19 administrative law judge's decision on the extension as provided
20 in paragraph (4) of subdivision (f).

21 (i) The temporary manager appointed pursuant to this section
22 shall meet the following qualifications:

23 (1) Be qualified to oversee correction of deficiencies in a
24 residential care facility for the elderly on the basis of experience
25 and education.

26 (2) Not be the subject of any pending actions by the department
27 or any other state agency nor have ever been excluded from a
28 department-licensed facility or had a license or certification
29 suspended or revoked by an administrative action by the
30 department or any other state agency.

31 (3) Not have a financial ownership interest in the facility and
32 not have a member of his or her immediate family who has a
33 financial ownership interest in the facility.

34 (4) Not currently serve, or within the past two years have served,
35 as a member of the staff of the facility.

36 (j) Payment of the costs of the temporary manager shall comply
37 with the following requirements:

38 (1) Upon agreement with the licensee, the costs of the temporary
39 manager and any other expenses in connection with the temporary
40 management shall be paid directly by the facility while the

1 temporary manager is assigned to that facility. Failure of the
2 licensee to agree to the payment of those costs may result in the
3 payment of the costs by the department and subsequent required
4 reimbursement of the department by the licensee pursuant to this
5 section.

6 (2) Direct costs of the temporary manager shall be equivalent
7 to the sum of the following:

8 (A) The prevailing fee paid by licensees for positions of the
9 same type in the facility's geographic area.

10 (B) Additional costs that reasonably would have been incurred
11 by the licensee if the licensee and the temporary manager had been
12 in an employment relationship.

13 (C) Other reasonable costs incurred by the temporary manager
14 in furnishing services pursuant to this section.

15 (3) Direct costs may exceed the amount specified in paragraph
16 (2) if the department is otherwise unable to find a qualified
17 temporary manager.

18 (k) (1) The responsibilities of the temporary manager may
19 include, but are not limited to, the following:

20 (A) Paying wages to staff. The temporary manager shall have
21 the full power to hire, direct, manage, and discharge employees
22 of the facility, subject to any contractual rights they may have.
23 The temporary manager shall pay employees at the same rate of
24 compensation, including benefits, that the employees would have
25 received from the licensee or wages necessary to provide adequate
26 staff for the protection of clients and compliance with the law.

27 (B) Preserving resident funds. The temporary manager shall be
28 entitled to, and shall take possession of, all property or assets of
29 residents that are in the possession of the licensee or administrator
30 of the facility. The temporary manager shall preserve all property,
31 assets, and records of residents of which the temporary manager
32 takes possession.

33 (C) Contracting for outside services as may be needed for the
34 operation of the facility. A contract for outside services in excess
35 of five thousand dollars (\$5,000) shall be approved by the director.

36 (D) Paying commercial creditors of the facility to the extent
37 required to operate the facility. The temporary manager shall honor
38 all leases, mortgages, and secured transactions affecting the
39 building in which the facility is located and all goods and fixtures
40 in the building, but only to the extent of payments that, in the case

1 of a rental agreement, are for the use of the property during the
2 period of the temporary management, or that, in the case of a
3 purchase agreement, come due during the period of the temporary
4 management.

5 (E) Performing all acts that are necessary and proper to maintain
6 and operate the facility in accordance with sound fiscal policies.
7 The temporary manager shall take action as is reasonably necessary
8 to protect or conserve the assets or property of which the temporary
9 manager takes possession and may use those assets or property
10 only in the performance of the powers and duties set forth in this
11 section.

12 (2) Expenditures by the temporary manager in excess of five
13 thousand dollars (\$5,000) shall be approved by the director. Total
14 encumbrances and expenditures by the temporary manager for the
15 duration of the temporary management shall not exceed the sum
16 of forty-nine thousand nine hundred ninety-nine dollars (\$49,999)
17 unless approved by the director in writing.

18 (3) The temporary manager shall not make capital improvements
19 to the facility in excess of five thousand dollars (\$5,000) without
20 the approval of the director.

21 (l) (1) To the extent department funds are advanced for the
22 costs of the temporary manager or for other expenses in connection
23 with the temporary management, the department shall be
24 reimbursed from the revenues accruing to the facility or to the
25 licensee or an entity related to the licensee. Any reimbursement
26 received by the department shall be redeposited in the account
27 from which the department funds were advanced. If the revenues
28 are insufficient to reimburse the department, the unreimbursed
29 amount shall constitute grounds for a monetary judgment in civil
30 court and a subsequent lien upon the assets of the facility or the
31 proceeds from the sale thereof. Pursuant to Chapter 2 (commencing
32 with Section 697.010) of Division 2 of Title 9 of Part 2 of the Code
33 of Civil Procedure, a lien against the personal assets of the facility
34 or an entity related to the licensee based on the monetary judgment
35 obtained shall be filed with the Secretary of State on the forms
36 required for a notice of judgment lien. A lien against the real
37 property of the facility or an entity related to the licensee based
38 on the monetary judgment obtained shall be recorded with the
39 county recorder of the county where the facility of the licensee is
40 located or where the real property of the entity related to the

1 licensee is located. The lien shall not attach to the interests of a
2 lessor, unless the lessor is operating the facility. The authority to
3 place a lien against the personal and real property of the licensee
4 for the reimbursement of any state funds expended pursuant to this
5 section shall be given judgment creditor priority.

6 (2) For purposes of this section, “entity related to the licensee”
7 means an entity, other than a natural person, of which the licensee
8 is a subsidiary or an entity in which a person who was obligated
9 to disclose information under Section 1569.15 possesses an interest
10 that would also require disclosure pursuant to Section 1569.15.

11 (m) Appointment of a temporary manager under this section
12 does not relieve the licensee of any responsibility for the care and
13 supervision of residents under this chapter. The licensee, even if
14 the license is deemed surrendered or the facility abandoned, shall
15 be required to reimburse the department for all costs associated
16 with operation of the facility during the period the temporary
17 manager is in place that are not accounted for by using facility
18 revenues or for the relocation of residents handled by the
19 department if the licensee fails to comply with the relocation
20 requirements of Section 1569.525 or 1569.682 when required by
21 the department to do so. If the licensee fails to reimburse the
22 department under this section, then the department, along with
23 using its own remedies available under this chapter, may request
24 that the Attorney General’s office, the city attorney’s office, or the
25 local district attorney’s office seek any available criminal, civil,
26 or administrative remedy, including, but not limited to, injunctive
27 relief, restitution, and damages in the same manner as provided
28 for in Chapter 5 (commencing with Section 17200) of Part 2 of
29 Division 7 of the Business and Professions Code.

30 (n) The department may use funds from the emergency resident
31 contingency account pursuant to Section 1569.48 when needed to
32 supplement the operation of the facility or the transfer of residents
33 under the control of the temporary manager appointed under this
34 section if facility revenues are unavailable or exhausted when
35 needed. Pursuant to subdivision (l), the licensee shall be required
36 to reimburse the department for any funds used from the emergency
37 resident contingency account during the period of control of the
38 temporary manager and any incurred costs of collection.

1 (o) This section does not apply to a residential care facility for
2 the elderly that serves six or fewer persons and is also the principal
3 residence of the licensee.

4 (p) Notwithstanding any other provision of law, the temporary
5 manager shall be liable only for damages resulting from gross
6 negligence in the operation of the facility or intentional tortious
7 acts.

8 (q) All governmental immunities otherwise applicable to the
9 state shall also apply to the state in the use of a temporary manager
10 in the operation of a facility pursuant to this section.

11 (r) A licensee is not liable for any occurrences during the
12 temporary management under this section except to the extent that
13 the occurrences are the result of the licensee's conduct.

14 (s) The department may adopt regulations for the administration
15 of this section.

16 ~~SEC. 281.~~

17 *SEC. 282.* Section 1569.482 of the Health and Safety Code is
18 amended to read:

19 1569.482. (a) It is the intent of the Legislature in enacting this
20 section to authorize the department to take quick, effective action
21 to protect the health and safety of residents of residential care
22 facilities for the elderly and to minimize the effects of transfer
23 trauma that accompany the abrupt transfer of residents through a
24 system whereby the department may apply for a court order
25 appointing a receiver to temporarily operate a residential care
26 facility for the elderly. The receivership is not intended to punish
27 a licensee or to replace attempts to secure cooperative action to
28 protect the residents' health and safety. The receivership is intended
29 to protect the residents in the absence of other reasonably available
30 alternatives. The receiver shall assume the operation of the facility
31 in order to bring it into compliance with law, facilitate a transfer
32 of ownership to a new licensee, or ensure the orderly transfer of
33 residents should the facility be required to close.

34 (b) (1) Whenever circumstances exist indicating that continued
35 management of a residential care facility by the current licensee
36 would present a substantial probability or imminent danger of
37 serious physical harm or death to the residents, or the facility is
38 closing or intends to terminate operation as a residential care
39 facility for the elderly and adequate arrangements for the relocation
40 of residents have not been made at least 30 days prior to the closing

1 or termination, the director may petition the superior court for the
2 county in which the facility is located for an order appointing a
3 receiver to temporarily operate the facility in accordance with this
4 section.

5 (2) The petition shall allege the facts upon which the action is
6 based and shall be supported by an affidavit of the director. A copy
7 of the petition and affidavit together with an order to appear and
8 show cause why temporary authority to operate the residential care
9 facility for the elderly should not be vested in a receiver pursuant
10 to this section, shall be delivered to the licensee, administrator, or
11 a responsible person at the facility to the attention of the licensee
12 and administrator. The order shall specify a hearing date, which
13 shall be not less than 10, nor more than 15, days following delivery
14 of the petition and order upon the licensee, except that the court
15 may shorten or lengthen the time upon a showing of just cause.

16 (c) (1) If the director files a petition pursuant to subdivision (b)
17 for appointment of a receiver to operate a residential care facility
18 for the elderly, in accordance with Section 564 of the Code of Civil
19 Procedure, the director may also petition the court, in accordance
20 with Section 527 of the Code of Civil Procedure, for an order
21 appointing a temporary receiver. A temporary receiver appointed
22 by the court pursuant to this subdivision shall serve until the court
23 has made a final determination on the petition for appointment of
24 a receiver filed pursuant to subdivision (b). A receiver appointed
25 pursuant to this subdivision shall have the same powers and duties
26 as a receiver would have if appointed pursuant to subdivision (b).
27 Upon the director filing a petition for a receiver, the receiver shall
28 complete its application for a provisional license to operate a
29 residential care facility for the elderly. For purposes of a
30 provisional license issued to a receiver, the licensee's existing fire
31 safety clearance shall serve as the fire safety clearance for the
32 receiver's provisional license.

33 (2) At the time of the hearing, the department shall advise the
34 licensee of the name of the proposed receiver. The receiver shall
35 be a certified residential care facility for the elderly administrator
36 or other responsible person or entity, as determined by the court,
37 from a list of qualified receivers established by the department,
38 and, if need be, with input from providers of residential care and
39 consumer representatives. Persons appearing on the list shall have
40 experience in the delivery of care services to clients of community

1 care facilities, and, if feasible, shall have experience with the
2 operation of a residential care facility for the elderly, shall not be
3 the subject of any pending actions by the department or any other
4 state agency, and shall not have ever been excluded from a
5 department licensed facility nor have had a license or certification
6 suspended or revoked by an administrative action by the
7 department or any other state agency. The receivers shall have
8 sufficient background and experience in management and finances
9 to ensure compliance with orders issued by the court. The owner,
10 licensee, or administrator shall not be appointed as the receiver
11 unless authorized by the court.

12 (3) If at the conclusion of the hearing, which may include oral
13 testimony and cross-examination at the option of any party, the
14 court determines that adequate grounds exist for the appointment
15 of a receiver and that there is no other reasonably available remedy
16 to protect the residents, the court may issue an order appointing a
17 receiver to temporarily operate the residential care facility for the
18 elderly and enjoining the licensee from interfering with the receiver
19 in the conduct of his or her duties. In these proceedings, the court
20 shall make written findings of fact and conclusions of law and
21 shall require an appropriate bond to be filed by the receiver and
22 paid for by the licensee. The bond shall be in an amount necessary
23 to protect the licensee in the event of any failure on the part of the
24 receiver to act in a reasonable manner. The bond requirement may
25 be waived by the licensee.

26 (4) The court may permit the licensee to participate in the
27 continued operation of the facility during the pendency of any
28 receivership ordered pursuant to this section and shall issue an
29 order detailing the nature and scope of participation.

30 (5) Failure of the licensee to appear at the hearing on the petition
31 shall constitute an admission of all factual allegations contained
32 in the petition for purposes of these proceedings only.

33 (6) The licensee shall receive notice and a copy of the
34 application each time the receiver applies to the court or the
35 department for instructions regarding his or her duties under this
36 section, when an accounting pursuant to subdivision (i) is
37 submitted, and when any other report otherwise required under
38 this section is submitted. The licensee shall have an opportunity
39 to present objections or otherwise participate in those proceedings.

1 (d) A person shall not impede the operation of a receivership
2 created under this section. The receiver's access to, or possession
3 of, the property shall not be interfered with during the term of the
4 receivership. There shall be an automatic stay for a 60-day period
5 subsequent to the appointment of a receiver of any action that
6 would interfere with the functioning of the facility, including, but
7 not limited to, cancellation of insurance policies executed by the
8 licensees, termination of utility services, attachments, or setoffs
9 of resident trust funds and working capital accounts and
10 repossession of equipment in the facility.

11 (e) When a receiver is appointed, the licensee may, at the
12 discretion of the court, be divested of possession and control of
13 the facility in favor of the receiver. If the court divests the licensee
14 of possession and control of the facility in favor of the receiver,
15 the department shall immediately issue a provisional license to the
16 receiver. Notwithstanding the applicable sections of this code
17 governing the revocation of a provisional license, the provisional
18 license issued to a receiver shall automatically expire upon the
19 termination of the receivership. The receiver shall possess the
20 provisional license solely for purposes of carrying out the
21 responsibilities authorized by this section and the duties ordered
22 by the court. The receiver shall have no right to appeal the
23 expiration of the provisional license.

24 (f) A receiver appointed pursuant to this section:

25 (1) May exercise those powers and shall perform those duties
26 ordered by the court, in addition to other duties provided by statute.

27 (2) Shall operate the facility in a manner that ensures the safety
28 and adequate care for the residents.

29 (3) Shall have the same rights to possession of the building in
30 which the facility is located, and of all goods and fixtures in the
31 building at the time the petition for receivership is filed, as the
32 licensee and administrator would have had if the receiver had not
33 been appointed.

34 (4) May use the funds, building, fixtures, furnishings, and any
35 accompanying consumable goods in the provision of care and
36 services to residents and to any other persons receiving services
37 from the facility at the time the petition for receivership was filed.

38 (5) Shall take title to all revenue coming to the facility in the
39 name of the receiver who shall use it for the following purposes
40 in descending order of priority:

1 (A) To pay wages to staff. The receiver shall have full power
2 to hire, direct, manage, and discharge employees of the facility,
3 subject to any contractual rights they may have. The receiver shall
4 pay employees at the same rate of compensation, including
5 benefits, that the employees would have received from the licensee
6 or wages necessary to provide adequate staff for the protection of
7 the clients and compliance with the law.

8 (B) To preserve resident funds. The receiver shall be entitled
9 to, and shall take, possession of all property or assets of residents
10 that are in the possession of the licensee or operator of the facility.
11 The receiver shall preserve all property, assets, and records of
12 residents of which the receiver takes possession.

13 (C) To contract for outside services as may be needed for the
14 operation of the residential care facility for the elderly. A contract
15 for outside services in excess of five thousand dollars (\$5,000)
16 shall be approved by the court.

17 (D) To pay commercial creditors of the facility to the extent
18 required to operate the facility. Except as provided in subdivision
19 (h), the receiver shall honor all leases, mortgages, and secured
20 transactions affecting the building in which the facility is located
21 and all goods and fixtures in the building of which the receiver
22 has taken possession, but only to the extent of payments which,
23 in the case of a rental agreement, are for the use of the property
24 during the period of receivership, or which, in the case of a
25 purchase agreement, come due during the period of receivership.

26 (E) To receive a salary, as approved by the court.

27 (F) To do all things necessary and proper to maintain and operate
28 the facility in accordance with sound fiscal policies. The receiver
29 shall take action as is reasonably necessary to protect or conserve
30 the assets or property of which the receiver takes possession and
31 may use those assets or property only in the performance of the
32 powers and duties set out in this section and by order of the court.

33 (G) To ask the court for direction in the treatment of debts
34 incurred prior to the appointment, if the licensee's debts appear
35 extraordinary, of questionable validity, or unrelated to the normal
36 and expected maintenance and operation of the facility, or if
37 payment of the debts will interfere with the purposes of
38 receivership.

39 (g) (1) A person who is served with notice of an order of the
40 court appointing a receiver and of the receiver's name and address

1 shall be liable to pay the receiver, rather than the licensee, for any
2 goods or services provided by the residential care facility for the
3 elderly after the date of the order. The receiver shall give a receipt
4 for each payment and shall keep a copy of each receipt on file.
5 The receiver shall deposit amounts received in a special account
6 and shall use this account for all disbursements. Payment to the
7 receiver pursuant to this subdivision shall discharge the obligation
8 to the extent of the payment and shall not thereafter be the basis
9 of a claim by the licensee or any other person. A resident shall not
10 be evicted nor may any contract or rights be forfeited or impaired,
11 nor may any forfeiture be effected or liability increased, by reason
12 of an omission to pay the licensee, operator, or other person a sum
13 paid to the receiver pursuant to this subdivision.

14 (2) This section shall not be construed to suspend, during the
15 temporary management by the receiver, any obligation of the
16 licensee for payment of local, state, or federal taxes. A licensee
17 shall not be held liable for acts or omissions of the receiver during
18 the term of the temporary management.

19 (3) Upon petition of the receiver, the court may order immediate
20 payment to the receiver for past services that have been rendered
21 and billed, and the court may also order a sum not to exceed one
22 month's advance payment to the receiver of any sums that may
23 become payable under the Medi-Cal program.

24 (h) (1) A receiver shall not be required to honor a lease,
25 mortgage, or secured transaction entered into by the licensee of
26 the facility and another party if the court finds that the agreement
27 between the parties was entered into for a collusive, fraudulent
28 purpose or that the agreement is unrelated to the operation of the
29 facility.

30 (2) A lease, mortgage, or secured transaction or an agreement
31 unrelated to the operation of the facility that the receiver is
32 permitted to dishonor pursuant to this subdivision shall only be
33 subject to nonpayment by the receiver for the duration of the
34 receivership, and the dishonoring of the lease, mortgage, security
35 interest, or other agreement, to this extent, by the receiver shall
36 not relieve the owner or operator of the facility from any liability
37 for the full amount due under the lease, mortgage, security interest,
38 or other agreement.

39 (3) If the receiver is in possession of real estate or goods subject
40 to a lease, mortgage, or security interest that the receiver is

1 permitted to dishonor pursuant to paragraph (1), and if the real
2 estate or goods are necessary for the continued operation of the
3 facility, the receiver may apply to the court to set a reasonable
4 rent, price, or rate of interest to be paid by the receiver during the
5 duration of the receivership. The court shall hold a hearing on this
6 application within 15 days. The receiver shall send notice of the
7 application to any known owner of the property involved at least
8 10 days prior to the hearing.

9 (4) Payment by the receiver of the amount determined by the
10 court to be reasonable is a defense to any action against the receiver
11 for payment or possession of the goods or real estate, subject to
12 the lease or mortgage, which is brought by any person who received
13 the notice required by this subdivision. However, payment by the
14 receiver of the amount determined by the court to be reasonable
15 does not relieve the owner or operator of the facility from any
16 liability for the difference between the amount paid by the receiver
17 and the amount due under the original lease, mortgage, or security
18 interest.

19 (i) A monthly accounting shall be made by the receiver to the
20 department of all moneys received and expended by the receiver
21 on or before the 15th day of the following month or as ordered by
22 the court, and the remainder of income over expenses for that
23 month shall be returned to the licensee. A copy of the accounting
24 shall be provided to the licensee. The licensee or owner of the
25 residential care facility for the elderly may petition the court for
26 a determination as to the reasonableness of any expenditure made
27 pursuant to paragraph (5) of subdivision (f).

28 (j) (1) The receiver shall be appointed for an initial period of
29 not more than three months. The initial three-month period may
30 be extended for additional periods not exceeding three months, as
31 determined by the court pursuant to this section. At the end of one
32 month, the receiver shall report to the court on its assessment of
33 the probability that the residential care facility for the elderly will
34 meet state standards for operation by the end of the initial
35 three-month period and will continue to maintain compliance with
36 those standards after termination of the receiver's management.
37 If it appears that the facility cannot be brought into compliance
38 with state standards within the initial three-month period, the court
39 shall take appropriate action as follows:

- 1 (A) Extend the receiver’s management for an additional three
2 months if there is a substantial likelihood that the facility will meet
3 state standards within that period and will maintain compliance
4 with the standards after termination of the receiver’s management.
5 The receiver shall report to the court in writing upon the facility’s
6 progress at the end of six weeks of any extension ordered pursuant
7 to this paragraph.
- 8 (B) Order the director to revoke or temporarily suspend, or both,
9 the license pursuant to Section 1569.50 and extend the receiver’s
10 management for the period necessary to transfer clients in
11 accordance with the transfer plan, but for not more than three
12 months from the date of initial appointment of a receiver, or 14
13 days, whichever is greater. An extension of an additional three
14 months may be granted if deemed necessary by the court.
- 15 (2) If it appears at the end of six weeks of an extension ordered
16 pursuant to subparagraph (A) of paragraph (1) that the facility
17 cannot be brought into compliance with state standards for
18 operation or that it will not maintain compliance with those
19 standards after the receiver’s management is terminated, the court
20 shall take appropriate action as specified in subparagraph (B) of
21 paragraph (1).
- 22 (3) In evaluating the probability that a residential care facility
23 for the elderly will maintain compliance with state standards of
24 operation after the termination of receiver management ordered
25 by the court, the court shall consider at least the following factors:
- 26 (A) The duration, frequency, and severity of past violations in
27 the facility.
- 28 (B) History of compliance in other care facilities operated by
29 the proposed licensee.
- 30 (C) Efforts by the licensee to prevent and correct past violations.
- 31 (D) The financial ability of the licensee to operate in compliance
32 with state standards.
- 33 (E) The recommendations and reports of the receiver.
- 34 (4) Management of a residential care facility for the elderly
35 operated by a receiver pursuant to this section shall not be returned
36 to the licensee, to any person related to the licensee, or to any
37 person who served as a member of the facility’s staff or who was
38 employed by the licensee prior to the appointment of the receiver
39 unless both of the following conditions are met:

1 (A) The department believes that it would be in the best interests
2 of the residents of the facility, requests that the court return the
3 operation of the facility to the former licensee, and provides clear
4 and convincing evidence to the court that it is in the best interests
5 of the facility's residents to take that action.

6 (B) The court finds that the licensee has fully cooperated with
7 the department in the appointment and ongoing activities of a
8 receiver appointed pursuant to this section, and, if applicable, any
9 temporary manager appointed pursuant to Section 1569.481.

10 (5) The owner of the facility may at any time sell, lease, or close
11 the facility, subject to the following provisions:

12 (A) If the owner closes the facility, or the sale or lease results
13 in the closure of the facility, the court shall determine if a transfer
14 plan is necessary. If the court so determines, the court shall adopt
15 and implement a transfer plan consistent with the provisions of
16 Section 1569.682.

17 (B) If the licensee proposes to sell or lease the facility and the
18 facility will continue to operate as a residential care facility for
19 the elderly, the court and the department shall reevaluate any
20 proposed transfer plan. If the court and the department determine
21 that the sale or lease of the facility will result in compliance with
22 licensing standards, the transfer plan and the receivership shall,
23 subject to those conditions that the court may impose and enforce,
24 be terminated upon the effective date of the sale or lease.

25 (k) (1) The salary of the receiver shall be set by the court
26 commensurate with community care facility industry standards,
27 giving due consideration to the difficulty of the duties undertaken,
28 and shall be paid from the revenue coming to the facility. If the
29 revenue is insufficient to pay the salary in addition to other
30 expenses of operating the facility, the receiver's salary shall be
31 paid from the emergency resident contingency account as provided
32 in Section 1569.48. State advances of funds in excess of five
33 thousand dollars (\$5,000) shall be approved by the director. Total
34 advances for encumbrances and expenditures shall not exceed the
35 sum of forty-nine thousand nine hundred ninety-nine dollars
36 (\$49,999) unless approved by the director in writing.

37 (2) To the extent state funds are advanced for the salary of the
38 receiver or for other expenses in connection with the receivership,
39 as limited by subdivision (g), the state shall be reimbursed from
40 the revenues accruing to the facility or to the licensee or an entity

1 related to the licensee. Reimbursement received by the state shall
2 be redeposited in the account from which the state funds were
3 advanced. If the revenues are insufficient to reimburse the state,
4 the unreimbursed amount shall constitute grounds for a monetary
5 judgment in civil court and a subsequent lien upon the assets of
6 the facility or the proceeds from the sale thereof. Pursuant to
7 Chapter 2 (commencing with Section 697.010) of Division 2 of
8 Title 9 of Part 2 of the Code of Civil Procedure, a lien against the
9 personal assets of the facility or an entity related to the licensee
10 based on the monetary judgment obtained shall be filed with the
11 Secretary of State on the forms required for a notice of judgment
12 lien. A lien against the real property of the facility or an entity
13 related to the licensee based on the monetary judgment obtained
14 shall be recorded with the county recorder of the county where the
15 facility of the licensee is located or where the real property of the
16 entity related to the licensee is located. The lien shall not attach
17 to the interests of a lessor, unless the lessor is operating the facility.
18 The authority to place a lien against the personal and real property
19 of the licensee for the reimbursement of any state funds expended
20 pursuant to this section shall be given judgment creditor priority.

21 (3) For purposes of this subdivision, “entity related to the
22 licensee” means an entity, other than a natural person, of which
23 the licensee is a subsidiary or an entity in which any person who
24 was obligated to disclose information under Section 1569.15
25 possesses an interest that would also require disclosure pursuant
26 to Section 1569.15.

27 (l) (1) This section does not impair the right of the owner of a
28 residential care facility for the elderly to dispose of his or her
29 property interests in the facility, but any facility operated by a
30 receiver pursuant to this section shall remain subject to that
31 administration until terminated by the court. The termination shall
32 be promptly effectuated, provided that the interests of the residents
33 have been safeguarded as determined by the court.

34 (2) This section does not limit the power of the court to appoint
35 a receiver under any other applicable provision of law or to order
36 any other remedy available under law.

37 (m) (1) Notwithstanding any other provision of law, the receiver
38 shall be liable only for damages resulting from gross negligence
39 in the operation of the facility or intentional tortious acts.

1 (2) All governmental immunities otherwise applicable to the
2 State of California shall also apply in the use of a receiver in the
3 operation of a facility pursuant to this section.

4 (3) The licensee is not liable for any occurrences during the
5 receivership except to the extent that the occurrences are the result
6 of the licensee's conduct.

7 (n) The department may adopt regulations for the administration
8 of this section. This section does not impair the authority of the
9 department to temporarily suspend licenses under Section 1569.50
10 or to reach a voluntary agreement with the licensee for alternate
11 management of a community care facility including the use of a
12 temporary manager under Section 1569.481. This section does not
13 authorize the department to interfere in a labor dispute.

14 (o) This section does not apply to a residential care facility for
15 the elderly that serves six or fewer persons and is also the principal
16 residence of the licensee.

17 (p) This section does not apply to a licensee that has obtained
18 a certificate of authority to offer continuing care contracts, as
19 defined in paragraph (8) of subdivision (c) of Section 1771.

20 ~~SEC. 282.~~

21 *SEC. 283.* Section 1569.525 of the Health and Safety Code is
22 amended to read:

23 1569.525. (a) If the director determines that it is necessary to
24 temporarily suspend or to revoke any license of a residential care
25 facility for the elderly in order to protect the residents or clients
26 of the facility from physical or mental abuse, abandonment, or any
27 other substantial threat to health or safety pursuant to Section
28 1569.50, the department shall make every effort to minimize
29 trauma for the residents.

30 (b) (1) (A) After a decision is made to temporarily suspend or,
31 upon an order, to revoke the license of a residential care facility
32 for the elderly which is likely to result in closure of the facility,
33 the department shall contact both of the following:

34 (i) The Office of the State Long-Term Care Ombudsman.

35 (ii) Any local agency that may have placement or advocacy
36 responsibility for the residents of a residential care facility for the
37 elderly.

38 (B) The department shall work with these agencies, and the
39 licensee if the director determines it to be appropriate, to locate
40 alternative placement sites and to contact relatives or other persons

1 responsible for the care of these residents, and to assist in the
2 transfer of residents.

3 (2) The department shall use appropriately skilled professionals
4 deemed appropriate by the department to provide onsite evaluation
5 of the residents and assist in any transfers.

6 (3) The department shall require the licensee to prepare and
7 submit to the licensing agency a written plan for relocation and
8 compliance with the terms and conditions of the approved plans,
9 and to provide other information as necessary for the enforcement
10 of this section.

11 (c) Upon receipt of an order to temporarily suspend or revoke
12 a license, the licensee shall be prohibited from accepting new
13 residents or entering into admission agreements for new residents.

14 (d) Upon an order to temporarily suspend a license, the
15 following shall apply:

16 (1) The licensee shall immediately provide written notice of the
17 temporary suspension to the resident and initiate contact with the
18 resident’s responsible person, if applicable.

19 (2) The department may secure, or permit the licensee to secure,
20 the services of a temporary manager who is not an immediate
21 family member of the licensee or an entity that is not owned by
22 the licensee to manage the day-to-day operations of the facility.
23 The temporary manager shall be appointed and assume operation
24 of the facility in accordance with Section 1569.481.

25 (e) Upon an order to revoke a license following the temporary
26 suspension of a license pursuant to Section 1569.50 that led to the
27 transfer of all residents, the following applies:

28 (1) The licensee shall provide a 60-day written notice of license
29 revocation that may lead to closure to the resident and the resident’s
30 responsible person within 24 hours of receipt of the department’s
31 order of revocation.

32 (2) The department shall permit the licensee to secure the
33 services of a temporary manager who is not an immediate family
34 member of the licensee or an entity that is not owned by the
35 licensee to manage the day-to-day operations of the residential
36 care facility for the elderly for a period of at least 60 days, provided
37 that all of the following conditions are met:

38 (A) A proposal is submitted to the department within 72 hours
39 of the licensee’s receipt of the department’s order of revocation
40 that includes both of the following:

1 (i) A completed “Application for a Community Care Facility
2 or Residential Care Facility for the Elderly License” form (LIC
3 200), or similar form as determined by the department, signed and
4 dated by both the licensee and the person or entity described in
5 paragraph (2).

6 (ii) A copy of the executed agreement between the licensee and
7 the person or entity described in paragraph (2) that delineates the
8 roles and responsibilities of each party and specifies that the person
9 or entity described in paragraph (2) shall have the full authority
10 necessary to operate the facility, in compliance with all applicable
11 laws and regulations, and without interference from the licensee.

12 (B) The person or entity described in paragraph (2) shall be
13 currently licensed and in substantial compliance to operate a
14 residential care facility for the elderly that is of comparable size
15 or greater and has comparable programming to the facility. For
16 purposes of this subparagraph, the following definitions apply:

17 (i) “Comparable programming” includes, but is not limited to,
18 dementia care, hospice care, and care for residents with exempted
19 prohibited health care conditions.

20 (ii) “Comparable size” means a facility capacity of 1 to 15
21 residents, 16 to 49 residents, or 50 or more residents.

22 (C) The person or entity described in paragraph (2) is not subject
23 to the application fee specified in Section 1569.185.

24 (D) If the department denies a proposal to secure the services
25 of a person or entity pursuant to paragraph (2), this denial shall
26 not be deemed a denial of a license application subject to the right
27 to a hearing under Section 1569.22 and other procedural rights
28 under Section 1569.51.

29 (f) (1) Notwithstanding Section 1569.651 or any other law, for
30 paid preadmission fees, a resident who transfers from the facility
31 due to the notice of temporary suspension or revocation of a license
32 pursuant to this section is entitled to a refund in accordance with
33 all of the following:

34 (A) A 100-percent refund if preadmission fees were paid within
35 six months of either notice of closure required by this section.

36 (B) A 75-percent refund if preadmission fees were paid more
37 than six months, but not more than 12 months, before either notice
38 required by this section.

1 (C) A 50-percent refund if preadmission fees were paid more
2 than 12 months, but not more than 18 months, before either notice
3 required by this section.

4 (D) A 25-percent refund if preadmission fees were paid more
5 than 18 months, but not more than 25 months, before either notice
6 required by this section.

7 (2) A preadmission fee refund is not required if preadmission
8 fees were paid 25 months or more before either notice required by
9 this section.

10 (3) The preadmission fee refund required by this paragraph shall
11 be paid within 15 days of issuing either notice required by this
12 section. In lieu of the refund, the resident may request that the
13 licensee provide a credit toward the resident's monthly fee
14 obligation in an amount equal to the preadmission fee refund due.

15 (4) If a resident transfers from the facility due to the revocation
16 of a license, and the resident gives notice at least five days before
17 leaving the facility, or if the transfer is due to a temporary
18 suspension of the license order, the licensee shall refund to the
19 resident or his or her legal representative a proportional per diem
20 amount of any prepaid monthly fees at the time the resident leaves
21 the facility and the unit is vacated. Otherwise the licensee shall
22 pay the refund within seven days from the date that the resident
23 leaves the facility and the unit is vacated.

24 (g) Within 24 hours after each resident who is transferring
25 pursuant to these provisions has left the facility, the licensee that
26 had his or her license temporarily suspended or revoked shall,
27 based on information provided by the resident or the resident's
28 responsible person, submit a final list of names and new locations
29 of all residents to the department and the local ombudsman
30 program.

31 (h) If at any point during or following a temporary suspension
32 or revocation order of a license the director determines that there
33 is a risk to the residents of a facility of physical or mental abuse,
34 abandonment, or any other substantial threat to health or safety,
35 the department shall take any necessary action to minimize trauma
36 for the residents, including, but not limited to, all of the following:

37 (1) Contact any local agency that may have placement or
38 advocacy responsibility for the residents and work with those
39 agencies to locate alternative placement sites.

- 1 (2) Contact the residents' relatives, legal representatives,
2 authorized agents in a health care directive, or responsible parties.
- 3 (3) Assist in the transfer of residents, and, if necessary, arrange
4 or coordinate transportation.
- 5 (4) Provide onsite evaluation of the residents and use any
6 medical personnel deemed appropriate by the department to provide
7 onsite evaluation of the residents and assist in any transfers.
- 8 (5) Arrange for or coordinate care and supervision.
- 9 (6) Arrange for the distribution of medications.
- 10 (7) Arrange for the preparation and service of meals and snacks.
- 11 (8) Arrange for the preparation of the residents' records and
12 medications for transfer of each resident.
- 13 (9) Assist in any way necessary to facilitate a safe transfer of
14 all residents.
- 15 (10) Check on the status of each transferred resident within 24
16 hours of transfer.
- 17 (i) The participation of the department and local agencies in the
18 relocation of residents from a residential care facility for the elderly
19 shall not relieve the licensee of any responsibility under this
20 section. A licensee that fails to comply with the requirements of
21 this section shall be required to reimburse the department and local
22 agencies for the cost of providing those services. If the licensee
23 fails to provide the services required in this section, the department
24 shall request that the Attorney General's office, the city attorney's
25 office, or the local district attorney's office seek injunctive relief
26 and damages.
- 27 (j) Notwithstanding Section 1569.49, a licensee who fails to
28 comply with the requirements of this section shall be liable for
29 civil penalties in the amount of five hundred dollars (\$500) per
30 violation per day for each day that the licensee is in violation of
31 this section, until the violation has been corrected. The civil
32 penalties shall be issued immediately following the written notice
33 of violation.
- 34 (k) This section does not preclude the department from
35 amending the effective date in the order of suspension or revocation
36 of a license and closing the facility, or from pursuing any other
37 available remedies if necessary to protect the health and safety of
38 the residents in care.

1 ~~SEC. 283.~~

2 *SEC. 284.* Section 1569.682 of the Health and Safety Code is
3 amended to read:

4 1569.682. (a) A licensee of a licensed residential care facility
5 for the elderly shall, prior to transferring a resident of the facility
6 to another facility or to an independent living arrangement as a
7 result of the forfeiture of a license, as described in subdivision (a),
8 (b), or (f) of Section 1569.19, or a change of use of the facility
9 pursuant to the department’s regulations, take all reasonable steps
10 to transfer affected residents safely and to minimize possible
11 transfer trauma, and shall, at a minimum, do all of the following:

12 (1) Prepare, for each resident, a relocation evaluation of the
13 needs of that resident, which shall include both of the following:

14 (A) Recommendations on the type of facility that would meet
15 the needs of the resident based on the current service plan.

16 (B) A list of facilities, within a 60-mile radius of the resident’s
17 current facility, that meet the resident’s present needs.

18 (2) Provide each resident or the resident’s responsible person
19 with a written notice no later than 60 days before the intended
20 eviction. The notice shall include all of the following:

21 (A) The reason for the eviction, with specific facts to permit a
22 determination of the date, place, witnesses, and circumstances
23 concerning the reasons.

24 (B) A copy of the resident’s current service plan.

25 (C) The relocation evaluation.

26 (D) A list of referral agencies.

27 (E) The right of the resident or resident’s legal representative
28 to contact the department to investigate the reasons given for the
29 eviction pursuant to Section 1569.35.

30 (F) The contact information for the local long-term care
31 ombudsman, including address and telephone number.

32 (3) Discuss the relocation evaluation with the resident and his
33 or her legal representative within 30 days of issuing the notice of
34 eviction.

35 (4) Submit a written report of any eviction to the licensing
36 agency within five days.

37 (5) Upon issuing the written notice of eviction, a licensee shall
38 not accept new residents or enter into new admission agreements.

1 (6) (A) For paid preadmission fees in excess of five hundred
2 dollars (\$500), the resident is entitled to a refund in accordance
3 with all of the following:

4 (i) A 100-percent refund if preadmission fees were paid within
5 six months of notice of eviction.

6 (ii) A 75-percent refund if preadmission fees were paid more
7 than six months but not more than 12 months before notice of
8 eviction.

9 (iii) A 50-percent refund if preadmission fees were paid more
10 than 12 months but not more than 18 months before notice of
11 eviction.

12 (iv) A 25-percent refund if preadmission fees were paid more
13 than 18 months but less than 25 months before notice of eviction.

14 (B) No preadmission refund is required if preadmission fees
15 were paid 25 months or more before the notice of eviction.

16 (C) The preadmission refund required by this paragraph shall
17 be paid within 15 days of issuing the eviction notice. In lieu of the
18 refund, the resident may request that the licensee provide a credit
19 toward the resident's monthly fee obligation in an amount equal
20 to the preadmission fee refund due.

21 (7) If the resident gives notice five days before leaving the
22 facility, the licensee shall refund to the resident or his or her legal
23 representative a proportional per diem amount of any prepaid
24 monthly fees at the time the resident leaves the facility and the
25 unit is vacated. Otherwise the licensee shall pay the refund within
26 seven days from the date that the resident leaves the facility and
27 the unit is vacated.

28 (8) Within 10 days of all residents having left the facility, the
29 licensee, based on information provided by the resident or
30 resident's legal representative, shall submit a final list of names
31 and new locations of all residents to the department and the local
32 ombudsman program.

33 (b) If seven or more residents of a residential care facility for
34 the elderly will be transferred as a result of the forfeiture of a
35 license or change in the use of the facility pursuant to subdivision
36 (a), the licensee shall submit a proposed closure plan to the
37 department for approval. The department shall approve or
38 disapprove the closure plan, and monitor its implementation, in
39 accordance with the following requirements:

1 (1) Upon submission of the closure plan, the licensee shall be
2 prohibited from accepting new residents and entering into new
3 admission agreements for new residents.

4 (2) The closure plan shall meet the requirements described in
5 subdivision (a), and describe the staff available to assist in the
6 transfers. The department’s review shall include a determination
7 as to whether the licensee’s closure plan contains a relocation
8 evaluation for each resident.

9 (3) Within 15 working days of receipt, the department shall
10 approve or disapprove the closure plan prepared pursuant to this
11 subdivision, and, if the department approves the plan, it shall
12 become effective upon the date the department grants its written
13 approval of the plan.

14 (4) If the department disapproves a closure plan, the licensee
15 may resubmit an amended plan, which the department shall
16 promptly either approve or disapprove, within 10 working days
17 of receipt by the department of the amended plan. If the department
18 fails to approve a closure plan, it shall inform the licensee, in
19 writing, of the reasons for the disapproval of the plan.

20 (5) If the department fails to take action within 20 working days
21 of receipt of either the original or the amended closure plan, the
22 plan, or amended plan, as the case may be, shall be deemed
23 approved.

24 (6) Until the department has approved a licensee’s closure plan,
25 the facility shall not issue a notice of transfer or require any resident
26 to transfer.

27 (7) Upon approval by the department, the licensee shall send a
28 copy of the closure plan to the local ombudsman program.

29 (c) (1) If a licensee fails to comply with the requirements of
30 this section, or if the director determines that it is necessary to
31 protect the residents of a facility from physical or mental abuse,
32 abandonment, or any other substantial threat to health or safety,
33 the department shall take any necessary action to minimize trauma
34 for the residents, including caring for the residents through the use
35 of a temporary manager or receiver as provided for in Sections
36 1569.481 and 1569.482 when the director determines the immediate
37 relocation of the residents is not feasible based on transfer trauma
38 or other considerations such as the unavailability of alternative
39 placements. The department shall contact any local agency that
40 may have assessment, placement, protective, or advocacy

1 responsibility for the residents, and shall work together with those
2 agencies to locate alternative placement sites, contact relatives or
3 other persons responsible for the care of these residents, provide
4 onsite evaluation of the residents, and assist in the transfer of
5 residents.

6 (2) The participation of the department and local agencies in
7 the relocation of residents from a residential care facility for the
8 elderly does not relieve the licensee of any responsibility under
9 this section. A licensee that fails to comply with the requirements
10 of this section shall be required to reimburse the department and
11 local agencies for the cost of providing the relocation services or
12 the costs incurred in caring for the residents through the use of a
13 temporary manager or receiver as provided for in Sections
14 1569.481 and 1569.482. If the licensee fails to provide the
15 relocation services required in this section, then the department
16 may request that the Attorney General's office, the city attorney's
17 office, or the local district attorney's office seek injunctive relief
18 and damages in the same manner as provided for in Chapter 5
19 (commencing with Section 17200) of Part 2 of Division 7 of the
20 Business and Professions Code, including restitution to the
21 department of any costs incurred in caring for the residents through
22 the use of a temporary manager or receiver as provided for in
23 Sections 1569.481 and 1569.482.

24 (d) A licensee who fails to comply with requirements of this
25 section shall be liable for the imposition of civil penalties in the
26 amount of one hundred dollars (\$100) per violation per day for
27 each day that the licensee is in violation of this section, until such
28 time that the violation has been corrected. The civil penalties shall
29 be issued immediately following the written notice of violation.
30 However, if the violation does not present an immediate or
31 substantial threat to the health or safety of residents and the licensee
32 corrects the violation within three days after receiving the notice
33 of violation, the licensee shall not be liable for payment of any
34 civil penalties pursuant to this subdivision related to the corrected
35 violation.

36 (e) A licensee, on and after January 1, 2015, who fails to comply
37 with this section and abandons the facility and the residents in care
38 resulting in an immediate and substantial threat to the health and
39 safety of the abandoned residents, in addition to forfeiture of the
40 license pursuant to Section 1569.19, shall be excluded from

1 licensure in facilities licensed by the department without the right
2 to petition for reinstatement.

3 (f) A resident of a residential care facility for the elderly covered
4 under this section may bring a civil action against any person, firm,
5 partnership, or corporation who owns, operates, establishes,
6 manages, conducts, or maintains a residential care facility for the
7 elderly who violates the rights of a resident, as set forth in this
8 section. Any person, firm, partnership, or corporation who owns,
9 operates, establishes, manages, conducts, or maintains a residential
10 care facility for the elderly who violates this section shall be
11 responsible for the acts of the facility's employees and shall be
12 liable for costs and attorney's fees. Any such residential care
13 facility for the elderly may also be enjoined from permitting the
14 violation to continue. The remedies specified in this section are in
15 addition to any other remedy provided by law.

16 (g) This section does not apply to a licensee that has obtained
17 a certificate of authority to offer continuing care contracts, as
18 defined in paragraph (8) of subdivision (c) of Section 1771.

19 ~~SEC. 284.~~

20 *SEC. 285.* Section 1597.58 of the Health and Safety Code, as
21 added by Section 10 of Chapter 813 of the Statutes of 2014, is
22 amended to read:

23 1597.58. (a) In addition to the suspension, temporary
24 suspension, or revocation of a license issued under this chapter,
25 the department may levy a civil penalty.

26 (b) The amount of the civil penalty shall not be less than
27 twenty-five dollars (\$25) nor more than fifty dollars (\$50) per day
28 for each violation of this chapter except where the nature or
29 seriousness of the violation or the frequency of the violation
30 warrants a higher penalty or an immediate civil penalty assessment
31 or both, as determined by the department. In no event shall a civil
32 penalty assessment exceed one hundred fifty dollars (\$150) per
33 day per violation.

34 (c) Notwithstanding Sections 1596.893a, 1596.893b, 1597.56,
35 and 1597.62, the department shall assess an immediate civil penalty
36 of one hundred fifty dollars (\$150) per day per violation for any
37 of the following serious violations:

38 (1) Any violation that results in the injury, illness, or death of
39 a child.

- 1 (2) Absence of supervision, including, but not limited to, a child
2 left unattended, a child left alone with a person under 18 years of
3 age, and lack of supervision resulting in a child wandering away.
- 4 (3) Accessible bodies of water.
- 5 (4) Accessible firearms, ammunition, or both.
- 6 (5) Refused entry to a facility or any part of a facility in violation
7 of Sections 1596.852, 1596.853, 1597.55a, and 1597.55b.
- 8 (6) The presence of an excluded person on the premises.
- 9 (d) For a violation that the department determines resulted in
10 the death of a child, the civil penalty shall be assessed as follows:
- 11 (1) Five thousand dollars (\$5,000) for a small family day care
12 home, as described in Section 1597.44.
- 13 (2) Seven thousand five hundred dollars (\$7,500) for a large
14 family day care home, as described in Section 1597.465.
- 15 (e) (1) For a violation that the department determines constitutes
16 physical abuse or resulted in serious injury, as defined in Section
17 1596.8865, to a child, the civil penalty shall be assessed as follows:
- 18 (A) One thousand dollars (\$1,000) for a small family day care
19 home, as described in Section 1597.44.
- 20 (B) Two thousand dollars (\$2,000) for a large family day care
21 home, as described in Section 1597.465.
- 22 (2) For purposes of this subdivision, “physical abuse” includes
23 physical injury inflicted upon a child by another person by other
24 than accidental means, sexual abuse as defined in Section 11165.1
25 of the Penal Code, neglect as defined in Section 11165.2 of the
26 Penal Code, or unlawful corporal punishment or injury as defined
27 in Section 11165.4 of the Penal Code when the person responsible
28 for the child’s welfare is a licensee, administrator, or employee of
29 any facility licensed to care for children, or an administrator or
30 employee of a public or private school or other institution or
31 agency.
- 32 (f) Prior to the issuance of a citation imposing a civil penalty
33 pursuant to subdivision (d) or (e), the decision shall be approved
34 by the director.
- 35 (g) Notwithstanding Sections 1596.893a, 1596.893b, 1597.56,
36 and 1597.62, any family day care home that is cited for repeating
37 the same violation of this chapter or Chapter 3.4 (commencing
38 with Section 1596.70), within 12 months of the first violation, is
39 subject to an immediate civil penalty assessment of up to one
40 hundred fifty dollars (\$150) and may be assessed up to fifty dollars

1 (\$50) for each day the violation continues until the deficiency is
2 corrected.

3 (h) A family day care home that is assessed a civil penalty under
4 subdivision (g) that repeats the same violation of this chapter within
5 12 months of the violation subject to subdivision (g) shall be
6 assessed an immediate assessment of up to one hundred fifty dollars
7 (\$150) and may be assessed up to one hundred fifty dollars (\$150)
8 for each day the violation continues until the deficiency is
9 corrected.

10 (i) Notwithstanding any other law, revenues received by the
11 state from the payment of civil penalties imposed on licensed
12 family day care homes pursuant to this chapter or Chapter 3.4
13 (commencing with Section 1596.70), shall be deposited in the
14 Child Health and Safety Fund, created pursuant to Chapter 4.6
15 (commencing with Section 18285) of Part 6 of Division 9 of the
16 Welfare and Institutions Code, and shall be expended, upon
17 appropriation by the Legislature, pursuant to subdivision (f) of
18 Section 18285 of the Welfare and Institutions Code exclusively
19 for the technical assistance, orientation, training, and education of
20 licensed family day care home providers, and to assist families
21 with the identification, transportation, and enrollment of children
22 to another family day care home when a family's family day care
23 home's license is revoked or temporarily suspended.

24 (j) (1) The department shall adopt regulations setting forth the
25 appeal procedures for deficiencies.

26 (2) A licensee may submit to the department a written request
27 for a formal review of a civil penalty assessed pursuant to
28 subdivisions (d) and (e) within 10 days of receipt of the notice of
29 a civil penalty assessment and shall provide all supporting
30 documentation at that time. The review shall be conducted by a
31 regional manager of the Community Care Licensing Division. If
32 the regional manager determines that the civil penalty was not
33 assessed in accordance with applicable statutes or regulations of
34 the department, he or she may amend or dismiss the civil penalty.
35 The licensee shall be notified in writing of the regional manager's
36 decision within 60 days of the request to review the assessment of
37 the civil penalty.

38 (3) The licensee may further appeal to the program administrator
39 of the Community Care Licensing Division within 10 days of
40 receipt of the notice of the regional manager's decision and shall

1 provide all supporting documentation at that time. If the program
2 administrator determines that the civil penalty was not assessed
3 in accordance with applicable statutes or regulations of the
4 department, he or she may amend or dismiss the civil penalty. The
5 licensee shall be notified in writing of the program administrator's
6 decision within 60 days of the request to review the regional
7 manager's decision.

8 (4) The licensee may further appeal to the deputy director of
9 the Community Care Licensing Division within 10 days of receipt
10 of the notice of the program director's decision and shall provide
11 all supporting documentation at that time. If the deputy director
12 determines that the civil penalty was not assessed in accordance
13 with applicable statutes or regulations of the department, he or she
14 may amend or dismiss the civil penalty. The licensee shall be
15 notified in writing of the deputy director's decision within 60 days
16 of the request to review the program administrator's decision.

17 (5) Upon exhausting the deputy director review, a licensee may
18 appeal a civil penalty assessed pursuant to subdivision (d) or (e)
19 to an administrative law judge. Proceedings shall be conducted in
20 accordance with Chapter 5 (commencing with Section 11500) of
21 Part 1 of Division 3 of Title 2 of the Government Code, and the
22 department shall have all the powers granted by those provisions.
23 In all proceedings conducted in accordance with this section, the
24 standard of proof shall be by a preponderance of the evidence.

25 (6) If, in addition to an assessment of civil penalties, the
26 department elects to file an administrative action to suspend or
27 revoke the facility license that includes violations relating to the
28 assessment of the civil penalties, the department review of the
29 pending appeal shall cease and the assessment of the civil penalties
30 shall be heard as part of the administrative action process.

31 (k) The department shall, by January 1, 2016, amend its
32 regulations to reflect the changes to this section made by the act
33 that added this subdivision.

34 (l) This section shall become operative on July 1, 2015.

35 ~~SEC. 285.~~

36 *SEC. 286.* Section 1635.1 of the Health and Safety Code is
37 amended to read:

38 1635.1. (a) Except as provided in subdivision (b), every tissue
39 bank operating in California on or after July 1, 1992, shall have a

1 current and valid tissue bank license issued or renewed by the
2 department pursuant to Section 1639.2 or 1639.3.

3 (b) This chapter does not apply to any of the following:

4 (1) The collection, processing, storage, or distribution of human
5 whole blood or its derivatives by blood banks licensed pursuant
6 to Chapter 4 (commencing with Section 1600) or any person
7 exempt from licensure under that chapter.

8 (2) The collection, processing, storage, or distribution of tissue
9 for autopsy, biopsy, training, education, or for other medical or
10 scientific research or investigation, when transplantation of the
11 tissue is not intended or reasonably foreseeable.

12 (3) The collection of tissue by an individual physician and
13 surgeon from his or her patient or the implantation of tissue by an
14 individual physician and surgeon into his or her patient. This
15 exemption shall not be interpreted to apply to any processing or
16 storage of the tissue, except for the processing and storage of semen
17 by an individual physician and surgeon when the semen was
18 collected by that physician and surgeon from a semen donor or
19 obtained by that physician and surgeon from a tissue bank licensed
20 under this chapter.

21 (4) The collection, processing, storage, or distribution of fetal
22 tissue or tissue derived from a human embryo or fetus.

23 (5) The collection, processing, storage, or distribution by an
24 organ procurement organization (OPO), as defined in Section
25 485.302 of Title 42 of the Code of Federal Regulations, if the OPO,
26 at the time of collection, processing, storage, and distribution of
27 the organ, has been designated by the Secretary of Health and
28 Human Services as an OPO, pursuant to Section 485.305 of Title
29 42 of the Code of Federal Regulations, and meets the requirements
30 of Sections 485.304 and 485.306 of Title 42 of the Code of Federal
31 Regulations, as applicable.

32 (6) The storage of prepackaged, freeze-dried bone by a general
33 acute care hospital.

34 (7) The storage of freeze-dried bone and dermis by any licensed
35 dentist practicing in a lawful practice setting, if ~~that~~ the freeze-dried
36 bone and dermis has been obtained from a licensed tissue bank, is
37 stored in strict accordance with a kit's package insert and any other
38 manufacturer instructions and guidelines, and is used for the
39 express purpose of implantation into a patient.

1 (8) The storage of a human cell, tissue, or cellular- or
2 tissue-based product, as defined by the federal Food and Drug
3 Administration, that is either a medical device approved pursuant
4 to Section 510 or 515 of the Federal Food, Drug, and Cosmetic
5 Act (21 U.S.C. ~~Sec. 360~~, *Secs. 360 and 360e*) or that is a biologic
6 product approved under Section 351 of the federal Public Health
7 Service Act (42 U.S.C. Sec. 262) by a licensed physician or
8 podiatrist acting within the scope and authority of his or her license
9 and practicing in a lawful practice setting. The medical device or
10 biologic product must have been obtained from a California
11 licensed tissue bank, been stored in strict accordance with the
12 device's or product's package insert and any other manufacturer
13 instructions, and used solely for the express purpose of direct
14 implantation into or application on the practitioner's own patient.
15 In order to be eligible for the exemption in this paragraph, the
16 entity or organization where the physician or podiatrist who is
17 eligible for the exemption is practicing shall notify the department,
18 in writing, that the practitioner is licensed and meets the
19 requirements of this paragraph. The notification shall include all
20 of the following:

- 21 (A) A list of all practitioners to whom the notice applies.
- 22 (B) Acknowledgment that each listed practitioner uses the
23 medical device or biologic product in the scope and authority of
24 his or her license and practice for the purposes of direct patient
25 care as described in this paragraph.
- 26 (C) A statement that each listed practitioner agrees to strictly
27 abide by the directions for storage in the device's or product's
28 package insert and any other manufacturer instructions and
29 guidelines.
- 30 (D) Acknowledgment by each practitioner that the medical
31 device or biologic product shall not be resold or distributed.

32 ~~SEC. 286.~~

33 *SEC. 287.* Section 1796.17 of the Health and Safety Code is
34 amended to read:

35 1796.17. (a) Each home care organization shall be separately
36 licensed. This chapter does not prevent a licensee from obtaining
37 more than one home care organization license or obtaining a home
38 care organization license in addition to other licenses issued by
39 the department, or both.

- 40 (b) A home care organization does not include the following:

- 1 (1) A home health agency licensed under Chapter 8
2 (commencing with Section 1725).
- 3 (2) A hospice licensed under Chapter 8.5 (commencing with
4 Section 1745).
- 5 (3) A health facility licensed under Chapter 2 (commencing
6 with Section 1250).
- 7 (4) A person who performs services through the In-Home
8 Supportive Services program pursuant to Article 7 (commencing
9 with Section 12300) of Chapter 3 of Part 3 of Division 9 of, or
10 Section 14132.95, 14132.952, or 14132.956 of, the Welfare and
11 Institutions Code.
- 12 (5) A home medical device retail facility licensed under Section
13 111656.
- 14 (6) An organization vendored or contracted through a regional
15 center or the State Department of Developmental Services pursuant
16 to the Lanterman Developmental Disabilities Services Act
17 (Division 4.5 (commencing with Section 4500) of the Welfare and
18 Institutions Code) and the California Early Intervention Services
19 Act (Title 14 (commencing with Section 95000) of the Government
20 Code) to provide services and supports for persons with
21 developmental disabilities, as defined in Section 4512 of the
22 Welfare and Institutions Code, when funding for those services is
23 provided through the State Department of Developmental Services
24 and more than 50 percent of the recipients of the home care services
25 provided by the organization are persons with developmental
26 disabilities.
- 27 (7) An employment agency, as defined in Section 1812.5095
28 of the Civil Code, that procures, offers, refers, provides, or attempts
29 to provide an independent home care aide who provides home care
30 services to clients.
- 31 (8) A community care facility licensed pursuant to Chapter 3
32 (commencing with Section 1500), a residential care facility for
33 persons with chronic life-threatening illness licensed pursuant to
34 Chapter 3.01 (commencing with Section 1568.01), a residential
35 care facility for the elderly licensed pursuant to Chapter 3.2
36 (commencing with Section 1569), or a facility licensed pursuant
37 to the California Child Day Care Facilities Act (Chapter 3.4
38 (commencing with Section 1596.70)), which includes day care
39 centers, as described in Chapter 3.5 (commencing with Section
40 1596.90), family day care homes, as described in Chapter 3.6

1 (commencing with Section 1597.30), and employer-sponsored
2 child care centers, as described in Chapter 3.65 (commencing with
3 Section 1597.70).

4 (9) An alcoholism or drug abuse recovery or treatment facility
5 as defined in Section 11834.02.

6 (10) A person providing services authorized pursuant to Section
7 2731 of the Business and Professions Code.

8 (11) A clinic licensed pursuant to Section 1204 or 1204.1.

9 (12) A nonrelative extended family member, as defined in
10 Section 362.7 of the Welfare and Institutions Code.

11 (13) A facility providing home care services in which only
12 Indian children who are eligible under the federal Indian Child
13 Welfare Act (25 U.S.C. Sec. 1901 et seq.) are placed and which
14 satisfies either of the following:

15 (A) An extended family member of the Indian child, as defined
16 in Section 1903 of Title 25 of the United States Code.

17 (B) A foster home that is licensed, approved, or specified by
18 the Indian child's tribe pursuant to Section 1915 of Title 25 of the
19 United States Code.

20 (14) Any other individual or entity providing services similar
21 to those described in this chapter, as determined by the director.

22 (c) In the event of a conflict between this chapter and a provision
23 listed in subdivision (b), the provision in subdivision (b) controls.

24 ~~SEC. 287.~~

25 *SEC. 288.* Section 1796.23 of the Health and Safety Code is
26 amended to read:

27 1796.23. (a) Each person initiating a background examination
28 to be a registered home care aide shall submit his or her fingerprints
29 to the Department of Justice by electronic transmission in a manner
30 approved by the department, unless exempt under subdivision (d).
31 Each person initiating a background examination to be a registered
32 home care aide shall also submit to the department a signed
33 declaration under penalty of perjury regarding any prior criminal
34 convictions pursuant to Section 1522 and a completed home care
35 aide application.

36 (b) A law enforcement agency or other local agency authorized
37 to take fingerprints may charge a reasonable fee to offset the costs
38 of fingerprinting for the purposes of this chapter. The fee revenues
39 shall be deposited in the Fingerprint Fees Account.

1 (c) The Department of Justice shall use the fingerprints to search
 2 state and Federal Bureau of Investigation criminal offender record
 3 information pursuant to Section 1522.

4 (d) A person who is a current licensee or employee in a facility
 5 licensed by the department, a certified foster parent, a certified
 6 administrator, or a registered TrustLine provider need not submit
 7 fingerprints to the department, and may transfer his or her current
 8 criminal record clearance or exemption pursuant to paragraph (1)
 9 of subdivision (h) of Section 1522. The person shall instead submit
 10 to the department, along with the person’s registration application,
 11 a copy of the person’s identification card described in Section
 12 1796.22 and sign a declaration verifying the person’s identity.

13 ~~SEC. 288.~~

14 *SEC. 289.* Section 1796.25 of the Health and Safety Code is
 15 amended to read:

16 1796.25. (a) (1) If the department finds that the home care
 17 aide applicant or the registered home care aide has been convicted
 18 of a crime, other than a minor traffic violation, the department
 19 shall deny the home care aide application, or revoke the registered
 20 home care aide’s registration unless the director grants an
 21 exemption pursuant to subdivision (g) of Section 1522.

22 (2) If the department finds that the home care aide applicant or
 23 registered home care aide has an arrest as described in subdivision
 24 (a) of Section 1522, the department may deny the registration
 25 application or registration renewal application, or revoke the
 26 registered home care aide’s registration, if the home care aide or
 27 registered home care aide may pose a risk to the health and safety
 28 of any person who is or may become a client and the department
 29 complies with subdivision (e) of Section 1522.

30 (3) The department may deny the home care aide application
 31 or the renewal application of a registered home care aide, or revoke
 32 the home care aide registration, if the department discovers that it
 33 had previously revoked a license or certificate of approval to be a
 34 certified family home, a certified administrator, or a registered
 35 trustline provider held by the home care aide applicant or registered
 36 home care aide, or that it had excluded the home care aide applicant
 37 or registered home care aide from a licensed facility.

38 (4) The department may deny the home care aide application
 39 or registered home care aide registration renewal application for
 40 placement or retention upon the home care aide registry, or revoke

1 the registered home care aide’s registration, if the department
2 discovers that it had previously denied the home care aide
3 applicant’s or registered home care aide’s application for a license
4 from the department or certificate of approval to be a certified
5 family home, a certified administrator, or a registered trustline
6 provider.

7 (b) (1) If the department revokes or denies a home care aide
8 application or registered home care aide’s renewal application
9 pursuant to subdivision (a), the department shall advise the home
10 care aide applicant or registered home care aide, by written
11 notification, of the right to appeal. The home care aide applicant
12 or registered home care aide shall have 15 days from the date of
13 the written notification to appeal the denial or revocation.

14 (2) Upon receipt by the department of the appeal, the appeal
15 shall be set for hearing. The hearing shall be conducted in
16 accordance with Section 1551.

17 (c) If the home care aide application or registered home care
18 aide renewal application is denied, the home care aide applicant
19 or registered home care aide shall not reapply until he or she meets
20 the timeframe set forth in Sections 1796.40 and 1796.41.

21 ~~SEC. 289.~~

22 *SEC. 290.* Section 1796.26 of the Health and Safety Code is
23 amended to read:

24 1796.26. (a) (1) The department may revoke or deny a
25 registered home care aide’s registration or request for registration
26 renewal if any of the following apply to the registered home care
27 aide:

28 (A) He or she procured or attempted to procure his or her
29 registered home care aide registration or renewal by fraud or
30 misrepresentation.

31 (B) He or she has a criminal conviction, other than a minor
32 traffic violation, unless an exemption is granted pursuant to Section
33 1522.

34 (C) He or she engages or has engaged in conduct that is inimical
35 to the health, morals, welfare, or safety of the people of the State
36 of California or an individual receiving or seeking to receive home
37 care services.

38 (2) An individual whose registration has been revoked shall not
39 reapply until he or she meets the timeframe as set forth in Section
40 1796.40 or 1796.41.

1 (3) An individual whose criminal record exemption has been
2 denied shall not reapply for two years from the date of the
3 exemption denial.

4 (4) The hearing to revoke or deny the registered home care aide
5 registration or registration renewal request shall be conducted in
6 accordance with Section 1551.

7 (b) (1) The registered home care aide's registration shall be
8 considered forfeited under the following conditions:

9 (A) The registered home care aide has had a license or certificate
10 of approval revoked, suspended, or denied as authorized under
11 Section 1534, 1550, 1568.082, 1569.50, 1596.608, or 1596.885.

12 (B) The registered home care aide has been denied employment,
13 residence, or presence in a facility or client's home based on action
14 resulting from an administrative hearing pursuant to Section 1558,
15 1568.092, 1569.58, or 1596.8897.

16 (C) The registered home care aide fails to maintain a current
17 mailing address with the department.

18 (D) The registered home care aide's registration is not renewed.

19 (E) The registered home care aide surrenders his or her
20 registration to the department.

21 (F) The registered home care aide dies.

22 (2) An individual whose registered home care aide registration
23 has been forfeited shall not reapply until he or she meets the
24 timeframe set forth by the department in Sections 1796.40 and
25 1796.41.

26 (c) A registered home care aide's registration shall not be
27 transferred or sold to another individual or entity.

28 ~~SEC. 290.~~

29 *SEC. 291.* Section 1796.29 of the Health and Safety Code is
30 amended to read:

31 1796.29. The department shall do both of the following in the
32 administration of the home care aide registry:

33 (a) Establish and maintain on the department's Internet Web
34 site the registry of registered home care aides and home care aide
35 applicants.

36 (1) To expedite the ability of a consumer to search and locate
37 a registered home care aide or home care aide applicant, the
38 Internet Web site shall enable consumers to look up the registration
39 status by providing the registered home care aide's or home care
40 aide applicant's name, registration number, registration status,

1 registration expiration date, and, if applicable, the home care
2 organization with which the affiliated home care aide is associated.

3 (2) The Internet Web site shall not provide any additional,
4 individually identifiable information about a registered home care
5 aide or home care aide applicant. The department may request and
6 may maintain additional information for registered home care aides
7 or home care aide applicants, as necessary for the administration
8 of this chapter, that shall not be publicly available on the home
9 care aide registry.

10 (b) Update the home care registry upon receiving notification
11 from a home care organization that an affiliated home care aide is
12 no longer employed by the home care organization.

13 ~~SEC. 291.~~

14 *SEC. 292.* Section 1796.34 of the Health and Safety Code is
15 amended to read:

16 1796.34. (a) A person or a private or public organization, with
17 the exception of any person who performs in-home supportive
18 services through the In-Home Supportive Services program
19 pursuant to Article 7 (commencing with Section 12300) of Chapter
20 3 of Part 3 of Division 9 of the Welfare and Institutions Code, or
21 Section 14132.95, 14132.952, or 14132.956 of the Welfare and
22 Institutions Code, and the exceptions provided for in subdivision
23 (b), shall not do any of the following, unless he, she, or it is
24 licensed pursuant to this chapter:

25 (1) Own, manage, or represent himself, herself or itself to be
26 a home care organization by name, advertising, solicitation, or any
27 other presentments to the public, or in the context of services within
28 the scope of this chapter, imply that he, she, or it is licensed to
29 provide those services or to make any reference to employee
30 bonding in relation to those services.

31 (2) Use the terms “home care organization,” “home care,”
32 “in-home care,” or any combination of those terms, within its
33 name.

34 (b) This section does not apply to either of the following:

35 (1) Any person who performs in-home supportive services
36 through the In-Home Supportive Services program pursuant to
37 Article 7 (commencing with Section 12300) of Chapter 3 of Part
38 3 of Division 9 of, or Section 14132.95, 14132.952, or 14132.956
39 of, the Welfare and Institutions Code.

1 (2) An employment agency, as defined in Section 1812.5095
2 of the Civil Code, that procures, offers, refers, provides, or attempts
3 to provide an independent home care aide who provides home care
4 to clients.

5 ~~SEC. 292.~~

6 *SEC. 293.* Section 1796.37 of the Health and Safety Code is
7 amended to read:

8 1796.37. (a) The department may issue a home care
9 organization license to a home care organization applicant that
10 satisfies the requirements set forth in this chapter, including all of
11 the following:

12 (1) Files a complete home care organization application,
13 including the fees required pursuant to Section 1796.49.

14 (2) Submits proof of general and professional liability insurance
15 in the amount of at least one million dollars (\$1,000,000) per
16 occurrence and three million dollars (\$3,000,000) in the aggregate.

17 (3) Submits proof of a valid workers' compensation policy
18 covering its affiliated home care aides. The proof shall consist of
19 the policy number, the effective and expiration dates of the policy,
20 and the name and address of the policy carrier.

21 (4) Submits proof of an employee dishonesty bond, including
22 third-party coverage, with a minimum limit of ten thousand dollars
23 (\$10,000). This proof shall be submitted at each subsequent
24 renewal.

25 (5) Provides the department, upon request, with a complete list
26 of its affiliated home care aides, and proof that each satisfies the
27 requirements of Sections 1796.43, 1796.44, and 1796.45.

28 (6) Passes a background examination, as required pursuant to
29 Section 1796.33.

30 (7) Completes a department orientation.

31 (8) Does not have any outstanding fees or civil penalties due to
32 the department.

33 (9) Discloses prior or present service as an administrator, general
34 partner, corporate officer, or director of, or discloses that he or she
35 has held or holds a beneficial ownership of 10 percent or more in,
36 any of the following:

37 (A) A community care facility, as defined in Section 1502.

38 (B) A residential care facility, as defined in Section 1568.01.

39 (C) A residential care facility for the elderly, as defined in
40 Section 1569.2.

1 (D) A child day care facility, as defined in Section 1596.750.

2 (E) A day care center, as described in Chapter 3.5 (commencing
3 with Section 1596.90).

4 (F) A family day care home, as described in Chapter 3.6
5 (commencing with Section 1597.30).

6 (G) An employer-sponsored child care center, as described in
7 Chapter 3.65 (commencing with Section 1597.70).

8 (H) A home care organization licensed pursuant to this chapter.

9 (10) Discloses any revocation or other disciplinary action taken,
10 or in the process of being taken, against a license held or previously
11 held by the entities specified in paragraph (9).

12 (11) Provides evidence that every member of the board of
13 directors, if applicable, understands his or her legal duties and
14 obligations as a member of the board of directors and that the home
15 care organization's operation is governed by laws and regulations
16 that are enforced by the department.

17 (12) Provides any other information as may be required by the
18 department for the proper administration and enforcement of this
19 chapter.

20 (13) Cooperates with the department in the completion of the
21 home care organization license application process. Failure of the
22 home care organization licensee to cooperate may result in the
23 withdrawal of the home care organization license application.
24 "Failure to cooperate" means that the information described in this
25 chapter and in any rules and regulations promulgated pursuant to
26 this chapter has not been provided, or not provided in the form
27 requested by the department, or both.

28 (b) A home care organization licensee shall renew the home
29 care organization license every two years. The department may
30 renew a home care organization license if the licensee satisfies the
31 requirements set forth in this chapter, including all of the following:

32 (1) Files a complete home care organization license renewal
33 application, including the nonrefundable fees required pursuant to
34 Section 1796.49, both of which shall be postmarked on or before
35 the expiration of the license.

36 (2) Submits proof of general and professional liability insurance
37 in the amount of at least one million dollars (\$1,000,000) per
38 occurrence and three million dollars (\$3,000,000) in the aggregate.

39 (3) Submits proof of a valid workers' compensation policy
40 covering its affiliated home care aides. The proof shall consist of

1 the policy number, the effective and expiration dates of the policy,
2 and the name and address of the policy carrier.

3 (4) Submits proof of an employee dishonesty bond, including
4 third-party coverage, with a minimum limit of ten thousand dollars
5 (\$10,000).

6 (5) Does not have any outstanding fees or civil penalties due to
7 the department.

8 (6) Provides any other information as may be required by the
9 department for the proper administration and enforcement of this
10 chapter.

11 (7) Cooperates with the department in the completion of the
12 home care organization license renewal process. Failure of the
13 home care organization licensee to cooperate may result in the
14 withdrawal of the home care organization license renewal
15 application. “Failure to cooperate” means that the information
16 described in this chapter and in any rules and regulations
17 promulgated pursuant to this chapter has not been provided, or not
18 provided in the form requested by the department, or both.

19 (c) (1) The department shall notify a licensed home care
20 organization in writing of its registration expiration date and the
21 process of renewal.

22 (2) Written notification pursuant to this subdivision shall be
23 mailed to the registered home care organization’s mailing address
24 of record at least 60 days before the registration expiration date.

25 ~~SEC. 293.~~

26 *SEC. 294.* Section 1796.38 of the Health and Safety Code is
27 amended to read:

28 1796.38. The department may deny an application for licensure
29 or suspend or revoke any license issued pursuant to this chapter,
30 pursuant to Sections 1550.5 and 1551 and in the manner provided
31 in this chapter on any of the following grounds:

32 (a) Violation by the licensee of this chapter or of the rules and
33 regulations promulgated under this chapter.

34 (b) Aiding, abetting, or permitting the violation of this chapter
35 or of the rules and regulations promulgated under this chapter.

36 (c) Conduct that is inimical to the health, morals, welfare, or
37 safety of either an individual receiving home care services or the
38 people of the State of California.

1 (d) The conviction of a licensee, or other person mentioned in
2 Section 1522, at any time before or during licensure, of a crime
3 described in Section 1522.

4 (e) Engaging in acts of financial malfeasance concerning the
5 operation of a home care organization.

6 ~~SEC. 294.~~

7 *SEC. 295.* Section 1796.41 of the Health and Safety Code is
8 amended to read:

9 1796.41. (a) (1) If the department determines that a person
10 was issued a license pursuant to this chapter or Chapter 1
11 (commencing with Section 1200), Chapter 2 (commencing with
12 Section 1250), Chapter 3 (commencing with Section 1500), Chapter
13 3.01 (commencing with Section 1568.01), Chapter 3.2
14 (commencing with Section 1569), Chapter 3.4 (commencing with
15 Section 1596.70), Chapter 3.5 (commencing with Section 1596.90),
16 Chapter 3.6 (commencing with Section 1597.30), or Chapter 3.65
17 (commencing with Section 1597.70), and the prior license was
18 revoked within the preceding two years, the department shall
19 exclude the person from acting as, and require the home care
20 organization to remove him or her from his or her position as, a
21 member of the board of directors, an executive director, or an
22 officer of a licensee of any home care organizations licensed by
23 the department pursuant to this chapter.

24 (2) If the department determines that a person was previously
25 issued a certificate of approval by a foster family agency that was
26 revoked by the department pursuant to subdivision (b) of Section
27 1534 within the preceding two years, the department shall exclude
28 the person from acting as, and require the home care organization
29 to remove him or her from his or her position as, a member of the
30 board of directors, an executive director, or an officer of a licensee
31 of, any home care organizations licensed by the department
32 pursuant to this chapter.

33 (b) If the department determines that the person had previously
34 applied for a license under any of the chapters listed in paragraph
35 (1) of subdivision (a) and the application was denied within the
36 last year, the department shall exclude the person from acting as,
37 and require the home care organization to remove him or her from
38 his or her position as, a member of the board of directors, an
39 executive director, or an officer of a licensee of any home care

1 organizations licensed by the department pursuant to this chapter
2 as follows:

3 (1) In cases in which the home care organization applicant
4 petitioned for a hearing, the department shall exclude the person
5 from acting as, and require the home care organization to remove
6 him or her from his or her position as, a member of the board of
7 directors, an executive director, or an officer of a licensee of, any
8 home care organizations licensed by the department pursuant to
9 this chapter until one year has elapsed from the effective date of
10 the decision and order of the department upholding a denial.

11 (2) In cases in which the department informed the home care
12 organization applicant of his or her right to petition for a hearing
13 and the home care organization applicant did not petition for a
14 hearing, the department shall exclude the person from acting as,
15 and require the home care organization to remove him or her from
16 his or her position as, a member of the board of directors, an
17 executive director, or an officer of a licensee of, any home care
18 organizations licensed by the department pursuant to this chapter
19 until one year has elapsed from the date of the notification of the
20 denial and the right to petition for a hearing.

21 (c) If the department determines that the person had previously
22 applied for a certificate of approval with a foster family agency
23 and the department ordered the foster family agency to deny the
24 application pursuant to subdivision (b) of Section 1534, the
25 department shall exclude the person from acting as, and require
26 the home care organization to remove him or her from his or her
27 position as, a member of the board of directors, an executive
28 director, or an officer of a licensee of, any home care organizations
29 licensed by the department pursuant to this chapter and as follows:

30 (1) In cases in which the home care organization applicant
31 petitioned for a hearing, the department shall exclude the person
32 from acting as, and require the home care organization to remove
33 him or her from his or her position as, a member of the board of
34 directors, an executive director, or an officer of a licensee of, any
35 home care organizations licensed by the department pursuant to
36 this chapter until one year has elapsed from the effective date of
37 the decision and order of the department upholding a denial.

38 (2) In cases in which the department informed the home care
39 organization applicant of his or her right to petition for a hearing
40 and the home care organization applicant did not petition for a

1 hearing, the department shall exclude the person from acting as,
2 and require the home care organization to remove him or her from
3 his or her position as, a member of the board of directors, an
4 executive director, or an officer of a licensee of, any home care
5 organizations licensed by the department pursuant to this chapter
6 until one year has elapsed from the date of the notification of the
7 denial and the right to petition for a hearing.

8 (d) Exclusion or removal of an individual pursuant to this section
9 shall not be considered an order of exclusion for purposes of
10 Section 1796.25 or any other law.

11 (e) The department may determine not to exclude a person from
12 acting, or require that he or she be removed from his or her
13 position, as a member of the board of directors, an executive
14 director, or an officer of a licensee of, any home care organizations
15 licensed by the department pursuant to this chapter if it has been
16 determined that the reasons for the denial of the application or
17 revocation of the facility license or certificate of approval were
18 due to circumstances or conditions that either have been corrected
19 or are no longer in existence.

20 ~~SEC. 295.~~

21 *SEC. 296.* Section 1796.44 of the Health and Safety Code is
22 amended to read:

23 1796.44. (a) A licensee shall ensure that prior to providing
24 home care services, an affiliated home care aide shall complete
25 the training requirements specified in this section.

26 (b) An affiliated home care aide shall complete a minimum of
27 five hours of entry-level training prior to presence with a client,
28 as follows:

29 (1) Two hours of orientation training regarding his or her role
30 as caregiver and the applicable terms of employment.

31 (2) Three hours of safety training, including basic safety
32 precautions, emergency procedures, and infection control.

33 (c) In addition to the requirements in subdivision (b), an
34 affiliated home care aide shall complete a minimum of five hours
35 of annual training. The annual training shall relate to core
36 competencies and be population specific, which shall include, but
37 not be limited to, the following areas:

38 (1) Clients' rights and safety.

39 (2) How to provide for, and respond to, a client's daily living
40 needs.

1 (3) How to report, prevent, and detect abuse and neglect.

2 (4) How to assist a client with personal hygiene and other home
3 care services.

4 (5) If transportation services are provided, how to safely
5 transport a client.

6 (d) The entry-level training and annual training described in
7 subdivisions (b) and (c) may be completed through an online
8 training program.

9 ~~SEC. 296.~~

10 *SEC. 297.* Section 1796.45 of the Health and Safety Code is
11 amended to read:

12 1796.45. (a) Affiliated home care aides hired on or after
13 January 1, 2016, shall submit to an examination 90 days prior to
14 employment, or within seven days after employment, to determine
15 that the individual is free of active tuberculosis disease.

16 (b) For purposes of this section, “examination” means a test for
17 tuberculosis infection that is recommended by the federal Centers
18 for Disease Control and Prevention (CDC) and licensed by the
19 federal Food and Drug Administration (FDA) and, if that test is
20 positive, an X-ray of the lungs. The aide shall not work as an
21 affiliated home care aide unless the licensee obtains documentation
22 from a licensed medical professional that there is no risk of
23 spreading the disease.

24 (c) After submitting to an examination, an affiliated home care
25 aide whose test for tuberculosis infection is negative shall be
26 required to undergo an examination at least once every two years.
27 Once an affiliated home care aide has a documented positive test
28 for tuberculosis infection that has been followed by an X-ray, the
29 examination is no longer required.

30 (d) After each examination, an affiliated home care aide shall
31 submit, and the home care organization shall keep on file, a
32 certificate from the examining practitioner showing that the
33 affiliated home care aide was examined and found free from active
34 tuberculosis disease.

35 (e) The examination is a condition of initial and continuing
36 employment with the home care organization.

37 (f) An affiliated home care aide who transfers employment from
38 one home care organization to another shall be deemed to meet
39 the requirements of subdivision (a) or (c) if the affiliated home
40 care aide can produce a certificate showing that he or she submitted

1 to the examination within the past two years and was found to be
2 free of active tuberculosis disease, or if it is verified by the home
3 care organization previously employing him or her that it has a
4 certificate on file that contains that showing and a copy of the
5 certificate is provided to the new home care organization prior to
6 the affiliated home care aide beginning employment.

7 ~~SEC. 297.~~

8 *SEC. 298.* Section 4730.65 of the Health and Safety Code is
9 amended to read:

10 4730.65. (a) Notwithstanding Sections 4730, 4730.1, and
11 4730.2, or any other law, the governing body of the Orange County
12 Sanitation District shall be a board of directors composed of all of
13 the following:

14 (1) One member of the city council of each city located wholly
15 or partially within the district's boundaries, except the City of
16 Yorba Linda, provided, however, a city within the Orange County
17 Sanitation District, the sewered portion of which city lies entirely
18 within another sanitary district, shall have no representation on
19 the board.

20 (2) One member of the county board of supervisors.

21 (3) One member of the governing body of each sanitary district,
22 the whole or part of which is included in the Orange County
23 Sanitation District.

24 (4) One member of the governing body of a public agency
25 empowered to and engaged in the collection, transportation,
26 treatment, or disposal of sewage and that was a member agency
27 of a sanitation district consolidated into the Orange County
28 Sanitation District.

29 (5) One member of the governing body of the Yorba Linda
30 Water District.

31 (b) The governing body of the county and each city, sanitary
32 district, and public agency that is a member agency having a
33 representative on the board of directors of the Orange County
34 Sanitation District, may designate one of its members to act in the
35 place of its regular member in his or her absence or his or her
36 inability to act.

37 (c) An action shall not be taken at any meeting of the Orange
38 County Sanitation District's board of directors unless a majority
39 of all authorized members of the board of directors is in attendance.

1 (d) A majority of the members of the board of directors present
2 is required to approve or otherwise act on any matter except as
3 otherwise required by law.

4 ~~SEC. 298.~~

5 *SEC. 299.* Section 4766.5 of the Health and Safety Code, as
6 added by Section 21 of Chapter 158 of the Statutes of 2005, is
7 amended and renumbered to read:

8 4766.7. A district may destroy a record pursuant to Chapter 7
9 (commencing with Section 60200) of Division 1 of Title 6 of the
10 Government Code.

11 *SEC. 300. Section 7158.3 of the Health and Safety Code is*
12 *amended to read:*

13 7158.3. (a) The following definitions shall apply for purposes
14 of this section:

15 (1) "Cosmetic surgery" means surgery that is performed to alter
16 or reshape normal structures of the body in order to improve
17 appearance.

18 (2) "Donee" means a hospital, as defined in ~~subdivision (f) of~~
19 ~~Section 7150.1, paragraph (12) of subdivision (a) of Section~~
20 ~~7150.10, or an organ procurement organization, as defined in~~
21 ~~subdivision (j) of Section 7150.1, paragraph (16) of subdivision~~
22 ~~(a) of Section 7150.10, or a tissue bank licensed pursuant to~~
23 Chapter 4.1 (commencing with Section 1635) of Division 2.

24 (3) "Reconstructive surgery" means surgery performed to correct
25 or repair abnormal structures of the body caused by congenital
26 defects, developmental abnormalities, trauma, infection, tumors,
27 or disease to do either of the following:

- 28 (A) To improve function.
- 29 (B) To create a normal appearance, to the extent possible.

30 (b) For purposes of accepting anatomical gifts, as defined in
31 *paragraph (3) of subdivision (a) of Section 7150.1, 7150.10, a*
32 *donee shall do all of the following:*

33 (1) Revise existing informed consent forms and procedures to
34 advise a donor or, if the donor is deceased, the donor's
35 representative, that tissue banks work with both nonprofit and
36 for-profit tissue processors and distributors, that it is possible that
37 donated skin may be used for cosmetic or reconstructive surgery
38 purposes, and that donated tissue may be used for transplants
39 outside of the United States.

1 (2) The revised consent form or procedure shall separately allow
2 the donor or donor's representative to withhold consent for any of
3 the following:

4 (A) Donated skin to be used for cosmetic surgery purposes.

5 (B) Donated tissue to be used for applications outside of the
6 United States.

7 (C) Donated tissue to be used by for-profit tissue processors
8 and distributors.

9 (3) A donee shall be deemed to have complied with paragraph
10 (2) by designating tissue that has been donated with specific
11 restrictions on its use. Once the donee transfers the tissue to a
12 separate entity, the donee's responsibility for compliance with any
13 restrictions on the tissue ceases.

14 (4) The donor may recover, in a civil action against any
15 individual or entity that fails to comply with this subdivision, civil
16 penalties to be assessed in an amount not less than one thousand
17 dollars (\$1,000) and not more than five thousand dollars (\$5,000),
18 plus court costs, as determined by the court. A separate penalty
19 shall be assessed for each individual or entity that fails to comply
20 with this subdivision. Any civil penalty provided under this
21 paragraph shall be in addition to any license revocation or
22 suspension, if appropriate, authorized under subdivision (c).

23 (5) If the consent of the donor or donor's representative is
24 obtained in writing, the donee shall offer to provide the donor or
25 donor's representative with a copy of the completed consent form.
26 If consent is obtained by telephone, the donee shall advise the
27 donor or donor's representative that the conversation will be audio
28 recorded for verification and enforcement purposes, and shall offer
29 to provide the donor or donor's representative with a written copy
30 of the recorded telephonic consent form.

31 (c) Violation of this section by a licensed health care provider
32 constitutes unprofessional conduct.

33 (d) This section shall not apply to the removal of sperm or ova
34 pursuant to Section 2260 of the Business and Professions Code.

35 ~~SEC. 299.~~

36 *SEC. 301.* Section 8650.5 of the Health and Safety Code, as
37 added by Section 36 of Chapter 436 of the Statutes of 2001, is
38 repealed.

1 ~~SEC. 300.~~

2 ~~SEC. 302.~~ The heading of Article 3 (commencing with Section
3 11140) of Chapter 3 of Division 10 of the Health and Safety Code
4 is repealed.

5 ~~SEC. 301.~~

6 ~~SEC. 303.~~ The heading of Article 2 (commencing with Section
7 11760.5) of Chapter 1 of Part 2 of Division 10.5 of the Health and
8 Safety Code, as added by Chapter 679 of the Statutes of 1979, is
9 repealed.

10 ~~SEC. 302.~~

11 ~~SEC. 304.~~ The heading of Article 6 (commencing with Section
12 11780) of Chapter 2 of Part 2 of Division 10.5 of the Health and
13 Safety Code is repealed.

14 ~~SEC. 303.~~

15 ~~SEC. 305.~~ Division 10.10 (commencing with Section 11999.30)
16 of the Health and Safety Code is repealed.

17 ~~SEC. 304.~~

18 ~~SEC. 306.~~ Section 13143.5 of the Health and Safety Code, as
19 added by Chapter 1204 of the Statutes of 1973, is amended and
20 renumbered to read:

21 13143.3. The State Fire Marshal or any local public entity shall
22 not charge any fee for enforcing the provisions of Section 13143
23 or regulations adopted pursuant thereto with respect to facilities
24 providing nonmedical board, room, and care for six or less children
25 which are required to be licensed under the provisions of Chapter
26 2 (commencing with Section 1250) of Division 2.

27 ~~SEC. 305.~~

28 ~~SEC. 307.~~ The heading of Chapter 3 (commencing with Section
29 16500) of Division 12.5 of the Health and Safety Code, as added
30 by Section 2 of Chapter 953 of the Statutes of 1989, is amended
31 and renumbered to read:

32

33 CHAPTER 3.5. SCHOOL BUILDINGS

34

35 ~~SEC. 306.~~

36 ~~SEC. 308.~~ Section 16500 of the Health and Safety Code is
37 amended to read:

38 16500. The State Architect shall adopt guidelines applicable
39 to substandard conditions of school buildings, as defined in Section
40 17283 of the Education Code, which guidelines shall take into

1 consideration the unique design, use, safety needs, and construction
2 of the school buildings.

3 ~~SEC. 307.~~

4 *SEC. 309.* The heading of Article 5.5 (commencing with
5 Section 25159.10) of Chapter 6.5 of Division 20 of the Health and
6 Safety Code, as added by Section 1 of Chapter 1591 of the Statutes
7 of 1985, is amended and renumbered to read:

8

9 Article 5.6. The Toxic Injection Well Control Act of 1985

10

11 ~~SEC. 308.~~

12

13 *SEC. 310.* Section 25163.3 of the Health and Safety Code is
14 amended to read:

15

16 25163.3. A person who initially collects hazardous waste at a
17 remote site and transports that hazardous waste to a consolidation
18 site operated by the generator and who complies with the
19 notification requirements of subdivision (d) of Section 25110.10
20 shall be exempt from the manifest and transporter registration
21 requirements of Sections 25160 and 25163 with regard to the
22 hazardous waste if all of the following conditions are met:

23

24 (a) The hazardous waste is a non-RCRA hazardous waste, or
25 the hazardous waste or its transportation is otherwise exempt from,
26 or is not otherwise regulated pursuant to, the federal act.

27

28 (b) The conditions and requirements of Section 25121.3 are
29 met.

30

31 (c) The regulations adopted by the department pertaining to
32 personnel training requirements for generators are complied with
33 for all personnel handling the hazardous waste during transportation
34 from the remote site to the consolidation site.

35

36 (d) The hazardous waste is transported by employees of the
37 generator or by trained contractors under the control of the
38 generator, in vehicles that are under the control of the generator,
39 or by registered hazardous waste transporters. The generator shall
40 assume liability for a spill of hazardous waste being transported
under this section by the generator, or a contractor in a vehicle
under the control of the generator or contractor. This subdivision
does not bar any agreement to insure, hold harmless, or indemnify
a party to the agreement for any liability under this section or
otherwise bars any cause of action a generator would otherwise
have against any other party.

- 1 (e) The hazardous waste is not held at any interim location,
2 other than another remote site operated by the same generator, for
3 more than eight hours, unless that holding is required by other
4 provisions of law.
- 5 (f) Not more than 275 gallons or 2,500 pounds, whichever is
6 greater, of hazardous waste is transported in any single shipment,
7 except for the following:
 - 8 (1) A generator who is a public utility, local publicly owned
9 utility, or municipal utility district may transport up to 1,600
10 gallons of hazardous wastewater from the dewatering of one or
11 more utility vaults, or up to 500 gallons of another liquid hazardous
12 waste in a single shipment.
 - 13 (2) A generator who is a public utility, local publicly owned
14 utility, or municipal utility district may transport up to 5,000
15 gallons of mineral oil from a transformer, circuit breakers, or
16 capacitors, owned by the generator, in a single shipment if the oil
17 does not exhibit the characteristic of toxicity pursuant to the test
18 specified in subparagraph (B) of paragraph (2) of subdivision (a)
19 of Section 66261.24 of Title 22 of the California Code of
20 Regulations.
 - 21 (3) (A) A generator who is a public utility, local publicly owned
22 utility, or municipal utility district may transport up to 5,000
23 gallons of hazardous wastewater from the dewatering of a utility
24 vault in an emergency situation.
25 (B) For the purposes of this paragraph “emergency situation”
26 means that utility vault dewatering necessitates immediate response
27 to avoid endangerment to human health, public safety, or the
28 environment, under one or more of the following circumstances:
 - 29 (i) A vehicle hits a utility pole or stationary utility equipment
30 and knocks down a transformer that spills oil on a public area.
 - 31 (ii) A spill occurs at or near a vault rendering the contents
32 potentially hazardous and crews need to remove the liquid to
33 decontaminate the vault and to access critical equipment to avoid
34 a service outage.
 - 35 (iii) A spill occurs at or near a vault that renders the contents
36 potentially hazardous and rainwater flowing into the vault threatens
37 to cause an overflow that will spill into the surrounding area.
 - 38 (iv) Groundwater intrusion threatens the electrical equipment
39 inside the vault and the reliability of the electrical system.

1 (v) Heavy rain events, due to the rate of rainfall, threaten the
2 cables and equipment inside the vault.

3 (C) In transporting hazardous waste pursuant to this paragraph,
4 the generator shall only collect hazardous waste from one utility
5 vault and shall not consolidate hazardous waste from multiple
6 sites.

7 (g) A shipping paper containing all of the following information
8 accompanies the hazardous waste while in transport, except as
9 provided in subdivision (h):

10 (1) A list of the hazardous wastes being transported.

11 (2) The type and number of containers being used to transport
12 each type of hazardous waste.

13 (3) The quantity, by weight or volume, of each type of hazardous
14 waste being transported.

15 (4) The physical state, such as solid, powder, liquid, semiliquid,
16 or gas, of each type of hazardous waste being transported.

17 (5) The location of the remote site where the hazardous waste
18 is initially collected.

19 (6) The location of any interim site where the hazardous waste
20 is held en route to the consolidation site.

21 (7) The name, address, and telephone number of the generator,
22 and, if different, the address and telephone number of the
23 consolidation site to which the hazardous waste is being
24 transported.

25 (8) The name and telephone number of an emergency response
26 contact, for use in the event of a spill or other release.

27 (9) The name of the individual or individuals who transport the
28 hazardous waste from the remote site to the consolidation site.

29 (10) The date that the generator first begins to actively manage
30 the hazardous waste at the remote site, the date that the shipment
31 leaves the remote site where the hazardous waste is initially
32 collected, and the date that the shipment arrives at the consolidation
33 site.

34 (h) A shipping paper is not required if the total quantity of the
35 shipment does not exceed 10 pounds of hazardous waste, except
36 that a shipping paper is required to transport any quantity of
37 extremely or acutely hazardous waste.

38 (i) All shipments conform with all applicable requirements of
39 the United States Department of Transportation for hazardous
40 materials shipments.

1 ~~SEC. 309.~~

2 *SEC. 311.* Section 25262 of the Health and Safety Code is
3 amended to read:

4 25262. (a) A responsible party for a hazardous materials
5 release site may request the committee at any time to designate an
6 administering agency to oversee a site investigation and remedial
7 action at the site. The committee shall designate an administering
8 agency as responsible for the site within 45 days of the date the
9 request is received. A request to designate an administering agency
10 may be denied only if the committee makes one of the following
11 findings:

12 (1) No single agency in state or local government has the
13 expertise needed to adequately oversee a site investigation and
14 remedial action at the site.

15 (2) Designating an administering agency will have the effect
16 of reversing a regulatory or enforcement action initiated by an
17 agency that has jurisdiction over the site, a facility on the site, or
18 an activity at the site.

19 (3) Designating an administering agency will prevent a
20 regulatory or enforcement action required by federal law or
21 regulations.

22 (4) The administering agency and the responsible party are
23 local agencies formed, in whole or in part, by the same political
24 subdivision.

25 (b) A responsible party who requests the designation of an
26 administering agency for a hazardous materials release site shall
27 provide the committee with a brief description of the site, an
28 analysis of the known or suspected nature of the release or
29 threatened release that is the subject of required site investigation
30 or remedial action, a description of the type of facility from which
31 the release occurred or the type of activity that caused the release,
32 a specification of the regulatory or enforcement actions that have
33 been taken, or are pending, with respect to the release, and a
34 statement of which agency the responsible party believes should
35 be designated as administering agency for the site.

36 (c) (1) The committee shall take all of the following factors
37 into account in determining which agency to designate as
38 administering agency for a site:

39 (A) The type of release that is the subject of site investigation
40 and remedial action.

1 (B) The nature of the threat that the release poses to human
2 health and safety or to the environment.

3 (C) The source of the release, the type of facility or activity
4 from which the release occurred, the regulatory programs that
5 govern the facility or activity involved, and the agency or agencies
6 that administer those regulatory programs.

7 (D) The regulatory history of the site, the types of regulatory
8 actions or enforcement actions that have been taken with respect
9 to the site or the facility or activity from which the release occurred,
10 and the experience and involvement that various agencies have
11 had with the site.

12 (E) The capabilities and expertise of the agencies that are
13 candidates for designation as the administering agency for the site
14 and the degree to which those capabilities and that expertise are
15 applicable to the type of release at the site, the nature of the threat
16 that the release poses to health and safety or the environment and
17 the probable remedial measures that will be required.

18 (2) After weighing the factors described in paragraph (1) as
19 they apply to the site, the committee shall use the criteria specified
20 in subparagraphs (A), (B), (C), and (D) as guidelines for
21 designating the administering agency. If more than one of the
22 criteria apply to the site, the committee shall use its best judgment,
23 taking into account the known facts concerning the hazardous
24 materials release at the site and its regulatory history, in
25 determining which agency may best serve as the administering
26 agency. The criteria are as follows:

27 (A) The administering agency shall be the Department of Toxic
28 Substances Control if one of the following applies:

29 (i) The department has issued an order, or otherwise initiated
30 action, with respect to the release at the site pursuant to Section
31 25355, 25355.5, or 25358.3.

32 (ii) The department has issued an order for corrective action at
33 the site pursuant to Section 25187.

34 (iii) The source of the release is a facility or hazardous waste
35 management unit or an activity that is, or was, regulated by the
36 department pursuant to Chapter 6.5 (commencing with Section
37 25100).

38 (iv) The department is conducting, or has conducted, oversight
39 of the site investigation and remedial action at the site at the request
40 of the responsible party.

1 (B) The administering agency shall be the California regional
2 water quality control board for the region in which the site is
3 located, if one of the following applies:

4 (i) The California regional water quality control board has
5 issued a cease and desist order pursuant to Section 13301, or a
6 cleanup and abatement order pursuant to Section 13304 of the
7 Water Code in connection with the release at the site.

8 (ii) The source of the release is a facility or an activity that is
9 subject to waste discharge requirements issued by the California
10 regional water quality control board pursuant to Section 13263 of
11 the Water Code or that is regulated by the California regional water
12 quality control board pursuant to Article 5.6 (commencing with
13 Section 25159.10) of, or Article 9.5 (commencing with Section
14 25208) of, Chapter 6.5, or pursuant to Chapter 6.67 (commencing
15 with Section 25270).

16 (iii) The California regional water quality control board has
17 jurisdiction over the site pursuant to Chapter 5.6 (commencing
18 with Section 13390) of Division 7 of the Water Code.

19 (C) The administering agency shall be the Department of Fish
20 and Game if the release has polluted or contaminated the waters
21 of the state and the department has taken action against the
22 responsible party pursuant to Section 2014 or 12015 of, or Article
23 1 (commencing with Section 5650) of Chapter 2 of Part 1 of
24 Division 6 of, the Fish and Game Code, subsection (f) of Section
25 107 of the Comprehensive Environmental Response,
26 Compensation, and Liability Act, as amended, (42 U.S.C. Sec.
27 9607 (f)), or Section 311 of the Federal Water Pollution Act, as
28 amended (33 U.S.C. Sec. 1321).

29 (D) The administering agency shall be a local agency if any
30 one of the following circumstances is applicable:

31 (i) The source of the release at the site is an underground storage
32 tank, as defined in subdivision (y) of Section 25281, the local
33 agency is the agency described in subdivision (i) of Section 25281,
34 and there is no evidence of any extensive groundwater
35 contamination at the site.

36 (ii) The local agency has accepted responsibility for overseeing
37 the site investigation or remedial action at the site and a state
38 agency is not involved.

1 (iii) The local agency has agreed to oversee the site
2 investigation or remedial action at the site and is certified, or has
3 been approved, by a state agency to conduct that oversight.

4 (d) A responsible party for a hazardous materials release site
5 may request the designation of an administering agency for the
6 site pursuant to this section only once. The action of the committee
7 on the request is a final action and is not subject to further
8 administrative or judicial review.

9 ~~SEC. 310.~~

10 *SEC. 312.* The heading of Article 8 (commencing with Section
11 25299.80) of Chapter 6.75 of Division 20 of the Health and Safety
12 Code is repealed.

13 ~~SEC. 311.~~

14 *SEC. 313.* The heading of Article 12 (commencing with Section
15 25299.97) of Chapter 6.75 of Division 20 of the Health and Safety
16 Code, as added by Section 7 of Chapter 814 of the Statutes of
17 1997, is repealed.

18 ~~SEC. 312.~~

19 *SEC. 314.* Section 25299.97 of the Health and Safety Code, as
20 amended by Section 134 of Chapter 745 of the Statutes of 2001,
21 is repealed.

22 ~~SEC. 313.~~

23 *SEC. 315.* Section 25299.97 of the Health and Safety Code, as
24 amended by Section 135 of Chapter 745 of the Statutes of 2001,
25 is amended to read:

26 25299.97. (a) For the purposes of this article, the following
27 definitions shall apply:

28 (1) "Public drinking water well" means a wellhead that provides
29 drinking water to a public water system, as that term is defined in
30 Section 116275, that is regulated by the State Water Resources
31 Control Board and that is subject to Section 116455.

32 (2) "MTBE" means methyl tertiary-butyl ether.

33 (3) "GIS mapping system" means a geographic information
34 system that collects, stores, retrieves, analyzes, and displays
35 environmental geographic data in a data base that is accessible to
36 the public.

37 (4) "Motor vehicle fuel" includes gasoline, natural gasoline,
38 blends of gasoline and alcohol or gasoline and oxygenates, and
39 any inflammable liquid, by whatever name the liquid may be
40 known or sold, that is used or usable for propelling motor vehicles

1 operated by the explosion type engine. It does not include kerosine,
2 liquefied petroleum gas, or natural gas, in liquid or gaseous form.

3 (5) “Oxygenated motor vehicle fuel” is motor vehicle fuel, as
4 defined in paragraph (4), that meets the federal definition for
5 “Oxygenated fuel” in Section 7545(m) of Title 42 of the United
6 States Code.

7 (6) “Oxygenate” means an organic compound containing oxygen
8 that has been approved by the United States Environmental
9 Protection Agency as a gasoline additive to meet the requirements
10 for an “oxygenated fuel” pursuant to Section 7545 of Title 42 of
11 the United States Code.

12 (b) The State Water Resources Control Board shall upgrade the
13 data base created by Section 25296.35. This upgrade shall include
14 the establishment of a statewide GIS mapping system as described
15 in this section only upon an appropriation by the Legislature for
16 this purpose.

17 (c) (1) For purposes of subdivision (b), the board shall create
18 a GIS Mapping and Data Management Advisory Committee. The
19 committee shall give the board advice on location standards,
20 protocols, metadata, and the appropriate data to expand the data
21 base to create a cost-effective GIS mapping system that will
22 provide the appropriate information to allow agencies to better
23 protect public drinking water wells and, if feasible, nearby aquifers
24 that are reasonably expected to be used as drinking water, from
25 contamination by motor vehicle fuel from underground storage
26 tanks and intrastate and interstate pipelines that are regulated by
27 the State Fire Marshal pursuant to the California Pipeline Safety
28 Act of 1981, Chapter 5.5 (commencing with Section 51010.5) of
29 Part 1 of Division 1 of Title 5 of the Government Code.

30 (2) The advisory committee shall include, at a minimum,
31 members from appropriate state and local agencies, affected
32 industry and business, the water agencies that provide drinking
33 water in Santa Monica, the water agencies that provide drinking
34 water in the Santa Clara Valley, nonprofit environmental groups
35 dedicated to the conservation and preservation of natural resources,
36 and underground storage tank owners.

37 (d) (1) The board shall create two pilot projects, the Santa
38 Monica Groundwater Pilot Project and the Santa Clara Valley
39 Groundwater Pilot Project, which shall terminate on July 1, 1999.

1 (2) The board shall create the pilot projects with the advice of
2 the advisory committee so as to expedite and prioritize the
3 upgrading of the data base for those regions of the state where
4 groundwater provides, or would be called on in an emergency to
5 provide, a significant portion of the region's drinking water.

6 (3) The board shall use the pilot projects to define and assess
7 the parameters of the data base, identify data needs, develop
8 opportunities to electronically link data bases and electronic
9 submission of information, offer access to the public via the
10 Internet, streamline existing processes, and work out the details
11 for data management and a GIS mapping system as described in
12 this article.

13 (4) The pilot projects shall study appropriate notification to
14 public water systems and response times.

15 (e) To upgrade the data base as required by this section, the
16 board, in consultation with the advisory committee, shall do all of
17 the following:

18 (1) Coordinate with the Department of Water Resources and
19 the State Department of Public Health to obtain the location of
20 existing drinking water wells and appropriate water resource and
21 quality data to meet the requirements of this article.

22 (2) Coordinate with local agencies authorized to implement this
23 chapter to obtain the location of all underground storage tanks that
24 store motor vehicle fuel that are within 1,000 feet of a public
25 drinking water well.

26 (3) Coordinate with local agencies authorized to implement this
27 chapter to add the location of all known releases of motor vehicle
28 fuel from underground storage tanks that are within 1,000 feet of
29 a drinking water well.

30 (4) Coordinate with the State Fire Marshal to add the location
31 and leak history of all pipelines or segments of pipelines that
32 transport motor vehicle fuel and that are regulated by the State
33 Fire Marshal pursuant to Chapter 5.5 (commencing with Section
34 51010) of Part 1 of Division 1 of Title 5 of the Government Code
35 that are within 1,000 feet of an existing public drinking water well.

36 (f) The board may expend up to four hundred thousand dollars
37 (\$400,000) from the Underground Storage Tank Cleanup Fund for
38 the purposes set forth in Section 25299.36 to fund the GIS mapping
39 system projects referred to in this section.

1 ~~SEC. 314.~~

2 *SEC. 316.* Section 25507.2 of the Health and Safety Code is
3 amended to read:

4 25507.2. Unless otherwise required by a local ordinance, the
5 unified program agency shall exempt a business operating an
6 unstaffed facility located at least one-half mile from the nearest
7 occupied structure from Sections 25508.2 and 25511, and shall
8 subject the business to Sections 25505, 25506, and 25507 only as
9 specified in this section, if the business is not otherwise subject to
10 the requirements of applicable federal law, and all of the following
11 requirements are met:

12 (a) The types and quantities of materials onsite are limited to
13 one or more of the following:

14 (1) One thousand standard cubic feet of compressed inert gases
15 (asphyxiation and pressure hazards only).

16 (2) Five hundred gallons of combustible liquid used as a fuel
17 source.

18 (3) Corrosive liquids, not to exceed 500 pounds of extremely
19 hazardous substances, used as electrolytes, and in closed containers.

20 (4) Five hundred gallons of lubricating and hydraulic fluids.

21 (5) One thousand two hundred gallons of hydrocarbon gas used
22 as a fuel source.

23 (6) Any quantity of mineral oil contained within electrical
24 equipment, such as transformers, bushings, electrical switches,
25 and voltage regulators, if the spill prevention control and
26 countermeasure plan has been prepared for quantities that meet or
27 exceed 1,320 gallons.

28 (b) The facility is secured and not accessible to the public.

29 (c) Warning signs are posted and maintained for hazardous
30 materials pursuant to the California Fire Code.

31 (d) (1) Notwithstanding Sections 25505 and 25507, a one-time
32 business plan, except for the emergency response plan and training
33 elements specified in paragraphs (3) and (4) of subdivision (a) of
34 Section 25505, is submitted to the statewide information
35 management system. This one-time business plan submittal is
36 subject to a verification inspection by the unified program agency
37 and the unified program agency may assess a fee not to exceed the
38 actual costs of processing and for inspection, if an inspection is
39 conducted.

1 (2) If the information contained in the one-time submittal of the
2 business plan changes and the time period of the change is longer
3 than 30 days, the business plan shall be resubmitted within 30 days
4 to the statewide information management system to reflect any
5 change in the business plan. A fee not to exceed the actual costs
6 of processing and inspection, if conducted, may be assessed by
7 the unified program agency.

8 ~~SEC. 315.~~

9 *SEC. 317.* Section 25997 of the Health and Safety Code, as
10 added by Section 1 of Chapter 51 of the Statutes of 2010, is
11 amended and renumbered to read:

12 25996.1. A person who violates this chapter is guilty of a
13 misdemeanor, and upon conviction thereof shall be punished by
14 a fine not to exceed one thousand dollars (\$1,000) or by
15 imprisonment in the county jail for a period not to exceed 180 days
16 or by both that fine and imprisonment.

17 ~~SEC. 316.~~

18 *SEC. 318.* Section 25997.1 of the Health and Safety Code is
19 amended and renumbered to read:

20 25996.3. The provisions of this chapter are in addition to, and
21 not in lieu of, any other laws protecting animal welfare, including
22 the Penal Code. This chapter shall not be construed to limit any
23 state law or regulation protecting the welfare of animals, nor shall
24 anything in this chapter prevent a local governing body from
25 adopting and enforcing its own animal welfare laws and
26 regulations.

27 ~~SEC. 317.~~

28 *SEC. 319.* Section 33492.78 of the Health and Safety Code is
29 amended to read:

30 33492.78. (a) Section 33607.5 does not apply to an agency
31 created pursuant to this article. For purposes of Sections 42238.02,
32 84750.5, and 84751 of the Education Code, funds allocated
33 pursuant to this section shall be treated as if they were allocated
34 pursuant to Section 33607.5.

35 (1) This section applies to each redevelopment project area
36 created pursuant to a redevelopment plan that contains the
37 provisions required by Section 33670 and is created pursuant to
38 this article. All the amounts calculated pursuant to this section
39 shall be calculated after the amount required to be deposited in the
40 Low and Moderate Income Housing Fund pursuant to Sections

1 33334.2, 33334.3, and 33334.6, as modified by Section 33492.76,
2 has been deducted from the total amount of tax-increment funds
3 received by the agency in the applicable fiscal year.

4 (2) The payments made pursuant to this section are in addition
5 to any amounts the school district or districts and community
6 college district or districts receive pursuant to subdivision (a) of
7 Section 33670. The agency shall reduce its payments pursuant to
8 this section to an affected school or community college district by
9 any amount the agency has paid, directly or indirectly, pursuant
10 to Section 33445, 33445.5, or 33446, or any provision of law other
11 than this section for, or in connection with, a public facility owned
12 or leased by that affected school or community college district.

13 (3) (A) Of the total amount paid each year pursuant to this
14 section to school districts, 43.9 percent shall be considered to be
15 property taxes for the purposes of paragraph (1) of subdivision (j)
16 of Section 42238.02 of the Education Code, and 56.1 percent shall
17 not be considered to be property taxes for the purposes of that
18 section, and shall be available to be used for educational facilities.

19 (B) Of the total amount paid each year pursuant to this section
20 to community college districts, 47.5 percent shall be considered
21 to be property taxes for the purposes of Section 84751 of the
22 Education Code, and 52.5 percent shall not be considered to be
23 property taxes for the purposes of that section, and shall be
24 available to be used for educational facilities.

25 (C) Of the total amount paid each year pursuant to this section
26 to county offices of education, 19 percent shall be considered to
27 be property taxes for the purposes of paragraph (1) of subdivision
28 (c) of Section 2575 of the Education Code, and 81 percent shall
29 not be considered to be property taxes for the purposes of that
30 section, and shall be available to be used for educational facilities.

31 (D) Of the total amount paid each year pursuant to this section
32 to special education, 19 percent shall be considered to be property
33 taxes for the purposes of paragraph (1) of subdivision (j) of Section
34 42238.02 of the Education Code, and 81 percent shall not be
35 considered to be property taxes for the purposes of that section,
36 and shall be available to be used for educational facilities.

37 (4) Local educational agencies that use funds received pursuant
38 to this section for educational facilities shall spend these funds at
39 schools that are any one of the following:

40 (A) Within the project area.

1 (B) Attended by students from the project area.

2 (C) Attended by students generated by projects that are assisted
3 directly by the redevelopment agency.

4 (D) Determined by a local educational agency to be of benefit
5 to the project area.

6 (b) Commencing with the first fiscal year in which the agency
7 receives tax increments, and continuing through the last fiscal year
8 in which the agency receives tax increments, a redevelopment
9 agency created pursuant to this article shall pay to each affected
10 school and community college district an amount equal to the
11 product of 25 percent times the percentage share of total property
12 taxes collected that are allocated to each affected school or
13 community college district, including any amount allocated to each
14 district pursuant to Sections 97.03 and 97.035 of the Revenue and
15 Taxation Code times the total of the tax increments received by
16 the agency after the amount required to be deposited in the Low
17 and Moderate Income Housing Fund has been deducted.

18 (c) Commencing with the 11th fiscal year in which the agency
19 receives tax increments and continuing through the last fiscal year
20 in which the agency receives tax increments, a redevelopment
21 agency created pursuant to this article shall pay to each affected
22 school and community college district, in addition to the amounts
23 paid pursuant to subdivision (b), an amount equal to the product
24 of 21 percent times the percentage share of total property taxes
25 collected that are allocated to each affected school or community
26 college district, including any amount allocated to each district
27 pursuant to Sections 97.03 and 97.035 of the Revenue and Taxation
28 Code times the total of the first adjusted tax increments received
29 by the agency after the amount required to be deposited in the Low
30 and Moderate Income Housing Fund has been deducted. The first
31 adjusted tax increments received by the agency shall be calculated
32 by applying the tax rate against the amount of assessed value by
33 which the current year assessed value exceeds the first adjusted
34 base year assessed value. The first adjusted base year assessed
35 value is the assessed value of the project area in the 10th fiscal
36 year in which the agency receives tax increment.

37 (d) Commencing with the 31st fiscal year in which the agency
38 receives tax increments and continuing through the last fiscal year
39 in which the agency receives tax increments, a redevelopment
40 agency shall pay to the affected school and community college

1 districts, in addition to the amounts paid pursuant to subdivisions
 2 (b) and (c), an amount equal to 14 percent times the percentage
 3 share of total property taxes collected that are allocated to each
 4 affected school or community college district, including any
 5 amount allocated to each district pursuant to Sections 97.03 and
 6 97.035 of the Revenue and Taxation Code times the total of the
 7 second adjusted tax increments received by the agency after the
 8 amount required to be deposited in the Low and Moderate Income
 9 Housing Fund has been deducted. The second adjusted tax
 10 increments received by the agency shall be calculated by applying
 11 the tax rate against the amount of assessed value by which the
 12 current year assessed value exceeds the second adjusted base year
 13 assessed value. The second adjusted base year assessed value is
 14 the assessed value of the project area in the 30th fiscal year in
 15 which the agency receives tax increments.

16 (e) (1) The Legislature finds and declares both of the following:

17 (A) The payments made pursuant to this section are necessary
 18 in order to alleviate the financial burden and detriment that affected
 19 school and community college districts may incur as a result of
 20 the adoption of a redevelopment plan, and payments made pursuant
 21 to this section will benefit redevelopment project areas.

22 (B) The payments made pursuant to this section are the exclusive
 23 payments that are required to be made by a redevelopment agency
 24 to affected school and community college districts during the term
 25 of a redevelopment plan.

26 (2) Notwithstanding any other law, a redevelopment agency
 27 shall not be required, either directly or indirectly, as a measure to
 28 mitigate a significant environmental effect or as part of any
 29 settlement agreement or judgment brought in any action to contest
 30 the validity of a redevelopment plan pursuant to Section 33501,
 31 to make any other payments to affected school or community
 32 college districts, or to pay for public facilities that will be owned
 33 or leased to an affected school or community college district.

34 (f) As used in this section, a “local educational agency” includes
 35 a school district, a community college district, or a county office
 36 of education.

37 ~~SEC. 318.~~

38 *SEC. 320.* Section 34177 of the Health and Safety Code is
 39 amended to read:

1 34177. Successor agencies are required to do all of the
2 following:

3 (a) Continue to make payments due for enforceable obligations.

4 (1) On and after February 1, 2012, and until a Recognized
5 Obligation Payment Schedule becomes operative, only payments
6 required pursuant to an enforceable obligations payment schedule
7 shall be made. The initial enforceable obligation payment schedule
8 shall be the last schedule adopted by the redevelopment agency
9 under Section 34169. However, payments associated with
10 obligations excluded from the definition of enforceable obligations
11 by paragraph (2) of subdivision (d) of Section 34171 shall be
12 excluded from the enforceable obligations payment schedule and
13 be removed from the last schedule adopted by the redevelopment
14 agency under Section 34169 prior to the successor agency adopting
15 it as its enforceable obligations payment schedule pursuant to this
16 subdivision. The enforceable obligation payment schedule may
17 be amended by the successor agency at any public meeting and
18 shall be subject to the approval of the oversight board as soon as
19 the board has sufficient members to form a quorum. In recognition
20 of the fact that the timing of the California Supreme Court's ruling
21 in the case California Redevelopment Association v. Matosantos
22 (2011) 53 Cal.4th 231 delayed the preparation by successor
23 agencies and the approval by oversight boards of the January 1,
24 2012, through June 30, 2012, Recognized Obligation Payment
25 Schedule, a successor agency may amend the Enforceable
26 Obligation Payment Schedule to authorize the continued payment
27 of enforceable obligations until the time that the January 1, 2012,
28 through June 30, 2012, Recognized Obligation Payment Schedule
29 has been approved by the oversight board and by the Department
30 of Finance. The successor agency may utilize reasonable estimates
31 and projections to support payment amounts for enforceable
32 obligations if the successor agency submits appropriate supporting
33 documentation of the basis for the estimate or projection to the
34 Department of Finance and the auditor-controller.

35 (2) The Department of Finance and the Controller shall each
36 have the authority to require any documents associated with the
37 enforceable obligations to be provided to them in a manner of their
38 choosing. Any taxing entity, the department, and the Controller
39 shall each have standing to file a judicial action to prevent a

1 violation under this part and to obtain injunctive or other
 2 appropriate relief.

3 (3) Commencing on the date the Recognized Obligation Payment
 4 Schedule is valid pursuant to subdivision (l), only those payments
 5 listed in the Recognized Obligation Payment Schedule may be
 6 made by the successor agency from the funds specified in the
 7 Recognized Obligation Payment Schedule. In addition, after it
 8 becomes valid, the Recognized Obligation Payment Schedule shall
 9 supersede the Statement of Indebtedness, which shall no longer
 10 be prepared nor have any effect under the Community
 11 Redevelopment Law (Part 1 (commencing with Section 33000)).

12 (4) The act adding this part shall not be construed as preventing
 13 a successor agency, with the prior approval of the oversight board,
 14 as described in Section 34179, from making payments for
 15 enforceable obligations from sources other than those listed in the
 16 Recognized Obligation Payment Schedule.

17 (5) From February 1, 2012, to July 1, 2012, a successor agency
 18 does not have authority and is hereby prohibited from accelerating
 19 payment or making any lump-sum payments that are intended to
 20 prepay loans unless the accelerated repayments were required prior
 21 to the effective date of this part.

22 (b) Maintain reserves in the amount required by indentures,
 23 trust indentures, or similar documents governing the issuance of
 24 outstanding redevelopment agency bonds.

25 (c) Perform obligations required pursuant to any enforceable
 26 obligation.

27 (d) Remit unencumbered balances of redevelopment agency
 28 funds to the county auditor-controller for distribution to the taxing
 29 entities, including, but not limited to, the unencumbered balance
 30 of the Low and Moderate Income Housing Fund of a former
 31 redevelopment agency. In making the distribution, the county
 32 auditor-controller shall utilize the same methodology for allocation
 33 and distribution of property tax revenues provided in Section
 34 34188.

35 (e) Dispose of assets and properties of the former redevelopment
 36 agency as directed by the oversight board; provided, however, that
 37 the oversight board may instead direct the successor agency to
 38 transfer ownership of certain assets pursuant to subdivision (a) of
 39 Section 34181. The disposal is to be done expeditiously and in a
 40 manner aimed at maximizing value. Proceeds from asset sales and

1 related funds that are no longer needed for approved development
2 projects or to otherwise wind down the affairs of the agency, each
3 as determined by the oversight board, shall be transferred to the
4 county auditor-controller for distribution as property tax proceeds
5 under Section 34188. The requirements of this subdivision do not
6 apply to a successor agency that has been issued a finding of
7 completion by the Department of Finance pursuant to Section
8 34179.7.

9 (f) Enforce all former redevelopment agency rights for the
10 benefit of the taxing entities, including, but not limited to,
11 continuing to collect loans, rents, and other revenues that were due
12 to the redevelopment agency.

13 (g) Effectuate transfer of housing functions and assets to the
14 appropriate entity designated pursuant to Section 34176.

15 (h) Expeditiously wind down the affairs of the redevelopment
16 agency pursuant to the provisions of this part and in accordance
17 with the direction of the oversight board.

18 (i) Continue to oversee development of properties until the
19 contracted work has been completed or the contractual obligations
20 of the former redevelopment agency can be transferred to other
21 parties. Bond proceeds shall be used for the purposes for which
22 bonds were sold unless the purposes can no longer be achieved,
23 in which case, the proceeds may be used to defease the bonds.

24 (j) Prepare a proposed administrative budget and submit it to
25 the oversight board for its approval. The proposed administrative
26 budget shall include all of the following:

27 (1) Estimated amounts for successor agency administrative costs
28 for the upcoming six-month fiscal period.

29 (2) Proposed sources of payment for the costs identified in
30 paragraph (1).

31 (3) Proposals for arrangements for administrative and operations
32 services provided by a city, county, city and county, or other entity.

33 (k) Provide administrative cost estimates, from its approved
34 administrative budget that are to be paid from property tax revenues
35 deposited in the Redevelopment Property Tax Trust Fund, to the
36 county auditor-controller for each six-month fiscal period.

37 (l) (1) Before each six-month fiscal period, prepare a
38 Recognized Obligation Payment Schedule in accordance with the
39 requirements of this paragraph. For each recognized obligation,

- 1 the Recognized Obligation Payment Schedule shall identify one
2 or more of the following sources of payment:
- 3 (A) Low and Moderate Income Housing Fund.
 - 4 (B) Bond proceeds.
 - 5 (C) Reserve balances.
 - 6 (D) Administrative cost allowance.
 - 7 (E) The Redevelopment Property Tax Trust Fund, but only to
8 the extent no other funding source is available or when payment
9 from property tax revenues is required by an enforceable obligation
10 or by the provisions of this part.
 - 11 (F) Other revenue sources, including rents, concessions, asset
12 sale proceeds, interest earnings, and any other revenues derived
13 from the former redevelopment agency, as approved by the
14 oversight board in accordance with this part.
- 15 (2) A Recognized Obligation Payment Schedule shall not be
16 deemed valid unless all of the following conditions have been met:
- 17 (A) A Recognized Obligation Payment Schedule is prepared
18 by the successor agency for the enforceable obligations of the
19 former redevelopment agency. The initial schedule shall project
20 the dates and amounts of scheduled payments for each enforceable
21 obligation for the remainder of the time period during which the
22 redevelopment agency would have been authorized to obligate
23 property tax increment had the redevelopment agency not been
24 dissolved.
 - 25 (B) The Recognized Obligation Payment Schedule is submitted
26 to and duly approved by the oversight board. The successor agency
27 shall submit a copy of the Recognized Obligation Payment
28 Schedule to the county administrative officer, the county
29 auditor-controller, and the Department of Finance at the same time
30 that the successor agency submits the Recognized Obligation
31 Payment Schedule to the oversight board for approval.
 - 32 (C) A copy of the approved Recognized Obligation Payment
33 Schedule is submitted to the county auditor-controller, the
34 Controller's office, and the Department of Finance, and is posted
35 on the successor agency's Internet Web site.
- 36 (3) The Recognized Obligation Payment Schedule shall be
37 forward looking to the next six months. The first Recognized
38 Obligation Payment Schedule shall be submitted to the Controller's
39 office and the Department of Finance by April 15, 2012, for the
40 period of January 1, 2012, to June 30, 2012, inclusive. This

1 Recognized Obligation Payment Schedule shall include all
2 payments made by the former redevelopment agency between
3 January 1, 2012, through January 31, 2012, and shall include all
4 payments proposed to be made by the successor agency from
5 February 1, 2012, through June 30, 2012. Former redevelopment
6 agency enforceable obligation payments due, and reasonable or
7 necessary administrative costs due or incurred, prior to January 1,
8 2012, shall be made from property tax revenues received in the
9 spring of 2011 property tax distribution, and from other revenues
10 and balances transferred to the successor agency.

11 (m) The Recognized Obligation Payment Schedule for the period
12 of January 1, 2013, to June 30, 2013, shall be submitted by the
13 successor agency, after approval by the oversight board, no later
14 than September 1, 2012. Commencing with the Recognized
15 Obligation Payment Schedule covering the period July 1, 2013,
16 through December 31, 2013, successor agencies shall submit an
17 oversight board-approved Recognized Obligation Payment
18 Schedule to the Department of Finance and to the county
19 auditor-controller no fewer than 90 days before the date of property
20 tax distribution. The Department of Finance shall make its
21 determination of the enforceable obligations and the amounts and
22 funding sources of the enforceable obligations no later than 45
23 days after the Recognized Obligation Payment Schedule is
24 submitted. Within five business days of the department's
25 determination, a successor agency may request additional review
26 by the department and an opportunity to meet and confer on
27 disputed items. The meet and confer period may vary; an untimely
28 submittal of a Recognized Obligation Payment Schedule may result
29 in a meet and confer period of less than 30 days. The department
30 shall notify the successor agency and the county auditor-controllers
31 as to the outcome of its review at least 15 days before the date of
32 property tax distribution.

33 (1) The successor agency shall submit a copy of the Recognized
34 Obligation Payment Schedule to the Department of Finance
35 electronically, and the successor agency shall complete the
36 Recognized Obligation Payment Schedule in the manner provided
37 for by the department. A successor agency is in noncompliance
38 with this paragraph if it only submits to the department an
39 electronic message or a letter stating that the oversight board has
40 approved a Recognized Obligation Payment Schedule.

1 (2) If a successor agency does not submit a Recognized
2 Obligation Payment Schedule by the deadlines provided in this
3 subdivision, the city, county, or city and county that created the
4 redevelopment agency shall be subject to a civil penalty equal to
5 ten thousand dollars (\$10,000) per day for every day the schedule
6 is not submitted to the department. The civil penalty shall be paid
7 to the county auditor-controller for allocation to the taxing entities
8 under Section 34183. If a successor agency fails to submit a
9 Recognized Obligation Payment Schedule by the deadline, any
10 creditor of the successor agency or the Department of Finance or
11 any affected taxing entity shall have standing to and may request
12 a writ of mandate to require the successor agency to immediately
13 perform this duty. Those actions may be filed only in the County
14 of Sacramento and shall have priority over other civil matters.
15 Additionally, if an agency does not submit a Recognized Obligation
16 Payment Schedule within 10 days of the deadline, the maximum
17 administrative cost allowance for that period shall be reduced by
18 25 percent.

19 (3) If a successor agency fails to submit to the department an
20 oversight board-approved Recognized Obligation Payment
21 Schedule that complies with all requirements of this subdivision
22 within five business days of the date upon which the Recognized
23 Obligation Payment Schedule is to be used to determine the amount
24 of property tax allocations, the department may determine if any
25 amount should be withheld by the county auditor-controller for
26 payments for enforceable obligations from distribution to taxing
27 entities, pending approval of a Recognized Obligation Payment
28 Schedule. The county auditor-controller shall distribute the portion
29 of any of the sums withheld pursuant to this paragraph to the
30 affected taxing entities in accordance with paragraph (4) of
31 subdivision (a) of Section 34183 upon notice by the department
32 that a portion of the withheld balances are in excess of the amount
33 of enforceable obligations. The county auditor-controller shall
34 distribute withheld funds to the successor agency only in
35 accordance with a Recognized Obligation Payment Schedule
36 approved by the department. County auditor-controllers shall lack
37 the authority to withhold any other amounts from the allocations
38 provided for under Section 34183 or 34188 unless required by a
39 court order.

1 (4) (A) The Recognized Obligation Payment Schedule payments
2 required pursuant to this subdivision may be scheduled beyond
3 the existing Recognized Obligation Payment Schedule cycle upon
4 a showing that a lender requires cash on hand beyond the
5 Recognized Obligation Payment Schedule cycle.

6 (B) When a payment is shown to be due during the Recognized
7 Obligation Payment Schedule period, but an invoice or other billing
8 document has not yet been received, the successor agency may
9 utilize reasonable estimates and projections to support payment
10 amounts for enforceable obligations if the successor agency submits
11 appropriate supporting documentation of the basis for the estimate
12 or projection to the department and the auditor-controller.

13 (C) A Recognized Obligation Payment Schedule may also
14 include appropriation of moneys from bonds subject to passage
15 during the Recognized Obligation Payment Schedule cycle when
16 an enforceable obligation requires the agency to issue the bonds
17 and use the proceeds to pay for project expenditures.

18 (n) Cause a postaudit of the financial transactions and records
19 of the successor agency to be made at least annually by a certified
20 public accountant.

21 ~~SEC. 319.~~

22 *SEC. 321.* Section 39945 of the Health and Safety Code is
23 amended to read:

24 39945. (a) For purposes of this chapter, “unsafe tire” means
25 any tire considered unsafe in accordance with standard industry
26 practices due to tire tread wear, tread irregularity, or damage.
27 Examples include any tire with an exposed ply or cord, a sidewall
28 crack, a bulge, a knot, or a ply separation.

29 (b) For purposes of a regulation adopted pursuant to Division
30 25.5 (commencing with Section 38500) that requires an automotive
31 service provider to check and inflate a vehicle’s tires while
32 performing automotive maintenance or repair service, a tire
33 pressure gauge used by the provider to inflate a tire pursuant to
34 that regulation shall be accurate within a range of plus or minus
35 two pounds per square inch of pressure (2 psi).

36 (c) An automotive service provider shall not be required to
37 check and inflate a vehicle’s tire pursuant to subdivision (b) if that
38 tire is determined to be an unsafe tire.

1 (d) This chapter shall remain in effect only until January 1,
2 2018, and as of that date is repealed, unless a later enacted statute,
3 that is enacted before January 1, 2018, deletes or extends that date.

4 ~~SEC. 320.~~

5 *SEC. 322.* Section 42301.16 of the Health and Safety Code is
6 amended to read:

7 42301.16. (a) In addition to complying with the requirements
8 of this chapter, a permit system established by a district pursuant
9 to Section 42300 shall ensure that any agricultural source that is
10 required to obtain a permit pursuant to Title I (42 U.S.C. Sec. 7401
11 et seq.) or Title V (42 U.S.C. Sec. 7661 et seq.) of the federal Clean
12 Air Act is required by district regulation to obtain a permit in a
13 manner that is consistent with the federal requirements.

14 (b) Except as provided in subdivision (c), a district shall require
15 an agricultural source of air pollution to obtain a permit unless it
16 makes all of the following findings in a public hearing:

17 (1) The source is subject to a permit requirement pursuant to
18 Section 40724.6.

19 (2) A permit is not necessary to impose or enforce reductions
20 of emissions of air pollutants that the district shows cause or
21 contribute to the violation of a state or federal ambient air quality
22 standard.

23 (3) The requirement for the source or category of sources to
24 obtain a permit would impose a burden on those sources that is
25 significantly more burdensome than permits required for other
26 similar sources of air pollution.

27 (c) Prior to requiring a permit for an agricultural source of air
28 pollution with actual emissions that are less than one-half of any
29 applicable emissions threshold for a major source in the district
30 for any air contaminant, but excluding fugitive dust, a district shall,
31 in a public hearing, make all of the following findings:

32 (1) The source is not subject to a permit requirement pursuant
33 to Section 40724.6.

34 (2) A permit is necessary to impose or enforce reductions of
35 emissions of air pollutants that the district shows cause or
36 contribute to a violation of a state or federal ambient air quality
37 standard.

38 (3) The requirement for a source or category of sources to obtain
39 a permit would not impose a burden on those sources that is

1 significantly more burdensome than permits required for other
2 similar sources of air pollution.

3 ~~SEC. 321.~~

4 *SEC. 323.* Section 44246 of the Health and Safety Code is
5 repealed.

6 ~~SEC. 322.~~

7 *SEC. 324.* Section 44525.5 of the Health and Safety Code is
8 repealed.

9 ~~SEC. 323.~~

10 *SEC. 325.* Section 44525.7 of the Health and Safety Code, as
11 amended by Section 11 of Chapter 643 of the Statutes of 2009, is
12 repealed.

13 ~~SEC. 324.~~

14 *SEC. 326.* Section 50561 of the Health and Safety Code is
15 amended to read:

16 50561. (a) The department may approve an extension of an
17 existing rental housing development loan, the reinstatement of a
18 qualifying unpaid matured loan, the subordination of a department
19 loan to new debt, or an investment of tax credit equity as long as
20 the rental housing development is being operated in a manner
21 consistent with the regulatory agreement and the development
22 requires an extension in order to continue to operate in a manner
23 consistent with this chapter. Each extension shall be for a period
24 of not less than 10 years and each extension shall not exceed 55
25 years, or 58 years if needed to match the term of tax credit
26 restrictions. The interest rate shall be 3 percent simple interest. All
27 loan payments shall be deferred for the full term of the loan, except
28 for residual receipts payments. These residual receipts payments
29 shall be structured to avoid reducing the amount of payments on
30 local public agency loans resulting solely from changes in the
31 payment terms on the department's loan, and not resulting from
32 fees or other payments to the borrower, and shall otherwise be
33 consistent with the provisions of the department's Uniform
34 Multifamily Regulations or successor regulations. The department
35 may charge a monitoring fee to cover the aggregate monitoring
36 costs it incurs in years that the loan is extended and charge a
37 transaction fee to cover its costs for processing restructuring
38 transactions. The department may waive or defer some or all fees,
39 if it determines that a particular development or class of
40 developments does not have the ability to make these payments.

1 In determining the fees and payments to be charged, the department
2 shall seek to share monitoring activities with other regulatory
3 agencies and to minimize the impact on tenants with the lowest
4 incomes and on the capacity of the developments to support private
5 debt or secure tax credit investments.

6 (b) To the minimum extent necessary to support new debt to
7 pay for rehabilitation, rents for assisted units in these developments
8 may be adjusted. This rehabilitation shall be determined by the
9 department to be demonstrably necessary, based on third-party
10 assessment and on the department's own inspection. Assisted units
11 in developments with a specific, department-approved plan to
12 undertake the necessary rehabilitation, at a level that equals or
13 exceeds the minimum per-unit rehabilitation cost standards under
14 the low-income housing tax credit program, may be adjusted as
15 follows:

16 (1) For developments originally financed under the bond-funded
17 component of the Rental Housing Construction Program pursuant
18 to Section 50771.1, and the Family Housing Demonstration
19 Program, rents may be increased up to a maximum of 30 percent
20 of 60 percent of area median income, for units designated in the
21 development's original regulatory agreement as lower income
22 units, and up to a maximum of 30 percent of 35 percent of area
23 median income, for units designated in the development's original
24 regulatory agreement as very low income units.

25 (2) For developments originally financed under other programs,
26 rents for at least 35 percent of the assisted units, or as specified in
27 the original regulatory agreement governing the development,
28 whichever is greater, shall be restricted to the midlevel target used
29 by the Multifamily Housing Program. Rents for the balance of the
30 assisted units may be increased up to a maximum of 30 percent of
31 60 percent of area median income. For purposes of this paragraph,
32 "midlevel target used by the Multifamily Housing Program" shall
33 mean either of the following:

34 (A) For counties with an area median income of 110 percent or
35 less of state median income, it shall mean 30 percent of 30 percent
36 of state median income, expressed as a percentage of area median
37 income.

38 (B) For counties with an area median income that exceeds 110
39 percent of the state median income, it shall mean 30 percent of 35

1 percent of state median income, expressed as a percentage of area
2 median income.

3 (c) Rent increases for tenants living in assisted units at the time
4 of restructuring pursuant to this chapter shall be limited as follows:

5 (1) For existing tenants with incomes not exceeding 35 percent
6 of area median income, increases shall be limited to 5 percent per
7 year, until the rents reach the levels set under subdivision (b).

8 (2) For existing tenants with incomes exceeding 35 percent of
9 area median income, increases shall be limited to 10 percent per
10 year, until they reach the levels specified in paragraphs (1) and (2)
11 of subdivision (b) of Section 50561.

12 (3) It is the intent of the Legislature that rent increases for
13 existing tenants authorized by this subdivision shall not be greater
14 than necessary to ensure the financial feasibility of the project.
15 The projected maximum rent for tenants in assisted units, as
16 determined by subdivision (b), shall not exceed 50 percent of the
17 household's actual income. This requirement shall be applied using
18 maximum rent levels and household incomes determined at the
19 time of restructuring or at the time of the department's approval
20 of the restructuring.

21 (4) If the refinance of a loan results in a rent increase, the project
22 sponsor shall provide tenants with the following notifications:

23 (A) Notice six months prior to the scheduled rent increase with
24 an estimate of the amount of the increase.

25 (B) Notice 90 days prior to the actual increase with the exact
26 amount of the new rent.

27 (d) If existing tenants move, the rent for these units may be
28 increased immediately up to the level specified in paragraphs (1)
29 and (2) of subdivision (b). The income limit for new tenants shall
30 correspond with the rent limit set pursuant to paragraphs (1) and
31 (2) of subdivision (b).

32 (e) Once rents achieve the levels set forth in paragraphs (1) and
33 (2) of subdivision (b), income levels and rent limits shall be
34 calculated consistent with the calculation methodology used under
35 the Low Income Housing Tax Credit program and the Multifamily
36 Housing Program, and rent increases shall be based on increases
37 in the area median income.

38 (f) Eligible households displaced as a result of rehabilitation
39 pursuant to this section shall be accorded first priority in occupying
40 comparable units in the development from which they were

1 displaced, subsequent to rehabilitation. Tenants of rental housing
2 developments repaired with assistance provided under this chapter
3 who are temporarily or permanently displaced as a result of
4 rehabilitation or other repair work, shall be entitled to relocation
5 benefits pursuant to, and subject to, the requirements of Section
6 7260 of the Government Code. Sponsors of assisted rental housing
7 developments shall be responsible for providing the benefits and
8 assistance. The costs of the benefits and the assistance provided
9 to tenants shall be eligible for funding by a loan provided pursuant
10 to this section.

11 (g) The guidelines adopted by the department pursuant to
12 subdivision (h) of Section 50560 shall be patterned after the
13 regulations governing the Multifamily Housing Program, including
14 the Uniform Multifamily Regulations, except that the department
15 may adopt different standards for the following factors:

16 (1) Commercial vacancy loss assumptions must reflect project
17 operating history.

18 (2) Debt service coverage ratios.

19 (3) Payment terms and principal amount of senior debt,
20 considering financial market conditions, including costs and
21 department risk, as determined by the department.

22 (4) Developer fee limitations shall be consistent with California
23 Tax Credit Allocation Committee regulations for inclusion in the
24 basis for projects receiving 9 percent tax credits, for projects
25 receiving the special rent increases contemplated by this chapter,
26 and, consistent with the requirements of other funding sources, for
27 projects not receiving special rent increases.

28 (5) Replacement reserve deposit amounts must be based on
29 projected costs over 20 years, adjusted for inflation, and as shown
30 in an independent replacement reserve analysis.

31 (h) It is the intent of the Legislature in enacting this section that
32 the department shall manage its reserves for the original Rental
33 Housing Construction Program in a manner that will allow for the
34 continuation of benefits to current low-income tenants for the
35 longest period of time possible up to the term of the original
36 regulatory agreement or the depletion of the annuity funds,
37 whichever occurs first. Accordingly, rents for those households in
38 units subsidized by the annuity fund established pursuant to Section
39 50748 may be increased to 30 percent of household income. A
40 household affected by the rent increase permitted by this

1 subdivision shall be given at least 90 days advanced notice of the
2 increase.

3 (i) (1) The department shall, within available resources, post
4 on its Internet Web site information regarding household incomes
5 and rents for developments approved for restructuring.

6 (2) The information shall be provided within six months of a
7 restructuring and, thereafter, no less than every three years.

8 (3) The information shall include the following or similar
9 information:

10 (A) The monthly rent of each household at the time of
11 restructuring.

12 (B) The current monthly rent of each household.

13 (C) The annual income of each household as a percentage of
14 area median income at the time of restructuring.

15 (D) The current income of each household as a percentage of
16 area median income.

17 ~~SEC. 325.~~

18 *SEC. 327.* Section 51505 of the Health and Safety Code is
19 amended to read:

20 51505. (a) In addition to the downpayment assistance program
21 authorized by Section 51504, and notwithstanding any provision
22 of Section 51504 to the contrary, the agency shall provide
23 downpayment assistance from the funds set aside pursuant to
24 subparagraph (D) of paragraph (7) of subdivision (a) of Section
25 53533 for the purposes of the portion of the Extra Credit Teacher
26 Home Purchase Program provided for in subdivision (g) of Section
27 8869.84 of the Government Code and any other school personnel
28 home ownership assistance programs as set forth by the California
29 Debt Limit Allocation Committee, as operated by the agency.
30 Notwithstanding the foregoing, the agency may, but is not required
31 to, provide downpayment assistance pursuant to this section to any
32 local issuer participating in the Extra Credit Teacher Home
33 Purchase Program and any other school personnel home ownership
34 assistance programs as set forth by the California Debt Limit
35 Allocation Committee.

36 (b) (1) Downpayment assistance for purposes of this section
37 shall be subject to, and shall meet the requirements of, the Extra
38 Credit Teacher Home Purchase Program and any other school
39 personnel home ownership programs as set forth by the California

1 Debt Limit Allocation Committee, and shall include, but not be
2 limited to, deferred payment, low interest rate loans.

3 (2) Except as provided in paragraphs (3) and (5), payment of
4 principal and interest is deferred until the time that the home is
5 sold or refinanced.

6 (3) The agency may, in its discretion, permit the downpayment
7 assistance loan to be subordinated to refinancing if it determines
8 that the borrower has demonstrated hardship, subordination is
9 required to avoid foreclosure, and the new loan meets the agency's
10 underwriting requirements. The agency may permit subordination
11 on those terms and conditions as it determines are reasonable, but
12 subordination is not permitted if the borrower has sufficient equity
13 to repay the loan.

14 (4) This downpayment assistance shall meet the requirements
15 of paragraph (3) of, and subparagraph (A) of paragraph (4) of,
16 subdivision (a) of Section 51504.

17 (5) The amount of the downpayment assistance shall not be due
18 and payable upon sale of the home if the first mortgage loan is
19 insured by the Federal Housing Administration (FHA) or if the
20 first mortgage loan is, or has been, transferred to the FHA, or if
21 the requirement is otherwise contrary to regulations of the United
22 States Department of Housing and Urban Development governing
23 FHA insured first mortgage loans.

24 (c) Loans made pursuant to this section may include a provision
25 whereby interest, principal, or both, of the loan is forgiven upon
26 conditions to be established by the agency, or any other provision
27 designed to carry out the purposes of the Extra Credit Teacher
28 Home Purchase Program and any other school personnel home
29 ownership programs as set forth by the California Debt Limit
30 Allocation Committee.

31 (d) Downpayment assistance pursuant to this section shall not
32 exceed the greater of seven thousand five hundred dollars (\$7,500)
33 or 3 percent of the home sales price. However, the agency may,
34 with the concurrence of the California Debt Limit Allocation
35 Committee, establish higher assistance limits as necessary to ensure
36 sufficient assistance to allow program participation in high cost
37 areas.

1 ~~SEC. 326.~~

2 *SEC. 328.* The heading of Chapter 3 (commencing with Section
3 101000) of Part 2 of Division 101 of the Health and Safety Code
4 is repealed.

5 ~~SEC. 327.~~

6 *SEC. 329.* The heading of Article 5 (commencing with Section
7 101150) of Chapter 2 of Part 3 of Division 101 of the Health and
8 Safety Code, as added by Section 3 of Chapter 415 of the Statutes
9 of 1995, is repealed.

10 ~~SEC. 328.~~

11 *SEC. 330.* The heading of Chapter 4 (commencing with Section
12 101325) of Part 3 of Division 101 of the Health and Safety Code,
13 as added by Section 3 of Chapter 415 of the Statutes of 1995, is
14 repealed.

15 ~~SEC. 329.~~

16 *SEC. 331.* Section 101661 of the Health and Safety Code is
17 amended to read:

18 101661. (a) The authority, in addition to any other powers
19 granted to the authority pursuant to this chapter, shall have the
20 following powers:

21 (1) To have the duties, privileges, immunities, rights, liabilities,
22 and limitations of a local unit of government within the state.

23 (2) To have perpetual existence.

24 (3) To adopt, have, and use a seal, and to alter it at its pleasure.

25 (4) To sue and be sued in the name of the authority in all actions
26 and proceedings in all courts and tribunals of competent
27 jurisdiction.

28 (5) To purchase, lease, trade, exchange, or otherwise acquire,
29 maintain, hold, improve, mortgage, lease, sell, and dispose of real
30 and personal property of any kind necessary or convenient to
31 perform its functions and fully exercise its powers.

32 (6) To appoint and employ a chief executive officer and other
33 officers and employees that may be necessary or appropriate,
34 including legal counsel, to establish their compensation, provide
35 for their health, retirement, and other employment benefits, and
36 to define the power and duties of officers and employees.

37 (7) (A) To incur indebtedness and to borrow money and issue
38 bonds evidencing the same, including the authority to issue, from
39 time to time, notes and revenue bonds in principal amounts that
40 the authority determines to be necessary to provide sufficient funds

1 for achieving any of its purposes, including, but not limited to,
 2 assumption or refinancing of debt service for capital projects
 3 eligible for Medi-Cal supplemental payments pursuant to Section
 4 14085.5 of the Welfare and Institutions Code, the payment of
 5 interest on notes and bonds of the authority, the establishment of
 6 reserves to secure these notes and bonds, and all other expenditures
 7 of the authority incident to and necessary or convenient to carry
 8 out its purposes and powers.

9 (B) Any notes, bonds, or other securities issued, and the income
 10 from them, including any profit from the sale thereof, shall at all
 11 times be free from taxation by the state or any agency, political
 12 subdivision, or instrumentality of the state.

13 (C) Notwithstanding the provisions of subparagraph (A), for
 14 any indebtedness, notes, bonds, or other securities that require
 15 voter approval pursuant to state law, the prior approval of the board
 16 of supervisors shall be required. Notwithstanding the required prior
 17 approval of the board of supervisors, any indebtedness incurred,
 18 or notes, bonds, or other securities issued pursuant to this
 19 subparagraph shall be the indebtedness, notes, bonds, or securities
 20 of the authority and not of the county, and the credit of the county
 21 shall not be pledged or relied upon in any manner in order to incur
 22 the indebtedness, or issue the notes, bonds, or other securities,
 23 unless the board of supervisors explicitly authorizes the use of the
 24 county’s credit. The authority shall reimburse the county for all
 25 costs associated with the county’s consideration of the
 26 indebtedness, notes, bonds, or securities, and the authority shall
 27 defend, indemnify, and hold harmless the county from any and all
 28 liability, costs, or expenses arising from or related to the
 29 indebtedness, notes, bonds, or securities.

30 (8) To pursue its own credit rating.

31 (9) To enter into any contract or agreement consistent with this
 32 chapter or the laws of this state, and to authorize the chief executive
 33 officer to enter into contracts, execute all instruments, and do all
 34 things necessary or convenient in the exercise of the powers granted
 35 in this chapter, and to secure the payment of bonds.

36 (10) To purchase supplies, equipment, materials, property, and
 37 services.

38 (11) To establish policies relating to its purposes.

39 (12) To acquire or contract to acquire, rights-of-way, easements,
 40 privileges, and property, and to construct, equip, maintain, and

1 operate any and all works or improvements wherever located that
2 are necessary, convenient, or proper to carry out any of the
3 provisions, objects, or purposes of this chapter, and to complete,
4 extend, add to, repair, or otherwise improve any works or
5 improvements acquired by it.

6 (13) To contract for and to accept gifts, grants, and loans of
7 funds, property, or other aid in any form from the federal
8 government, the state, a state agency, or other source, or
9 combination thereof, and to comply, subject to this chapter, with
10 the terms and conditions thereof.

11 (14) To invest surplus money in its own treasury, manage
12 investments, and engage third-party investment managers, in
13 accordance with state law.

14 (15) To arrange for guarantees or insurance of its bonds, notes,
15 or other obligations by the federal or state government or by a
16 private insurer, and to pay the premiums thereof.

17 (16) To engage in managed care contracting, joint ventures,
18 affiliations with other health care facilities, other health care
19 providers and payers, management agreements, or to participate
20 in alliances, purchasing consortia, health insurance pools,
21 accountable care organizations, alternative delivery systems, or
22 other cooperative arrangements, with any public or private entity.

23 (17) To enter into joint powers agreements pursuant to Chapter
24 5 (commencing with Section 6500) of Division 7 of Title 1 of the
25 Government Code.

26 (18) To establish nonprofit, for profit, or other entities necessary
27 to carry out the duties of the authority.

28 (19) To elect to transfer funds to the state and incur certified
29 public expenditures in support of the Medi-Cal program and other
30 programs for which federal financial participation is available.

31 (20) To use a computerized management information system,
32 including an electronic health records system, in connection with
33 the administration of its facilities.

34 (21) To request that the board of supervisors levy a tax on behalf
35 of the authority. If the board of supervisors approves the proposal
36 to levy the tax, the board shall call the election to seek voter
37 approval and place the appropriate measure on the ballot for that
38 election. The proceeds of these taxes shall be tax proceeds of the
39 authority and not of the county. The authority shall reimburse the
40 county for all costs associated with the county's consideration of

1 these taxes, and shall defend, indemnify, and hold harmless the
2 county from any liability, costs, or expenses arising from or related
3 to the imposition of these taxes.

4 (22) To contract with the county for the provision of indigent
5 care services on behalf of the county. The contract shall specify
6 that county policies consistent with the county's obligations under
7 Section 17000 of the Welfare and Institutions Code shall be
8 applicable. Notwithstanding any other provision of this chapter,
9 the authority shall not undertake any of the county's obligations
10 under Section 17000 of the Welfare and Institutions Code, nor
11 shall the authority have an entitlement to receive any revenue for
12 the discharge of the county's obligations, without a written
13 agreement with the county.

14 (23) To engage in other activities that may be in the best interests
15 of the authority and the persons served by the authority, as
16 determined by the board of trustees, in order to respond to changes
17 in the health care industry.

18 (b) The authority shall conform to the following requirements:

19 (1) Be a government entity separate and apart for all purposes
20 from the county and any other public entity, and shall not be
21 considered to be an agency, division, or department of the county
22 or any other public entity. The authority shall not be governed by,
23 or subject to, the policies or operational rules of the county or any
24 other public entity.

25 (2) Be subject to state and federal taxation laws that are
26 applicable to public entities generally, except that the authority
27 may, to the extent permitted by federal law, apply for an exemption
28 from social security taxation if there is a mutual agreement with
29 the exclusive representatives of the affected employees.

30 (3) Comply with the Meyers-Milias-Brown Act (Chapter 10
31 (commencing with Section 3500) of Division 4 of Title 1 of the
32 Government Code), the Public Records Act (Chapter 3.5
33 (commencing with Section 6250) of Division 7 of Title 1 of the
34 Government Code), and the Ralph M. Brown Act (Chapter 9
35 (commencing with Section 54950) of Division 2 of Title 5 of the
36 Government Code).

37 (4) To the extent the authority is permitted by federal law to
38 participate in the Public Employees' Retirement System, assume
39 the assets and liabilities for Public Employees' Retirement System
40 benefits, consistent with the requirements of Section 20508 and

1 other applicable provisions of Part 3 (commencing with Section
2 20000) of Division 5 of Title 2 of the Government Code and
3 assume workers' compensation liabilities and other employee
4 benefits and liabilities with respect to employees of the authority,
5 unless otherwise agreed to by the authority, the county, and the
6 governing board.

7 (5) Carry professional and general liability insurance or
8 programs to the extent sufficient to cover its activities.

9 (6) Comply with the requirements of Sections 53260 and 53261
10 of the Government Code.

11 (7) Meet all local, state, and federal data reporting requirements.

12 (8) Be subject to the jurisdiction of the Public Employment
13 Relations Board.

14 (c) Open sessions of the authority constitute official proceedings
15 authorized by law within the meaning of Section 47 of the Civil
16 Code. The privileges set forth in that section with respect to official
17 proceedings apply to open sessions of the authority.

18 (d) The authority is a public agency for purposes of eligibility
19 with respect to grants and other funding and loan guarantee
20 programs. Contributions to the authority are tax deductible to the
21 extent permitted by state and federal law. Nonproprietary income
22 of the authority is exempt from state income taxation.

23 (e) The authority is not a "person" subject to suit under the
24 Cartwright Act (Chapter 2 (commencing with Section 16700) of
25 Part 2 of Division 7 of the Business and Professions Code).

26 (f) The statutory authority of a board of supervisors to prescribe
27 rules that authorize a county hospital to integrate its services with
28 those of other providers into a system of community service that
29 offers free choice of hospitals to those requiring hospital care, as
30 set forth in Section 14000.2 of the Welfare and Institutions Code,
31 apply to the authority and the board of trustees.

32 (g) Unless otherwise agreed to by the authority and the board
33 of supervisors, or the authority and a governing board, an obligation
34 of the authority, statutory, contractual or otherwise, is the obligation
35 solely of the authority and not the obligation of the county or any
36 other entity, and any contract executed by and between the county
37 and the authority, or any other entity and the authority, shall contain
38 a provision that liabilities or obligations of the authority with
39 respect to its activities pursuant to the contract shall be the
40 liabilities or obligations of the authority and shall not be or become

1 the liabilities or obligations of the county or the other entity,
2 respectively.

3 (h) An obligation of the authority, statutory, contractual or
4 otherwise, is the obligation solely of the authority and not the
5 obligation of the state.

6 (i) In the event of a change of license ownership, the board of
7 trustees shall comply with the obligations of governing bodies of
8 general acute care hospitals generally as set forth in Section 70701
9 of Title 22 of the California Code of Regulations, as currently
10 written or subsequently amended, as well as the terms and
11 conditions of the license. The authority is the responsible party
12 with respect to compliance with these obligations, terms, and
13 conditions.

14 (j) (1) Provisions of the Evidence Code, the Government Code,
15 including the Public Records Act (Chapter 3.5 (commencing with
16 Section 6250) of Division 7 of Title 1 of the Government Code),
17 the Civil Code, the Business and Professions Code, and other
18 applicable law pertaining to the confidentiality of peer review
19 activities of peer review bodies apply to the peer review activities
20 of the authority. Peer review proceedings constitute an official
21 proceeding authorized by law within the meaning of Section 47
22 of the Civil Code and those privileges set forth in that section with
23 respect to official proceedings apply to peer review proceedings
24 of the authority. If the authority is required by law or contractual
25 obligation to submit to the state or federal government peer review
26 information or information relevant to the credentialing of a
27 participating provider, that submission does not constitute a waiver
28 of confidentiality. The laws pertaining to the confidentiality of
29 peer review activities shall be together construed as extending, to
30 the extent permitted by law, the maximum degree of protection of
31 confidentiality.

32 (2) Notwithstanding any other law, Section 1461 applies to
33 hearings on reports of hospital medical audit or quality assurance
34 committees.

35 (k) (1) A transfer by the county to the authority, or by the
36 governing board to the authority, of the maintenance, operation,
37 and management or ownership of the medical center or the other
38 health care facility, respectively, whether or not the transfer
39 includes the surrendering by the county or the governing board of
40 any existing general acute care hospital license and corresponding

1 application for a change of ownership of the license, does not affect
2 the eligibility of the county or the governing board to undertake,
3 and authorizes the authority, subject to applicable requirements,
4 to do, any of the following:

5 (A) With the written consent of the county, participate in and
6 receive allocations pursuant to the California Health Care for
7 Indigents Program pursuant to Chapter 5 (commencing with
8 Section 16940) of Part 4.7 of Division 9 of the Welfare and
9 Institutions Code, or similar programs, as may be identified or
10 earmarked by the county for indigent health care services of the
11 type provided by the medical center.

12 (B) With the written consent of the county, participate in and
13 receive allocations of local revenue fund amounts provided
14 pursuant to Chapter 6 (commencing with Section 17600) of Part
15 5 of Division 9 of the Welfare and Institutions Code as may be
16 identified or earmarked by the county for indigent health care
17 services of the type provided by the medical center.

18 (C) Participate in the financing of, and receive, Medicaid
19 disproportionate share hospital payments available to a county
20 hospital or designated public hospital, or any other successor or
21 modified payment or funding that is intended to assist hospitals
22 that serve a disproportionate share of low-income patients with
23 special needs. The allocation of Medicaid disproportionate share
24 hospital payments shall be made in consultation with the State
25 Department of Health Care Services and other designated safety
26 net hospitals.

27 (D) Participate in the financing of, and receive, Medi-Cal
28 supplemental reimbursements, including, but not limited to,
29 payments made pursuant to Sections 14105.96, 14105.965,
30 14166.4, and 14182.15 of the Welfare and Institutions Code,
31 payments described in paragraph (4) of subdivision (b) of Section
32 14301.4 of the Welfare and Institutions Code, and payments made
33 available to a county provider or designated public hospital, or
34 governmental entity with which it is affiliated, under any other
35 successor or modified Medicaid payment system.

36 (E) Participate in the financing of, and receive, safety net care
37 pool funding, stabilization funding, delivery system reform
38 incentive pool payments, and any other funding available to a
39 county provider or designated public hospital, or governmental
40 entities with which it is affiliated under the Medicaid demonstration

1 project authorized pursuant to Article 5.2 (commencing with
 2 Section 14166) and Article 5.4 (commencing with Section 14180)
 3 of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions
 4 Code, or under any other successor or modified Medicaid
 5 demonstration project or Medicaid payment system. The allocation
 6 of safety net care pool funds shall be made in consultation with
 7 the State Department of Health Care Services and other designated
 8 safety net hospitals.

9 (F) Participate in the financing, administration, and provision
 10 of services under the Low Income Health Program authorized
 11 pursuant to Part 3.6 (commencing with Section 15909) of Division
 12 9 of the Welfare and Institutions Code, or under any other successor
 13 or modified Medicaid demonstration project or Medicaid payment
 14 system if the authority enters into an agreement with the county
 15 concerning the provision of services by, and payment for these
 16 services to, the county.

17 (G) Participate in and receive direct grant and payment
 18 allocations pursuant to Article 5.228 (commencing with Section
 19 14169.1) of Chapter 7 of Part 3 of Division 9 of the Welfare and
 20 Institutions Code, or under any other successor or modified direct
 21 grant and payment systems funded by hospital or other provider
 22 fee assessments.

23 (H) Receive Medi-Cal capital supplements pursuant to Section
 24 14085.5 of the Welfare and Institutions Code. Notwithstanding
 25 any other provision of law, supplemental payments shall be made
 26 to the medical center under Section 14085.5 of the Welfare and
 27 Institutions Code for the debt service costs incurred by the county,
 28 and, if applicable, by the authority to the extent that debt service
 29 responsibility is refinanced, transferred to, or otherwise assumed
 30 by, directly or indirectly, the authority.

31 (I) Receive any other funds that would otherwise be available
 32 to a county provider or designated public hospital, or governmental
 33 entity with which it is affiliated.

34 (2) A transfer described in paragraph (1) shall not otherwise
 35 disqualify the county or the governing board, or in the case of a
 36 change in license ownership, the authority, from participating in
 37 any of the following:

38 (A) Local, state, and federal funding sources either specific to
 39 county or district hospitals, county or district ambulatory care
 40 clinics, designated public hospitals, or government entities with

1 which they are affiliated, for which there are special provisions
2 specific to those hospitals, ambulatory care clinics, or government
3 entities.

4 (B) Funding programs in which the county or the governing
5 board, by themselves or on behalf of the medical center or the
6 other health care facility, respectively, had participated prior to
7 the creation of the authority, or would otherwise be qualified to
8 participate in had the authority not been created, and the
9 maintenance, operation, and management or ownership of the
10 medical center and the other health care facility not been transferred
11 by the county and the governing board to the authority pursuant
12 to this chapter.

13 (l) The authority, the county, and the governing board, or any
14 combination thereof, may engage in marketing, advertising, and
15 promotion of the medical and health care services made available
16 to the community by the authority.

17 (m) The board of trustees has authority over procurement and
18 contracts for the authority. The board of trustees shall adopt written
19 rules, regulations, and procedures with regard to these functions.
20 Contracts by and between the authority and any public agency,
21 and contracts by and between the authority and providers of health
22 care, goods, or services, may be let on a nonbid basis and shall be
23 exempt from Chapter 2 (commencing with Section 10290) of Part
24 2 of Division 2 of the Public Contract Code. Notwithstanding any
25 other provision of this section, the authority shall not subcontract
26 work performed by classifications represented by employee
27 organizations without mutual agreement between the authority
28 and the exclusive representatives, except that a subcontract entered
29 into prior to the formation of the authority may remain in effect
30 until its termination or completion and may be modified or renewed
31 to a later termination or completion date upon agreement between
32 the authority and the exclusive representatives of the affected
33 classifications.

34 (n) The authority shall be responsible for human resource
35 functions, including, but not limited to, position classification,
36 compensation, recruitment, selection, hiring, discipline,
37 termination, grievance, equal opportunity, performance
38 management, probationary periods, training, promotion, and
39 maintenance of records. The board of trustees shall adopt written
40 rules, regulations, and procedures with regard to these functions.

1 Until the time that the board of trustees adopts its own rules,
2 regulations, or procedures with regard to these functions, the
3 existing rules, regulations, and procedures set forth in any
4 memorandum of understanding described in paragraph (3) of
5 subdivision (d) of Section 101658 apply. If the memoranda do not
6 provide for the exercise of these functions, the rules, regulations,
7 and procedures of the county apply.

8 (o) The authority may contract with the county or the governing
9 board for services and personnel upon mutually agreeable terms.

10 (p) Notwithstanding Article 4.7 (commencing with Section
11 1125) of Chapter 1 of Division 4 of Title 1 of the Government
12 Code, related to incompatible activities, a member of the
13 authority's administrative staff shall not be considered to be
14 engaged in activities inconsistent and incompatible with his or her
15 duties as a result of prior employment or affiliation with the county
16 or the governing board.

17 (q) The board of trustees and the officers and employees of the
18 authority are public employees for purposes of Division 3.6
19 (commencing with Section 810) of Title 1 of the Government
20 Code, relating to claims and actions against public entities and
21 public employees, and shall be protected by the immunities
22 applicable to public entities and public employees governed by
23 Part 2 (commencing with Section 814) of Division 3.6 of Title 1
24 of the Government Code, except as provided by other statutes or
25 regulations that apply expressly to the authority.

26 (r) Except for Part 3 (commencing with Section 20000) of
27 Division 5 of Title 2 of the Government Code, this chapter shall
28 prevail over any inconsistent statutes governing employees of the
29 authority, including, but not limited to, the Meyers-Milias-Brown
30 Act (Chapter 10 (commencing with Section 3500) of Division 1
31 of Title 1 of the Government Code).

32 ~~SEC. 330.~~

33 *SEC. 332.* Section 101850 of the Health and Safety Code is
34 amended to read:

35 101850. The Legislature finds and declares the following:

36 (a) (1) Due to the challenges facing the Alameda Health System
37 arising from changes in the public and private health industries,
38 the Alameda County Board of Supervisors has determined that a
39 transfer of governance of the Alameda Health System to an
40 independent governing body, a hospital authority, is needed to

1 improve the efficiency, effectiveness, and economy of the
2 community health services provided at the medical center. The
3 board of supervisors has further determined that the creation of an
4 independent hospital authority strictly and exclusively dedicated
5 to the management, administration, and control of the medical
6 center, in a manner consistent with the county's obligations under
7 Section 17000 of the Welfare and Institutions Code, is the best
8 way to fulfill its commitment to the medically indigent, special
9 needs, and general populations of Alameda County. To accomplish
10 this, it is necessary that the board of supervisors be given authority
11 to create a hospital authority. Because there is no general law under
12 which this authority could be formed, the adoption of a special act
13 and the formation of a special authority is required.

14 (2) The following definitions apply for purposes of this section:

15 (A) "The county" means the County of Alameda.

16 (B) "Governing board" means the governing body of the hospital
17 authority.

18 (C) "Hospital authority" means the separate public agency
19 established by the Board of Supervisors of Alameda County to
20 manage, administer, and control the Alameda Health System.

21 (D) "Medical center" means the Alameda Health System, which
22 was formerly known as the Alameda County Medical Center.

23 (b) The board of supervisors of the county may, by ordinance,
24 establish a hospital authority separate and apart from the county
25 for the purpose of effecting a transfer of the management,
26 administration, and control of the medical center in accordance
27 with Section 14000.2 of the Welfare and Institutions Code. A
28 hospital authority established pursuant to this chapter shall be
29 strictly and exclusively dedicated to the management,
30 administration, and control of the medical center within parameters
31 set forth in this chapter, and in the ordinance, bylaws, and contracts
32 adopted by the board of supervisors that shall not be in conflict
33 with this chapter, Section 1442.5 of this code, or Section 17000
34 of the Welfare and Institutions Code.

35 (c) A hospital authority established pursuant to this chapter shall
36 be governed by a board that is appointed, both initially and
37 continually, by the Board of Supervisors of the County of Alameda.
38 This hospital authority governing board shall reflect both the
39 expertise necessary to maximize the quality and scope of care at
40 the medical center in a fiscally responsible manner and the diverse

1 interest that the medical center serves. The enabling ordinance
2 shall specify the membership of the hospital authority governing
3 board, the qualifications for individual members, the manner of
4 appointment, selection, or removal of governing board members,
5 their terms of office, and all other matters that the board of
6 supervisors deems necessary or convenient for the conduct of the
7 hospital authority's activities.

8 (d) The mission of the hospital authority shall be the
9 management, administration, and other control, as determined by
10 the board of supervisors, of the group of public hospitals, clinics,
11 and programs that comprise the medical center, in a manner that
12 ensures appropriate, quality, and cost-effective medical care as
13 required of counties by Section 17000 of the Welfare and
14 Institutions Code, and, to the extent feasible, other populations,
15 including special populations in the County of Alameda.

16 (e) The board of supervisors shall adopt bylaws for the medical
17 center that set forth those matters related to the operation of the
18 medical center by the hospital authority that the board of
19 supervisors deems necessary and appropriate. The bylaws shall
20 become operative upon approval by a majority vote of the board
21 of supervisors. Any changes or amendments to the bylaws shall
22 be by majority vote of the board of supervisors.

23 (f) The hospital authority created and appointed pursuant to this
24 section is a duly constituted governing body within the meaning
25 of Section 1250 of this code and Section 70035 of Title 22 of the
26 California Code of Regulations as currently written or subsequently
27 amended.

28 (g) Unless otherwise provided by the board of supervisors by
29 way of resolution, the hospital authority is empowered, or the
30 board of supervisors is empowered on behalf of the hospital
31 authority, to apply as a public agency for one or more licenses for
32 the provision of health care pursuant to statutes and regulations
33 governing licensing as currently written or subsequently amended.

34 (h) In the event of a change of license ownership, the governing
35 body of the hospital authority shall comply with the obligations
36 of governing bodies of general acute care hospitals generally as
37 set forth in Section 70701 of Title 22 of the California Code of
38 Regulations, as currently written or subsequently amended, as well
39 as the terms and conditions of the license. The hospital authority

1 is the responsible party with respect to compliance with these
2 obligations, terms, and conditions.

3 (i) (1) A transfer by the county to the hospital authority of the
4 administration, management, and control of the medical center,
5 whether or not the transfer includes the surrendering by the county
6 of the existing general acute care hospital license and corresponding
7 application for a change of ownership of the license, does not affect
8 the eligibility of the county, or in the case of a change of license
9 ownership, the hospital authority, to do any of the following:

10 (A) Participate in, and receive allocations pursuant to, the
11 California Healthcare for the Indigents Program (CHIP).

12 (B) Receive supplemental reimbursements from the Emergency
13 Services and Supplemental Payments Fund created pursuant to
14 Section 14085.6 of the Welfare and Institutions Code.

15 (C) Receive appropriations from the Medi-Cal Inpatient Payment
16 Adjustment Fund without relieving the county of its obligation to
17 make intergovernmental transfer payments related to the Medi-Cal
18 Inpatient Payment Adjustment Fund pursuant to Section 14163 of
19 the Welfare and Institutions Code.

20 (D) Receive Medi-Cal capital supplements pursuant to Section
21 14085.5 of the Welfare and Institutions Code.

22 (E) Receive any other funds that would otherwise be available
23 to a county hospital.

24 (2) A transfer described in paragraph (1) does not otherwise
25 disqualify the county, or in the case of a change in license
26 ownership, the hospital authority, from participating in any of the
27 following:

28 (A) Other funding sources either specific to county hospitals or
29 county ambulatory care clinics or for which there are special
30 provisions specific to county hospitals or to county ambulatory
31 care clinics.

32 (B) Funding programs in which the county, on behalf of the
33 medical center and the Alameda County Health Care Services
34 Agency, had participated prior to the creation of the hospital
35 authority, or would otherwise be qualified to participate in had the
36 hospital authority not been created, and administration,
37 management, and control not been transferred by the county to the
38 hospital authority, pursuant to this chapter.

39 (j) A hospital authority created pursuant to this chapter shall be
40 a legal entity separate and apart from the county and shall file the

1 statement required by Section 53051 of the Government Code.
 2 The hospital authority shall be a government entity separate and
 3 apart from the county, and shall not be considered to be an agency,
 4 division, or department of the county. The hospital authority shall
 5 not be governed by, nor be subject to, the charter of the county
 6 and shall not be subject to policies or operational rules of the
 7 county, including, but not limited to, those relating to personnel
 8 and procurement.

9 (k) (1) A contract executed by and between the county and the
 10 hospital authority shall provide that liabilities or obligations of the
 11 hospital authority with respect to its activities pursuant to the
 12 contract shall be the liabilities or obligations of the hospital
 13 authority, and shall not become the liabilities or obligations of the
 14 county.

15 (2) Liabilities or obligations of the hospital authority with
 16 respect to the liquidation or disposition of the hospital authority's
 17 assets upon termination of the hospital authority shall not become
 18 the liabilities or obligations of the county.

19 (3) An obligation of the hospital authority, statutory, contractual,
 20 or otherwise, shall be the obligation solely of the hospital authority
 21 and shall not be the obligation of the county or the state.

22 (l) (1) Notwithstanding any other provision of this section, a
 23 transfer of the administration, management, or assets of the medical
 24 center, whether or not accompanied by a change in licensing, does
 25 not relieve the county of the ultimate responsibility for indigent
 26 care pursuant to Section 17000 of the Welfare and Institutions
 27 Code or any obligation pursuant to Section 1442.5 of this code.

28 (2) A contract executed by and between the county and the
 29 hospital authority shall provide for the indemnification of the
 30 county by the hospital authority for liabilities as specifically set
 31 forth in the contract, except that the contract shall include a
 32 provision that the county shall remain liable for its own negligent
 33 acts.

34 (3) Indemnification by the hospital authority shall not be
 35 construed as divesting the county from its ultimate responsibility
 36 for compliance with Section 17000 of the Welfare and Institutions
 37 Code.

38 (m) Notwithstanding the provisions of this section relating to
 39 the obligations and liabilities of the hospital authority, a transfer
 40 of control or ownership of the medical center shall confer onto the

1 hospital authority all the rights and duties set forth in state law
2 with respect to hospitals owned or operated by a county.

3 (n) (1) A transfer of the maintenance, operation, and
4 management or ownership of the medical center to the hospital
5 authority shall comply with the provisions of Section 14000.2 of
6 the Welfare and Institutions Code.

7 (2) A transfer of maintenance, operation, and management or
8 ownership to the hospital authority may be made with or without
9 the payment of a purchase price by the hospital authority and
10 otherwise upon the terms and conditions that the parties may
11 mutually agree, which terms and conditions shall include those
12 found necessary by the board of supervisors to ensure that the
13 transfer will constitute an ongoing material benefit to the county
14 and its residents.

15 (3) A transfer of the maintenance, operation, and management
16 to the hospital authority shall not be construed as empowering the
17 hospital authority to transfer any ownership interest of the county
18 in the medical center except as otherwise approved by the board
19 of supervisors.

20 (o) The board of supervisors shall retain control over the use of
21 the medical center physical plant and facilities except as otherwise
22 specifically provided for in lawful agreements entered into by the
23 board of supervisors. Any lease agreement or other agreement
24 between the county and the hospital authority shall provide that
25 county premises shall not be sublet without the approval of the
26 board of supervisors.

27 (p) The statutory authority of a board of supervisors to prescribe
28 rules that authorize a county hospital to integrate its services with
29 those of other hospitals into a system of community service that
30 offers free choice of hospitals to those requiring hospital care, as
31 set forth in Section 14000.2 of the Welfare and Institutions Code,
32 shall apply to the hospital authority upon a transfer of maintenance,
33 operation, and management or ownership of the medical center by
34 the county to the hospital authority.

35 (q) The hospital authority may acquire and possess real or
36 personal property and may dispose of real or personal property
37 other than that owned by the county, as may be necessary for the
38 performance of its functions. The hospital authority may sue or be
39 sued, to employ personnel, and to contract for services required
40 to meet its obligations. Before January 1, 2024, the hospital

1 authority shall not enter into a contract with any other person or
2 entity, including, but not limited to, a subsidiary or other entity
3 established by the authority, to replace services being provided by
4 physicians and surgeons who are employed by the hospital
5 authority and in a recognized collective bargaining unit as of March
6 31, 2013, with services provided by that other person or entity
7 without clear and convincing evidence that the needed medical
8 care can only be delivered cost effectively by that other person or
9 entity. Prior to entering into a contract for any of those services,
10 the authority shall negotiate with the representative of the
11 recognized collective bargaining unit of its physician and surgeon
12 employees over the decision to privatize and, if unable to resolve
13 any dispute through negotiations, shall submit the matter to final
14 binding arbitration.

15 (r) Any agreement between the county and the hospital authority
16 shall provide that all existing services provided by the medical
17 center shall continue to be provided to the county through the
18 medical center subject to the policy of the county and consistent
19 with the county's obligations under Section 17000 of the Welfare
20 and Institutions Code.

21 (s) A hospital authority to which the maintenance, operation,
22 and management or ownership of the medical center is transferred
23 shall be a "district" within the meaning set forth in the County
24 Employees Retirement Law of 1937 (Chapter 3 (commencing with
25 Section 31450) of Part 3 of Division 4 of Title 3 of the Government
26 Code). Employees of a hospital authority are eligible to participate
27 in the County Employees Retirement System to the extent
28 permitted by law, except as described in Section 101851.

29 (t) Members of the governing board of the hospital authority
30 shall not be vicariously liable for injuries caused by the act or
31 omission of the hospital authority to the extent that protection
32 applies to members of governing boards of local public entities
33 generally under Section 820.9 of the Government Code.

34 (u) The hospital authority shall be a public agency subject to
35 the Meyers-Miliias-Brown Act (Chapter 10 (commencing with
36 Section 3500) of Division 4 of Title 1 of the Government Code).

37 (v) Any transfer of functions from county employee
38 classifications to a hospital authority established pursuant to this
39 section shall result in the recognition by the hospital authority of

1 the employee organization that represented the classifications
2 performing those functions at the time of the transfer.

3 (w) (1) In exercising its powers to employ personnel, as set
4 forth in subdivision (p), the hospital authority shall implement,
5 and the board of supervisors shall adopt, a personnel transition
6 plan. The personnel transition plan shall require all of the
7 following:

8 (A) Ongoing communications to employees and recognized
9 employee organizations regarding the impact of the transition on
10 existing medical center employees and employee classifications.

11 (B) Meeting and conferring on all of the following issues:

12 (i) The timeframe for which the transfer of personnel shall occur.
13 The timeframe shall be subject to modification by the board of
14 supervisors as appropriate, but in no event shall it exceed one year
15 from the effective date of transfer of governance from the board
16 of supervisors to the hospital authority.

17 (ii) A specified period of time during which employees of the
18 county impacted by the transfer of governance may elect to be
19 appointed to vacant positions with the Alameda County Health
20 Care Services Agency for which they have tenure.

21 (iii) A specified period of time during which employees of the
22 county impacted by the transfer of governance may elect to be
23 considered for reinstatement into positions with the county for
24 which they are qualified and eligible.

25 (iv) Compensation for vacation leave and compensatory leave
26 accrued while employed with the county in a manner that grants
27 affected employees the option of either transferring balances or
28 receiving compensation to the degree permitted employees laid
29 off from service with the county.

30 (v) A transfer of sick leave accrued while employed with the
31 county to hospital authority employment.

32 (vi) The recognition by the hospital authority of service with
33 the county in determining the rate at which vacation accrues.

34 (vii) The possible preservation of seniority, pensions, health
35 benefits, and other applicable accrued benefits of employees of
36 the county impacted by the transfer of governance.

37 (2) This subdivision shall not be construed as prohibiting the
38 hospital authority from determining the number of employees, the
39 number of full-time equivalent positions, the job descriptions, and
40 the nature and extent of classified employment positions.

1 (3) Employees of the hospital authority are public employees
2 for purposes of Division 3.6 (commencing with Section 810) of
3 Title 1 of the Government Code relating to claims and actions
4 against public entities and public employees.

5 (x) Any hospital authority created pursuant to this section shall
6 be bound by the terms of the memorandum of understanding
7 executed by and between the county and health care and
8 management employee organizations that is in effect as of the date
9 this legislation becomes operative in the county. Upon the
10 expiration of the memorandum of understanding, the hospital
11 authority has sole authority to negotiate subsequent memorandums
12 of understanding with appropriate employee organizations.
13 Subsequent memorandums of understanding shall be approved by
14 the hospital authority.

15 (y) The hospital authority created pursuant to this section may
16 borrow from the county and the county may lend the hospital
17 authority funds or issue revenue anticipation notes to obtain those
18 funds necessary to operate the medical center and otherwise provide
19 medical services.

20 (z) The hospital authority is subject to state and federal taxation
21 laws that are applicable to counties generally.

22 (aa) The hospital authority, the county, or both, may engage in
23 marketing, advertising, and promotion of the medical and health
24 care services made available to the community at the medical
25 center.

26 (ab) The hospital authority is not a “person” subject to suit under
27 the Cartwright Act (Chapter 2 (commencing with Section 16700)
28 of Part 2 of Division 7 of the Business and Professions Code).

29 (ac) Notwithstanding Article 4.7 (commencing with Section
30 1125) of Chapter 1 of Division 4 of Title 1 of the Government
31 Code related to incompatible activities, a member of the hospital
32 authority administrative staff shall not be considered to be engaged
33 in activities inconsistent and incompatible with his or her duties
34 as a result of employment or affiliation with the county.

35 (ad) (1) The hospital authority may use a computerized
36 management information system in connection with the
37 administration of the medical center.

38 (2) Information maintained in the management information
39 system or in other filing and records maintenance systems that is

1 confidential and protected by law shall not be disclosed except as
2 provided by law.

3 (3) The records of the hospital authority, whether paper records,
4 records maintained in the management information system, or
5 records in any other form, that relate to trade secrets or to payment
6 rates or the determination thereof, or which relate to contract
7 negotiations with providers of health care, shall not be subject to
8 disclosure pursuant to the California Public Records Act (Chapter
9 5 (commencing with Section 6250) of Division 7 of Title 1 of the
10 Government Code). The transmission of the records, or the
11 information contained therein in an alternative form, to the board
12 of supervisors does not constitute a waiver of exemption from
13 disclosure, and the records and information once transmitted shall
14 be subject to this same exemption. The information, if compelled
15 pursuant to an order of a court of competent jurisdiction or
16 administrative body in a manner permitted by law, shall be limited
17 to in-camera review, which, at the discretion of the court, may
18 include the parties to the proceeding, and shall not be made a part
19 of the court file unless sealed.

20 (ae) (1) Notwithstanding any other law, the governing board
21 may order that a meeting held solely for the purpose of discussion
22 or taking action on hospital authority trade secrets, as defined in
23 subdivision (d) of Section 3426.1 of the Civil Code, shall be held
24 in closed session. The requirements of making a public report of
25 actions taken in closed session and the vote or abstention of every
26 member present may be limited to a brief general description
27 devoid of the information constituting the trade secret.

28 (2) The governing board may delete the portion or portions
29 containing trade secrets from any documents that were finally
30 approved in the closed session that are provided to persons who
31 have made the timely or standing request.

32 (3) This section shall not be construed as preventing the
33 governing board from meeting in closed session as otherwise
34 provided by law.

35 (af) Open sessions of the hospital authority constitute official
36 proceedings authorized by law within the meaning of Section 47
37 of the Civil Code. The privileges set forth in that section with
38 respect to official proceedings apply to open sessions of the hospital
39 authority.

1 (ag) The hospital authority is a public agency for purposes of
2 eligibility with respect to grants and other funding and loan
3 guarantee programs. Contributions to the hospital authority are
4 tax deductible to the extent permitted by state and federal law.
5 Nonproprietary income of the hospital authority is exempt from
6 state income taxation.

7 (ah) Contracts by and between the hospital authority and the
8 state and contracts by and between the hospital authority and
9 providers of health care, goods, or services may be let on a nonbid
10 basis and shall be exempt from Chapter 2 (commencing with
11 Section 10290) of Part 2 of Division 2 of the Public Contract Code.

12 (ai) (1) Provisions of the Evidence Code, the Government Code,
13 including the California Public Records Act (Chapter 5
14 (commencing with Section 6250) of Division 7 of Title 1 of the
15 Government Code), the Civil Code, the Business and Professions
16 Code, and other applicable law pertaining to the confidentiality of
17 peer review activities of peer review bodies apply to the peer
18 review activities of the hospital authority. Peer review proceedings
19 constitute an official proceeding authorized by law within the
20 meaning of Section 47 of the Civil Code and those privileges set
21 forth in that section with respect to official proceedings shall apply
22 to peer review proceedings of the hospital authority. If the hospital
23 authority is required by law or contractual obligation to submit to
24 the state or federal government peer review information or
25 information relevant to the credentialing of a participating provider,
26 that submission does not constitute a waiver of confidentiality.
27 The laws pertaining to the confidentiality of peer review activities
28 shall be together construed as extending, to the extent permitted
29 by law, the maximum degree of protection of confidentiality.

30 (2) Notwithstanding any other law, Section 1461 applies to
31 hearings on the reports of hospital medical audit or quality
32 assurance committees.

33 (aj) The hospital authority shall carry general liability insurance
34 to the extent sufficient to cover its activities.

35 (ak) In the event the board of supervisors determines that the
36 hospital authority should no longer function for the purposes as
37 set forth in this chapter, the board of supervisors may, by ordinance,
38 terminate the activities of the hospital authority and expire the
39 hospital authority as an entity.

1 (al) A hospital authority that is created pursuant to this section,
2 but does not obtain the administration, management, and control
3 of the medical center or has those duties and responsibilities
4 revoked by the board of supervisors, shall not be empowered with
5 the powers enumerated in this section.

6 (am) (1) The county shall establish baseline data reporting
7 requirements for the medical center consistent with the Medically
8 Indigent Health Care Reporting System (MICRS) program
9 established pursuant to Section 16910 of the Welfare and
10 Institutions Code and shall collect that data for at least one year
11 prior to the final transfer of the medical center to the hospital
12 authority established pursuant to this chapter. The baseline data
13 shall include, but not be limited to, all of the following:

- 14 (A) Inpatient days by facility by quarter.
- 15 (B) Outpatient visits by facility by quarter.
- 16 (C) Emergency room visits by facility by quarter.
- 17 (D) Number of unduplicated users receiving services within the
18 medical center.

19 (2) Upon transfer of the medical center, the county shall
20 establish baseline data reporting requirements for each of the
21 medical center inpatient facilities consistent with data reporting
22 requirements of the Office of Statewide Health Planning and
23 Development, including, but not limited to, monthly average daily
24 census by facility for all of the following:

- 25 (A) Acute care, excluding newborns.
- 26 (B) Newborns.
- 27 (C) Skilled nursing facility, in a distinct part.

28 (3) From the date of transfer of the medical center to the hospital
29 authority, the hospital authority shall provide the county with
30 quarterly reports specified in paragraphs (1) and (2) and any other
31 data required by the county. The county, in consultation with health
32 care consumer groups, shall develop other data requirements that
33 shall include, at a minimum, reasonable measurements of the
34 changes in medical care for the indigent population of Alameda
35 County that result from the transfer of the administration,
36 management, and control of the medical center from the county
37 to the hospital authority.

38 (an) A hospital authority established pursuant to this section
39 shall comply with the requirements of Sections 53260 and 53261
40 of the Government Code.

1 (ao) This section shall become operative January 1, 2015.

2 ~~SEC. 331.~~

3 ~~SEC. 333.~~ Section 101853 of the Health and Safety Code is
4 amended to read:

5 101853. (a) Pursuant to this chapter, the board of supervisors
6 may establish by ordinance the Kern County Hospital Authority,
7 which shall be a public agency that is a local unit of government
8 separate and apart from the county and any other public entity for
9 all purposes. The authority established pursuant to this chapter
10 shall file the statement required by Section 53051 of the
11 Government Code, and is a public entity for purposes of Division
12 3.6 (commencing with Section 810) of Title 1 of the Government
13 Code.

14 (b) The purpose of the authority is to do all of the following:

15 (1) Provide management, administration, and other controls
16 consistent with this chapter as needed to operate the medical center
17 and maintain its status as a designated public hospital, as defined
18 in subdivision (d) of Section 14166.1 of the Welfare and
19 Institutions Code, and for the operation of additional programs,
20 clinics and other facilities, care organizations, health care service
21 and physician practice plans, and delivery systems that may be
22 affiliated or consolidated with the medical center, to ensure the
23 viability of the health care safety net in the county in a manner
24 consistent with the county’s requirements under Section 17000 of
25 the Welfare and Institutions Code.

26 (2) Provide management, administration, and other controls
27 consistent with this chapter to negotiate and enter into contracts
28 to provide or arrange, or provide directly, on a fee-for-service,
29 capitated, or other basis, health care services to individuals
30 including, but not limited to, those covered under Subchapters
31 XVIII (commencing with Section 1395), XIX (commencing with
32 Section 1396), and XXI (commencing with Section 1397aa) of
33 Chapter 7 of Title 42 of the United States Code, those entitled to
34 coverage under private group coverage, private individual coverage,
35 including, without limitation, coverage through Covered California,
36 other publicly supported programs, those employed by public
37 agencies or private businesses, and uninsured or indigent
38 individuals.

39 (c) Subject to the requirements of this chapter, the authority has
40 and is charged with authority for the management, administration,

1 and control of the medical center and other health-related resources.
2 The State Department of Health Care Services shall take all
3 necessary steps to ensure all of the following:

4 (1) The authority is permitted to operate the medical center.

5 (2) The medical center continues its status as a designated public
6 hospital to at least the same extent as it would be designated in the
7 absence of its transfer to the authority pursuant to this chapter.

8 (3) The authority may participate as a contributing public agency
9 for all of the purposes specified in Section 433.51 of Title 42 of
10 the Code of Federal Regulations, to the extent permitted by federal
11 law.

12 (d) The board of supervisors, in the enabling ordinance, shall
13 establish the terms and conditions of the transfer to the authority
14 from the county, including, but not limited to, all of the following:

15 (1) A transfer of real and personal property, assets, and
16 liabilities, including, but not limited to, liabilities of the medical
17 center determined and assigned by the county for county funds
18 previously advanced, but not repaid or otherwise recovered, to
19 fund the operations of the medical center.

20 (2) Transfer of employees, including any necessary personnel
21 transition plan, as specified in Section 101853.1, allocation of
22 credit for funded pension assets and responsibility for any unfunded
23 pension liabilities under the Kern County Employees' Retirement
24 Association or other retirement plans, and funding of the accrued
25 benefits of employees of the authority in the event of withdrawal
26 from the plan or dissolution of the authority. An allocation of credit
27 for funded pension assets and responsibility for unfunded pension
28 liabilities with respect to the Kern County Employees' Retirement
29 Association shall be approved by its governing board of retirement
30 after consideration of legal and actuarial analysis, and an allocation
31 shall not be made that would jeopardize the qualified status of the
32 Kern County Employees' Retirement Association under the federal
33 Internal Revenue Code.

34 (3) Maintenance, operation, and management or ownership of
35 the medical center.

36 (4) Transfer of licenses.

37 (5) Any other matters as the board of supervisors deems
38 necessary, appropriate, or convenient for the conduct of the
39 authority's activities.

1 (e) (1) Notwithstanding any other law, a transfer of
2 maintenance, operation, and management or ownership or lease
3 of the medical center to the authority may be made, with or without
4 the payment of a purchase price by the authority, and otherwise
5 upon the terms and conditions as found necessary by the board of
6 supervisors and specified in the enabling ordinance to ensure that
7 the transfer will constitute an ongoing material benefit to the county
8 and its residents.

9 (2) A transfer of the maintenance, operation, and management,
10 or ownership or lease of the medical center to the authority shall
11 not be construed as empowering the authority to transfer any
12 ownership interest of the county in any portion of the medical
13 center, except as otherwise approved by the board of supervisors.

14 (3) The authority shall not transfer the maintenance, operation,
15 and management or ownership or lease of the medical center to
16 any other person or entity without the prior written approval of
17 the board of supervisors. This paragraph does not prevent the
18 county, by ordinance, from allowing the disposal of obsolete or
19 surplus equipment, supplies, or furnishings of the medical center
20 by the authority.

21 (4) With respect to the maintenance, operation, and management
22 or ownership or lease of the medical center, the authority shall
23 conform to both of the following requirements:

24 (A) Comply with any applicable requirements of Section
25 14000.2 of the Welfare and Institutions Code.

26 (B) Comply with any applicable requirements of Section 1442.5.

27 (5) The board of supervisors may retain control of the medical
28 center physical plant and facilities, as specifically provided for in
29 the enabling ordinance or other lawful agreements entered into by
30 the board of supervisors. Any lease agreement between the county
31 and the authority shall provide that county premises shall not be
32 sublet without the approval of the board of supervisors.

33 (6) Notwithstanding any other provision of this chapter, and
34 whether or not accompanied by a change in licensing, the
35 authority's responsibility for the maintenance, operation, and
36 management of the medical center, or any ownership or leasehold
37 interest of the authority in the medical center, does not relieve the
38 county of the ultimate responsibility for indigent care pursuant to
39 Section 17000 of the Welfare and Institutions Code.

1 (7) For purposes of Article 12 (commencing with Section
2 17612.1) of Chapter 6 of Part 5 of Division 9 of the Welfare and
3 Institutions Code, and the definition set forth in subdivision (f) of
4 Section 17612.2 of the Welfare and Institutions Code, the medical
5 center, excluding components that provide predominately public
6 health services, and the county are affiliated governmental entities.

7 (f) The board of supervisors may contract with the authority for
8 the provision of indigent care services on behalf of the county.
9 The contract shall specify that county policies, as may be modified
10 from time to time and consistent with the county's obligations
11 under Section 17000 of the Welfare and Institutions Code, shall
12 be applicable. Notwithstanding any other provision of this chapter,
13 the authority shall not undertake any of the county's obligations
14 under Section 17000 of the Welfare and Institutions Code, nor
15 shall the authority have an entitlement to receive any revenue for
16 the discharge of the county's obligations, without a written
17 agreement with the county. A contract executed by and between
18 the county and the authority shall provide for the indemnification
19 of the county by the authority for liabilities as specifically set forth
20 in the contract, except that the contract shall include a provision
21 that the county remains liable for its own negligent acts.
22 Indemnification by the authority does not divest the county from
23 its ultimate responsibility for compliance with Section 17000 of
24 the Welfare and Institutions Code.

25 (g) Unless otherwise agreed to by the authority and the board
26 of supervisors, an obligation of the authority, statutory, contractual,
27 or otherwise, is the obligation solely of the authority and is not the
28 obligation of the county or any other entity, and a contract executed
29 by and between the county and the authority, or any other entity
30 and the authority, shall contain a provision that liabilities or
31 obligations of the authority with respect to its activities pursuant
32 to the contract are the liabilities or obligations of the authority and
33 are not and will not become the liabilities or obligations of the
34 county or the other entity, respectively. An obligation of the
35 authority, statutory, contractual, or otherwise, is not the obligation
36 of the state.

37 (h) The authority is not a "person" subject to suit under the
38 Cartwright Act (Chapter 2 (commencing with Section 16700) of
39 Part 2 of Division 7 of the Business and Professions Code).

1 (i) The authority is not subject to the jurisdiction of a local
 2 agency formation commission pursuant to the
 3 Cortese-Knox-Hertzberg Local Government Reorganization Act
 4 of 2000 (Division 3 (commencing with Section 56000) of Title 5
 5 of the Government Code), or any successor statute.

6 (j) The authority is a “district” within the meaning set forth in
 7 the County Employees Retirement Law of 1937 (Chapter 3
 8 (commencing with Section 31450) of Part 3 of Division 4 of Title
 9 3 of the Government Code). Employees of the authority are eligible
 10 to become members or maintain membership, as applicable, in the
 11 Kern County Employees’ Retirement Association, to the extent
 12 described in subdivision (g) of Section 101853.1.

13 (k) A determination with respect to the manner in which the
 14 authority qualifies as a governmental plan sponsor under Section
 15 414(d) of the Internal Revenue Code shall be limited to relevant
 16 employee benefits purposes of that code only, and shall not change
 17 or otherwise modify the authority’s status as a public agency that
 18 is a unit of local government for other purposes specified in this
 19 chapter.

20 ~~SEC. 332.~~

21 *SEC. 334.* Section 101853.1 of the Health and Safety Code is
 22 amended to read:

23 101853.1. (a) In exercising its powers to employ personnel,
 24 the authority shall implement, and the board of supervisors shall
 25 adopt, a personnel transition plan. The personnel transition plan
 26 shall require all of the following:

27 (1) Ongoing communication to employees and recognized
 28 employee organizations regarding the impact of the transition on
 29 existing medical center, county, and other health care facility
 30 employees and employee classifications.

31 (2) Meeting and conferring with representatives of affected
 32 bargaining unit employees on both of the following issues:

33 (A) A timeframe for which the transfer of personnel shall occur.

34 (B) Specified periods of time during which county or medical
 35 center employees affected by the establishment of the authority
 36 may elect to be considered for appointment and exercise
 37 reinstatement rights, if applicable, to funded, equivalent, vacant
 38 county positions for which they are qualified and eligible. An
 39 employee who first elects to remain with the county may
 40 subsequently seek reinstatement with the authority within 30 days

1 of the election to remain with the county and shall be subject to
2 the requirements of this article.

3 (3) Acknowledgment that the authority, to the extent permitted
4 by federal and state law, shall be bound by the terms of the
5 memoranda of understanding executed between the county and its
6 exclusive employee representatives that are in effect on the date
7 the county adopts the enabling ordinance pursuant to this chapter.
8 Subsequent memoranda of understanding with exclusive employee
9 representatives shall be subject to approval only by the board of
10 governors.

11 (4) Communication to the Board of Retirement of the Kern
12 County Employees' Retirement Association or other retirement
13 plan of any personnel transition plan, memoranda of understanding,
14 or other arrangements that are related to the participation of the
15 authority's employees or the addition of new employees in the
16 retirement plan.

17 (b) Implementation of this chapter is not a cause for the
18 modification of the medical center or county employment benefits.
19 Upon the execution of the enabling ordinance, employees of the
20 medical center or county on the date of execution, who become
21 authority employees, shall retain their existing or equivalent
22 classifications and job descriptions upon transfer to the authority,
23 comparable pension benefits (if permissible pursuant to relevant
24 plan terms), and their existing salaries and other benefits that
25 include, but are not limited to, accrued and unused vacation, sick
26 leave, personal leave, health care, retiree health benefits, and
27 deferred compensation plans. The transfer of an employee from
28 the medical center or county does not constitute a termination of
29 employment for purposes of Section 227.3 of the Labor Code, or
30 employee benefit plans and arrangements maintained by the
31 medical center or county, except as otherwise provided in the
32 enabling ordinance or personnel transition plan, and it shall not be
33 counted as a break in uninterrupted employment for purposes of
34 Section 31641 of the Government Code with respect to the Kern
35 County Employees' Retirement Association, or state service for
36 purposes of the Public Employees' Retirement System (Part 3
37 commencing with Section 20000) of Division 5 of Title 2 of the
38 Government Code).

39 (c) Subject to applicable state law, the authority shall recognize
40 the exclusive employee representatives of those authority

1 employees who are transferred from the county or medical center
2 to the authority pursuant to this chapter.

3 (d) In order to stabilize labor and employment relations and
4 provide continuity of care and services to the people of the county,
5 and notwithstanding any other law, the authority shall do all of the
6 following for a period of 24 months after the effective date of the
7 transfer of the medical center to the authority:

8 (1) Continue to recognize each exclusive employee
9 representative of each bargaining unit.

10 (2) Continue to provide the same level of employee benefits to
11 authority employees, whether the obligation to provide those
12 benefits arise out of a memorandum of understanding, or other
13 agreements or law.

14 (3) Extend and continue to be bound by any existing memoranda
15 of understanding covering the terms and conditions of employment
16 for employees of the authority, including the level of wages and
17 benefits, and any county rules, ordinances, or policies specifically
18 identified and incorporated by reference in a memoranda of
19 understanding for 24 months or through the term of the
20 memorandum of understanding, whichever shall be the longer,
21 unless modified by mutual agreement with each of the exclusive
22 employee representatives. The authority shall continue to provide
23 those pension benefits specified in any memoranda of agreement
24 as long as doing so does not conflict with any Kern County
25 Employee Retirement Association plan provisions, or federal or
26 state law including the County Employees Retirement Law of 1937
27 (Chapter 3 (commencing with Section 31450) of Part 3 of Division
28 4 of Title 3 of the Government Code and the federal Internal
29 Revenue Code).

30 (4) Meet and confer with the exclusive employee representatives
31 to develop processes and procedures to address employee
32 disciplinary action taken against permanent employees. If the
33 authority terminates, suspends, demotes, or reduces the pay of a
34 permanent employee for disciplinary reasons, those actions shall
35 only be for cause consistent with state law, and an employee shall
36 be afforded applicable due process protections granted to public
37 employees under state law. Permanent employees laid off by the
38 authority within six months of the date the ordinance is adopted
39 shall remain on the county reemployment list for two years.
40 Inclusion on the county reemployment list is not a guarantee of

1 reemployment. For the purposes of this paragraph, the term
2 “permanent employees” excludes probationary employees,
3 temporary employees, seasonal employees, provisional employees,
4 extra help employees, and per diem employees.

5 (5) To the extent layoffs occur, and provided that all other
6 previously agreed upon factors are equal, ensure that seniority
7 shall prevail. The authority shall meet and confer with the exclusive
8 employee representatives to address layoff procedures and the
9 manner in which, and the extent to which, seniority shall be
10 measured for employees who transfer from the medical center or
11 county.

12 (e) Permanent employees of the medical center or county on
13 the effective date of the transfer of the medical center to the
14 authority, shall be deemed qualified for employment in equivalent
15 positions at the authority, and no other qualifications shall be
16 required except as otherwise required by state or federal law.
17 Probationary employees on the effective date of the transfer, as
18 set forth in this paragraph, shall retain their probationary status
19 and rights and shall not be required to serve a new probationary
20 or extend their probationary period by reason of the transfer. To
21 the extent possible, employees who transfer to equivalent positions
22 at the authority shall retain their existing classifications and job
23 descriptions, but if there is a dispute over this issue, the authority
24 agrees to meet and confer with the exclusive employee
25 representatives of the transferred employees.

26 (f) Employees who transfer from the medical center or county
27 to the authority shall retain the seniority they earned at the medical
28 center or county and any benefits or privileges based on the
29 seniority.

30 (g) Notwithstanding any other law, employees of the authority
31 may participate in the Kern County Employees’ Retirement
32 Association, operated pursuant to the County Employees
33 Retirement Law of 1937 (Chapter 3 (commencing with Section
34 31450) of Part 3 of Division 4 of Title 3 of the Government Code)
35 as set forth below. However, the authority and employees of the
36 authority, or certain designated parts thereof, shall not participate
37 in the Kern County Employees’ Retirement Association if the
38 board of retirement, in its sole discretion, determines that their
39 participation could jeopardize the Kern County Employees’
40 Retirement Association’s tax-qualified or governmental plan status

1 under federal law, or if a contract or related contract amendment
2 proposed by the authority contains any benefit provisions that are
3 not specifically authorized by Chapters 3 (commencing with
4 Section 31450) and 3.9 (commencing with Section 31899) of Part
5 3 of Division 4 of Title 3 of the Government Code or Article 4
6 (commencing with Section 7522) of Chapter 21 of Division 7 of
7 Title 1 of the Government Code, and that the board determines
8 would adversely affect the administration of the system. There
9 shall not be any individual employee elections regarding
10 participation in the Kern County Employees' Retirement
11 Association or other retirement plans except to the extent the
12 retirement plans provide for elective employee salary deferral
13 contributions in accordance with federal Internal Revenue Code
14 rules.

15 (1) Employees transferred from the county or medical center to
16 the authority who are subject to a memorandum of understanding
17 between the authority and an exclusive employee representative,
18 as described in paragraphs (2) and (3) of subdivision (d), and who
19 were members of the Kern County Employees' Retirement
20 Association at the time of their transfer of employment, shall
21 continue to be a member of the Kern County Employees'
22 Retirement Association, retaining service credit earned to the date
23 of transfer, to the extent provided for in the applicable
24 memorandum of understanding.

25 (2) Employees transferred from the county or medical center to
26 the authority who are subject to a memorandum of understanding
27 between the authority and an exclusive employee representative,
28 as described in paragraphs (2) and (3) of subdivision (d), and who
29 were not members of the Kern County Employees' Retirement
30 Association at the time of their transfer of employment, shall
31 subsequently become a member of the Kern County Employees'
32 Retirement Association only to the extent provided for in the
33 applicable memorandum of understanding.

34 (3) Employees transferred from the county or medical center to
35 the authority who are not subject to a memorandum of
36 understanding between the authority and an exclusive employee
37 representative, as described in paragraphs (2) and (3) of subdivision
38 (d), and who were members of the Kern County Employees'
39 Retirement Association at the time of their transfer of employment,
40 shall continue to be a member of the Kern County Employees'

1 Retirement Association, retaining service credit earned to the date
2 of transfer, as provided in the enabling ordinance or the personnel
3 transition plan.

4 (4) Employees transferred from the county or medical center to
5 the authority who are not subject to a memorandum of
6 understanding between the authority and an exclusive employee
7 representative, as described in paragraphs (2) and (3) of subdivision
8 (d), and who were not members of the Kern County Employees'
9 Retirement Association at the time of their transfer of employment,
10 shall subsequently become a member of the Kern County
11 Employees' Retirement Association only to the extent provided
12 in the enabling ordinance or the personnel transition plan.

13 (5) Employees hired by the authority on or after the effective
14 date of the enabling ordinance shall become a member of the Kern
15 County Employees' Retirement Association only to the extent
16 provided in the enabling ordinance or personnel transition plan
17 described in subdivision (a), or, if subject to a memorandum of
18 understanding between the authority and an exclusive employee
19 representative as described in paragraphs (2) and (3) of subdivision
20 (d), to the extent provided for in the applicable memorandum of
21 understanding.

22 (6) Notwithstanding any other law, for purposes of the California
23 Public Employees' Pension Reform Act of 2013 (Article 4
24 (commencing with Section 7522) of Chapter 21 of Division 7 of
25 Title 1 of the Government Code), an individual who was employed
26 by the county or the medical center when it was a constituent
27 department of the county, and is a member of the Kern County
28 Employees' Retirement Association or the Public Employees'
29 Retirement System, as set forth in Part 3 (commencing with Section
30 20000) of Division 5 of Title 2 of the Government Code, prior to
31 January 1, 2013, and who transfers, directly or after a break in
32 service of less than six months, to the authority, in which the
33 individual continues to be a member of either the Kern County
34 Employees' Retirement Association or the Public Employees'
35 Retirement System, as applicable, shall not be deemed to be a new
36 employee or a new member within the meaning of Section 7522.04
37 of the Government Code, and shall continue to be subject to the
38 same defined benefit formula, as defined in Section 7522.04 of
39 the Government Code, to which the member was subject
40 immediately prior to the transfer.

1 (h) This chapter does not prohibit the authority from contracting
 2 with the Public Employees’ Retirement System, in accordance
 3 with the requirements of Section 20508 and any other applicable
 4 provisions of Part 3 (commencing with Section 20000) of Division
 5 5 of Title 2 of the Government Code, for the purpose of providing
 6 employee participation in that system, or from establishing an
 7 alternative or supplemental retirement system or arrangement,
 8 including, but not limited to, deferred compensation arrangements,
 9 to the extent permitted by law and subject to any applicable
 10 agreement between the authority and the exclusive employee
 11 representatives, and as provided in the enabling ordinance or the
 12 personnel transition plan. Notwithstanding any other law, the
 13 authority and employees of the authority shall not participate in
 14 the Public Employees’ Retirement System if the Board of
 15 Administration of the Public Employees’ Retirement System, in
 16 its sole discretion, determines that their participation could
 17 jeopardize the Public Employees’ Retirement System’s
 18 tax-qualified or governmental plan status under federal law, or if
 19 a contract or related contract amendment proposed by the authority
 20 contains any benefit provisions that are not specifically authorized
 21 by Part 3 (commencing with Section 20000) of Division 5 of Title
 22 2 of the Government Code, and that the board determines would
 23 adversely affect the administration of the system.

24 (i) Provided that this is not inconsistent with anything in this
 25 chapter, this chapter does not prohibit the authority from
 26 determining the number of employees, the number of full-time
 27 equivalent positions, job descriptions, the nature and extent of
 28 classified employment positions, and salaries of employees.

29 ~~SEC. 333.~~

30 *SEC. 335.* Section 101855 of the Health and Safety Code is
 31 amended to read:

32 101855. (a) The authority, in addition to any other powers
 33 granted pursuant to this chapter, has the following powers:

- 34 (1) To have the duties, privileges, immunities, rights, liabilities,
 35 and limitations of a local unit of government within the state.
- 36 (2) To have perpetual existence, subject to Article 5
 37 (commencing with Section 101856).
- 38 (3) To adopt, have, and use a seal, and to alter it at its pleasure.

1 (4) To sue and be sued in the name of the authority in all actions
2 and proceedings in all courts and tribunals of competent
3 jurisdiction.

4 (5) To purchase, lease, trade, exchange, or otherwise acquire,
5 maintain, hold, improve, mortgage, lease, sell, and dispose of real
6 and personal property of any kind necessary or convenient to
7 perform its functions and fully exercise its powers.

8 (6) To appoint and employ a chief executive officer and other
9 officers and employees that may be necessary or appropriate,
10 including legal counsel, to establish their compensation, provide
11 for their health, retirement, and other employment benefits, and
12 to define the power and duties of officers and employees.

13 (7) (A) To incur indebtedness and to borrow money and issue
14 bonds evidencing the same, including the authority to issue, from
15 time to time, notes and revenue bonds in principal amounts that
16 the authority determines to be necessary to provide sufficient funds
17 for achieving any of its purposes, including, but not limited to,
18 assumption or refinancing of debt service for capital projects
19 eligible for Medi-Cal supplemental payments pursuant to Section
20 14085.5 of the Welfare and Institutions Code, or any successor or
21 modified Medi-Cal debt service reimbursement program, the
22 payment of interest on notes and bonds of the authority, the
23 establishment of reserves to secure those notes and bonds, and all
24 other expenditures of the authority incident to and necessary or
25 convenient to carry out its purposes and powers.

26 (B) Any notes, bonds, or other securities issued, and the income
27 from them, including any profit from the sale thereof, shall at all
28 times be free from taxation by the state or any agency, political
29 subdivision, or instrumentality of the state.

30 (C) Notwithstanding the provisions of subparagraph (A), for
31 any indebtedness, notes, bonds, or other securities that require
32 voter approval pursuant to state law, the prior approval of the board
33 of supervisors shall be required. Notwithstanding the required prior
34 approval of the board of supervisors, any indebtedness incurred,
35 or notes, bonds, or other securities issued pursuant to this
36 subparagraph shall be the indebtedness, notes, bonds, or securities
37 of the authority and not of the county, and the credit of the county
38 shall not be pledged or relied upon in any manner in order to incur
39 the indebtedness, or issue the notes, bonds, or other securities,
40 unless the board of supervisors explicitly authorizes the use of the

1 county's credit. The authority shall reimburse the county for all
2 costs associated with the county's consideration of the
3 indebtedness, notes, bonds, or securities, and the authority shall
4 defend, indemnify, and hold harmless the county from any and all
5 liability, costs, or expenses arising from or related to the
6 indebtedness, notes, bonds, or securities.

7 (D) This section does not preclude the authority from repayment
8 of its debts or other liabilities, using funds that are not otherwise
9 encumbered.

10 (8) To pursue its own credit rating.

11 (9) To enter into a contract or agreement consistent with this
12 chapter or the laws of this state, including, but not limited to,
13 contracting with any public or private entity or person for
14 management or other services and personnel, and to authorize the
15 chief executive officer to enter into contracts, execute all
16 instruments, and do all things necessary or convenient in the
17 exercise of the powers granted in this chapter.

18 (10) To purchase supplies, equipment, materials, property, and
19 services.

20 (11) To establish policies relating to its purposes.

21 (12) To acquire or contract to acquire, rights-of-way, easements,
22 privileges, and property, and to construct, equip, maintain, and
23 operate any and all works or improvements wherever located that
24 are necessary, convenient, or proper to carry out any of the
25 provisions, objects, or purposes of this chapter, and to complete,
26 extend, add to, repair, or otherwise improve any works or
27 improvements acquired by it.

28 (13) To participate in, contract for, and to accept, gifts, grants,
29 and loans of funds, property, or other aid or finance opportunity
30 in any form from the federal government, the state, a state agency,
31 or other source, or combination thereof, as otherwise would be
32 available to a public, government, or private entity, and to comply,
33 subject to this chapter, with the terms and conditions thereof.

34 (14) To invest surplus money in its own treasury, manage
35 investments, and engage third-party investment managers, in
36 accordance with state law.

37 (15) To arrange for guarantees or insurance of its bonds, notes,
38 or other obligations by the federal or state government or by a
39 private insurer, and to pay the premiums thereof.

1 (16) To engage in managed care contracting, joint ventures,
2 affiliations with other health care facilities, other health care
3 providers and payers, management agreements, or to participate
4 in alliances, purchasing consortia, health insurance pools,
5 accountable care organizations, alternative delivery systems, or
6 other cooperative arrangements, with any public or private entity.

7 (17) To enter into joint powers agreements pursuant to Chapter
8 5 (commencing with Section 6500) of Division 7 of Title 1 of the
9 Government Code. Notwithstanding any other law, the authority
10 may enter into a joint powers agreement as described in Section
11 6523.5 of the Government Code as though that section applied to
12 hospitals and other health care facilities in the County of Kern.

13 (18) To establish nonprofit, for-profit, or other entities necessary
14 to carry out the duties of the authority.

15 (19) To elect to transfer funds to the state and incur certified
16 public expenditures in support of the Medi-Cal program and other
17 programs for which federal financial participation is available.

18 (20) To use a computerized management information system,
19 including an electronic health records system, in connection with
20 its operations, including, without limitation, the administration of
21 its facilities.

22 (21) To request that the board of supervisors levy a tax on behalf
23 of the authority. If the board of supervisors approves the proposal
24 to levy the tax, it shall call the election to seek voter approval and
25 place the appropriate measure on the ballot for that election. The
26 proceeds of these taxes shall be tax proceeds of the authority and
27 not of the county. The authority shall reimburse the county for all
28 costs associated with the county's consideration of those taxes,
29 and shall defend, indemnify, and hold harmless the county from
30 any liability, costs, or expenses arising from or related to the
31 imposition of these taxes.

32 (22) Notwithstanding the provisions of this chapter relating to
33 the obligations and liabilities of the authority, or any other law, a
34 transfer of control or ownership of the medical center to the
35 authority pursuant to this chapter shall confer onto the authority
36 all the rights, privileges, and authority set forth in state law to own,
37 operate, and provide coverage and services through hospitals,
38 clinics and other health facilities, health programs, care
39 organizations, physician practice plans, delivery systems, health

1 care service plans, and other coverage mechanisms that may be
2 owned or operated by a county.

3 (23) To engage in other activities that may be in the best interests
4 of the authority and the persons served by the authority, as
5 determined by the board of governors, in order to respond to
6 changes in the health care industry.

7 (b) The authority shall conform to the following requirements:

8 (1) (A) Be a government agency that is a local unit of
9 government separate and apart for all purposes from the county
10 and any other public entity, and shall not be considered to be an
11 agency, division, or department of the county or any other public
12 entity. The authority shall not be governed by or subject to the
13 civil service requirements of the county. Except as otherwise
14 provided for in the enabling ordinance consistent with this chapter,
15 and as set forth in Section 101853.1 relating to the personnel
16 transition plan, the authority is not governed by, or subject to, other
17 policies or operational rules of the county, medical center, or any
18 other public entity, including, but not limited to, those relating to
19 personnel and procurement.

20 (B) The board of governors shall adopt written rules, regulations,
21 and procedures with regard to basic human resource functions not
22 inconsistent with memoranda of understanding covering employees
23 represented by employee organizations or the provisions of this
24 chapter. Until the time that the board of governors adopts its own
25 rules, regulations, or procedures with regard to these functions,
26 the existing rules, regulations, and procedures set forth in any
27 memoranda of understanding described in Section 101853.1, and
28 the rules and regulations adopted by the county and described in
29 paragraph (4), shall continue to apply.

30 (2) Be subject to state and federal taxation laws that are
31 applicable to public entities generally.

32 (3) Except as otherwise specifically provided in this chapter,
33 comply with the Meyers-Milias-Brown Act (Chapter 10
34 commencing with Section 3500) of Division 4 of Title 1 of the
35 Government Code), the California Public Records Act (Chapter
36 3.5 commencing with Section 6250) of Division 7 of Title 1 of
37 the Government Code), and the Ralph M. Brown Act (Chapter 9
38 commencing with Section 54950) of Part 1 of Division 2 of Title
39 5 of the Government Code).

1 (4) Be subject to the jurisdiction of the Public Employment
2 Relations Board. Until the authority adopts rules and regulations
3 pursuant to subdivision (a) of Section 3507 of the Government
4 Code, the existing rules adopted by the county and contained in
5 the county's employer-employee relations resolution, as amended,
6 shall apply, modified to account for the creation of the authority,
7 and provided further that the resolution shall not contain any
8 incorporation of the county's civil service rules or county
9 ordinances unless specifically addressed in this chapter.

10 (5) Carry professional and general liability insurance or
11 programs to the extent sufficient to cover its activities.

12 (6) Comply with the requirements of Sections 53260 and 53261
13 of the Government Code.

14 (7) Maintain financial and accounting records.

15 (8) Meet all local, state, and federal data reporting requirements.

16 (c) Subject to any restrictions applicable to public agencies, and
17 subject to any limitations or conditions set forth in the enabling
18 ordinance adopted by the board of supervisors, the authority may
19 borrow money from the county, repay debt it owes to the county,
20 and use the borrowed funds to provide for its operating and capital
21 needs. The county may lend the authority funds or issue revenue
22 anticipation notes to obtain those funds necessary to meet its
23 operating or capital needs.

24 (d) Open sessions of the authority constitute official proceedings
25 authorized by law within the meaning of Section 47 of the Civil
26 Code. The privileges set forth in that section with respect to official
27 proceedings apply to open sessions of the authority.

28 (e) (1) Notwithstanding any other law, the board of governors
29 may order that a meeting held solely for the purpose of discussion
30 or taking action on authority trade secrets, as defined in subdivision
31 (d) of Section 3426.1 of the Civil Code, or to consider and take
32 action on matters pertaining to contracts and contract negotiations
33 concerning all matters related to rates of payment for health care
34 services arranged or provided by the authority, shall be held in
35 closed session. Trade secrets, for purposes of this chapter, also
36 include information for which the secrecy of the information is
37 necessary for the authority to initiate a new service, program,
38 marketing strategy, business plan, or technology, or to add a benefit
39 or product, and premature disclosure of the trade secret would

1 create a substantial probability of depriving the authority of a
2 substantial economic benefit or opportunity.

3 (2) The requirements of making a public report of actions taken
4 in closed session and the vote or abstention of every member
5 present may be limited to a brief general description devoid of the
6 information constituting the trade secret or concerning the matters
7 related to rates of payment.

8 (3) Records of the authority that reveal the authority's trade
9 secrets are exempt from disclosure pursuant to the California Public
10 Records Act (Chapter 3.5 (commencing with Section 6250) of
11 Division 7 of Title 1 of the Government Code), or any similar local
12 law requiring the disclosure of public records. This exemption
13 shall apply for a period of two years after the service, program,
14 marketing strategy, business plan, technology, benefit, or product
15 that is the subject of the trade secret is formally adopted by the
16 governing body of the authority, provided that the service, program,
17 marketing strategy, business plan, technology, benefit, or product
18 continues to be a trade secret. The board of governors may delete
19 the portion or portions containing trade secrets from any documents
20 that were finally approved in the closed session that are provided
21 to persons who have made the timely or standing request.

22 (4) This chapter does not prevent the board of governors from
23 meeting in closed session as otherwise provided by law.

24 (f) Notwithstanding any other law, those records of the authority
25 and of the county that reveal the authority's rates of payment for
26 health care services arranged or provided by the authority or its
27 deliberative processes, strategies, discussions, communications,
28 or any other portion of the negotiations with providers of health
29 care services or Medi-Cal, health care plans, or other payers for
30 rates of payment, shall not be required to be disclosed pursuant to
31 the California Public Records Act (Chapter 3.5 (commencing with
32 Section 6250) of Division 7 of Title 1 of the Government Code),
33 or any similar local law requiring the disclosure of public records.
34 However, three years after a contract or amendment to a contract
35 is fully executed, the portion of the contract or amendment
36 containing the rates of payment shall be open to inspection.

37 (g) The authority is a public agency that is a local unit of
38 government for purposes of eligibility with respect to grants and
39 other funding and loan guarantee programs. Contributions to the
40 authority are tax deductible to the extent permitted by state and

1 federal law. Nonproprietary income of the authority is exempt
2 from state income taxation.

3 (h) Unless otherwise provided by the board of supervisors by
4 way of resolution, the authority is empowered, or the board of
5 supervisors is empowered on behalf of the authority, to apply as
6 a public agency for one or more licenses for the provision of health
7 care or the operation of a health care service plan pursuant to
8 statutes and regulations governing licensing as currently written
9 or subsequently amended.

10 (i) The statutory authority of a board of supervisors to prescribe
11 rules that authorize a county hospital to integrate its services with
12 those of other providers into a system of community service that
13 offers free choice of hospitals to those requiring hospital care, as
14 set forth in Section 14000.2 of the Welfare and Institutions Code,
15 apply to the authority and the board of governors.

16 (j) (1) Except as otherwise provided in this chapter, provisions
17 of the Evidence Code, the Government Code, including the
18 California Public Records Act (Chapter 3.5 (commencing with
19 Section 6250) of Division 7 of Title 1 of the Government Code),
20 the Civil Code, the Business and Professions Code, and other
21 applicable law pertaining to the confidentiality of peer review
22 activities of peer review bodies apply to the peer review activities
23 of the authority, or any peer review body, as defined in paragraph
24 (1) of subdivision (a) of Section 805 of the Business and
25 Professions Code, formed pursuant to the powers granted to the
26 authority. The laws pertaining to the confidentiality of peer review
27 activities shall be together construed as extending, to the extent
28 permitted by law, the maximum degree of protection of
29 confidentiality.

30 (2) Notwithstanding Article 9 (commencing with Section 11120)
31 of Chapter 1 of Part 1 of Division 3 of Title 2 of, and Chapter 9
32 (commencing with Section 54950) of Part 1 of Division 2 of Title
33 5 of, the Government Code, or any other provision of law, any
34 peer review body formed pursuant to the powers granted to the
35 authority, may, at its discretion and without notice to the public,
36 meet in closed session, so long as the purpose of the meeting is
37 the peer review body's discharge of its responsibility to evaluate
38 and improve the quality of care rendered by health facilities and
39 health practitioners. The peer review body and its members shall
40 receive, to the fullest extent, all immunities, privileges, and

1 protections available to those peer review bodies, their individual
2 members, and persons or entities assisting in the peer review
3 process, including those afforded by Section 1157 of the Evidence
4 Code and Section 1370. Peer review proceedings shall constitute
5 an official proceeding authorized by law within the meaning of
6 Section 47 of the Civil Code and those privileges set forth in that
7 section with respect to official proceedings shall apply to peer
8 review proceedings of the authority.

9 (3) Notwithstanding the California Public Records Act (Chapter
10 3.5 (commencing with Section 6250) of Division 7 of Title 1 of
11 the Government Code), or Article 9 (commencing with Section
12 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of, and
13 Chapter 9 (commencing with Section 54950) of Part 1 of Division
14 2 of Title 5 of, the Government Code, or any other provision of
15 state or local law requiring disclosure of public records, those
16 records of a peer review body formed pursuant to the powers
17 granted to the authority, shall not be required to be disclosed. The
18 records and proceedings of the peer review body and its individual
19 members shall receive, to the fullest extent, all immunities,
20 privileges, and protections available to those records and
21 proceedings, including those afforded by Section 1157 of the
22 Evidence Code and Section 1370.

23 (4) If the authority is required by law or contractual obligation
24 to submit to the state or federal government peer review
25 information or information relevant to the credentialing of a
26 participating provider, that submission does not constitute a waiver
27 of confidentiality.

28 (5) Notwithstanding any other law, Section 1461 applies to
29 hearings on reports of hospital medical audit or quality assurance
30 committees.

31 (k) Except as expressly provided by other provisions of this
32 section, all exemptions and exclusions from disclosure as public
33 records pursuant to this chapter and the California Public Records
34 Act, including, but not limited to, those pertaining to trade secrets
35 and information withheld in the public interest, are fully applicable
36 to the authority, and for the board of supervisors, and all state and
37 local agencies with respect to all writings that the authority is
38 required to prepare, produce, or submit, and which shall not
39 constitute a waiver of exemption from disclosure.

1 (l) The authority and the county, or any combination thereof,
2 may engage in marketing, advertising, and promotion of the
3 medical and health care services made available to the community
4 by the authority.

5 (m) The board of governors has authority over procurement and
6 contracts for the authority. The board of governors shall adopt
7 written rules, regulations, and procedures with regard to these
8 functions. Contracts by and between the authority and a public
9 agency, and contracts by and between the authority and providers
10 of health care, goods, or services, may be let on a nonbid basis and
11 shall be exempt from Chapter 2 (commencing with Section 10290)
12 of Part 2 of Division 2 of the Public Contract Code.

13 (n) The authority may contract with the county for services and
14 personnel upon mutually agreeable terms.

15 (o) Notwithstanding Article 4.7 (commencing with Section
16 1125) of Chapter 1 of Division 4 of Title 1 of the Government
17 Code, related to incompatible activities, Section 1099 of the
18 Government Code, related to incompatible offices, or any other
19 law, a member of the authority's administrative staff shall not be
20 considered to hold an incompatible office or to be engaged in
21 activities inconsistent and incompatible with his or her duties as
22 a result of his or her employment or affiliation with the county or
23 an agency of the county.

24 (p) The board of governors and the officers and employees of
25 the authority are public employees for purposes of Division 3.6
26 (commencing with Section 810) of Title 1 of the Government
27 Code, relating to claims and actions against public entities and
28 public employees, and shall be protected by the immunities
29 applicable to public entities and public employees governed by
30 Part 2 (commencing with Section 814) of Division 3.6 of Title 1
31 of the Government Code, except as provided by other statutes or
32 regulations that apply expressly to the authority.

33 ~~SEC. 334.~~

34 *SEC. 336.* Section 101855.1 of the Health and Safety Code is
35 amended to read:

36 101855.1. (a) Transfer by the county to the authority of the
37 maintenance, operation, and management or ownership of the
38 medical center, whether or not the transfer includes the
39 surrendering by the county of the existing general acute care
40 hospital license and corresponding application for a change of

1 ownership of the license, does not affect the eligibility of the county
2 to undertake, and authorizes the authority, subject to applicable
3 requirements, to do any of the following:

4 (1) With the written consent of the county, participate in and
5 receive allocations pursuant to the California Health Care for
6 Indigents Program pursuant to Chapter 5 (commencing with
7 Section 16940) of Part 4.7 of Division 9 of the Welfare and
8 Institutions Code, or similar programs, as may be identified or
9 earmarked by the county for indigent health care services of the
10 type provided by the medical center.

11 (2) With the written consent of the county, participate in and
12 receive allocations of local revenue fund amounts provided
13 pursuant to Chapter 6 (commencing with Section 17600) of Part
14 5 of Division 9 of the Welfare and Institutions Code as may be
15 identified or earmarked by the county for indigent health care
16 services of the type provided by the medical center.

17 (3) Participate in the financing of, as applicable, and receive,
18 Medicaid disproportionate share hospital payments available to a
19 county hospital or designated public hospital, or any other
20 successor or modified payment or funding that is intended to assist
21 hospitals that serve a disproportionate share of low-income patients
22 with special needs. The allocation of Medicaid disproportionate
23 share hospital payments shall be made in consultation with the
24 State Department of Health Care Services and other designated
25 safety net hospitals.

26 (4) Participate in the financing of, as applicable, and receive,
27 Medi-Cal payments and supplemental reimbursements, including,
28 but not limited to, payments made pursuant to Sections 14105.96,
29 14105.965, 14166.4, 14182.15, and 14199.2 of the Welfare and
30 Institutions Code, payments described in paragraph (4) of
31 subdivision (b) of Section 14301.4 of, and Section 14301.5 of, the
32 Welfare and Institutions Code, and payments made available to a
33 county provider or designated public hospital, or governmental
34 entity with which it is affiliated, under any other successor or
35 modified Medicaid payment system.

36 (5) Participate in the financing of, as applicable, and receive,
37 safety net care pool funding, stabilization funding, delivery system
38 reform incentive pool payments, and any other funding available
39 to a county provider or designated public hospital, or governmental
40 entities with which it is affiliated under the Medicaid demonstration

1 project authorized pursuant to Article 5.2 (commencing with
2 Section 14166) and Article 5.4 (commencing with Section 14180)
3 of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions
4 Code, or under any other successor or modified Medicaid
5 demonstration project or Medicaid payment system. The allocation
6 of safety net care pool funds shall be made in consultation with
7 the State Department of Health Care Services and other designated
8 safety net hospitals.

9 (6) Participate in the financing, administration, and provision
10 of services under the Low Income Health Program authorized
11 pursuant to Part 3.6 (commencing with Section 15909) of Division
12 9 of the Welfare and Institutions Code, or under any other successor
13 or modified Medicaid demonstration project or Medicaid payment
14 system if the authority enters into an agreement with the county
15 concerning the provision of services by, and payment for these
16 services to, the county.

17 (7) Participate in and receive direct grant and payment
18 allocations pursuant to Article 5.230 (commencing with Section
19 14169.50) of Chapter 7 of Part 3 of Division 9 of the Welfare and
20 Institutions Code, or under any other successor or modified direct
21 grant and payment systems funded by hospital or other provider
22 fee assessments.

23 (8) Receive Medi-Cal capital supplements pursuant to Section
24 14085.5 of the Welfare and Institutions Code, or any other
25 successor or modified Medi-Cal debt service reimbursement
26 program. Notwithstanding any other law, supplemental payments
27 shall be made to the medical center under those programs for the
28 debt service costs incurred by the county, and, if applicable, by
29 the authority to the extent that debt service responsibility is
30 refinanced, transferred to, or otherwise assumed by, directly or
31 indirectly, the authority.

32 (9) Receive any other funds, or preference in the assignment of
33 health care plan enrollees, that would otherwise be available to a
34 county health plan, provider, or designated public hospital, or
35 governmental entity with which it is affiliated.

36 (b) The transfer of the medical center to the authority pursuant
37 to this chapter does not otherwise disqualify the county or the
38 authority from participating in any of the following:

39 (1) Local, state, and federal funding sources either specific to
40 county or other publicly owned or operated health care service

1 plans, hospitals, or other health care providers, including, but not
2 limited to, ambulatory care clinics, health systems, practices,
3 designated public hospitals, or governmental entities with which
4 they are affiliated, for which there are special provisions specific
5 to those plans, hospitals, ambulatory care clinics, health systems,
6 practices, other health care providers or governmental entities with
7 which they are affiliated.

8 (2) All funding programs in which the county, by itself or on
9 behalf of the medical center, had participated prior to the creation
10 of the authority, or would otherwise be qualified to participate in
11 had the authority not been created, and the maintenance, operation,
12 and management or ownership of the medical center not been
13 transferred to the authority pursuant to this chapter.

14 ~~SEC. 335.~~

15 *SEC. 337.* Chapter 6 (commencing with Section 101860) of
16 Part 4 of Division 101 of the Health and Safety Code, as added by
17 Section 2 of Chapter 925 of the Statutes of 1997, is repealed.

18 ~~SEC. 336.~~

19 *SEC. 338.* Section 102430 of the Health and Safety Code, as
20 added by Section 7 of Chapter 334 of the Statutes of 2014, is
21 amended to read:

22 102430. (a) The second section of the certificate of live birth
23 as specified in subdivision (b) of Section 102425, the electronic
24 file of birth information collected pursuant to subparagraphs (B)
25 to (F), inclusive, of paragraph (2) of subdivision (a) of Section
26 102426, the birth mother linkage collected pursuant to Section
27 102425.2, and the second section of the certificate of fetal death
28 as specified in Section 103025, are confidential. Access to the
29 confidential portion of any certificate of live birth or fetal death,
30 the electronic file of birth information collected pursuant to
31 subparagraphs (B) to (F), inclusive, of paragraph (2) of subdivision
32 (a) of Section 102426, and the birth mother linkage collected
33 pursuant to Section 102425.2 shall be limited to the following:

34 (1) Department staff.

35 (2) Local registrar's staff and local health department staff when
36 approved by the local registrar or local health officer, respectively.

37 (3) The county coroner.

38 (4) Persons with a valid scientific interest as determined by the
39 State Registrar, who are engaged in demographic, epidemiological,
40 or other similar studies related to health, and who agree to maintain

1 confidentiality as prescribed by this part and by regulation of the
2 State Registrar.

3 (5) The parent who signed the certificate or, if no parent signed
4 the certificate, the mother.

5 (6) The person named on the certificate.

6 (7) A person who has petitioned to adopt the person named on
7 the certificate of live birth, subject to Section 102705 of the Health
8 and Safety Code and Sections 9200 and 9203 of the Family Code.

9 (b) (1) The department shall maintain an accurate record of all
10 persons who are given access to the confidential portion of the
11 certificates. The record shall include all of the following:

12 (A) The name of the person authorizing access.

13 (B) The name, title, and organizational affiliation of persons
14 given access.

15 (C) The dates of access.

16 (D) The specific purpose for which the information is to be
17 used.

18 (2) The record of access shall be open to public inspection
19 during normal operating hours of the department.

20 (c) All research proposed to be conducted using the confidential
21 medical and social information on the birth certificate or fetal death
22 certificate shall first be reviewed by the appropriate committee
23 constituted for the protection of human subjects that is approved
24 by the federal Department of Health and Human Services and has
25 a general assurance pursuant to Part 46 of Title 45 of the Code of
26 Federal Regulations. Information shall not be released until the
27 request for information has been reviewed by the Vital Statistics
28 Advisory Committee and the committee has recommended to the
29 State Registrar that the information shall be released.

30 (d) This section shall become operative on January 1, 2016.

31 *SEC. 339. Section 102825 of the Health and Safety Code is*
32 *amended to read:*

33 102825. ~~The~~(a) The physician and surgeon last in attendance,
34 or in the case of a patient in a skilled nursing or intermediate care
35 facility at the time of death, the physician and surgeon last in
36 attendance or a licensed physician assistant under the supervision
37 of the physician and surgeon last in attendance, on a deceased
38 person shall state on the certificate of death the disease or condition
39 directly leading to death, antecedent causes, other significant
40 conditions contributing to death and any other medical and health

1 section data as may be required on the certificate; he or she shall
 2 also specify the time in attendance, the time he or she last saw the
 3 deceased person alive, and the hour and day on which death
 4 occurred, except in deaths required to be investigated by the
 5 coroner. The physician and surgeon or physician assistant shall
 6 specifically indicate the existence of any cancer as defined in
 7 subdivision ~~(e)~~ (h) of Section 103885, of which the physician and
 8 surgeon or physician assistant has actual knowledge.

9 ~~A~~

10 (b) A physician and surgeon may designate, one or more other
 11 physicians and surgeons who have access to the physician and
 12 surgeon’s records, to act as agent for the physician and surgeon
 13 for purposes of the performance of his or her duties under this
 14 section, provided that any person so designated acts in consultation
 15 with the physician and surgeon.

16 ~~SEC. 337.~~

17 *SEC. 340.* The heading of Chapter 2 (commencing with Section
 18 104145) of Part 1 of Division 103 of the Health and Safety Code
 19 is amended to read:

20

21

CHAPTER 2. CANCER

22

23 ~~SEC. 338.~~

24 *SEC. 341.* Section 111825 of the Health and Safety Code is
 25 amended to read:

26

111825. (a) A person who violates a provision of this part or
 27 a regulation adopted pursuant to this part shall, if convicted, be
 28 subject to imprisonment for not more than one year in a county
 29 jail or a fine of not more than one thousand dollars (\$1,000), or
 30 both the imprisonment and fine.

31

(b) Notwithstanding subdivision (a), a person who violates
 32 Section 111865 by removing, selling, or disposing of an embargoed
 33 food, drug, device, or cosmetic without the permission of an
 34 authorized agent of the department or court shall, if convicted, be
 35 subject to imprisonment for not more than one year in a county
 36 jail or a fine of not more than ten thousand dollars (\$10,000), or
 37 both the fine and imprisonment.

38

(c) (1) Notwithstanding subdivision (a), a person who purchases
 39 or sells a foreign dangerous drug or medical device, an illegitimate
 40 product, as defined in Section 360eee(8) of Title 21 of the United

1 States Code, or a suspect product, as defined in Section 360eee(21)
2 of Title 21 of the United States Code, that is not approved or
3 otherwise authorized by the United States Food and Drug
4 Administration or that is obtained outside of the licensed supply
5 chain regulated by the United States Food and Drug
6 Administration, California State Board of Pharmacy, or State
7 Department of Public Health is guilty of a misdemeanor and subject
8 to imprisonment for not more than one year in a county jail, a fine
9 of not more than ten thousand dollars (\$10,000) per occurrence,
10 or both the imprisonment and fine.

11 (2) This subdivision does not apply to those individuals
12 determined by the United States Food and Drug Administration
13 to have acted in compliance with the requirements under Part H
14 (commencing with Section 360eee) of Subchapter V of Chapter 9
15 of Title 21 of the United States Code with regard to the illegitimate
16 or suspect products.

17 (d) If the violation is committed after a previous conviction
18 under this section that has become final, or if the violation is
19 committed with intent to defraud or mislead, or if the person
20 committed a violation of Section 110625 or 111300 that was
21 intentional or that was intended to cause injury, the person shall
22 be subject to imprisonment for not more than one year in a county
23 jail, imprisonment in the state prison, or a fine of not more than
24 ten thousand dollars (\$10,000), or both the imprisonment and fine.

25 (e) This section does not preclude punishment under any other
26 law that provides for a greater punishment.

27 ~~SEC. 339.~~

28 *SEC. 342.* Section 115880 of the Health and Safety Code is
29 amended to read:

30 115880. (a) The department shall, by regulation and in
31 consultation with the board, local health officers, and the public,
32 establish, maintain, and amend as necessary, minimum standards
33 for the sanitation of public beaches, including, but not limited to,
34 the removal of refuse, as it determines are reasonably necessary
35 for the protection of the public health and safety.

36 (b) Prior to final adoption or amendment by the department, the
37 regulations and standards required by this section shall undergo
38 an external comprehensive review process similar to the process
39 set forth in Section 57004.

40 (c) The regulations shall, at a minimum, do all of the following:

1 (1) Require the testing of the waters adjacent to all public
2 beaches for microbiological contaminants, including, but not
3 limited to, total coliform, fecal coliform, and enterococci bacteria.
4 The department may require the testing of waters adjacent to all
5 public beaches for microbiological indicators other than those set
6 forth in this paragraph, or a subset of those set forth in this
7 paragraph, if the department affirmatively establishes, based on
8 the best available scientific studies and the weight of the evidence,
9 that the alternative indicators are as protective of the public health.

10 (2) Establish protective minimum standards for total coliform,
11 fecal coliform, and enterococci bacteria, or for other
12 microbiological indicators that the department determines are
13 appropriate for testing pursuant to paragraph (1).

14 (3) Require that the waters adjacent to public beaches are tested
15 for total coliform, fecal coliform, and enterococci bacteria, or for
16 other microbiological indicators that the department determines
17 are appropriate for testing pursuant to paragraph (1). Except as set
18 forth in subdivision (e), testing shall be conducted on at least a
19 weekly basis from April 1 to October 31, inclusive, of each year
20 beginning in 2012, if both of the following apply:

21 (A) The beach is visited by more than 50,000 people annually.

22 (B) The beach is located on an area adjacent to a storm drain
23 that flows in the summer.

24 (d) Notwithstanding subdivision (a), if a local health officer
25 demonstrates or has demonstrated through side-by-side testing
26 over a beach season that the use of United States Environmental
27 Protection Agency method 1609 or 1611, or any equivalent or
28 improved rapid detection method published by the United States
29 Environmental Protection Agency for use in beach water quality
30 assessment or approved as an alternative test procedure pursuant
31 to Part 136 of Title 40 of the Code of Federal Regulations, to
32 determine the level of enterococci bacteria as a single indicator
33 provides a reliable indication of overall microbiological
34 contamination conditions at one or more beach locations within
35 that health officer's jurisdiction, the department may authorize the
36 use of that testing method at those beach locations instead of other
37 testing methods. In making that determination, the department
38 shall take into account whether an alternative indicator or subset
39 of indicators, with the associated test method, can provide results

1 more quickly, thereby reducing the period of time the public is at
2 risk while waiting for contamination to be confirmed.

3 (e) The monitoring frequency and locations established pursuant
4 to this section and related regulations may be reduced or altered
5 only after the testing required pursuant to paragraph (3) of
6 subdivision (c) reveals levels of microbiological contaminants that
7 do not exceed, for a period of two years, the minimum protective
8 standards established pursuant to this section.

9 (f) The local health officer is responsible for testing the waters
10 adjacent to, and coordinating the testing of, all public beaches
11 within his or her jurisdiction.

12 (g) The local health officer may meet the testing requirements
13 of this section by utilizing test results from other parties conducting
14 microbiological contamination testing of the waters under his or
15 her jurisdiction.

16 (h) This section does not require a wastewater treatment agency
17 or other party conducting microbiological contamination testing
18 of the waters under his or her jurisdiction, who provides those test
19 results to a local health officer pursuant to this section, to use
20 United States Environmental Protection Agency method 1609 or
21 1611, or any equivalent or improved rapid detection method
22 published by the United States Environmental Protection Agency
23 for use in beach water quality assessment or approved as an
24 alternative test procedure pursuant to Part 136 of Title 40 of the
25 Code of Federal Regulations, for total maximum daily load
26 implementation, waste discharge requirements, or other monitoring
27 programs required to be implemented pursuant to Division 7
28 (commencing with Section 13000) of the Water Code.

29 (i) Any city or county may adopt standards for the sanitation of
30 public beaches within its jurisdiction that are stricter than the
31 standards adopted by the department pursuant to this section.

32 ~~SEC. 340.~~

33 *SEC. 343.* Section 116283 of the Health and Safety Code, as
34 amended by Section 11 of Chapter 298 of the Statutes of 2009, is
35 repealed.

36 ~~SEC. 341.~~

37 *SEC. 344.* Section 116612 of the Health and Safety Code, as
38 added by Section 11 of Chapter 814 of the Statutes of 1997, is
39 repealed.

1 ~~SEC. 342.~~

2 *SEC. 345.* Section 116612 of the Health and Safety Code, as
3 added by Section 3 of Chapter 815 of the Statutes of 1997, is
4 amended to read:

5 116612. On or before January 1, 1999, the California Drinking
6 Water and Toxic Enforcement Act scientific advisory panel shall
7 make a recommendation to the Office of Environmental Health
8 Hazard Assessment on whether MTBE should be listed as a
9 carcinogenic or reproductive toxin as set forth in Chapter 1
10 (commencing with Section 25102) of Division 4 of Title 27 of the
11 California Code of Regulations.

12 ~~SEC. 343.~~

13 *SEC. 346.* Section 119316 of the Health and Safety Code is
14 amended to read:

15 119316. (a) A mobile body art facility shall meet all the
16 applicable requirements in Article 1 (commencing with Section
17 119300) to Article 4 (commencing with Section 119312), inclusive,
18 and Article 6 (commencing with Section 119319), unless
19 specifically exempted by this article.

20 (b) A mobile body art facility that is either a special purpose
21 commercial modular and coach, as defined by Section 18012.5,
22 or a commercial modular coach, as defined by Section 18001.8,
23 shall be certified by the Department of Housing and Community
24 Development, consistent with Chapter 4 (commencing with Section
25 18025) of Part 2 of Division 13, and regulations promulgated
26 pursuant to that chapter.

27 (c) The Department of Motor Vehicles occupational licensing
28 requirements, Division 5 (commencing with Section 11100) of the
29 Vehicle Code, also apply to these mobile body art facilities.

30 (d) The local enforcement agency shall approve all equipment
31 installation prior to operation.

32 ~~SEC. 344.~~

33 *SEC. 347.* Section 120155 of the Health and Safety Code, as
34 amended by Section 174 of Chapter 130 of the Statutes of 2007,
35 is amended and renumbered to read:

36 120160. (a) Any manufacturer or distributor of the influenza
37 vaccine, or nonprofit health care service plan that exclusively
38 contracts with a single medical group in a specified geographic
39 area to provide, or to arrange for the provision of, medical services
40 to its enrollees, shall report the information described in subdivision

1 (c) relating to the supply of the influenza vaccine to the department
2 upon notice from the department.

3 (b) Within each county or city health jurisdiction, entities that
4 have possession of, or have a legal right to obtain possession of,
5 the influenza vaccine, or entities that are conducting or intend to
6 conduct influenza clinics for the public, their residents, or their
7 employees, except those entities described in subdivision (a), shall
8 cooperate with the local health officer in determining local
9 inventories of influenza vaccine, including providing inventory,
10 orders, and distribution lists in a timely manner, when necessary.

11 (c) The information reported pursuant to subdivision (a) shall
12 include, but is not limited to, the amount of the influenza vaccine
13 that has been shipped, and the name, address, and, if applicable,
14 the telephone number of the recipient.

15 (d) Subdivisions (a), (b), and (c) do not apply to a physician
16 and surgeon practice, unless the practice is an occupational health
17 provider who conducts influenza vaccination campaigns on behalf
18 of a corporation.

19 (e) It is the intent of the Legislature in enacting this section to
20 assist small physician and surgeon practices, nursing facilities, and
21 other health care providers that provide care for patients at risk of
22 illness or death from influenza by facilitating the sharing of vaccine
23 supplies, if necessary, between providers within a local jurisdiction.

24 (f) If a business believes that the information required by this
25 section involves the release of a trade secret, the business shall
26 nevertheless disclose the information to the department, and shall
27 notify the department in writing of that belief at the time of
28 disclosure. As used in this section, “trade secret” has the meanings
29 given to it by Section 6254.7 of the Government Code and Section
30 1061 of the Evidence Code. Any information, including identifying
31 information, including, but not limited to, the name of the agent
32 or contact person of an entity that receives the influenza vaccine
33 from a manufacturer or distributor, or nonprofit health care service
34 plan described in subdivision (a), and the receiving entity’s address
35 and telephone number, that is reported pursuant to this section
36 shall not be disclosed by the department to anyone, except to an
37 officer or employee of the county, city, city and county, or the
38 state in connection with the official duties of that officer or
39 employee to protect the public health.

1 *SEC. 348. Section 120262 of the Health and Safety Code is*
2 *amended to read:*

3 120262. Notwithstanding Chapter 7 (commencing with Section
4 120975) or any other ~~provision~~ of law, the blood or other tissue
5 or material of a source patient may be tested, and an exposed
6 individual may be informed whether the patient has tested positive
7 or negative for a communicable disease if the exposed individual
8 and the health care facility, if any, have substantially complied
9 with the then applicable guidelines of the Division of Occupational
10 Safety and Health and the State Department of Health Services
11 and if the following procedure is followed:

12 (a) (1) ~~Whenever~~ *If* a person becomes an exposed individual
13 by experiencing an exposure to the blood or other potentially
14 infectious material of a patient during the course of rendering
15 health care-related services or occupational services, the exposed
16 individual may request an evaluation of the exposure by a physician
17 to determine if it is a significant exposure, as defined in subdivision
18 (h) of Section 120261. ~~No~~ *A* physician or other exposed individual
19 shall *not* certify his or her own significant exposure. However, an
20 employing physician may certify the exposure of one of his or her
21 employees. Requests for certification shall be made in writing
22 within 72 hours of the exposure.

23 (2) A written certification by a physician of the significance of
24 the exposure shall be obtained within 72 hours of the request. The
25 certification shall include the nature and extent of the exposure.

26 (b) (1) The exposed individual shall be counseled regarding
27 the likelihood of transmission, the limitations of the testing
28 performed, the need for followup testing, and the procedures that
29 the exposed individual must follow regardless of whether the
30 source patient has tested positive or negative for a communicable
31 disease. The exposed individual may be tested in accordance with
32 the then applicable guidelines or standards of the Division of
33 Occupational Safety and Health. The result of this test shall be
34 confirmed as negative before available blood or other patient
35 samples of the source patient may be tested for evidence of
36 infection to a communicable disease, without the consent of the
37 source patient pursuant to subdivision (d).

38 (2) Within 72 hours of certifying the exposure as significant,
39 the certifying physician shall provide written certification to an
40 attending physician of the source patient that a significant exposure

1 to an exposed individual has occurred, and shall request
2 information on whether the source patient has tested positive or
3 negative for a communicable disease, and the availability of blood
4 or other patient samples. An attending physician shall respond to
5 the request for information within three working days.

6 (c) If test results of the source patient are already known to be
7 positive for a communicable disease then, except as provided in
8 subdivisions (b) and (c) of Section 121010, when the exposed
9 individual is a health care provider or an employee or agent of the
10 health care provider of the source patient, an attending physician
11 and surgeon of the source patient shall attempt to obtain the consent
12 of the source patient to disclose to the exposed *individual* the
13 testing results of the source patient regarding communicable
14 diseases. If the source patient cannot be contacted or refuses to
15 consent to the disclosure, then the exposed individual may be
16 informed of the test results regarding communicable diseases of
17 the source patient by an attending physician of the source patient
18 as soon as possible after the exposure has been certified as
19 significant, notwithstanding Section 120980 or any other ~~provision~~
20 ~~of law~~.

21 (d) If the communicable disease status of the source patient is
22 unknown to the certifying physician or an attending physician, if
23 blood or other patient samples are available, and if the exposed
24 individual has tested negative on a baseline test for communicable
25 diseases, the source patient shall be given the opportunity to give
26 informed consent to a test for communicable diseases in accordance
27 with the following:

28 (1) Within 72 hours after receiving a written certification of
29 significant exposure, an attending physician of the source patient
30 shall do all of the following:

31 (A) Make a good faith effort to notify the source patient or the
32 authorized legal representative of the source patient about the
33 significant exposure. A good faith effort to notify includes, but is
34 not limited to, a documented attempt to locate the source patient
35 by telephone or by first-class mail with a certificate of mailing.
36 An attempt to locate the source patient and the results of that
37 attempt shall be documented in the medical record of the source
38 patient. An inability to contact the source patient, or legal
39 representative of the source patient, after a good faith effort to do
40 so as provided in this subdivision, shall constitute a refusal of

1 consent pursuant to paragraph (2). An inability of the source patient
2 to provide informed consent shall constitute a refusal of consent
3 pursuant to paragraph (2), provided all of the following conditions
4 are met:

5 (i) The source patient has no authorized legal representative.
6 (ii) The source patient is incapable of giving consent.
7 (iii) In the opinion of the attending physician, it is likely that
8 the source patient will be unable to grant informed consent within
9 the 72-hour period during which the physician is required to
10 respond pursuant to paragraph (1).

11 (B) Attempt to obtain the voluntary informed consent of the
12 source patient or the authorized legal representative of the source
13 patient to perform a test for a communicable disease, on the source
14 patient or on any available blood or patient sample of the source
15 patient. The voluntary informed consent shall be in writing. The
16 source patient shall have the option not to be informed of the test
17 result. An exposed individual shall be prohibited from attempting
18 to obtain directly informed consent for testing for communicable
19 diseases from the source patient.

20 (C) Provide the source patient with medically appropriate
21 pretest counseling and refer the source patient to appropriate
22 posttest counseling and followup, if necessary. The source patient
23 shall be offered medically appropriate counseling whether or not
24 he or she consents to testing.

25 (2) If the source patient or the authorized legal representative
26 of the source patient refuses to consent to test for a communicable
27 disease after a documented effort has been made to obtain consent,
28 any available blood or patient sample of the source patient may
29 be tested. The source patient or authorized legal representative of
30 the source patient shall be informed that an available blood sample
31 or other tissue or material will be tested despite his or her refusal,
32 and that the exposed individual shall be informed of the test results
33 regarding communicable diseases.

34 (3) If the informed consent of the source patient cannot be
35 obtained because the source patient is deceased, consent to perform
36 a test for a communicable disease on any blood or patient sample
37 of the source patient legally obtained in the course of providing
38 health care services at the time of the exposure event shall be
39 deemed granted.

1 (4) A source patient or the authorized legal representative of a
2 source patient shall be advised that he or she shall be informed of
3 the results of the test for communicable diseases only if he or she
4 wishes to be so informed. If a patient refuses to provide informed
5 consent to testing for communicable diseases and refuses to learn
6 the results of the testing, he or she shall sign a form documenting
7 this refusal. The source patient's refusal to sign this form shall be
8 construed to be a refusal to be informed of the test results regarding
9 communicable diseases. Test results for communicable diseases
10 shall only be placed in the medical record when the patient has
11 agreed in writing to be informed of the results.

12 (5) Notwithstanding any other ~~provision of law~~, if the source
13 patient or authorized legal representative of a source patient refuses
14 to be informed of the results of the test, the test results regarding
15 communicable diseases of that source patient shall only be provided
16 to the exposed individual in accordance with the then applicable
17 regulations established by the Division of Occupational Safety and
18 Health.

19 (6) The source patient's identity shall be encoded on the
20 communicable disease test result record.

21 (e) If an exposed individual is informed of the status of a source
22 patient with regard to a communicable disease pursuant to this
23 section, the exposed individual shall be informed that he or she is
24 subject to existing confidentiality protections for any identifying
25 information about the communicable disease test results, and that
26 medical information regarding the communicable disease status
27 of the source patient shall be kept confidential and may not be
28 further disclosed, except as otherwise authorized by law. The
29 exposed individual shall be informed of the penalties for which
30 he or she would be personally liable for violation of Section
31 120980.

32 (f) The costs for the test and counseling for communicable
33 diseases of the exposed individual, or the source patient, or both,
34 shall be borne by the employer of the exposed individual, if any.
35 An employer who directs and controls the exposed individual shall
36 provide the postexposure evaluation and followup required by the
37 ~~California~~ Division of Occupational Safety and Health as well as
38 the testing and counseling for source patients required under this
39 chapter. If an exposed individual is a volunteer or a student, then
40 the health care provider or first responder that assigned a task to

1 the volunteer or student may pay for the costs of testing and
 2 counseling as if that volunteer or student were an employee. If an
 3 exposed individual, who is not an employee of a health facility or
 4 of another health care provider, chooses to obtain postexposure
 5 evaluation or followup counseling, or both, or treatment, he or she
 6 shall be financially responsible for the costs thereof and shall be
 7 responsible for the costs of the testing and counseling for the source
 8 patient.

9 ~~(g) Nothing in this~~ *This section authorizes does not authorize*
 10 the disclosure of the source patient's identity.

11 ~~(h) Nothing in this~~ *This section shall does not* authorize a health
 12 care provider to draw blood or other body fluids except as
 13 otherwise authorized by law.

14 (i) The provisions of this section are cumulative only and shall
 15 not preclude testing of source patients for a communicable disease,
 16 as authorized by any other ~~provision~~ of law.

17 (j) Except as otherwise provided under this section, all
 18 confidentiality requirements regarding medical records that are
 19 provided for under existing law apply to this section.

20 ~~SEC. 345.~~

21 *SEC. 349.* Section 120393 of the Health and Safety Code is
 22 amended to read:

23 120393. (a) The State Department of Public Health shall post
 24 educational information, in accordance with the latest
 25 recommendations of the federal Centers for Disease Control and
 26 Prevention, regarding influenza disease and the availability of
 27 influenza vaccinations on the department's Internet Web site. It is
 28 the intent of the Legislature to increase the average number of
 29 Californians who receive an influenza vaccination.

30 (b) The educational information posted on the department's
 31 Internet Web site pursuant to subdivision (a) shall include, but not
 32 be limited to, all of the following:

- 33 (1) The health benefits of an influenza vaccination.
- 34 (2) That the influenza vaccination may be a covered benefit for
 35 those with health insurance coverage.
- 36 (3) That influenza vaccinations may be available for a minimal
 37 fee to those individuals who do not have health insurance coverage.
- 38 (4) The locations where free or low-cost vaccinations are
 39 available.

1 (c) The department may use additional available resources to
2 educate the public about the information described in subdivision
3 (b), including public service announcements, media events, public
4 outreach to individuals and groups who are susceptible to influenza,
5 and any other preventive and wellness education efforts
6 recommended by public health officials.

7 ~~SEC. 346.~~

8 *SEC. 350.* Section 121025 of the Health and Safety Code is
9 amended to read:

10 121025. (a) Public health records relating to human
11 immunodeficiency virus (HIV) or acquired immunodeficiency
12 syndrome (AIDS), containing personally identifying information,
13 that were developed or acquired by a state or local public health
14 agency, or an agent of that agency, are confidential and shall not
15 be disclosed, except as otherwise provided by law for public health
16 purposes or pursuant to a written authorization by the person who
17 is the subject of the record or by his or her guardian or conservator.

18 (b) In accordance with subdivision (g) of Section 121022, a
19 state or local public health agency, or an agent of that agency, may
20 disclose personally identifying information in public health records,
21 as described in subdivision (a), to other local, state, or federal
22 public health agencies or to corroborating medical researchers,
23 when the confidential information is necessary to carry out the
24 duties of the agency or researcher in the investigation, control, or
25 surveillance of disease, as determined by the state or local public
26 health agency.

27 (c) Any disclosures authorized by subdivision (a), (b), or this
28 subdivision shall include only the information necessary for the
29 purpose of that disclosure and shall be made only upon the
30 agreement that the information will be kept confidential as
31 described in subdivision (a). Except as provided in paragraphs (1)
32 to (3), inclusive, or as otherwise provided by law, any disclosure
33 authorized by subdivision (a) or (b) shall not be made without
34 written authorization as described in subdivision (a). Any
35 unauthorized further disclosure shall be subject to the penalties
36 described in subdivision (e).

37 (1) Notwithstanding any other law, the following disclosures
38 are authorized for the purpose of enhancing the completeness of
39 reporting to the federal Centers for Disease Control and Prevention
40 (CDC) of HIV/AIDS and coinfection with tuberculosis, syphilis,

1 gonorrhea, chlamydia, hepatitis B, hepatitis C, and meningococcal
2 infection:

3 (A) The local public health agency HIV surveillance staff may
4 further disclose the information to the health care provider who
5 provides HIV care to the HIV-positive person who is the subject
6 of the record for the purpose of assisting in compliance with
7 subdivision (a) of Section 121022.

8 (B) Local public health agency tuberculosis control staff may
9 further disclose the information to state public health agency
10 tuberculosis control staff, who may further disclose the information,
11 without disclosing patient identifying information, to the CDC, to
12 the extent the information is requested by the CDC and permitted
13 by subdivision (b), for purposes of the investigation, control, or
14 surveillance of HIV and tuberculosis coinfections.

15 (C) Local public health agency sexually transmitted disease
16 control staff may further disclose the information to state public
17 health agency sexually transmitted disease control staff, who may
18 further disclose the information, without disclosing patient
19 identifying information, to the CDC, to the extent it is requested
20 by the CDC and permitted by subdivision (b), for the purposes of
21 the investigation, control, or surveillance of HIV and syphilis,
22 gonorrhea, or chlamydia coinfection.

23 (D) For purposes of the investigation, control, or surveillance
24 of HIV and its coinfection with hepatitis B, hepatitis C, and
25 meningococcal infection, local public health agency communicable
26 disease staff may further disclose the information to state public
27 health agency staff, who may further disclose the information,
28 without disclosing patient identifying information, to the CDC to
29 the extent the information is requested by the CDC and permitted
30 by subdivision (b).

31 (2) Notwithstanding any other law, the following disclosures
32 are authorized for the purpose of facilitating appropriate HIV/AIDS
33 medical care and treatment:

34 (A) State public health agency HIV surveillance staff, AIDS
35 Drug Assistance Program staff, and care services staff may further
36 disclose the information to local public health agency staff, who
37 may further disclose the information to the HIV-positive person
38 who is the subject of the record, or the health care provider who
39 provides his or her HIV care, for the purpose of proactively offering
40 and coordinating care and treatment services to him or her.

1 (B) AIDS Drug Assistance Program staff and care services staff
2 in the State Department of Public Health may further disclose the
3 information directly to the HIV-positive person who is the subject
4 of the record or the health care provider who provides his or her
5 HIV care, for the purpose of proactively offering and coordinating
6 care and treatment services to him or her.

7 (C) Local public health agency staff may further disclose
8 acquired or developed information to the HIV-positive person who
9 is the subject of the record or the health care provider who provides
10 his or her HIV care for the purpose of proactively offering and
11 coordinating care and treatment services to him or her.

12 (3) Notwithstanding any other law, for the purpose of facilitating
13 appropriate medical care and treatment of persons coinfectd with
14 HIV and tuberculosis, syphilis, gonorrhea, chlamydia, hepatitis B,
15 hepatitis C, or meningococcal infection, local public health agency
16 sexually transmitted disease control, communicable disease control,
17 and tuberculosis control staff may further disclose the information
18 to state or local public health agency sexually transmitted disease
19 control, communicable disease control, and tuberculosis control
20 staff, the HIV-positive person who is the subject of the record, or
21 the health care provider who provides his or her HIV, tuberculosis,
22 hepatitis B, hepatitis C, meningococcal infection, and sexually
23 transmitted disease care.

24 (4) For the purposes of paragraphs (2) and (3), “staff” does not
25 include nongovernmental entities, but shall include state and local
26 contracted employees who work within state and local public health
27 departments.

28 (d) A confidential public health record, as defined in subdivision
29 (c) of Section 121035, shall not be disclosed, discoverable, or
30 compelled to be produced in any civil, criminal, administrative,
31 or other proceeding.

32 (e) (1) A person who negligently discloses the content of a
33 confidential public health record, as defined in subdivision (c) of
34 Section 121035, to a third party, except pursuant to a written
35 authorization, as described in subdivision (a), or as otherwise
36 authorized by law, shall be subject to a civil penalty in an amount
37 not to exceed five thousand dollars (\$5,000), plus court costs, as
38 determined by the court. The penalty and costs shall be paid to the
39 person whose record was disclosed.

1 (2) A person who willfully or maliciously discloses the content
2 of any confidential public health record, as defined in subdivision
3 (c) of Section 121035, to a third party, except pursuant to a written
4 authorization, or as otherwise authorized by law, shall be subject
5 to a civil penalty in an amount not less than five thousand dollars
6 (\$5,000) and not more than twenty-five thousand dollars (\$25,000),
7 plus court costs, as determined by the court. The penalty and costs
8 shall be paid to the person whose confidential public health record
9 was disclosed.

10 (3) A person who willfully, maliciously, or negligently discloses
11 the content of a confidential public health record, as defined in
12 subdivision (c) of Section 121035, to a third party, except pursuant
13 to a written authorization, or as otherwise authorized by law, that
14 results in economic, bodily, or psychological harm to the person
15 whose confidential public health record was disclosed, is guilty
16 of a misdemeanor, punishable by imprisonment in a county jail
17 for a period not to exceed one year, or a fine of not to exceed
18 twenty-five thousand dollars (\$25,000), or both, plus court costs,
19 as determined by the court. The penalty and costs shall be paid to
20 the person whose confidential public health record was disclosed.

21 (4) A person who commits an act described in paragraph (1),
22 (2), or (3) is liable to the person whose confidential public health
23 record was disclosed for all actual damages for economic, bodily,
24 or psychological harm that is a proximate result of the act.

25 (5) Each violation of this section is a separate and actionable
26 offense.

27 (6) This section does not limit or expand the right of an injured
28 person whose confidential public health record was disclosed to
29 recover damages under any other applicable law.

30 (f) In the event that a confidential public health record, as
31 defined in subdivision (c) of Section 121035, is disclosed, the
32 information shall not be used to determine employability or
33 insurability of a person.

34 ~~SEC. 347.~~

35 *SEC. 351.* Section 123223 of the Health and Safety Code is
36 amended to read:

37 123223. (a) The Children's Medical Services Rebate Fund is
38 hereby created as a special fund in the State Treasury.

39 (b) All rebates for the delivery of health care, medical supplies,
40 pharmaceuticals, including blood replacement products, and

1 equipment for clients enrolled in the state funded Genetically
2 Handicapped Persons Program, Chapter 2 (commencing with
3 Section 125125) of Part 5, and the California Children’s Services
4 Program, Article 5 (commencing with Section 123800) of Chapter
5 3 of Part 2, and, notwithstanding Section 16305.7 of the
6 Government Code, interest earned on these moneys, shall be
7 deposited in the Children’s Medical Services Rebate Fund
8 exclusively to cover costs related to services, and the administration
9 of services, provided through the Genetically Handicapped Persons
10 Program and California Children’s Services Program.

11 (c) Notwithstanding Section 13340 of the Government Code,
12 moneys in the Children’s Medical Services Rebate Fund are
13 continuously appropriated without regard to fiscal year to the State
14 Department of Health Care Services and available for expenditure
15 for those purposes specified under this section.

16 ~~SEC. 348.~~

17 *SEC. 352.* Section 124995 of the Health and Safety Code is
18 amended to read:

19 124995. The following programs shall comply with the
20 regulations established pursuant to the Hereditary Disorders Act,
21 as defined in Section 27:

22 (a) The California Children’s Services Program under Article
23 5 (commencing with Section 123800) of Chapter 3 of Part 2.

24 (b) Prenatal testing programs for newborns under Sections
25 125050 to 125065, inclusive.

26 (c) Medical testing programs for newborns under the Maternal
27 and Child Health Program Act, as defined in Section 27.

28 (d) Programs of the genetic disease unit under Section 125000.

29 (e) Child health and disability prevention programs under
30 Article 6 (commencing with Section 124025) of Chapter 3 of Part
31 2 and Section 120475.

32 (f) Genetically Handicapped Persons Program under Article 1
33 (commencing with Section 125125) of Chapter 2.

34 (g) Medi-Cal Benefits Program under Article 4 (commencing
35 with Section 14131) of Chapter 7 of Part 3 of Division 9 of the
36 Welfare and Institutions Code.

37 ~~SEC. 349.~~

38 *SEC. 353.* Section 125125 of the Health and Safety Code is
39 amended to read:

1 125125. This article shall be known and may be cited as the
2 Holden-Moscone-Garamendi Genetically Handicapped Persons
3 Program.

4 ~~SEC. 350.~~

5 *SEC. 354.* Section 125130 of the Health and Safety Code is
6 amended to read:

7 125130. (a) The Director of Health Care Services shall
8 establish and administer a program for the medical care of persons
9 with genetically handicapping conditions, including cystic fibrosis,
10 hemophilia, sickle cell disease, Huntington’s disease, Friedreich’s
11 Ataxia, Joseph’s disease, Von Hippel-Landau syndrome, and the
12 following hereditary metabolic disorders: phenylketonuria,
13 homocystinuria, branched chain amino acidurias, disorders of
14 propionate and methylmalonate metabolism, urea cycle disorders,
15 hereditary orotic aciduria, Wilson’s Disease, galactosemia,
16 disorders of lactate and pyruvate metabolism, tyrosinemia,
17 hyperornithinemia, and other genetic organic acidemias that require
18 specialized treatment or service available from only a limited
19 number of program-approved sources.

20 (b) The program shall also provide access to social support
21 services, that may help ameliorate the physical, psychological, and
22 economic problems attendant to genetically handicapping
23 conditions, in order that the genetically handicapped person may
24 function at an optimal level commensurate with the degree of
25 impairment.

26 (c) The medical and social support services may be obtained
27 through physicians and surgeons Genetically Handicapped Persons
28 Program specialized centers, and other providers that qualify
29 pursuant to the regulations of the department to provide the
30 services. “Medical care,” as used in this section, is limited to
31 noncustodial medical and support services.

32 (d) The director shall adopt regulations that are necessary for
33 the implementation of this article.

34 ~~SEC. 351.~~

35 *SEC. 355.* Section 125160 of the Health and Safety Code is
36 amended to read:

37 125160. The department shall receive and expend all funds
38 made available to it by the federal government, the state, its
39 political subdivisions or from other sources for the purposes of

1 this article. Payment for the Genetically Handicapped Persons
2 Program shall be made by the department.

3 ~~SEC. 352.~~

4 *SEC. 356.* Section 125175 of the Health and Safety Code is
5 amended to read:

6 125175. The health care benefits and services specified in this
7 article, to the extent that the benefits and services are neither
8 provided under any other federal or state law nor provided nor
9 available under other contractual or legal entitlements of the person,
10 shall be provided to any patient who is a resident of this state and
11 is made eligible by this article. After the patient has utilized the
12 contractual or legal entitlements, the payment liability under
13 Section 125166 shall then be applied to the remaining cost of
14 genetically handicapped persons' services.

15 ~~SEC. 353.~~

16 *SEC. 357.* Section 125190 of the Health and Safety Code is
17 amended to read:

18 125190. Notwithstanding any other law, the department is
19 considered to be the purchaser, but not the dispenser or distributor,
20 of blood factor products under the Genetically Handicapped
21 Persons Program. The department may receive manufacturers'
22 discounts, rebates, or refunds based on the quantities purchased
23 under the Genetically Handicapped Persons Program. The
24 discounts, rebates, or refunds received pursuant to this section
25 shall be separate from any agreements for discounts, rebates, or
26 refunds negotiated pursuant to Section 14105.3 of the Welfare and
27 Institutions Code or any other program.

28 ~~SEC. 354.~~

29 *SEC. 358.* Section 125191 of the Health and Safety Code is
30 amended to read:

31 125191. (a) The department may enter into contracts with one
32 or more manufacturers on a negotiated or bid basis as the purchaser,
33 but not the dispenser or distributor, of factor replacement therapies
34 under the Genetically Handicapped Persons Program for the
35 purpose of enabling the department to obtain the full range of
36 available therapies and services required for clients with
37 hematological disorders at the most favorable price and to enable
38 the department, notwithstanding any other state law, to obtain
39 discounts, rebates, or refunds from the manufacturers based upon
40 the large quantities purchased under the program. This subdivision

1 does not interfere with the usual and customary distribution
2 practices of factor replacement therapies. In order to achieve
3 maximum cost savings, the Legislature hereby determines that an
4 expedited contract process under this section is necessary.
5 Therefore, a contract under this subdivision may be entered into
6 on a negotiated basis and is exempt from Chapter 2 (commencing
7 with Section 10290) of Part 2 of Division 2 of the Public Contract
8 Code and Chapter 6 (commencing with Section 14825) of Part 5.5
9 of Division 3 of Title 2 of the Government Code. Contracts entered
10 pursuant to this subdivision shall be confidential and shall be
11 exempt from disclosure under the California Public Records Act
12 (Chapter 3.5 (commencing with Section 6250) of Division 7 of
13 Title 1 of the Government Code).

14 (b) (1) Factor replacement therapy manufacturers shall calculate
15 and pay interest on late or unpaid rebates. The interest does not
16 apply to any prior period adjustments of unit rebate amounts or
17 department utilization adjustments. Manufacturers shall calculate
18 and pay interest on late or unpaid rebates for quarters that begin
19 on or after the effective date of the act that added this subdivision.

20 (2) Following the final resolution of any dispute regarding the
21 amount of a rebate, any underpayment by a manufacturer shall be
22 paid with interest calculated pursuant to paragraph (4), and any
23 overpayment, together with interest at the rate calculated pursuant
24 to paragraph (4), shall be credited by the department against future
25 rebates due.

26 (3) Interest pursuant to paragraphs (1) and (2) shall begin
27 accruing 38 calendar days from the date of mailing the invoice,
28 including supporting utilization data sent to the manufacturer.
29 Interest shall continue to accrue until the date of mailing of the
30 manufacturer's payment.

31 (4) Interest rates and calculations pursuant to paragraphs (1)
32 and (2) shall be identical to interest rates and calculations set forth
33 in the federal Centers for Medicare and Medicaid Services'
34 Medicaid Drug Rebate Program Releases or regulations.

35 (c) If the department has not received a rebate payment,
36 including interest, within 180 days of the date of mailing of the
37 invoice, including supporting utilization data, a factor replacement
38 therapy manufacturer's contract with the department shall be
39 deemed to be in default and the contract may be terminated in
40 accordance with the terms of the contract. This subdivision does

1 not limit the department's right to otherwise terminate a contract
2 in accordance with the terms of that contract.

3 (d) The department may enter into contracts on a bid or
4 negotiated basis with manufacturers, distributors, dispensers, or
5 suppliers of pharmaceuticals, appliances, durable medical
6 equipment, medical supplies, and other product-type health care
7 services and laboratories for the purpose of obtaining the most
8 favorable prices to the state and to assure adequate access and
9 quality of the product or service. In order to achieve maximum
10 cost savings, the Legislature hereby determines that an expedited
11 contract process under this subdivision is necessary. Therefore,
12 contracts under this subdivision may be entered into on a negotiated
13 basis and shall be exempt from Chapter 2 (commencing with
14 Section 10290) of Part 2 of Division 2 of the Public Contract Code
15 and Chapter 6 (commencing with Section 14825) of Part 5.5 of
16 Division 3 of Title 2 of the Government Code.

17 (e) The department may contract with one or more
18 manufacturers of each multisource prescribed product or supplier
19 of outpatient clinical laboratory services on a bid or negotiated
20 basis. Contracts for outpatient clinical laboratory services shall
21 require that the contractor be a clinical laboratory licensed or
22 certified by the State of California or certified under Section 263a
23 of Title 42 of the United States Code. This subdivision shall not
24 be construed as prohibiting the department from contracting with
25 less than all manufacturers or clinical laboratories, including just
26 one manufacturer or clinical laboratory, on a bid or negotiated
27 basis.

28 ~~SEC. 355.~~

29 *SEC. 359.* The heading of Part 8 (commencing with Section
30 125700) of Division 106 of the Health and Safety Code is amended
31 to read:

32

33 **PART 8. ADULT HEALTH**

34

35 ~~SEC. 356.~~

36 *SEC. 360.* Chapter 4 (commencing with Section 128200) of
37 Part 3 of Division 107 of the Health and Safety Code, as added by
38 Section 9 of Chapter 415 of the Statutes of 1995, is repealed.

1 requests for the deadline extension directly to interested parties
2 upon request of the interested parties.

3 (B) Provide copies of extension requests to interested parties
4 within 10 working days to allow interested parties to review and
5 provide comment within the 45-day comment period. The copies
6 shall include those records that are available to the public pursuant
7 to the California Public Records Act (Chapter 3.5 (commencing
8 with Section 6250) of Division 7 of Title 1 of the Government
9 Code).

10 (C) Allow the public to submit written comments on the
11 extension proposal for a period of not less than 45 days from the
12 date of the public notice.

13 (b) (1) It is the intent of the Legislature, in enacting this
14 subdivision, to facilitate the process of having more hospital
15 buildings in substantial compliance with this chapter and to take
16 nonconforming general acute care hospital inpatient buildings out
17 of service more quickly.

18 (2) The functional contiguous grouping of hospital buildings of
19 a general acute care hospital, each of which provides, as the
20 primary source, one or more of the hospital's eight basic services
21 as specified in subdivision (a) of Section 1250, may receive a
22 five-year extension of the January 1, 2008, deadline specified in
23 subdivision (a) of this section pursuant to this subdivision for both
24 structural and nonstructural requirements. A functional contiguous
25 grouping refers to buildings containing one or more basic hospital
26 services that are either attached or connected in a way that is
27 acceptable to the State Department of Health Care Services. These
28 buildings may be either on the existing site or a new site.

29 (3) To receive the five-year extension, a single building
30 containing all of the basic services or at least one building within
31 the contiguous grouping of hospital buildings shall have obtained
32 a building permit prior to 1973 and this building shall be evaluated
33 and classified as a nonconforming, Structural Performance
34 Category-1 (SPC-1) building. The classification shall be submitted
35 to and accepted by the Office of Statewide Health Planning and
36 Development. The identified hospital building is exempt from the
37 requirement in subdivision (a) until January 1, 2013, if the hospital
38 agrees that the basic service or services that were provided in that
39 building shall be provided, on or before January 1, 2013, as
40 follows:

- 1 (A) Moved into an existing conforming Structural Performance
2 Category-3 (SPC-3), Structural Performance Category-4 (SPC-4),
3 or Structural Performance Category-5 (SPC-5) and Non-Structural
4 Performance Category-4 (NPC-4) or Non-Structural Performance
5 Category-5 (NPC-5) building.
- 6 (B) Relocated to a newly built compliant SPC-5 and NPC-4 or
7 NPC-5 building.
- 8 (C) Continued in the building if the building is retrofitted to a
9 SPC-5 and NPC-4 or NPC-5 building.
- 10 (4) A five-year extension is also provided to a post-1973
11 building if the hospital owner informs the Office of Statewide
12 Health Planning and Development that the building is classified
13 as SPC-1, SPC-3, or SPC-4 and will be closed to general acute
14 care inpatient service use by January 1, 2013. The basic services
15 in the building shall be relocated into a SPC-5 and NPC-4 or NPC-5
16 building by January 1, 2013.
- 17 (5) SPC-1 buildings, other than the building identified in
18 paragraph (3) or (4), in the contiguous grouping of hospital
19 buildings is also exempt from the requirement in subdivision (a)
20 until January 1, 2013. However, on or before January 1, 2013, at
21 a minimum, each of these buildings shall be retrofitted to a SPC-2
22 and NPC-3 building, or no longer be used for general acute care
23 hospital inpatient services.
- 24 (c) On or before March 1, 2001, the office shall establish a
25 schedule of interim work progress deadlines that hospitals shall
26 be required to meet to be eligible for the extension specified in
27 subdivision (b). To receive this extension, the hospital building or
28 buildings shall meet the year 2002 nonstructural requirements.
- 29 (d) A hospital building that is eligible for an extension pursuant
30 to this section shall meet the January 1, 2030, nonstructural and
31 structural deadline requirements if the building is to be used for
32 general acute care inpatient services after January 1, 2030.
- 33 (e) Upon compliance with subdivision (b), the hospital shall be
34 issued a written notice of compliance by the office. The office
35 shall send a written notice of violation to hospital owners that fail
36 to comply with this section. The office shall make copies of these
37 notices available on its Internet Web site.
- 38 (f) (1) A hospital that has received an extension of the January
39 1, 2008, deadline pursuant to subdivision (a) or (b) may request
40 an additional extension of up to two years for a hospital building

1 that it owns or operates and that meets the criteria specified in
2 paragraph (2), (3), or (5).

3 (2) The office may grant the additional extension if the hospital
4 building subject to the extension meets all of the following criteria:

5 (A) The hospital building is under construction at the time of
6 the request for extension under this subdivision and the purpose
7 of the construction is to meet the requirements of subdivision (a)
8 to allow the use of the building as a general acute care hospital
9 building after the extension deadline granted by the office pursuant
10 to subdivision (a) or (b).

11 (B) The hospital building plans were submitted to the office
12 and were deemed ready for review by the office at least four years
13 prior to the applicable deadline for the building. The hospital shall
14 indicate, upon submission of its plans, the SPC-1 building or
15 buildings that will be retrofitted or replaced to meet the
16 requirements of this section as a result of the project.

17 (C) The hospital received a building permit for the construction
18 described in subparagraph (A) at least two years prior to the
19 applicable deadline for the building.

20 (D) The hospital submitted a construction timeline at least two
21 years prior to the applicable deadline for the building demonstrating
22 the hospital's intent to meet the applicable deadline. The timeline
23 shall include all of the following:

24 (i) The projected construction start date.

25 (ii) The projected construction completion date.

26 (iii) Identification of the contractor.

27 (E) The hospital is making reasonable progress toward meeting
28 the timeline set forth in subparagraph (D), but factors beyond the
29 hospital's control make it impossible for the hospital to meet the
30 deadline.

31 (3) The office may grant the additional extension if the hospital
32 building subject to the extension meets all of the following criteria:

33 (A) The hospital building is owned by a health care district that
34 has, as owner, received the extension of the January 1, 2008,
35 deadline, but the hospital is operated by an unaffiliated third-party
36 lessee pursuant to a facility lease that extends at least through
37 December 31, 2009. The district shall file a declaration with the
38 office with a request for an extension stating that, as of the date
39 of the filing, the district has lacked, and continues to lack,
40 unrestricted access to the subject hospital building for seismic

1 planning purposes during the term of the lease, and that the district
2 is under contract with the county to maintain hospital services
3 when the hospital comes under district control. The office shall
4 not grant the extension if an unaffiliated third-party lessee will
5 operate the hospital beyond December 31, 2010.

6 (B) The hospital building plans were submitted to the office
7 and were deemed ready for review by the office at least four years
8 prior to the applicable deadline for the building. The hospital shall
9 indicate, upon submission of its plans, the SPC-1 building or
10 buildings that will be retrofitted or replaced to meet the
11 requirements of this section as a result of the project.

12 (C) The hospital received a building permit for the construction
13 described in subparagraph (B) by December 31, 2011.

14 (D) The hospital submitted, by December 31, 2011, a
15 construction timeline for the building demonstrating the hospital's
16 intent and ability to meet the deadline of December 31, 2014. The
17 timeline shall include all of the following:

- 18 (i) The projected construction start date.
- 19 (ii) The projected construction completion date.
- 20 (iii) Identification of the contractor.

21 (E) The hospital building is under construction at the time of
22 the request for the extension, the purpose of the construction is to
23 meet the requirements of subdivision (a) to allow the use of the
24 building as a general acute care hospital building after the extension
25 deadline granted by the office pursuant to subdivision (a) or (b),
26 and the hospital is making reasonable progress toward meeting
27 the timeline set forth in subparagraph (D).

28 (F) The hospital granted an extension pursuant to this paragraph
29 shall submit an additional status report to the office, equivalent to
30 that required by subdivision (c) of Section 130061, no later than
31 June 30, 2013.

32 (4) An extension granted pursuant to paragraph (3) is applicable
33 only to the health care district applicant and its affiliated hospital
34 while the hospital is operated by the district or an entity under the
35 control of the district.

36 (5) The office may grant the additional extension if the hospital
37 building subject to the extension meets all of the following criteria:

38 (A) The hospital owner submitted to the office, prior to June
39 30, 2009, a request for review using current computer modeling
40 utilized by the office and based upon software developed by the

1 Federal Emergency Management Agency (FEMA), referred to as
2 Hazards US, and the building was deemed SPC-1 after that review.

3 (B) The hospital building plans for the building are submitted
4 to the office and deemed ready for review by the office prior to
5 July 1, 2010. The hospital shall indicate, upon submission of its
6 plans, the SPC-1 building or buildings that shall be retrofitted or
7 replaced to meet the requirements of this section as a result of the
8 project.

9 (C) The hospital receives a building permit from the office for
10 the construction described in subparagraph (B) prior to January 1,
11 2012.

12 (D) The hospital submits, prior to January 1, 2012, a
13 construction timeline for the building demonstrating the hospital's
14 intent and ability to meet the applicable deadline. The timeline
15 shall include all of the following:

- 16 (i) The projected construction start date.
- 17 (ii) The projected construction completion date.
- 18 (iii) Identification of the contractor.

19 (E) The hospital building is under construction at the time of
20 the request for the extension, the purpose of the construction is to
21 meet the requirements of subdivision (a) to allow the use of the
22 building as a general acute care hospital building after the extension
23 deadline granted by the office pursuant to subdivision (a) or (b),
24 and the hospital is making reasonable progress toward meeting
25 the timeline set forth in subparagraph (D).

26 (F) The hospital owner completes construction such that the
27 hospital meets all criteria to enable the office to issue a certificate
28 of occupancy by the applicable deadline for the building.

29 (6) A hospital located in the County of Sacramento, San Mateo,
30 or Santa Barbara or the City of San Jose that has received an
31 additional extension pursuant to paragraph (2) or (5) may request
32 an additional extension until September 1, 2015, to obtain either
33 a certificate of occupancy from the office for a replacement
34 building, or a construction final from the office for a building on
35 which a retrofit has been performed.

36 (7) A hospital denied an extension pursuant to this subdivision
37 may appeal the denial to the Hospital Building Safety Board.

38 (8) The office may revoke an extension granted pursuant to this
39 subdivision for any hospital building where the work of
40 construction is abandoned or suspended for a period of at least one

1 year, unless the hospital demonstrates in a public document that
2 the abandonment or suspension was caused by factors beyond its
3 control.

4 (g) (1) Notwithstanding subdivisions (a), (b), (c), and (f), and
5 Sections 130061.5 and 130064, a hospital that has received an
6 extension of the January 1, 2008, deadline pursuant to subdivision
7 (a) or (b) also may request an additional extension of up to seven
8 years for a hospital building that it owns or operates. The office
9 may grant the extension subject to the hospital meeting the
10 milestones set forth in paragraph (2).

11 (2) The hospital building subject to the extension shall meet all
12 of the following milestones, unless the hospital building is
13 reclassified as SPC-2 or higher as a result of its Hazards US score:

14 (A) The hospital owner submits to the office, no later than
15 September 30, 2012, a letter of intent stating whether it intends to
16 rebuild, replace, or retrofit the building, or remove all general acute
17 care beds and services from the building, and the amount of time
18 necessary to complete the construction.

19 (B) The hospital owner submits to the office, no later than
20 September 30, 2012, a schedule detailing why the requested
21 extension is necessary, and specifically how the hospital intends
22 to meet the requested deadline.

23 (C) The hospital owner submits to the office, no later than
24 September 30, 2012, an application ready for review seeking
25 structural reassessment of each of its SPC-1 buildings using current
26 computer modeling based upon software developed by FEMA,
27 referred to as Hazards US.

28 (D) The hospital owner submits to the office, no later than
29 January 1, 2015, plans ready for review consistent with the letter
30 of intent submitted pursuant to subparagraph (A) and the schedule
31 submitted pursuant to subparagraph (B).

32 (E) The hospital owner submits a financial report to the office
33 at the time the plans are submitted pursuant to subparagraph (D).
34 The report shall demonstrate the hospital owner's financial capacity
35 to implement the construction plans submitted pursuant to
36 subparagraph (D).

37 (F) The hospital owner receives a building permit consistent
38 with the letter of intent submitted pursuant to subparagraph (A)
39 and the schedule submitted pursuant to subparagraph (B), no later
40 than July 1, 2018.

1 (3) To evaluate public safety and determine whether to grant
2 an extension of the deadline, the office shall consider the structural
3 integrity of the hospital's SPC-1 buildings based on its Hazards
4 US scores, community access to essential hospital services, and
5 the hospital owner's financial capacity to meet the deadline as
6 determined by either a bond rating of BBB or below or the financial
7 report on the hospital owner's financial capacity submitted pursuant
8 to subparagraph (E) of paragraph (2). The criteria contained in this
9 paragraph shall be considered by the office in its determination of
10 the length of an extension or whether an extension should be
11 granted.

12 (4) The extension or subsequent adjustments granted pursuant
13 to this subdivision may not exceed the amount of time that is
14 reasonably necessary to complete the construction specified in
15 paragraph (2).

16 (5) If the circumstances underlying the request for extension
17 submitted to the office pursuant to paragraph (2) change, the
18 hospital owner shall notify the office as soon as practicable, but
19 in no event later than six months after the hospital owner
20 discovered the change of circumstances. The office may adjust the
21 length of the extension granted pursuant to paragraphs (2) and (3)
22 as necessary, but in no event longer than the period specified in
23 paragraph (1).

24 (6) A hospital denied an extension pursuant to this subdivision
25 may appeal the denial to the Hospital Building Safety Board.

26 (7) The office may revoke an extension granted pursuant to this
27 subdivision for any hospital building when it is determined that
28 any information submitted pursuant to this section was falsified,
29 or if the hospital failed to meet a milestone set forth in paragraph
30 (2), or when the work of construction is abandoned or suspended
31 for a period of at least six months, unless the hospital demonstrates
32 in a publicly available document that the abandonment or
33 suspension was caused by factors beyond its control.

34 (8) Regulatory submissions made by the office to the California
35 Building Standards Commission to implement this section shall
36 be deemed to be emergency regulations and shall be adopted as
37 emergency regulations.

38 (9) The hospital owner that applies for an extension pursuant
39 to this subdivision shall pay the office an additional fee, to be
40 determined by the office, sufficient to cover the additional

1 reasonable costs incurred by the office for maintaining the
 2 additional reporting requirements established under this section,
 3 including, but not limited to, the costs of reviewing and verifying
 4 the extension documentation submitted pursuant to this subdivision.
 5 This additional fee shall not include any cost for review of the
 6 plans or other duties related to receiving a building or occupancy
 7 permit.

8 (10) This subdivision shall become operative on the date that
 9 the State Department of Health Care Services receives all necessary
 10 federal approvals for a 2011–12 fiscal year hospital quality
 11 assurance fee program that includes three hundred twenty million
 12 dollars (\$320,000,000) in fee revenue to pay for health care
 13 coverage for children, which is made available as a result of the
 14 legislative enactment of a 2011–12 fiscal year hospital quality
 15 assurance fee program.

16 ~~SEC. 359.~~

17 *SEC. 363.* Section 136000 of the Health and Safety Code is
 18 amended to read:

19 136000. (a) (1) The Office of Patient Advocate is hereby
 20 established within the California Health and Human Services
 21 Agency, to provide assistance to, and advocate on behalf of, health
 22 care consumers. The goal of the office shall be to coordinate
 23 amongst, provide assistance to, and collect data from, all of the
 24 state agency consumer assistance or patient assistance programs
 25 and call centers, to better enable health care consumers to access
 26 the health care services to which they are eligible under the law,
 27 including, but not limited to, commercial and Exchange coverage,
 28 Medi-Cal, Medicare, and federal veterans health benefits.
 29 Notwithstanding any provision of this division, each regulator and
 30 health coverage program shall retain its respective authority,
 31 including its authority to resolve complaints, grievances, and
 32 appeals.

33 (2) The office shall be headed by a patient advocate appointed
 34 by the Governor. The patient advocate shall serve at the pleasure
 35 of the Governor.

36 (b) (1) The duties of the office shall include, but not be limited
 37 to, all of the following:

38 (A) Coordinate and work in consultation with state agency and
 39 local, nongovernment health care consumer or patient assistance
 40 programs and health care ombudsperson programs.

1 (B) Produce a baseline review and annual report to be made
2 publically available on the office’s Internet Web site by July 1,
3 2015, and annually thereafter, of health care consumer or patient
4 assistance help centers, call centers, ombudsperson, or other
5 assistance centers operated by the Department of Managed Health
6 Care, the State Department of Health Care Services, the Department
7 of Insurance, and the Exchange, that includes, at a minimum, all
8 of the following:

- 9 (i) The types of calls received and the number of calls.
- 10 (ii) The call center’s role with regard to each type of call,
11 question, complaint, or grievance.
- 12 (iii) The call center’s protocol for responding to requests for
13 assistance from health care consumers, including any performance
14 standards.
- 15 (iv) The protocol for referring or transferring calls outside the
16 jurisdiction of the call center.
- 17 (v) The call center’s methodology of tracking calls, complaints,
18 grievances, or inquiries.

19 (C) (i) Collect, track, and analyze data on problems and
20 complaints by, and questions from, consumers about health care
21 coverage for the purpose of providing public information about
22 problems faced and information needed by consumers in obtaining
23 coverage and care. The data collected shall include demographic
24 data, source of coverage, regulator, type of problem or issue or
25 comparable types of problems or issues, and resolution of
26 complaints, including timeliness of resolution. Notwithstanding
27 Section 10231.5 of the Government Code, the office shall submit
28 a report by July 1, 2015, and annually thereafter to the Legislature.
29 The report shall be submitted in compliance with Section 9795 of
30 the Government Code. The format may be modified annually as
31 needed based upon comments from the Legislature and
32 stakeholders.

33 (ii) For the purpose of publically reporting information as
34 required in subparagraph (B) and this subparagraph about the
35 problems faced by consumers in obtaining care and coverage, the
36 office shall analyze data on consumer complaints and grievances
37 resolved by the agencies listed in subdivision (c), including
38 demographic data, source of coverage, insurer or plan, resolution
39 of complaints, and other information intended to improve health
40 care and coverage for consumers.

1 (D) Make recommendations, in consultation with stakeholders,
2 for improvement or standardization of the health consumer
3 assistance functions, referral process, and data collection and
4 analysis.

5 (E) Develop model protocols, in consultation with consumer
6 assistance call centers and stakeholders, that may be used by call
7 centers for responding to and referring calls that are outside the
8 jurisdiction of the call center, program, or regulator.

9 (F) Compile an annual publication, to be made publically
10 available on the office's Internet Web site, of a quality of care
11 report card, including, but not limited, to health care service plans,
12 preferred provider organizations, and medical groups.

13 (G) Make referrals to the appropriate state agency, whether
14 further or additional actions may be appropriate, to protect the
15 interests of consumers or patients.

16 (H) Assist in the development of educational and informational
17 guides for consumers and patients describing their rights and
18 responsibilities and informing them on effective ways to exercise
19 their rights to secure and access health care coverage, produced
20 by the Department of Managed Health Care, the State Department
21 of Health Care Services, the Exchange, and the Department of
22 Insurance, and to endeavor to make those materials easy to read
23 and understand and available in all threshold languages, using an
24 appropriate literacy level and in a culturally competent manner.

25 (I) Coordinate with other state and federal agencies engaged in
26 outreach and education regarding the implementation of federal
27 health care reform, and to assist in these duties, may provide or
28 assist in the provision of grants to community-based consumer
29 assistance organizations for these purposes.

30 (J) If appropriate, refer consumers to the appropriate regulator
31 of their health coverage programs for filing complaints or
32 grievances.

33 (2) The office shall employ necessary staff. The office may
34 employ or contract with experts when necessary to carry out the
35 functions of the office. The patient advocate shall make an annual
36 budget request for the office that shall be identified in the annual
37 Budget Act.

38 (3) The patient advocate shall annually issue a public report on
39 the activities of the office, and shall appear before the appropriate
40 policy and fiscal committees of the Senate and Assembly, if

1 requested, to report and make recommendations on the activities
2 of the office.

3 (4) The office shall adopt standards for the organizations with
4 which it contracts pursuant to this section to ensure compliance
5 with the privacy and confidentiality laws of this state, including,
6 but not limited to, the Information Practices Act of 1977 (Chapter
7 1 (commencing with Section 1798) of Title 1.8 of Part 4 of
8 Division 3 of the Civil Code). The office shall conduct privacy
9 trainings as necessary, and regularly verify that the organizations
10 have measures in place to ensure compliance with this provision.

11 (c) The Department of Managed Health Care, the State
12 Department of Health Care Services, the Department of Insurance,
13 the Exchange, and any other public health coverage programs shall
14 provide to the office data concerning call centers to meet the
15 reporting requirements in subparagraph (B) of paragraph (1) of
16 subdivision (b) and consumer complaints and grievances to meet
17 the reporting requirements in clause (i) of subparagraph (C) of
18 paragraph (1) of subdivision (b).

19 (d) For purposes of this section, the following definitions apply:

20 (1) “Consumer” or “individual” includes the individual or his
21 or her parent, guardian, conservator, or authorized representative.

22 (2) “Exchange” means the California Health Benefit Exchange
23 established pursuant to Title 22 (commencing with Section 100500)
24 of the Government Code.

25 (3) “Health care” includes services provided by any of the health
26 care coverage programs.

27 (4) “Health care service plan” has the same meaning as that set
28 forth in subdivision (f) of Section 1345. Health care service plan
29 includes “specialized health care service plans,” including
30 behavioral health plans.

31 (5) “Health coverage program” includes the Medi-Cal program,
32 Healthy Families Program, tax subsidies and premium credits
33 under the Exchange, the Basic Health Program, if enacted, county
34 health coverage programs, and the Access for Infants and Mothers
35 Program.

36 (6) “Health insurance” has the same meaning as set forth in
37 Section 106 of the Insurance Code.

38 (7) “Health insurer” means an insurer that issues policies of
39 health insurance.

40 (8) “Office” means the Office of Patient Advocate.

1 (9) “Threshold languages” has the same meaning as for
2 Medi-Cal managed care.

3 ~~SEC. 360.~~

4 *SEC. 364.* Section 926.1 of the Insurance Code is amended to
5 read:

6 926.1. As used in this article, the following terms shall have
7 the following meanings:

8 (a) “Area median income” (AMI) means either of the following:

9 (1) The median family income for the Metropolitan Statistical
10 Area (MSA), if a person or geography is located in an MSA, or
11 for the metropolitan division, if a person or geography is located
12 in an MSA that has been subdivided into metropolitan divisions.

13 (2) The statewide nonmetropolitan median family income, if a
14 person or geography is located outside an MSA.

15 (b) “Community development investment” means an investment
16 where all or a portion of the investment has as its primary purpose
17 community development for, or that directly benefits, California
18 low- or moderate-income individuals, families, or communities.
19 “Community development investment” includes, but is not limited
20 to, investments in California in the following:

21 (1) Affordable housing, including multifamily rental and
22 ownership housing, for low- or moderate-income individuals or
23 families.

24 (2) Community facilities or community services providers
25 (including providers of education, health, or social services)
26 directly benefiting low- or moderate-income individuals, families,
27 or communities.

28 (3) Economic development that demonstrates benefits, including,
29 but not limited to, job creation, retention, or improvement, or
30 provision of needed capital, to low- or moderate-income
31 individuals, families, or communities, including urban or rural
32 communities, or businesses or nonprofit community service
33 organizations that serve these communities.

34 (4) Activities that revitalize or stabilize low- or moderate-income
35 communities.

36 (5) Investments in or through California Organized Investment
37 Network (COIN)-certified community development financial
38 institutions (CDFIs) and investments made pursuant to the
39 requirements of federal, state, or local community development
40 investment programs or community development investment tax

1 incentive programs, including green investments, if these
2 investments directly benefit low- or moderate-income individuals,
3 families, and communities and are consistent with this article.

4 (6) Community development infrastructure investments.

5 (7) Investments in a commercial property or properties located
6 in low- or moderate-income geographical areas and are consistent
7 with this article.

8 (c) “Community development infrastructure” means California
9 public debt (including all debt issued by the State of California or
10 a California state or local government agency) where all or a
11 portion of the debt has as its primary purpose community
12 development for, or that directly benefits, low- or moderate-income
13 communities and is consistent with subdivision (b).

14 (d) “Geography” means a census tract delineated by the United
15 States Bureau of the Census in the most recent decennial census.

16 (e) “Green investments” means investments that emphasize
17 renewable energy projects, economic development, and affordable
18 housing focused on infill sites so as to reduce the degree of
19 automobile dependency and promote the use and reuse of existing
20 urbanized lands supplied with infrastructure for the purpose of
21 accommodating new growth and jobs. “Green investments” also
22 means investments that can help communities grow through new
23 capital investment in the maintenance and rehabilitation of existing
24 infrastructure so that the reuse and reinvention of city centers and
25 existing transportation corridors and community space, including
26 projects offering energy efficiency improvements and renewable
27 energy generation, including, but not limited to, solar and wind
28 power, mixed-use development, affordable housing opportunities,
29 multimodal transportation systems, and transit-oriented
30 development, can advance economic development, jobs, and
31 housing.

32 (f) “High-impact investments” means investments that are
33 innovative, responsive to community needs, not routinely provided
34 by insurers, or have a high degree of positive impact on the
35 economic welfare of low- or moderate-income individuals,
36 families, or communities in urban or rural areas of California.

37 (g) “Insurer” means an admitted insurer as defined in Section
38 24, including the State Compensation Insurance Fund, or a
39 domestic fraternal benefit society as defined in Section 10990.

1 (h) “Investment” means a lawful equity or debt investment, or
 2 loan, or deposit obligation, or other investment or investment
 3 transaction allowed by the Insurance Code.

4 (i) “Low-income” means an individual income that is less than
 5 50 percent of the AMI, or a median family income that is less than
 6 50 percent of the AMI in the case of a geographical area.

7 (j) “MSA” means a metropolitan statistical area as defined by
 8 the Director of the Office of Management and Budget.

9 (k) “Moderate-income” means an individual income that is at
 10 least 50 percent but less than 80 percent of the AMI, or a median
 11 family income that is at least 50 percent but less than 80 percent
 12 of the AMI in the case of a geographical area.

13 (l) “Nonmetropolitan area” means any area that is not located
 14 in an MSA.

15 ~~SEC. 361.~~

16 *SEC. 365.* Section 926.2 of the Insurance Code is amended to
 17 read:

18 926.2. (a) (1) Each admitted insurer with annual premiums
 19 written in California equal to or in excess of one hundred million
 20 dollars (\$100,000,000) for any reporting year shall provide
 21 information to the commissioner on all of its community
 22 development investments, community development infrastructure
 23 investments, and green investments in California. This information
 24 shall be reported by July 1, 2016, on investments made or held
 25 during the calendar years 2013, 2014, and 2015 and list, if
 26 applicable, investments that are high-impact, green, or rural. The
 27 information reported by insurers may include investments both
 28 held and originated, the percentage of any investment that qualifies,
 29 and why an investment qualifies. This information shall be
 30 provided as part of the required filing pursuant to Section 900 or
 31 11131, or through a data call, or by other means as determined by
 32 the commissioner. The California Organized Investment Network
 33 (COIN) shall provide insurers with information on why
 34 investments, if any, were found not to be qualified by the
 35 commissioner.

36 (2) This subdivision does not preclude an insurer that is a
 37 member of an insurance holding company system, as defined in
 38 Article 4.7 (commencing with Section 1215) of Chapter 2, from
 39 complying with paragraph (1) through a single filing on behalf of
 40 the entire group of affiliated companies, provided that the data so

1 filed accurately reflects the investments made by each of the
2 affiliates, and accurately attributes, by National Association of
3 Insurance Commissioners (NAIC) number or other identifier
4 required by the commissioner, which of the investments were made
5 by each affiliated company.

6 (3) This subdivision does not preclude an insurer from satisfying
7 the requirements of paragraph (1) through a filing made by a
8 community development financial institution, provided all of the
9 following conditions are met:

10 (A) The insurer has no less than a 10 percent ownership interest
11 in a COIN-certified community development financial institution.

12 (B) The insurer makes community development investments
13 and community development infrastructure investments in and
14 through the community development financial institution.

15 (C) The community development financial institution accurately
16 files the information required by paragraph (1) with the
17 commissioner on behalf of the insurer and accurately attributes,
18 by NAIC number or other identifier required by the commissioner,
19 which investments, including the dollar amounts of the investments,
20 were made by each insurer on whose behalf the community
21 development financial institution is reporting.

22 (b) The commissioner shall, by December 31, 2016, provide all
23 of the following:

24 (1) Information on the department's Internet Web site on the
25 aggregate insurer community development investments and
26 community development infrastructure investments. Insurers that
27 make high-impact investments that are defined as innovative,
28 responsive to community needs, not routinely provided by insurers,
29 or have a high degree of positive impact on the economic welfare
30 of low- or moderate-income individuals, families, or communities
31 in urban or rural areas of California shall be identified.

32 (2) Information on the department's Internet Web site on the
33 actions taken by COIN to analyze the data by insurers for the
34 purpose of creating and identifying potential investment
35 opportunities, including the development of investment opportunity
36 bulletins. This information shall state the efforts made by COIN
37 to market and expand outreach to communities.

38 (c) The department shall also, by December 31, 2016, provide
39 information on the department's Internet Web site regarding the
40 aggregate amount of California public debt (including all debt

1 issued by the State of California or a California state or local
2 government agency) purchased by insurers as reported to the
3 department in their NAIC annual statement filing pursuant to
4 Section 900 or 11131.

5 (d) The department shall also, by December 31, 2016, provide
6 on its Internet Web site the aggregate amount of identified
7 California investments, as reported to the NAIC in the annual
8 statement filed pursuant to Section 900 or 11131.

9 (e) The department shall also by December 31, 2016, provide
10 information on its Internet Web site regarding the aggregate amount
11 of identified California insurer investments in green investments.

12 (f) This article shall remain in effect only until January 1, 2020,
13 and as of that date is repealed, unless a later enacted statute, that
14 is enacted before January 1, 2020, deletes or extends that date.

15 ~~SEC. 362.~~

16 *SEC. 366.* Section 1215.8 of the Insurance Code is amended
17 to read:

18 1215.8. (a) All information, documents, and copies thereof
19 obtained by or disclosed to the commissioner or any other person
20 in the course of an examination or investigation made pursuant to
21 Sections 1215.4 and 1215.5, and all information reported pursuant
22 to Section 1215.4, shall be kept confidential, is not subject to
23 disclosure by the commissioner pursuant to the California Public
24 Records Act (Chapter 3.5 (commencing with Section 6250) of
25 Division 7 of Title 1 of the Government Code), is not subject to
26 subpoena, and is not subject to discovery from the commissioner
27 or admissible into evidence in any private civil action if obtained
28 from the commissioner in any manner. This information shall not
29 be made public by the commissioner or any other person except
30 to insurance departments of other states without the prior written
31 consent of the insurance company to which it pertains, unless the
32 commissioner, after giving the insurer and its affiliates who would
33 be affected thereby notice and opportunity to be heard, determines
34 that the interests of policyholders, shareholders, or the public will
35 be served by the publication thereof, in which event he or she may
36 publish all or any part thereof in a manner as he or she may deem
37 appropriate.

38 (b) In order to assist in the performance of the commissioner's
39 duties, the commissioner:

1 (1) May, upon request, be required to share documents,
2 materials, or other information, including the confidential and
3 privileged documents, materials, or information subject to
4 subdivision (a), with other state, federal, and international
5 regulatory agencies, with the National Association of Insurance
6 Commissioners (NAIC) and its affiliates and subsidiaries, and with
7 state, federal, and international law enforcement authorities,
8 including members of any supervisory college described in Section
9 1215.7; provided that the recipient agrees in writing to maintain
10 the confidentiality and privileged status of the documents,
11 materials, or other information, and has verified in writing the
12 legal authority to maintain confidentiality.

13 (2) Notwithstanding paragraph (1), may only share confidential
14 and privileged documents, materials, or information reported
15 pursuant to subdivision (m) of Section 1215.4 with commissioners
16 of states having statutes or regulations substantially similar to
17 subdivision (a) and who have agreed in writing not to disclose the
18 information.

19 (3) May receive documents, materials, or information, including
20 otherwise confidential and privileged documents, materials, or
21 information, from the NAIC and its affiliates and subsidiaries and
22 from regulatory and law enforcement officials of other foreign or
23 domestic jurisdictions, and shall maintain as confidential or
24 privileged any documents, materials, or information received with
25 notice or the understanding that it is confidential or privileged
26 under the laws of the jurisdiction that is the source of the
27 documents, materials, or information.

28 (4) May enter into written agreements with the NAIC governing
29 sharing and use of information provided pursuant to this
30 subdivision consistent with this subdivision that shall do the
31 following:

32 (A) Specify procedures and protocols regarding the
33 confidentiality and security of information shared with the NAIC
34 and its affiliates and subsidiaries pursuant to this subdivision,
35 including procedures and protocols for sharing by the NAIC with
36 other state, federal, or international regulators.

37 (B) Specify that ownership of information shared with the NAIC
38 and its affiliates and subsidiaries pursuant to this subdivision
39 remains with the commissioner and the NAIC's use of the
40 information is subject to the direction of the commissioner.

1 (C) Require prompt notice to be given to an insurer whose
2 confidential information in the possession of the NAIC pursuant
3 to this subdivision is subject to a request or subpoena to the NAIC
4 for disclosure or production.

5 (D) Require the NAIC and its affiliates and subsidiaries to
6 consent to intervention by an insurer in any judicial or
7 administrative action in which the NAIC and its affiliates and
8 subsidiaries may be required to disclose confidential information
9 about the insurer shared with the NAIC and its affiliates and
10 subsidiaries pursuant to this subdivision.

11 (c) The sharing of information by the commissioner pursuant
12 to this subdivision shall not constitute a delegation of regulatory
13 authority or rulemaking, and the commissioner is solely responsible
14 for the administration, execution, and enforcement of the provisions
15 of this article.

16 (d) A waiver of any applicable privilege or claim of
17 confidentiality in the documents, materials, or information does
18 not occur as a result of disclosure to the commissioner under this
19 section or as a result of sharing as authorized in subdivision (c).

20 (e) Documents, materials, or other information filed in the
21 possession or control of the NAIC pursuant to this subdivision are
22 confidential by law and privileged, are not subject to subpoena,
23 and are not subject to discovery or admissible in evidence in any
24 private civil action.

25 ~~SEC. 363.~~

26 *SEC. 367.* Section 10112.26 of the Insurance Code is amended
27 to read:

28 10112.26. (a) A health insurer that issues, sells, renews, or
29 offers a specialized health insurance policy covering dental services
30 shall, no later than September 30, 2015, and each year thereafter,
31 file a report, which shall be known as the MLR annual report, with
32 the department that is organized by market and product type and
33 contains the same information required in the 2013 federal Medical
34 Loss Ratio (MLR) Annual Reporting Form (CMS-10418).

35 (b) The MLR reporting year shall be for the calendar year during
36 which dental coverage is provided by the plan. All terms used in
37 the MLR annual report shall have the same meaning as used in the
38 federal Public Health Service Act (42 U.S.C. Sec. 300gg-18) and
39 Part 158 (commencing with Section 158.101) of Title 45 of the
40 Code of Federal Regulations.

1 (c) If the commissioner decides to conduct an examination, as
2 described in Section 730, because the commissioner finds it
3 necessary to verify the health insurer's representations in the MLR
4 annual report, the department shall provide the health insurer with
5 a notification 30 days before the commencement of the
6 examination.

7 (d) The health insurer shall have 30 days from the date of
8 notification to electronically submit to the department all requested
9 records, books, and papers specified in subdivision (a) of Section
10 733. The commissioner may extend the time for a health insurer
11 to comply with this subdivision upon a finding of good cause.

12 (e) The department shall make available to the public all of the
13 data provided to the department pursuant to this section.

14 (f) This section does not apply to an insurance policy issued,
15 sold, renewed, or offered for health care services or coverage
16 provided in the Medi-Cal program (Chapter 7 (commencing with
17 Section 14000) of Part 3 of Division 9 of the Welfare and
18 Institutions Code), the Healthy Families Program (Part 6.2
19 (commencing with Section 12693) of Division 2 of the Insurance
20 Code), the Access for Infants and Mothers Program (Part 6.3
21 (commencing with Section 12695) of Division 2 of the Insurance
22 Code), the California Major Risk Medical Insurance Program (Part
23 6.5 (commencing with Section 12700) of Division 2 of the
24 Insurance Code), or the Federal Temporary High Risk Insurance
25 Pool (Part 6.6 (commencing with Section 12739.5) of Division 2
26 of the Insurance Code), to the extent consistent with the federal
27 Patient Protection and Affordable Care Act (Public Law 111-148).

28 (g) This section does not apply to disability insurance for
29 covered benefits in the single specialized area of dental-only health
30 care that pays benefits on a fixed benefit, cash payment only basis.

31 (h) It is the intent of the Legislature that the data reported
32 pursuant to this section be considered by the Legislature in adopting
33 a medical loss ratio standard for specialized health insurance
34 policies that cover dental services that would take effect no later
35 than January 1, 2018.

36 (i) Until January 1, 2018, the department may issue guidance
37 to health insurers of specialized health insurance policies subject
38 to this section regarding compliance with this section. This
39 guidance shall not be subject to the Administrative Procedure Act
40 (Chapter 3.5 (commencing with Section 11340) of Part 1 of

1 Division 3 of Title 2 of the Government Code). Guidance issued
2 pursuant to this subdivision is effective only until the department
3 adopts regulations pursuant to the Administrative Procedure Act.
4 The department shall consult with the Department of Managed
5 Health Care in issuing guidance pursuant to this subdivision.

6 ~~SEC. 364.~~

7 *SEC. 368.* Section 10112.35 of the Insurance Code is amended
8 to read:

9 10112.35. (a) An insurer providing individual coverage in the
10 Exchange shall cooperate with requests from the Exchange to
11 collaborate in the development of, and participate in the
12 implementation of, the Medi-Cal program's premium and
13 cost-sharing payments under Sections 14102 and 14148.65 of the
14 Welfare and Institutions Code for eligible Exchange insureds.

15 (b) An insurer providing individual coverage in the Exchange
16 shall not charge, bill, ask, or require an insured receiving benefits
17 under Section 14102 or 14148.65 of the Welfare and Institutions
18 Code to make any premium or cost-sharing payments for any
19 services that are subject to premium or cost-sharing payments by
20 the State Department of Health Care Services under Section 14102
21 or 14148.65 of the Welfare and Institutions Code.

22 (c) For purposes of this section, "Exchange" means the
23 California Health Benefit Exchange established pursuant to Title
24 22 (commencing with Section 100500) of the Government Code.

25 ~~SEC. 365.~~

26 *SEC. 369.* Section 10123.196 of the Insurance Code is amended
27 to read:

28 10123.196. (a) An individual or group policy of disability
29 insurance issued, amended, renewed, or delivered on or after
30 January 1, 2000, through December 31, 2015, inclusive, that
31 provides coverage for hospital, medical, or surgical expenses, shall
32 provide coverage for the following, under the same terms and
33 conditions as applicable to all benefits:

34 (1) A disability insurance policy that provides coverage for
35 outpatient prescription drug benefits shall include coverage for a
36 variety of federal Food and Drug Administration (FDA)-approved
37 prescription contraceptive methods, as designated by the insurer.
38 If an insured's health care provider determines that none of the
39 methods designated by the disability insurer is medically
40 appropriate for the insured's medical or personal history, the insurer

1 shall, in the alternative, provide coverage for some other
2 FDA-approved prescription contraceptive method prescribed by
3 the patient's health care provider.

4 (2) Coverage with respect to an insured under this subdivision
5 shall be identical for an insured's covered spouse and covered
6 nonspouse dependents.

7 (b) (1) A group or individual policy of disability insurance,
8 except for a specialized health insurance policy, that is issued,
9 amended, renewed, or delivered on or after January 1, 2016, shall
10 provide coverage for all of the following services and contraceptive
11 methods for women:

12 (A) Except as provided in subparagraphs (B) and (C) of
13 paragraph (2), all FDA-approved contraceptive drugs, devices,
14 and other products for women, including all FDA-approved
15 contraceptive drugs, devices, and products available over the
16 counter, as prescribed by the insured's provider.

17 (B) Voluntary sterilization procedures.

18 (C) Patient education and counseling on contraception.

19 (D) Followup services related to the drugs, devices, products,
20 and procedures covered under this subdivision, including, but not
21 limited to, management of side effects, counseling for continued
22 adherence, and device insertion and removal.

23 (2) (A) Except for a grandfathered health plan, a disability
24 insurer subject to this subdivision shall not impose a deductible,
25 coinsurance, copayment, or any other cost-sharing requirement on
26 the coverage provided pursuant to this subdivision.

27 (B) If the FDA has approved one or more therapeutic equivalents
28 of a contraceptive drug, device, or product, a disability insurer is
29 not required to cover all of those therapeutically equivalent versions
30 in accordance with this subdivision, as long as at least one is
31 covered without cost sharing in accordance with this subdivision.

32 (C) If a covered therapeutic equivalent of a drug, device, or
33 product is not available, or is deemed medically inadvisable by
34 the insured's provider, a disability insurer shall provide coverage,
35 subject to an insurer's utilization management procedures, for the
36 prescribed contraceptive drug, device, or product without cost
37 sharing. Any request by a contracting provider shall be responded
38 to by the disability insurer in compliance with Section 10123.191.

1 (3) Except as otherwise authorized under this section, an insurer
2 shall not impose any restrictions or delays on the coverage required
3 under this subdivision.

4 (4) Coverage with respect to an insured under this subdivision
5 shall be identical for an insured's covered spouse and covered
6 nonspouse dependents.

7 (c) This section shall not be construed to deny or restrict in any
8 way any existing right or benefit provided under law or by contract.

9 (d) This section shall not be construed to require an individual
10 or group disability insurance policy to cover experimental or
11 investigational treatments.

12 (e) Notwithstanding any other provision of this section, a
13 religious employer may request a disability insurance policy
14 without coverage for contraceptive methods that are contrary to
15 the religious employer's religious tenets. If so requested, a
16 disability insurance policy shall be provided without coverage for
17 contraceptive methods.

18 (1) For purposes of this section, a "religious employer" is an
19 entity for which each of the following is true:

20 (A) The inculcation of religious values is the purpose of the
21 entity.

22 (B) The entity primarily employs persons who share the religious
23 tenets of the entity.

24 (C) The entity serves primarily persons who share the religious
25 tenets of the entity.

26 (D) The entity is a nonprofit organization pursuant to Section
27 6033(a)(3)(A)(i) or (iii) of the Internal Revenue Code of 1986, as
28 amended.

29 (2) Every religious employer that invokes the exemption
30 provided under this section shall provide written notice to any
31 prospective employee once an offer of employment has been made,
32 and prior to that person commencing that employment, listing the
33 contraceptive health care services the employer refuses to cover
34 for religious reasons.

35 (f) This section shall not be construed to exclude coverage for
36 contraceptive supplies as prescribed by a provider, acting within
37 his or her scope of practice, for reasons other than contraceptive
38 purposes, such as decreasing the risk of ovarian cancer or
39 eliminating symptoms of menopause, or for contraception that is
40 necessary to preserve the life or health of an insured.

1 (g) This section only applies to disability insurance policies or
2 contracts that are defined as health benefit plans pursuant to
3 subdivision (a) of Section 10198.6, except that for accident only,
4 specified disease, or hospital indemnity coverage, coverage for
5 benefits under this section applies to the extent that the benefits
6 are covered under the general terms and conditions that apply to
7 all other benefits under the policy or contract. This section shall
8 not be construed as imposing a new benefit mandate on accident
9 only, specified disease, or hospital indemnity insurance.

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

11 (1) “Grandfathered health plan” has the meaning set forth in
12 Section 1251 of PPACA.

13 (2) “PPACA” means the federal Patient Protection and
14 Affordable Care Act (Public Law 111-148), as amended by the
15 federal Health Care and Education Reconciliation Act of 2010
16 (Public Law 111-152), and any rules, regulations, or guidance
17 issued thereunder.

18 (3) With respect to policies of disability insurance issued,
19 amended, or renewed on or after January 1, 2016, “health care
20 provider” means an individual who is certified or licensed pursuant
21 to Division 2 (commencing with Section 500) of the Business and
22 Professions Code, or an initiative act referred to in that division,
23 or Division 2.5 (commencing with Section 1797) of the Health
24 and Safety Code.

25 ~~SEC. 366.~~

26 *SEC. 370.* Section 10123.21 of the Insurance Code, as added
27 by Section 2 of Chapter 419 of the Statutes of 2005, is amended
28 and renumbered to read:

29 10123.22. (a) A health insurer shall not deny coverage that is
30 otherwise available under the health insurance policy for the costs
31 of solid organ or other tissue transplantation services based upon
32 the insured or policyholder being infected with the human
33 immunodeficiency virus.

34 (b) Notwithstanding any other provision of law, in the provision
35 of benefits required by this section, a health insurer may utilize
36 case management, managed care, or utilization review, subject to
37 the terms and conditions of the policy and consistent with sound
38 clinical processes and guidelines.

1 ~~SEC. 367.~~

2 SEC. 371. Section 10192.18 of the Insurance Code is amended
3 to read:

4 10192.18. (a) Application forms shall include the following
5 questions designed to elicit information as to whether, as of the
6 date of the application, the applicant currently has Medicare
7 supplement, Medicare Advantage, Medi-Cal coverage, or another
8 health insurance policy or certificate in force or whether a Medicare
9 supplement policy or certificate is intended to replace any other
10 disability policy or certificate presently in force. A supplementary
11 application or other form to be signed by the applicant and agent
12 containing those questions and statements may be used.

13

(Statements)

14

15
16 (1) You do not need more than one Medicare supplement policy.

17 (2) If you purchase this policy, you may want to evaluate your
18 existing health coverage and decide if you need multiple coverages.

19 (3) You may be eligible for benefits under Medi-Cal and may
20 not need a Medicare supplement policy.

21 (4) If after purchasing this policy you become eligible for
22 Medi-Cal, the benefits and premiums under your Medicare
23 supplement policy can be suspended, if requested, during your
24 entitlement to benefits under Medi-Cal for 24 months. You must
25 request this suspension within 90 days of becoming eligible for
26 Medi-Cal. If you are no longer entitled to Medi-Cal, your
27 suspended Medicare supplement policy or if that is no longer
28 available, a substantially equivalent policy, will be reinstated if
29 requested within 90 days of losing Medi-Cal eligibility. If the
30 Medicare supplement policy provided coverage for outpatient
31 prescription drugs and you enrolled in Medicare Part D while your
32 policy was suspended, the reinstated policy will not have
33 outpatient prescription drug coverage, but will otherwise be
34 substantially equivalent to your coverage before the date of the
35 suspension.

36 (5) If you are eligible for, and have enrolled in, a Medicare
37 supplement policy by reason of disability and you later become
38 covered by an employer or union-based group health plan, the
39 benefits and premiums under your Medicare supplement policy
40 can be suspended, if requested, while you are covered under the

1 employer or union-based group health plan. If you suspend your
 2 Medicare supplement policy under these circumstances and later
 3 lose your employer or union-based group health plan, your
 4 suspended Medicare supplement policy or if that is no longer
 5 available, a substantially equivalent policy, will be reinstated if
 6 requested within 90 days of losing your employer or union-based
 7 group health plan. If the Medicare supplement policy provided
 8 coverage for outpatient prescription drugs and you enrolled in
 9 Medicare Part D while your policy was suspended, the reinstated
 10 policy will not have outpatient prescription drug coverage, but will
 11 otherwise be substantially equivalent to your coverage before the
 12 date of the suspension.

13 (6) Counseling services are available in this state to provide
 14 advice concerning your purchase of Medicare supplement insurance
 15 and concerning medical assistance through the Medi-Cal program,
 16 including benefits as a qualified Medicare beneficiary (QMB) and
 17 a specified low-income Medicare beneficiary (SLMB). If you want
 18 to discuss buying Medicare supplement insurance with a trained
 19 insurance counselor, call the California Department of Insurance’s
 20 toll-free telephone number 1-800-927-HELP, and ask how to
 21 contact your local Health Insurance Counseling and Advocacy
 22 Program (HICAP) office. HICAP is a service provided free of
 23 charge by the State of California.

24
 25 (Questions)
 26

27 If you lost or are losing other health insurance coverage and
 28 received a notice from your prior insurer saying you were eligible
 29 for guaranteed issue of a Medicare supplement insurance policy
 30 or that you had certain rights to buy such a policy, you may be
 31 guaranteed acceptance in one or more of our Medicare supplement
 32 plans. Please include a copy of the notice from your prior insurer
 33 with your application. PLEASE ANSWER ALL QUESTIONS.

34 [Please mark Yes or No below with an “X.”]

35 To the best of your knowledge,

36 (1) (a) Did you turn 65 years of age in the last 6 months?

37 Yes ___ No ___

38 (b) Did you enroll in Medicare Part B in the last 6 months?

39 Yes ___ No ___

40 (c) If yes, what is the effective date? _____

- 1 (2) Are you covered for medical assistance through California’s
 2 Medi-Cal program?
 3 NOTE TO APPLICANT: If you have a share of cost under the
 4 Medi-Cal program, please answer NO to this question.
 5 Yes___ No___
 6 If yes,
 7 (a) Will Medi-Cal pay your premiums for this Medicare
 8 supplement policy?
 9 Yes___ No___
 10 (b) Do you receive benefits from Medi-Cal OTHER THAN
 11 payments toward your Medicare Part B premium?
 12 Yes___ No___
 13 (3) (a) If you had coverage from any Medicare plan other than
 14 original Medicare within the past 63 days (for example, a Medicare
 15 Advantage plan or a Medicare HMO or PPO), fill in your start and
 16 end dates below. If you are still covered under this plan, leave
 17 “END” blank.
 18 START __/__/__ END __/__/__
 19 (b) If you are still covered under the Medicare plan, do you
 20 intend to replace your current coverage with this new Medicare
 21 supplement policy?
 22 Yes___ No___
 23 (c) Was this your first time in this type of Medicare plan?
 24 Yes___ No___
 25 (d) Did you drop a Medicare supplement policy to enroll in the
 26 Medicare plan?
 27 Yes___ No___
 28 (4) (a) Do you have another Medicare supplement policy in
 29 force?
 30 Yes___ No___
 31 (b) If so, with what company, and what plan do you have
 32 [optional for direct mailers]?
 33 Yes___ No___
 34 (c) If so, do you intend to replace your current Medicare
 35 supplement policy with this policy?
 36 Yes___ No___
 37 (5) Have you had coverage under any other health insurance
 38 within the past 63 days? (For example, an employer, union, or
 39 individual plan)
 40 Yes___ No___

1 (a) If so, with what companies and what kind of policy?

2 _____
3 _____
4 _____
5 _____

6 (b) What are your dates of coverage under the other policy?

7 START __/__/__ END __/__/__

8 (If you are still covered under the other policy, leave “END”
9 blank.)”

10
11 (b) Agents shall list any other health insurance policies they
12 have sold to the applicant as follows:

13 (1) List policies sold that are still in force.

14 (2) List policies sold in the past five years that are no longer in
15 force.

16 (c) In the case of a direct response issuer, a copy of the
17 application or supplemental form, signed by the applicant, and
18 acknowledged by the issuer, shall be returned to the applicant by
19 the issuer upon delivery of the policy.

20 (d) Upon determining that a sale will involve replacement of
21 Medicare supplement coverage, any issuer, other than a direct
22 response issuer, or its agent, shall furnish the applicant, prior to
23 issuance for delivery of the Medicare supplement policy or
24 certificate, a notice regarding replacement of Medicare supplement
25 coverage. One copy of the notice signed by the applicant and the
26 agent, except where the coverage is sold without an agent, shall
27 be provided to the applicant and an additional signed copy shall
28 be retained by the issuer as provided in Section 10508. A direct
29 response issuer shall deliver to the applicant at the time of the
30 issuance of the policy the notice regarding replacement of Medicare
31 supplement coverage.

32 (e) The notice required by subdivision (d) for an issuer shall be
33 in the form specified by the commissioner, using, to the extent
34 practicable, a model notice prepared by the National Association
35 of Insurance Commissioners for this purpose. The replacement
36 notice shall be printed in no less than 12-point type in substantially
37 the following form:

38
39 [Insurer’s name and address]

40

1 NOTICE TO APPLICANT REGARDING REPLACEMENT
2 OF MEDICARE SUPPLEMENT COVERAGE OR MEDICARE
3 ADVANTAGE

4
5 SAVE THIS NOTICE! IT MAY BE IMPORTANT IN THE
6 FUTURE.

7 If you intend to cancel or terminate existing Medicare supplement
8 or Medicare Advantage insurance and replace it with coverage
9 issued by [company name], please review the new coverage
10 carefully and replace the existing coverage ONLY if the new
11 coverage materially improves your position. DO NOT CANCEL
12 YOUR PRESENT COVERAGE UNTIL YOU HAVE RECEIVED
13 YOUR NEW POLICY AND ARE SURE THAT YOU WANT
14 TO KEEP IT.

15 If you decide to purchase the new coverage, you will have 30
16 days after you receive the policy to return it to the insurer, for any
17 reason, and receive a refund of your money.

18 If you want to discuss buying Medicare supplement or Medicare
19 Advantage coverage with a trained insurance counselor, call the
20 California Department of Insurance’s toll-free telephone number
21 1-800-927-HELP, and ask how to contact your local Health
22 Insurance Counseling and Advocacy Program (HICAP) office.
23 HICAP is a service provided free of charge by the State of
24 California.

25 STATEMENT TO APPLICANT FROM THE INSURER AND
26 AGENT: I have reviewed your current health insurance coverage.
27 To the best of my knowledge, the replacement of insurance
28 involved in this transaction does not duplicate coverage or, if
29 applicable, Medicare Advantage coverage because you intend to
30 terminate your existing Medicare supplement coverage or leave
31 your Medicare Advantage plan. In addition, the replacement
32 coverage contains benefits that are clearly and substantially greater
33 than your current benefits for the following reasons:

- 34 Additional benefits that are: _____
- 35 No change in benefits, but lower premiums.
- 36 Fewer benefits and lower premiums.
- 37 Plan has outpatient prescription drug coverage and applicant
38 is enrolled in Medicare Part D.
- 39 Disenrollment from a Medicare Advantage plan. Reasons for
40 disenrollment:

1 ___ Other reasons specified here: _____

2 1. Note: If the issuer of the Medicare supplement policy being
3 applied for does not impose, or is otherwise prohibited from
4 imposing, preexisting condition limitations, please skip to statement
5 3 below. Health conditions that you may presently have
6 (preexisting conditions) may not be immediately or fully covered
7 under the new policy. This could result in denial or delay of a claim
8 for benefits under the new policy, whereas a similar claim might
9 have been payable under your present policy.

10 2. State law provides that your replacement Medicare supplement
11 policy may not contain new preexisting conditions, waiting periods,
12 elimination periods, or probationary periods. The insurer will waive
13 any time periods applicable to preexisting conditions, waiting
14 periods, elimination periods, or probationary periods in the new
15 coverage for similar benefits to the extent that time was spent
16 (depleted) under the original policy.

17 3. If you still wish to terminate your present policy and replace
18 it with new coverage, be certain to truthfully and completely
19 answer any and all questions on the application concerning your
20 medical and health history. Failure to include all material medical
21 information on an application requesting that information may
22 provide a basis for the insurer to deny any future claims and to
23 refund your premium as though your policy had never been in
24 force. After the application has been completed and before you
25 sign it, review it carefully to be certain that all information has
26 been properly recorded. [If the policy or certificate is guaranteed
27 issue, this paragraph need not appear.]

28 **DO NOT CANCEL YOUR PRESENT POLICY UNTIL YOU**
29 **HAVE RECEIVED YOUR NEW POLICY AND ARE SURE**
30 **THAT YOU WANT TO KEEP IT.**

31
32 _____
33 (Signature of Agent, Broker, or Other Representative)

34 _____
35 (Signature of Applicant)

36 _____
37 (Date)
38
39

1 (f) An issuer, broker, agent, or other person shall not cause an
2 insured to replace a Medicare supplement insurance policy
3 unnecessarily. In recommending replacement of any Medicare
4 supplement insurance, an agent shall make reasonable efforts to
5 determine the appropriateness to the potential insured.

6 (g) An issuer shall not require, request, or obtain health
7 information as part of the application process for an applicant who
8 is eligible for guaranteed issuance of, or open enrollment for, any
9 Medicare supplement coverage pursuant to Section 10192.11 or
10 10192.12, except for purposes of paragraph (1) or (2) of subdivision
11 (a) of Section 10192.11 when the applicant is first enrolled in
12 Medicare Part B. The application form shall include a clear and
13 conspicuous statement that the applicant is not required to provide
14 health information during a period where guaranteed issue or open
15 enrollment applies, as specified in Section 10192.11 or 10192.12,
16 except for purposes of paragraph (1) or (2) of subdivision (a) of
17 Section 10192.11 when the applicant is first enrolled in Medicare
18 Part B, and shall inform the applicant of those periods of
19 guaranteed issuance of Medicare supplement coverage. This
20 subdivision does not prohibit an issuer from requiring proof of
21 eligibility for a guaranteed issuance of Medicare supplement
22 coverage.

23 ~~SEC. 368.~~

24 *SEC. 372.* Section 10753.06.5 of the Insurance Code is
25 amended to read:

26 10753.06.5. (a) With respect to small employer health benefit
27 plans offered outside the Exchange, after a small employer submits
28 a completed application, the carrier shall, within 30 days, notify
29 the employer of the employer's actual rates in accordance with
30 Section 10753.14. The employer has 30 days in which to exercise
31 the right to buy coverage at the quoted rates.

32 (b) Except as required under subdivision (c), when a small
33 employer submits a premium payment, based on the quoted rates,
34 and that payment is delivered or postmarked, whichever occurs
35 earlier, within the first 15 days of a month, coverage shall become
36 effective no later than the first day of the following month. When
37 that payment is neither delivered nor postmarked until after the
38 15th day of a month, coverage shall become effective no later than
39 the first day of the second month following delivery or postmark
40 of the payment.

1 (c) (1) With respect to a small employer health benefit plan
2 offered through the Exchange, a carrier shall apply coverage
3 effective dates consistent with those required under Section
4 155.720 of Title 45 of the Code of Federal Regulations and of
5 subdivision (e) of Section 10965.3.

6 (2) With respect to a small employer health benefit plan offered
7 outside the Exchange for which an individual applies during a
8 special enrollment period described in paragraph (3) of subdivision
9 (b) of Section 10753.05, the following provisions shall apply:

10 (A) Coverage under the plan shall become effective no later
11 than the first day of the first calendar month beginning after the
12 date the carrier receives the request for special enrollment.

13 (B) Notwithstanding subparagraph (A), in the case of a birth,
14 adoption, or placement for adoption, coverage under the plan shall
15 become effective on the date of birth, adoption, or placement for
16 adoption.

17 (d) During the first 30 days of coverage, the small employer
18 shall have the option of changing coverage to a different health
19 benefit plan offered by the same carrier. If a small employer
20 notifies the carrier of the change within the first 15 days of a month,
21 coverage under the new health benefit plan shall become effective
22 no later than the first day of the following month. If a small
23 employer notifies the carrier of the change after the 15th day of a
24 month, coverage under the new health benefit plan shall become
25 effective no later than the first day of the second month following
26 notification.

27 (e) All eligible employees and dependents listed on a small
28 employer's completed application shall be covered on the effective
29 date of the health benefit plan.

30 ~~SEC. 369.~~

31 *SEC. 373.* The heading of Chapter 17 (commencing with
32 Section 12693.99) of Part 6.2 of Division 2 of the Insurance Code
33 is repealed.

34 ~~SEC. 370.~~

35 *SEC. 374.* Section 12880.4 of the Insurance Code is amended
36 to read:

37 12880.4. (a) Whenever the commissioner shall have reason
38 to believe that a person has engaged or is engaging in this state in
39 a violation of this part, and that a proceeding by the commissioner
40 in respect thereto would be to the interest of the public, he or she

1 shall issue and serve upon that person an order to show cause
2 containing a statement of the charges in that respect, a statement
3 of that person's potential liability under this part, and a notice of
4 a hearing thereon to be held at a time and place fixed therein, which
5 shall not be less than 30 days after the service thereof, for the
6 purpose of determining whether the commissioner should issue
7 an order to that person to pay the penalty imposed by Section
8 12880.3 and to cease and desist those methods, acts, or practices,
9 or any of them, that violate this part.

10 (b) If the charges or any of them are found to be justified, the
11 commissioner shall issue and cause to be served upon that person
12 an order requiring that person to pay the penalty imposed by
13 Section 12880.3 and to cease and desist from engaging in those
14 methods, acts, or practices found to be in violation of this part.

15 (c) The hearing shall be conducted in accordance with the
16 Administrative Procedure Act (Chapter 5 (commencing with
17 Section 11500) of Part 1 of Division 3 of Title 2 of the Government
18 Code), except that the hearings may be conducted by an
19 administrative law judge in the administrative law bureau when
20 the proceedings involve a common question of law or fact with
21 another proceeding arising under other Insurance Code sections
22 that may be conducted by administrative law bureau administrative
23 law judges. The commissioner and the appointed administrative
24 law judge shall have all the powers granted under the
25 Administrative Procedure Act.

26 (d) The person is entitled to have the proceedings and the order
27 reviewed by means of any remedy provided by Section 12940 or
28 by the Administrative Procedure Act.

29 ~~SEC. 371.~~

30 *SEC. 375.* Section 1019 of the Labor Code is amended to read:

31 1019. (a) It is unlawful for an employer or any other person
32 or entity to engage in, or to direct another person or entity to engage
33 in, unfair immigration-related practices against any person for the
34 purpose of, or with the intent of, retaliating against any person for
35 exercising any right protected under this code or by any local
36 ordinance applicable to employees. Exercising a right protected
37 by this code or local ordinance includes the following:

38 (1) Filing a complaint or informing any person of an employer's
39 or other party's alleged violation of this code or local ordinance,
40 so long as the complaint or disclosure is made in good faith.

1 (2) Seeking information regarding whether an employer or other
2 party is in compliance with this code or local ordinance.

3 (3) Informing a person of his or her potential rights and remedies
4 under this code or local ordinance, and assisting him or her in
5 asserting those rights.

6 (b) (1) As used in this chapter, “unfair immigration-related
7 practice” means any of the following practices, when undertaken
8 for the retaliatory purposes prohibited by subdivision (a):

9 (A) Requesting more or different documents than are required
10 under Section 1324a(b) of Title 8 of the United States Code, or a
11 refusal to honor documents tendered pursuant to that section that
12 on their face reasonably appear to be genuine.

13 (B) Using the federal E-Verify system to check the employment
14 authorization status of a person at a time or in a manner not
15 required under Section 1324a(b) of Title 8 of the United States
16 Code, or not authorized under any memorandum of understanding
17 governing the use of the federal E-Verify system.

18 (C) Threatening to file or the filing of a false police report, or
19 a false report or complaint with any state or federal agency.

20 (D) Threatening to contact or contacting immigration authorities.

21 (2) “Unfair immigration-related practice” does not include
22 conduct undertaken at the express and specific direction or request
23 of the federal government.

24 (c) Engaging in an unfair immigration-related practice against
25 a person within 90 days of the person’s exercise of rights protected
26 under this code or local ordinance applicable to employees shall
27 raise a rebuttable presumption of having done so in retaliation for
28 the exercise of those rights.

29 (d) (1) An employee or other person who is the subject of an
30 unfair immigration-related practice prohibited by this section, or
31 a representative of that employee or person, may bring a civil
32 action for equitable relief and any applicable damages or penalties.

33 (2) Upon a finding by a court of applicable jurisdiction of a
34 violation of this section, upon application by a party or on its own
35 motion, a court may do the following:

36 (A) For a first violation, order the appropriate government
37 agencies to suspend all licenses that are held by the violating party
38 for a period of up to 14 days. On receipt of the court’s order and
39 notwithstanding any other law, the appropriate agencies shall
40 suspend the licenses according to the court’s order.

1 (B) For a second violation, order the appropriate government
 2 agencies to suspend all licenses that are held by the violating party
 3 for a period of up to 30 days. On receipt of the court’s order and
 4 notwithstanding any other law, the appropriate agencies shall
 5 immediately suspend the licenses.

6 (C) For a third or subsequent violation, order the appropriate
 7 government agencies to suspend for a period of up to 90 days all
 8 licenses that are held by the violating party. On receipt of the
 9 court’s order and notwithstanding any other law, the appropriate
 10 agencies shall immediately suspend the licenses.

11 (3) In determining whether a suspension of all licenses is
 12 appropriate under this subdivision, the court shall consider whether
 13 the employer knowingly committed an unfair immigration-related
 14 practice, the good faith efforts of the employer to resolve any
 15 alleged unfair immigration-related practice after receiving notice
 16 of the violations, as well as the harm other employees of the
 17 employer, or employees of other employers on a multiemployer
 18 job site, will suffer as a result of the suspension of all licenses.

19 (4) An employee or other person who is the subject of an unfair
 20 immigration-related practice prohibited by this section, and who
 21 prevails in an action authorized by this section, shall recover his
 22 or her reasonable attorney’s fees and costs, including any expert
 23 witness costs.

24 (e) As used in this chapter:

25 (1) “License” means any agency permit, certificate, approval,
 26 registration, or charter that is required by law and that is issued by
 27 any agency for the purposes of operating a business in this state
 28 and that is specific to the business location or locations where the
 29 unfair immigration-related practice occurred. “License” does not
 30 include a professional license.

31 (2) “Violation” means each incident when an unfair
 32 immigration-related practice was committed, without reference to
 33 the number of employees involved in the incident.

34 ~~SEC. 372.~~

35 *SEC. 376.* Section 1311.5 of the Labor Code is amended to
 36 read:

37 1311.5. (a) This section shall be known and may be cited as
 38 the Child Labor Protection Act of 2014.

39 (b) The statute of limitations for claims arising under this code
 40 shall be tolled until an individual allegedly aggrieved by an

1 unlawful practice attains the age of majority. This subdivision is
2 declaratory of existing law.

3 (c) In addition to other remedies available, an individual who
4 is discharged, threatened with discharge, demoted, suspended,
5 retaliated against, subjected to an adverse action, or in any other
6 manner discriminated against in the terms or conditions of his or
7 her employment because the individual filed a claim or civil action
8 alleging a violation of this code that arose while the individual
9 was a minor, whether the claim or civil action was filed before or
10 after the individual reached the age of majority, is entitled to treble
11 damages.

12 (d) A class “A” violation, as defined in subdivision (a) of Section
13 1288, that involves a minor 12 years of age or younger shall be
14 subject to a civil penalty in an amount not less than twenty-five
15 thousand dollars (\$25,000) and not exceeding fifty thousand dollars
16 (\$50,000) for each violation.

17 ~~SEC. 373.~~

18 *SEC. 377.* Section 1741.1 of the Labor Code is amended to
19 read:

20 1741.1. (a) The period for service of assessments shall be
21 tolled for the period of time required by the Director of Industrial
22 Relations to determine whether a project is a public work, including
23 a determination on administrative appeal, if applicable, pursuant
24 to subdivisions (b) and (c) of Section 1773.5. The period for service
25 of assessments shall also be tolled for the period of time that a
26 contractor or subcontractor fails to provide in a timely manner
27 certified payroll records pursuant to a request from the Labor
28 Commissioner or a joint labor-management committee under
29 Section 1776, or an approved labor compliance program under
30 Section 1771.5 or 1771.7.

31 (b) (1) The body awarding the contract for a public work shall
32 furnish, within 10 days after receipt of a written request from the
33 Labor Commissioner, a copy of the valid notice of completion for
34 the public work filed in the office of the county recorder, or a
35 document evidencing the awarding body’s acceptance of the public
36 work on a particular date, whichever occurs later, by first-class
37 mail addressed to the office of the Labor Commissioner that is
38 listed on the written request. If, at the time of receipt of the Labor
39 Commissioner’s written request, a valid notice of completion has
40 not been filed by the awarding body in the office of the county

1 recorder and there is no document evidencing the awarding body's
 2 acceptance of the public work on a particular date, the awarding
 3 body shall so notify the office of the Labor Commissioner that is
 4 listed on the written request. Thereafter, the awarding body shall
 5 furnish copies of the applicable document within 10 days after
 6 filing a valid notice of completion with the county recorder's office,
 7 or within 10 days of the awarding body's acceptance of the public
 8 work on a particular date.

9 (2) If the awarding body fails to timely furnish the Labor
 10 Commissioner with the documents identified in paragraph (1), the
 11 period for service of assessments under Section 1741 shall be tolled
 12 until the Labor Commissioner's actual receipt of the valid notice
 13 of completion for the public work or a document evidencing the
 14 awarding body's acceptance of the public work on a particular
 15 date.

16 (c) The tolling provisions in this section shall also apply to the
 17 period of time for commencing an action brought by a joint
 18 labor-management committee pursuant to Section 1771.2.

19 ~~SEC. 374.~~

20 *SEC. 378.* Section 5406 of the Labor Code is amended to read:

21 5406. (a) Except as provided in Section 5406.5, 5406.6, or
 22 5406.7, the period within which may be commenced proceedings
 23 for the collection of the benefits provided by Article 4
 24 (commencing with Section 4700) of Chapter 2 of Part 2 is one
 25 year from:

26 (1) The date of death if death occurs within one year from date
 27 of injury.

28 (2) The date of last furnishing of any benefits under Chapter 2
 29 (commencing with Section 4550) of Part 2, if death occurs more
 30 than one year from the date of injury.

31 (3) The date of death, if death occurs more than one year after
 32 the date of injury and compensation benefits have been furnished.

33 (b) Proceedings shall not be commenced more than one year
 34 after the date of death, nor more than 240 weeks from the date of
 35 injury.

36 ~~SEC. 375.~~

37 *SEC. 379.* Section 6319 of the Labor Code is amended to read:

38 6319. (a) If, after an inspection or investigation, the division
 39 issues a citation pursuant to Section 6317 or an order pursuant to
 40 Section 6308, it shall, within a reasonable time after the termination

1 of the inspection or investigation, notify the employer by certified
2 mail of the citation or order, and that the employer has 15 working
3 days from receipt of the notice within which to notify the appeals
4 board that he or she wishes to contest the citation or order for any
5 reason set forth in Section 6600 or 6600.5.

6 (b) An employer served by certified mail with a notice of civil
7 penalty may appeal to the appeals board within 15 working days
8 from receipt of that notice for any reason set forth in Section 6600.
9 If the citation is issued for a violation involving the condition or
10 operation of any machine, device, apparatus, or equipment, and a
11 person other than the employer is obligated to the employer to
12 repair the machine, device, apparatus, or equipment and to pay
13 any penalties assessed against the employer, the other person may
14 appeal to the appeals board within 15 working days of the receipt
15 of the citation by the employer for any reasons set forth in Section
16 6600.

17 (c) The director shall promulgate regulations covering the
18 assessment of civil penalties under this chapter which give due
19 consideration to the appropriateness of the penalty with respect to
20 the following factors:

- 21 (1) The size of the business of the employer being charged.
- 22 (2) The gravity of the violation.
- 23 (3) The good faith of the employer, including timely abatement.
- 24 (4) The history of previous violations.

25 (d) Notwithstanding subdivision (c), if serious injury, illness,
26 exposure, or death is caused by a serious, willful, or repeated
27 violation, or by a failure to correct a serious violation within the
28 time permitted for its correction, the penalty shall not be reduced
29 for a reason other than the size of the business of the employer
30 being charged. Whenever the division issues a citation for a
31 violation covered by this subdivision, it shall notify the employer
32 of its determination that serious injury, illness, exposure or death
33 was caused by the violation and shall, upon request, provide the
34 employer with a copy of the inspection report.

35 (e) The employer is not liable for a civil penalty under this part
36 for any citation issued by a division representative providing
37 consulting services pursuant to Sections 6354 and 6355.

38 (f) Whenever a citation of a self-insured employer for a willful
39 or repeat serious violation of the standard adopted pursuant to
40 Section 6401.7 becomes final, the division shall notify the director

1 so that a hearing may be held to determine whether good cause
2 exists to revoke the employer's certificate of consent to self-insure
3 as provided in Section 3702.

4 (g) Based upon the evidence, the division may propose
5 appropriate modifications concerning the characterization of
6 violations and corresponding modifications to civil penalties as a
7 result thereof. For serious violations, the division shall not grant
8 a proposed modification to civil penalties for abatement or credit
9 for abatement unless the employer has done any of the following:

10 (1) Abated the violation at the time of the initial inspection.

11 (2) Abated the violation at the time of a subsequent inspection
12 prior to the issuance of a citation.

13 (3) Submitted a signed statement under penalty of perjury and
14 supporting evidence, when necessary to prove abatement, in
15 accordance with subdivision (b) of Section 6320.

16 ~~SEC. 376.~~

17 *SEC. 380.* Section 6404.5 of the Labor Code is amended to
18 read:

19 6404.5. (a) The Legislature finds and declares that regulation
20 of smoking in the workplace is a matter of statewide interest and
21 concern. It is the intent of the Legislature in enacting this section
22 to prohibit the smoking of tobacco products in all (100 percent of)
23 enclosed places of employment in this state, as covered by this
24 section, thereby eliminating the need of local governments to enact
25 workplace smoking restrictions within their respective jurisdictions.
26 It is further the intent of the Legislature to create a uniform
27 statewide standard to restrict and prohibit the smoking of tobacco
28 products in enclosed places of employment, as specified in this
29 section, in order to reduce employee exposure to environmental
30 tobacco smoke to a level that will prevent anything other than
31 insignificantly harmful effects to exposed employees, and also to
32 eliminate the confusion and hardship that can result from enactment
33 or enforcement of disparate local workplace smoking restrictions.
34 Notwithstanding any other provision of this section, it is the intent
35 of the Legislature that an area not defined as a "place of
36 employment" pursuant to subdivision (d) or in which the smoking
37 of tobacco products is not regulated pursuant to subdivision (e) is
38 subject to local regulation of smoking of tobacco products.

39 (b) An employer shall not knowingly or intentionally permit,
40 and a person shall not engage in, the smoking of tobacco products

1 in an enclosed space at a place of employment. “Enclosed space”
2 includes lobbies, lounges, waiting areas, elevators, stairwells, and
3 restrooms that are a structural part of the building and not
4 specifically defined in subdivision (d).

5 (c) For purposes of this section, an employer who permits any
6 nonemployee access to his or her place of employment on a regular
7 basis has not acted knowingly or intentionally in violation of this
8 section if he or she has taken the following reasonable steps to
9 prevent smoking by a nonemployee:

10 (1) Posted clear and prominent signs, as follows:

11 (A) Where smoking is prohibited throughout the building or
12 structure, a sign stating “No smoking” shall be posted at each
13 entrance to the building or structure.

14 (B) Where smoking is permitted in designated areas of the
15 building or structure, a sign stating “Smoking is prohibited except
16 in designated areas” shall be posted at each entrance to the building
17 or structure.

18 (2) Has requested, when appropriate, that a nonemployee who
19 is smoking refrain from smoking in the enclosed workplace.

20 For purposes of this subdivision, “reasonable steps” does not
21 include (A) the physical ejection of a nonemployee from the place
22 of employment or (B) any requirement for making a request to a
23 nonemployee to refrain from smoking, under circumstances
24 involving a risk of physical harm to the employer or any employee.

25 (d) For purposes of this section, “place of employment” does
26 not include any of the following:

27 (1) Sixty-five percent of the guestroom accommodations in a
28 hotel, motel, or similar transient lodging establishment.

29 (2) Areas of the lobby in a hotel, motel, or other similar transient
30 lodging establishment designated for smoking by the establishment.
31 An establishment may permit smoking in a designated lobby area
32 that does not exceed 25 percent of the total floor area of the lobby
33 or, if the total area of the lobby is 2,000 square feet or less, that
34 does not exceed 50 percent of the total floor area of the lobby. For
35 purposes of this paragraph, “lobby” means the common public
36 area of an establishment in which registration and other similar or
37 related transactions, or both, are conducted and in which the
38 establishment’s guests and members of the public typically
39 congregate.

1 (3) Meeting and banquet rooms in a hotel, motel, other transient
2 lodging establishment similar to a hotel or motel, restaurant, or
3 public convention center, except while food or beverage functions
4 are taking place, including setup, service, and cleanup activities,
5 or when the room is being used for exhibit purposes. At times
6 when smoking is not permitted in a meeting or banquet room
7 pursuant to this paragraph, the establishment may permit smoking
8 in corridors and prefunction areas adjacent to and serving the
9 meeting or banquet room if no employee is stationed in that
10 corridor or area on other than a passing basis.

11 (4) Retail or wholesale tobacco shops and private smokers'
12 lounges. For purposes of this paragraph:

13 (A) "Private smokers' lounge" means any enclosed area in or
14 attached to a retail or wholesale tobacco shop that is dedicated to
15 the use of tobacco products, including, but not limited to, cigars
16 and pipes.

17 (B) "Retail or wholesale tobacco shop" means any business
18 establishment the main purpose of which is the sale of tobacco
19 products, including, but not limited to, cigars, pipe tobacco, and
20 smoking accessories.

21 (5) Cabs of motortrucks, as defined in Section 410 of the Vehicle
22 Code, or truck tractors, as defined in Section 655 of the Vehicle
23 Code, if nonsmoking employees are not present.

24 (6) Warehouse facilities. For purposes of this paragraph,
25 "warehouse facility" means a warehouse facility with more than
26 100,000 square feet of total floorspace, and 20 or fewer full-time
27 employees working at the facility, but does not include any area
28 within a facility that is utilized as office space.

29 (7) Gaming clubs, in which smoking is permitted by subdivision
30 (f). For purposes of this paragraph, "gaming club" means any
31 gaming club, as defined in Section 19802 of the Business and
32 Professions Code, or bingo facility, as defined in Section 326.5 of
33 the Penal Code, that restricts access to minors under 18 years of
34 age.

35 (8) Bars and taverns, in which smoking is permitted by
36 subdivision (f). For purposes of this paragraph, "bar" or "tavern"
37 means a facility primarily devoted to the serving of alcoholic
38 beverages for consumption by guests on the premises, in which
39 the serving of food is incidental. "Bar or tavern" includes those
40 facilities located within a hotel, motel, or other similar transient

1 occupancy establishment. However, when located within a building
2 in conjunction with another use, including a restaurant, “bar” or
3 “tavern” includes only those areas used primarily for the sale and
4 service of alcoholic beverages. “Bar” or “tavern” does not include
5 the dining areas of a restaurant, regardless of whether alcoholic
6 beverages are served therein.

7 (9) Theatrical production sites, if smoking is an integral part of
8 the story in the theatrical production.

9 (10) Medical research or treatment sites, if smoking is integral
10 to the research and treatment being conducted.

11 (11) Private residences, except for private residences licensed
12 as family day care homes where smoking is prohibited pursuant
13 to Section 1596.795 of the Health and Safety Code.

14 (12) Patient smoking areas in long-term health care facilities,
15 as defined in Section 1418 of the Health and Safety Code.

16 (13) Breakrooms designated by employers for smoking, provided
17 that all of the following conditions are met:

18 (A) Air from the smoking room shall be exhausted directly to
19 the outside by an exhaust fan. Air from the smoking room shall
20 not be recirculated to other parts of the building.

21 (B) The employer shall comply with any ventilation standard
22 or other standard utilizing appropriate technology, including, but
23 not limited to, mechanical, electronic, and biotechnical systems,
24 adopted by the Occupational Safety and Health Standards Board
25 or the federal Environmental Protection Agency. If both adopt
26 inconsistent standards, the ventilation standards of the Occupational
27 Safety and Health Standards Board shall be no less stringent than
28 the standards adopted by the federal Environmental Protection
29 Agency.

30 (C) The smoking room shall be located in a nonwork area where
31 no one, as part of his or her work responsibilities, is required to
32 enter. For purposes of this subparagraph, “work responsibilities”
33 does not include any custodial or maintenance work carried out in
34 the breakroom when it is unoccupied.

35 (D) There are sufficient nonsmoking breakrooms to
36 accommodate nonsmokers.

37 (14) Employers with a total of five or fewer employees, either
38 full time or part time, may permit smoking where all of the
39 following conditions are met:

40 (A) The smoking area is not accessible to minors.

1 (B) All employees who enter the smoking area consent to permit
2 smoking. No one, as part of his or her work responsibilities, shall
3 be required to work in an area where smoking is permitted. An
4 employer who is determined by the division to have used coercion
5 to obtain consent or who has required an employee to work in the
6 smoking area shall be subject to the penalty provisions of Section
7 6427.

8 (C) Air from the smoking area shall be exhausted directly to
9 the outside by an exhaust fan. Air from the smoking area shall not
10 be recirculated to other parts of the building.

11 (D) The employer shall comply with any ventilation standard
12 or other standard utilizing appropriate technology, including, but
13 not limited to, mechanical, electronic, and biotechnical systems,
14 adopted by the Occupational Safety and Health Standards Board
15 or the federal Environmental Protection Agency. If both adopt
16 inconsistent standards, the ventilation standards of the Occupational
17 Safety and Health Standards Board shall be no less stringent than
18 the standards adopted by the federal Environmental Protection
19 Agency.

20 This paragraph shall not be construed to (i) supersede or render
21 inapplicable any condition or limitation on smoking areas made
22 applicable to specific types of business establishments by any other
23 paragraph of this subdivision or (ii) apply in lieu of any otherwise
24 applicable paragraph of this subdivision that has become
25 inoperative.

26 (e) Paragraphs (13) and (14) of subdivision (d) shall not be
27 construed to require employers to provide reasonable
28 accommodation to smokers, or to provide breakrooms for smokers
29 or nonsmokers.

30 (f) (1) Except as otherwise provided in this subdivision,
31 smoking may be permitted in gaming clubs, as defined in paragraph
32 (7) of subdivision (d), and in bars and taverns, as defined in
33 paragraph (8) of subdivision (d), until the earlier of the following:

34 (A) January 1, 1998.

35 (B) The date of adoption of a regulation (i) by the Occupational
36 Safety and Health Standards Board reducing the permissible
37 employee exposure level to environmental tobacco smoke to a
38 level that will prevent anything other than insignificantly harmful
39 effects to exposed employees or (ii) by the federal Environmental
40 Protection Agency establishing a standard for reduction of

1 permissible exposure to environmental tobacco smoke to an
2 exposure level that will prevent anything other than insignificantly
3 harmful effects to exposed persons.

4 (2) If a regulation specified in subparagraph (B) of paragraph
5 (1) is adopted on or before January 1, 1998, smoking may thereafter
6 be permitted in gaming clubs and in bars and taverns, subject to
7 full compliance with, or conformity to, the standard in the
8 regulation within two years following the date of adoption of the
9 regulation. An employer failing to achieve compliance with, or
10 conformity to, the regulation within this two-year period shall
11 prohibit smoking in the gaming club, bar, or tavern until
12 compliance or conformity is achieved. If the Occupational Safety
13 and Health Standards Board and the federal Environmental
14 Protection Agency both adopt regulations specified in subparagraph
15 (B) of paragraph (1) that are inconsistent, the regulations of the
16 Occupational Safety and Health Standards Board shall be no less
17 stringent than the regulations of the federal Environmental
18 Protection Agency.

19 (3) If a regulation specified in subparagraph (B) of paragraph
20 (1) is not adopted on or before January 1, 1998, the exemptions
21 specified in paragraphs (7) and (8) of subdivision (d) shall become
22 inoperative on and after January 1, 1998, until a regulation is
23 adopted. Upon adoption of such a regulation on or after January
24 1, 1998, smoking may thereafter be permitted in gaming clubs and
25 in bars and taverns, subject to full compliance with, or conformity
26 to, the standard in the regulation within two years following the
27 date of adoption of the regulation. An employer failing to achieve
28 compliance with, or conformity to, the regulation within this
29 two-year period shall prohibit smoking in the gaming club, bar,
30 or tavern until compliance or conformity is achieved. If the
31 Occupational Safety and Health Standards Board and the federal
32 Environmental Protection Agency both adopt regulations specified
33 in subparagraph (B) of paragraph (1) that are inconsistent, the
34 regulations of the Occupational Safety and Health Standards Board
35 shall be no less stringent than the regulations of the federal
36 Environmental Protection Agency.

37 (4) From January 1, 1997, to December 31, 1997, inclusive,
38 smoking may be permitted in gaming clubs, as defined in paragraph
39 (7) of subdivision (d), and in bars and taverns, as defined in

1 paragraph (8) of subdivision (d), subject to both of the following
2 conditions:

3 (A) If practicable, the gaming club or bar or tavern shall
4 establish a designated nonsmoking area.

5 (B) If feasible, an employee shall not be required, in the
6 performance of ordinary work responsibilities, to enter any area
7 in which smoking is permitted.

8 (g) The smoking prohibition set forth in this section constitutes
9 a uniform statewide standard for regulating the smoking of tobacco
10 products in enclosed places of employment and supersedes and
11 render unnecessary the local enactment or enforcement of local
12 ordinances regulating the smoking of tobacco products in enclosed
13 places of employment. Insofar as the smoking prohibition set forth
14 in this section is applicable to all (100-percent) places of
15 employment within this state and, therefore, provides the maximum
16 degree of coverage, the practical effect of this section is to
17 eliminate the need of local governments to enact enclosed
18 workplace smoking restrictions within their respective jurisdictions.

19 (h) This section does not prohibit an employer from prohibiting
20 smoking in an enclosed place of employment for any reason.

21 (i) The enactment of local regulation of smoking of tobacco
22 products in enclosed places of employment by local governments
23 shall be suspended only for as long as, and to the extent that, the
24 (100-percent) smoking prohibition provided for in this section
25 remains in effect. In the event this section is repealed or modified
26 by subsequent legislative or judicial action so that the (100-percent)
27 smoking prohibition is no longer applicable to all enclosed places
28 of employment in California, local governments shall have the full
29 right and authority to enforce previously enacted, and to enact and
30 enforce new, restrictions on the smoking of tobacco products in
31 enclosed places of employment within their jurisdictions, including
32 a complete prohibition of smoking. Notwithstanding any other
33 provision of this section, an area not defined as a “place of
34 employment” or in which smoking is not regulated pursuant to
35 subdivision (d) or (e), is subject to local regulation of smoking of
36 tobacco products.

37 (j) A violation of the prohibition set forth in subdivision (b) is
38 an infraction, punishable by a fine not to exceed one hundred
39 dollars (\$100) for a first violation, two hundred dollars (\$200) for
40 a second violation within one year, and five hundred dollars (\$500)

1 for a third and for each subsequent violation within one year. This
2 subdivision shall be enforced by local law enforcement agencies,
3 including, but not limited to, local health departments, as
4 determined by the local governing body.

5 (k) Notwithstanding Section 6309, the division shall not be
6 required to respond to any complaint regarding the smoking of
7 tobacco products in an enclosed space at a place of employment,
8 unless the employer has been found guilty pursuant to subdivision
9 (j) of a third violation of subdivision (b) within the previous year.

10 (l) If a provision of this act or the application thereof to any
11 person or circumstances is held invalid, that invalidity shall not
12 affect other provisions or applications of the act that can be given
13 effect without the invalid provision or application, and to this end
14 the provisions of this act are severable.

15 ~~SEC. 377.~~

16 *SEC. 381.* Section 6625 of the Labor Code is amended to read:

17 6625. (a) (1) Except as provided in subdivision (b), the filing
18 of a petition for reconsideration suspends for a period of 10 days
19 the order or decision affected, insofar as it applies to the parties
20 to the petition, unless otherwise ordered by the appeals board.

21 (2) Except as provided in subdivision (b), the appeals board,
22 upon the terms and conditions which it by order directs, may stay,
23 suspend, or postpone the order or decision during the pendency of
24 the reconsideration.

25 (b) The filing of a petition for, or the pendency of,
26 reconsideration of a final order or decision involving a citation
27 classified as serious, repeat serious, or willful serious does not stay
28 or suspend the requirement to abate the hazards affirmed by the
29 decision or order unless the employer demonstrates by a
30 preponderance of the evidence that a stay or suspension of
31 abatement will not adversely affect the health and safety of
32 employees. The employer must request a stay or suspension of
33 abatement by filing a written, verified petition with supporting
34 declarations within 10 days after the issuance of the order or
35 decision.

36 ~~SEC. 378.~~

37 *SEC. 382.* Section 7873 of the Labor Code is amended to read:

38 7873. (a) As used in this section, “trade secret” means a trade
39 secret as defined in subdivision (d) of Section 6254.7 of the
40 Government Code or Section 1061 of the Evidence Code, and shall

1 include the schedule submitted to the division pursuant to
2 subdivision (b) of Section 7872 of this code, and the scheduling,
3 duration, layout, configuration, and type of work to be performed
4 during a turnaround. Upon completion of a turnaround, the
5 scheduling and duration of that turnaround shall no longer be
6 considered a trade secret. The wages, hours, benefits, job
7 classifications, and training standards for employees performing
8 work for petroleum refinery employers is not a trade secret.

9 (b) (1) If a petroleum refinery employer believes that
10 information submitted to the division pursuant to Section 7872
11 may involve the release of a trade secret, the petroleum refinery
12 employer shall nevertheless provide this information to the
13 division. The petroleum refinery employer may, at the time of
14 submission, identify all or a portion of the information submitted
15 to the division as trade secret and, to the extent feasible, segregate
16 records designated as trade secret from the other records.

17 (2) Subject to subdivisions (c), (d), and (e), the division shall
18 not release to the public any information designated as a trade
19 secret by the petroleum refinery employer pursuant to paragraph
20 (1).

21 (c) (1) Upon the receipt of a request for the release of
22 information to the public that includes information that the
23 petroleum refinery employer has notified the division is a trade
24 secret pursuant to paragraph (1) of subdivision (b), the division
25 shall notify the petroleum refinery employer in writing of the
26 request by certified mail, return receipt requested.

27 (2) The division shall release the requested information to the
28 public, unless both of the following occur:

29 (A) Within 30 days of receipt of the notice of the request for
30 information, the petroleum refinery employer files an action in an
31 appropriate court for a declaratory judgment that the information
32 is subject to protection under subdivision (b) and promptly notifies
33 the division of that action.

34 (B) Within 120 days of receipt of the notice of the request for
35 information, the petroleum refinery employer obtains an order
36 prohibiting disclosure of the information to the public and promptly
37 notifies the division of that action.

38 (3) This subdivision shall not be construed to allow a petroleum
39 refinery employer to refuse to disclose the information required
40 pursuant to this section to the division.

1 (d) (1) Except as provided in subdivision (c), information that
2 has been designated as a trade secret by a petroleum refinery
3 employer shall not be released to any member of the public, except
4 that this information may be disclosed to other officers or
5 employees of the division when relevant in a proceeding of the
6 division.

7 (2) If the person requesting the release of the information or the
8 petroleum refinery employer files an action to order or prohibit
9 disclosure of trade secret information, the person instituting the
10 proceeding shall name the person or the petroleum refinery
11 employer as a real party in interest.

12 (A) The petroleum refinery employer filing an action pursuant
13 to paragraph (2) of subdivision (c) shall provide notice of the action
14 to the person requesting the release of the information at the same
15 time that the defendant in the action is served.

16 (B) The person filing an action to compel the release of
17 information that includes information that the petroleum refinery
18 employer has notified the division is a trade secret pursuant to
19 paragraph (1) of subdivision (b) shall provide notice of the action
20 to the petroleum refinery employer that submitted the information
21 at the same time that the defendant in the action is served.

22 (3) The court shall award costs and reasonable attorneys' fees
23 to the party that prevails in litigation filed pursuant to this section.
24 The public agency shall not bear the court costs for any party
25 named in litigation filed pursuant to this section.

26 (e) This section shall not be construed to prohibit the exchange
27 of trade secrets between local, state, or federal public agencies or
28 state officials when those trade secrets are relevant and reasonably
29 necessary to the exercise of their authority.

30 (f) An officer or employee of the division who, by virtue of that
31 employment or official position, has possession of, or has access
32 to, trade secret information, and who, knowing that disclosure of
33 the information to the general public is prohibited by this section,
34 knowingly and willfully discloses the information in any manner
35 to a person he or she knows is not entitled to receive it, is guilty
36 of a misdemeanor. A contractor with the division and an employee
37 of the contractor, who has been furnished information as authorized
38 by this section, shall be considered an employee of the division
39 for purposes of this section.

1 ~~SEC. 379.~~

2 *SEC. 383.* Section 19.8 of the Penal Code is amended to read:

3 19.8. (a) The following offenses are subject to subdivision (d)
 4 of Section 17: Sections 193.8, 330, 415, 485, 490.7, 555, 602.13,
 5 and 853.7 of this code; subdivision (c) of Section 532b, and
 6 subdivision (o) of Section 602 of this code; subdivision (b) of
 7 Section 25658 and Sections 21672, 25661, and 25662 of the
 8 Business and Professions Code; Section 27204 of the Government
 9 Code; subdivision (c) of Section 23109 and Sections 5201.1, 12500,
 10 14601.1, 27150.1, 40508, and 42005 of the Vehicle Code, and any
 11 other offense that the Legislature makes subject to subdivision (d)
 12 of Section 17. Except where a lesser maximum fine is expressly
 13 provided for a violation of those sections, a violation that is an
 14 infraction is punishable by a fine not exceeding two hundred fifty
 15 dollars (\$250).

16 (b) Except in cases where a different punishment is prescribed,
 17 every offense declared to be an infraction is punishable by a fine
 18 not exceeding two hundred fifty dollars (\$250).

19 (c) Except for the violations enumerated in subdivision (d) of
 20 Section 13202.5 of the Vehicle Code, and Section 14601.1 of the
 21 Vehicle Code based upon failure to appear, a conviction for an
 22 offense made an infraction under subdivision (d) of Section 17 is
 23 not grounds for the suspension, revocation, or denial of a license,
 24 or for the revocation of probation or parole of the person convicted.

25 ~~SEC. 380.~~

26 *SEC. 384.* Section 132.5 of the Penal Code, as amended by
 27 Section 223 of Chapter 62 of the Statutes of 2003, is amended to
 28 read:

29 132.5. (a) The Legislature supports and affirms the
 30 constitutional right of every person to communicate on any subject.
 31 This section is intended to preserve the right of every accused
 32 person to a fair trial, the right of the people to due process of law,
 33 and the integrity of judicial proceedings. This section is not
 34 intended to prevent any person from disseminating any information
 35 or opinion.

36 The Legislature hereby finds and declares that the disclosure for
 37 valuable consideration of information relating to crimes by
 38 prospective witnesses can cause the loss of credible evidence in
 39 criminal trials and threatens to erode the reliability of verdicts.

1 The Legislature further finds and declares that the disclosure for
2 valuable consideration of information relating to crimes by
3 prospective witnesses creates an appearance of injustice that is
4 destructive of public confidence.

5 (b) A person who is a witness to an event or occurrence that he
6 or she knows is a crime or who has personal knowledge of facts
7 that he or she knows or reasonably should know may require that
8 person to be called as a witness in a criminal prosecution shall not
9 accept or receive, directly or indirectly, any money or its equivalent
10 in consideration for providing information obtained as a result of
11 witnessing the event or occurrence or having personal knowledge
12 of the facts.

13 (c) A person who is a witness to an event or occurrence that he
14 or she reasonably should know is a crime shall not accept or
15 receive, directly or indirectly, any money or its equivalent in
16 consideration for providing information obtained as a result of his
17 or her witnessing the event or occurrence.

18 (d) The Attorney General or the district attorney of the county
19 in which an alleged violation of subdivision (c) occurs may institute
20 a civil proceeding. Where a final judgment is rendered in the civil
21 proceeding, the defendant shall be punished for the violation of
22 subdivision (c) by a fine equal to 150 percent of the amount
23 received or contracted for by the person.

24 (e) A violation of subdivision (b) is a misdemeanor punishable
25 by imprisonment for a term not exceeding six months in a county
26 jail, a fine not exceeding three times the amount of compensation
27 requested, accepted, or received, or both the imprisonment and
28 fine.

29 (f) This section does not apply if more than one year has elapsed
30 from the date of any criminal act related to the information that is
31 provided under subdivision (b) or (c) unless prosecution has
32 commenced for that criminal act. If prosecution has commenced,
33 this section shall remain applicable until the final judgment in the
34 action.

35 (g) This section does not apply to any of the following
36 circumstances:

37 (1) Lawful compensation paid to expert witnesses, investigators,
38 employees, or agents by a prosecutor, law enforcement agency,
39 or an attorney employed to represent a person in a criminal matter.

1 (2) Lawful compensation provided to an informant by a
2 prosecutor or law enforcement agency.

3 (3) Compensation paid to a publisher, editor, reporter, writer,
4 or other person connected with or employed by a newspaper,
5 magazine, or other publication or a television or radio news reporter
6 or other person connected with a television or radio station, for
7 disclosing information obtained in the ordinary course of business.

8 (4) Statutorily authorized rewards offered by governmental
9 agencies or private reward programs offered by victims of crimes
10 for information leading to the arrest and conviction of specified
11 offenders.

12 (5) Lawful compensation provided to a witness participating in
13 the Witness Relocation and Assistance Program established
14 pursuant to Title 7.5 (commencing with Section 14020) of Part 4.

15 (h) For purposes of this section, “information” does not include
16 a photograph, videotape, audiotape, or any other direct recording
17 of an event or occurrence.

18 (i) For purposes of this section, “victims of crimes” shall be
19 construed in a manner consistent with Section 28 of Article I of
20 the California Constitution, and shall include victims, as defined
21 in subdivision (3) of Section 136.

22 ~~SEC. 381.~~

23 *SEC. 385.* Section 264.2 of the Penal Code is amended to read:

24 264.2. (a) Whenever there is an alleged violation or violations
25 of subdivision (e) of Section 243, or Section 261, 261.5, 262, 273.5,
26 286, 288a, or 289, the law enforcement officer assigned to the case
27 shall immediately provide the victim of the crime with the “Victims
28 of Domestic Violence” card, as specified in subparagraph (H) of
29 paragraph (9) of subdivision (c) of Section 13701.

30 (b) (1) The law enforcement officer, or his or her agency, shall
31 immediately notify the local rape victim counseling center,
32 whenever a victim of an alleged violation of Section 261, 261.5,
33 262, 286, 288a, or 289 is transported to a hospital for any medical
34 evidentiary or physical examination. The hospital may notify the
35 local rape victim counseling center, when the victim of the alleged
36 violation of Section 261, 261.5, 262, 286, 288a, or 289 is presented
37 to the hospital for the medical or evidentiary physical examination,
38 upon approval of the victim. The victim has the right to have a
39 sexual assault counselor, as defined in Section 1035.2 of the

1 Evidence Code, and a support person of the victim's choosing
2 present at any medical evidentiary or physical examination.

3 (2) Prior to the commencement of any initial medical evidentiary
4 or physical examination arising out of a sexual assault, a victim
5 shall be notified orally or in writing by the medical provider that
6 the victim has the right to have present a sexual assault counselor
7 and at least one other support person of the victim's choosing.

8 (3) The hospital may verify with the law enforcement officer,
9 or his or her agency, whether the local rape victim counseling
10 center has been notified, upon the approval of the victim.

11 (4) A support person may be excluded from a medical
12 evidentiary or physical examination if the law enforcement officer
13 or medical provider determines that the presence of that individual
14 would be detrimental to the purpose of the examination.

15 ~~SEC. 382.~~

16 *SEC. 386.* Section 295.2 of the Penal Code is amended to read:

17 295.2. The DNA and forensic identification database and
18 databank and the Department of Justice DNA Laboratory shall not
19 be used as a source of genetic material for testing, research, or
20 experiments, by any person, agency, or entity seeking to find a
21 causal link between genetics and behavior or health.

22 ~~SEC. 383.~~

23 *SEC. 387.* Section 300.2 of the Penal Code, as added by Section
24 2 of Chapter 696 of the Statutes of 1998, is amended and
25 renumbered to read:

26 300.4. The provisions of this chapter are severable. If any
27 provision of this chapter or its application is held invalid, that
28 invalidity shall not affect other provisions or applications that can
29 be given effect without the invalid provision or application.

30 ~~SEC. 384.~~

31 *SEC. 388.* Section 308 of the Penal Code is amended to read:

32 308. (a) (1) Every person, firm, or corporation that knowingly
33 or under circumstances in which it has knowledge, or should
34 otherwise have grounds for knowledge, sells, gives, or in any way
35 furnishes to another person who is under the age of 18 years any
36 tobacco, cigarette, or cigarette papers, or blunt wraps, or any other
37 preparation of tobacco, or any other instrument or paraphernalia
38 that is designed for the smoking or ingestion of tobacco, products
39 prepared from tobacco, or any controlled substance, is subject to
40 either a criminal action for a misdemeanor or to a civil action

1 brought by a city attorney, a county counsel, or a district attorney,
2 punishable by a fine of two hundred dollars (\$200) for the first
3 offense, five hundred dollars (\$500) for the second offense, and
4 one thousand dollars (\$1,000) for the third offense.

5 Notwithstanding Section 1464 or any other law, 25 percent of
6 each civil and criminal penalty collected pursuant to this
7 subdivision shall be paid to the office of the city attorney, county
8 counsel, or district attorney, whoever is responsible for bringing
9 the successful action, and 25 percent of each civil and criminal
10 penalty collected pursuant to this subdivision shall be paid to the
11 city or county for the administration and cost of the community
12 service work component provided in subdivision (b).

13 Proof that a defendant, or his or her employee or agent,
14 demanded, was shown, and reasonably relied upon evidence of
15 majority shall be defense to any action brought pursuant to this
16 subdivision. Evidence of majority of a person is a facsimile of or
17 a reasonable likeness of a document issued by a federal, state,
18 county, or municipal government, or subdivision or agency thereof,
19 including, but not limited to, a motor vehicle operator's license, a
20 registration certificate issued under the federal Selective Service
21 Act, or an identification card issued to a member of the Armed
22 Forces.

23 For purposes of this section, the person liable for selling or
24 furnishing tobacco products to minors by a tobacco vending
25 machine shall be the person authorizing the installation or
26 placement of the tobacco vending machine upon premises he or
27 she manages or otherwise controls and under circumstances in
28 which he or she has knowledge, or should otherwise have grounds
29 for knowledge, that the tobacco vending machine will be utilized
30 by minors.

31 (2) For purposes of this section, "blunt wraps" means cigar
32 papers or cigar wrappers of all types that are designed for smoking
33 or ingestion of tobacco products and contain less than 50 percent
34 tobacco.

35 (b) Every person under the age of 18 years who purchases,
36 receives, or possesses any tobacco, cigarette, or cigarette papers,
37 or any other preparation of tobacco, or any other instrument or
38 paraphernalia that is designed for the smoking of tobacco, products
39 prepared from tobacco, or any controlled substance shall, upon

1 conviction, be punished by a fine of seventy-five dollars (\$75) or
2 30 hours of community service work.

3 (c) Every person, firm, or corporation that sells, or deals in
4 tobacco or any preparation thereof, shall post conspicuously and
5 keep so posted in his, her, or their place of business at each point
6 of purchase the notice required pursuant to subdivision (b) of
7 Section 22952 of the Business and Professions Code, and any
8 person failing to do so shall, upon conviction, be punished by a
9 fine of fifty dollars (\$50) for the first offense, one hundred dollars
10 (\$100) for the second offense, two hundred fifty dollars (\$250) for
11 the third offense, and five hundred dollars (\$500) for the fourth
12 offense and each subsequent violation of this provision, or by
13 imprisonment in a county jail not exceeding 30 days.

14 (d) For purposes of determining the liability of persons, firms,
15 or corporations controlling franchises or business operations in
16 multiple locations for the second and subsequent violations of this
17 section, each individual franchise or business location shall be
18 deemed a separate entity.

19 (e) Notwithstanding subdivision (b), any person under 18 years
20 of age who purchases, receives, or possesses any tobacco, cigarette,
21 or cigarette papers, or any other preparation of tobacco, any other
22 instrument or paraphernalia that is designed for the smoking of
23 tobacco, or products prepared from tobacco is immune from
24 prosecution for that purchase, receipt, or possession while
25 participating in either of the following:

26 (1) An enforcement activity that complies with the guidelines
27 adopted pursuant to subdivisions (c) and (d) of Section 22952 of
28 the Business and Professions Code.

29 (2) An activity conducted by the State Department of Public
30 Health, a local health department, or a law enforcement agency
31 for the purpose of determining or evaluating youth tobacco
32 purchase rates.

33 (f) It is the Legislature's intent to regulate the subject matter of
34 this section. As a result, a city, county, or city and county shall not
35 adopt any ordinance or regulation inconsistent with this section.

36 ~~SEC. 385.~~

37 *SEC. 389.* Section 602 of the Penal Code is amended to read:

38 602. Except as provided in subdivisions (u), (v), and (x), and
39 Section 602.8, every person who willfully commits a trespass by
40 any of the following acts is guilty of a misdemeanor:

- 1 (a) Cutting down, destroying, or injuring any kind of wood or
2 timber standing or growing upon the lands of another.
- 3 (b) Carrying away any kind of wood or timber lying on those
4 lands.
- 5 (c) Maliciously injuring or severing from the freehold of another
6 anything attached to it, or its produce.
- 7 (d) Digging, taking, or carrying away from any lot situated
8 within the limits of any incorporated city, without the license of
9 the owner or legal occupant, any earth, soil, or stone.
- 10 (e) Digging, taking, or carrying away from land in any city or
11 town laid down on the map or plan of the city, or otherwise
12 recognized or established as a street, alley, avenue, or park, without
13 the license of the proper authorities, any earth, soil, or stone.
- 14 (f) Maliciously tearing down, damaging, mutilating, or
15 destroying any sign, signboard, or notice placed upon, or affixed
16 to, any property belonging to the state, or to any city, county, city
17 and county, town, or village, or upon any property of any person,
18 by the state or by an automobile association, which sign, signboard,
19 or notice is intended to indicate or designate a road or a highway,
20 or is intended to direct travelers from one point to another, or
21 relates to fires, fire control, or any other matter involving the
22 protection of the property, or putting up, affixing, fastening,
23 printing, or painting upon any property belonging to the state, or
24 to any city, county, town, or village, or dedicated to the public, or
25 upon any property of any person, without license from the owner,
26 any notice, advertisement, or designation of, or any name for any
27 commodity, whether for sale or otherwise, or any picture, sign, or
28 device intended to call attention to it.
- 29 (g) Entering upon any lands owned by any other person whereon
30 oysters or other shellfish are planted or growing; or injuring,
31 gathering, or carrying away any oysters or other shellfish planted,
32 growing, or on any of those lands, whether covered by water or
33 not, without the license of the owner or legal occupant; or
34 damaging, destroying, or removing, or causing to be removed,
35 damaged, or destroyed, any stakes, marks, fences, or signs intended
36 to designate the boundaries and limits of any of those lands.
- 37 (h) (1) Entering upon lands or buildings owned by any other
38 person without the license of the owner or legal occupant, where
39 signs forbidding trespass are displayed, and whereon cattle, goats,
40 pigs, sheep, fowl, or any other animal is being raised, bred, fed,

1 or held for the purpose of food for human consumption; or injuring,
2 gathering, or carrying away any animal being housed on any of
3 those lands, without the license of the owner or legal occupant; or
4 damaging, destroying, or removing, or causing to be removed,
5 damaged, or destroyed, any stakes, marks, fences, or signs intended
6 to designate the boundaries and limits of any of those lands.

7 (2) In order for there to be a violation of this subdivision, the
8 trespass signs under paragraph (1) shall be displayed at intervals
9 not less than three per mile along all exterior boundaries and at all
10 roads and trails entering the land.

11 (3) This subdivision shall not be construed to preclude
12 prosecution or punishment under any other law, including, but not
13 limited to, grand theft or any provision that provides for a greater
14 penalty or longer term of imprisonment.

15 (i) Willfully opening, tearing down, or otherwise destroying
16 any fence on the enclosed land of another, or opening any gate,
17 bar, or fence of another and willfully leaving it open without the
18 written permission of the owner, or maliciously tearing down,
19 mutilating, or destroying any sign, signboard, or other notice
20 forbidding shooting on private property.

21 (j) Building fires upon any lands owned by another where signs
22 forbidding trespass are displayed at intervals not greater than one
23 mile along the exterior boundaries and at all roads and trails
24 entering the lands, without first having obtained written permission
25 from the owner of the lands or the owner's agent, or the person in
26 lawful possession.

27 (k) Entering any lands, whether unenclosed or enclosed by
28 fence, for the purpose of injuring any property or property rights
29 or with the intention of interfering with, obstructing, or injuring
30 any lawful business or occupation carried on by the owner of the
31 land, the owner's agent, or the person in lawful possession.

32 (l) Entering any lands under cultivation or enclosed by fence,
33 belonging to, or occupied by, another, or entering upon uncultivated
34 or unenclosed lands where signs forbidding trespass are displayed
35 at intervals not less than three to the mile along all exterior
36 boundaries and at all roads and trails entering the lands without
37 the written permission of the owner of the land, the owner's agent,
38 or the person in lawful possession, and any of the following:

1 (1) Refusing or failing to leave the lands immediately upon
2 being requested by the owner of the land, the owner's agent, or by
3 the person in lawful possession to leave the lands.

4 (2) Tearing down, mutilating, or destroying any sign, signboard,
5 or notice forbidding trespass or hunting on the lands.

6 (3) Removing, injuring, unlocking, or tampering with any lock
7 on any gate on or leading into the lands.

8 (4) Discharging any firearm.

9 (m) Entering and occupying real property or structures of any
10 kind without the consent of the owner, the owner's agent, or the
11 person in lawful possession.

12 (n) Driving any vehicle, as defined in Section 670 of the Vehicle
13 Code, upon real property belonging to, or lawfully occupied by,
14 another and known not to be open to the general public, without
15 the consent of the owner, the owner's agent, or the person in lawful
16 possession. This subdivision does not apply to any person described
17 in Section 22350 of the Business and Professions Code who is
18 making a lawful service of process, provided that upon exiting the
19 vehicle, the person proceeds immediately to attempt the service
20 of process, and leaves immediately upon completing the service
21 of process or upon the request of the owner, the owner's agent, or
22 the person in lawful possession.

23 (o) Refusing or failing to leave land, real property, or structures
24 belonging to or lawfully occupied by another and not open to the
25 general public, upon being requested to leave by (1) a peace officer
26 at the request of the owner, the owner's agent, or the person in
27 lawful possession, and upon being informed by the peace officer
28 that he or she is acting at the request of the owner, the owner's
29 agent, or the person in lawful possession, or (2) the owner, the
30 owner's agent, or the person in lawful possession. The owner, the
31 owner's agent, or the person in lawful possession shall make a
32 separate request to the peace officer on each occasion when the
33 peace officer's assistance in dealing with a trespass is requested.
34 However, a single request for a peace officer's assistance may be
35 made to cover a limited period of time not to exceed 30 days and
36 identified by specific dates, during which there is a fire hazard or
37 the owner, owner's agent, or person in lawful possession is absent
38 from the premises or property. In addition, a single request for a
39 peace officer's assistance may be made for a period not to exceed
40 12 months when the premises or property is closed to the public

1 and posted as being closed. The requestor shall inform the law
2 enforcement agency to which the request was made when the
3 assistance is no longer desired, before the period not exceeding
4 12 months expires. The request for assistance shall expire upon
5 transfer of ownership of the property or upon a change in the person
6 in lawful possession. However, this subdivision does not apply to
7 persons engaged in lawful labor union activities which are
8 permitted to be carried out on the property by the
9 Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations
10 Act of 1975 (Part 3.5 (commencing with Section 1140) of Division
11 2 of the Labor Code) or by the federal National Labor Relations
12 Act. For purposes of this section, land, real property, or structures
13 owned or operated by any housing authority for tenants, as defined
14 in Section 34213.5 of the Health and Safety Code, constitutes
15 property not open to the general public; however, this subdivision
16 shall not apply to persons on the premises who are engaging in
17 activities protected by the California or United States Constitution,
18 or to persons who are on the premises at the request of a resident
19 or management and who are not loitering or otherwise suspected
20 of violating or actually violating any law or ordinance.

21 (p) Entering upon any lands declared closed to entry as provided
22 in Section 4256 of the Public Resources Code, if the closed areas
23 have been posted with notices declaring the closure, at intervals
24 not greater than one mile along the exterior boundaries or along
25 roads and trails passing through the lands.

26 (q) Refusing or failing to leave a public building of a public
27 agency during those hours of the day or night when the building
28 is regularly closed to the public upon being requested to do so by
29 a regularly employed guard, watchperson, or custodian of the
30 public agency owning or maintaining the building or property, if
31 the surrounding circumstances would indicate to a reasonable
32 person that the person has no apparent lawful business to pursue.

33 (r) Knowingly skiing in an area or on a ski trail that is closed
34 to the public and that has signs posted indicating the closure.

35 (s) Refusing or failing to leave a hotel or motel, where he or
36 she has obtained accommodations and has refused to pay for those
37 accommodations, upon request of the proprietor or manager, and
38 the occupancy is exempt, pursuant to subdivision (b) of Section
39 1940 of the Civil Code, from Chapter 2 (commencing with Section
40 1940) of Title 5 of Part 4 of Division 3 of the Civil Code. For

1 purposes of this subdivision, occupancy at a hotel or motel for a
2 continuous period of 30 days or less shall, in the absence of a
3 written agreement to the contrary, or other written evidence of a
4 periodic tenancy of indefinite duration, be exempt from Chapter
5 2 (commencing with Section 1940) of Title 5 of Part 4 of Division
6 3 of the Civil Code.

7 (t) (1) Entering upon private property, including contiguous
8 land, real property, or structures thereon belonging to the same
9 owner, whether or not generally open to the public, after having
10 been informed by a peace officer at the request of the owner, the
11 owner's agent, or the person in lawful possession, and upon being
12 informed by the peace officer that he or she is acting at the request
13 of the owner, the owner's agent, or the person in lawful possession,
14 that the property is not open to the particular person; or refusing
15 or failing to leave the property upon being asked to leave the
16 property in the manner provided in this subdivision.

17 (2) This subdivision applies only to a person who has been
18 convicted of a crime committed upon the particular private
19 property.

20 (3) A single notification or request to the person as set forth
21 above shall be valid and enforceable under this subdivision unless
22 and until rescinded by the owner, the owner's agent, or the person
23 in lawful possession of the property.

24 (4) Where the person has been convicted of a violent felony, as
25 described in subdivision (c) of Section 667.5, this subdivision
26 applies without time limitation. Where the person has been
27 convicted of any other felony, this subdivision applies for no more
28 than five years from the date of conviction. Where the person has
29 been convicted of a misdemeanor, this subdivision applies for no
30 more than two years from the date of conviction. Where the person
31 was convicted for an infraction pursuant to Section 490.1, this
32 subdivision applies for no more than one year from the date of
33 conviction. This subdivision does not apply to convictions for any
34 other infraction.

35 (u) (1) Knowingly entering, by an unauthorized person, upon
36 any airport operations area, passenger vessel terminal, or public
37 transit facility if the area has been posted with notices restricting
38 access to authorized personnel only and the postings occur not
39 greater than every 150 feet along the exterior boundary, to the
40 extent, in the case of a passenger vessel terminal, as defined in

1 subparagraph (B) of paragraph (3), that the exterior boundary
2 extends shoreside. To the extent that the exterior boundary of a
3 passenger vessel terminal operations area extends waterside, this
4 prohibition applies if notices have been posted in a manner
5 consistent with the requirements for the shoreside exterior
6 boundary, or in any other manner approved by the captain of the
7 port.

8 (2) A person convicted of a violation of paragraph (1) shall be
9 punished as follows:

10 (A) By a fine not exceeding one hundred dollars (\$100).

11 (B) By imprisonment in a county jail not exceeding six months,
12 or by a fine not exceeding one thousand dollars (\$1,000), or by
13 both that fine and imprisonment, if the person refuses to leave the
14 airport or passenger vessel terminal after being requested to leave
15 by a peace officer or authorized personnel.

16 (C) By imprisonment in a county jail not exceeding six months,
17 or by a fine not exceeding one thousand dollars (\$1,000), or by
18 both that fine and imprisonment, for a second or subsequent
19 offense.

20 (3) As used in this subdivision, the following definitions shall
21 control:

22 (A) "Airport operations area" means that part of the airport used
23 by aircraft for landing, taking off, surface maneuvering, loading
24 and unloading, refueling, parking, or maintenance, where aircraft
25 support vehicles and facilities exist, and which is not for public
26 use or public vehicular traffic.

27 (B) "Passenger vessel terminal" means only that portion of a
28 harbor or port facility, as described in Section 105.105(a)(2) of
29 Title 33 of the Code of Federal Regulations, with a secured area
30 that regularly serves scheduled commuter or passenger operations.
31 For the purposes of this section, "passenger vessel terminal" does
32 not include any area designated a public access area pursuant to
33 Section 105.106 of Title 33 of the Code of Federal Regulations.

34 (C) "Public transit facility" has the same meaning as specified
35 in Section 171.7.

36 (D) "Authorized personnel" means any person who has a valid
37 airport identification card issued by the airport operator or has a
38 valid airline identification card recognized by the airport operator,
39 or any person not in possession of an airport or airline identification
40 card who is being escorted for legitimate purposes by a person

1 with an airport or airline identification card. “Authorized
2 personnel” also means any person who has a valid port
3 identification card issued by the harbor operator, or who has a
4 valid company identification card issued by a commercial maritime
5 enterprise recognized by the harbor operator, or any other person
6 who is being escorted for legitimate purposes by a person with a
7 valid port or qualifying company identification card. “Authorized
8 personnel” also means any person who has a valid public transit
9 employee identification.

10 (E) “Airport” means any facility whose function is to support
11 commercial aviation.

12 (v) (1) Except as permitted by federal law, intentionally
13 avoiding submission to the screening and inspection of one’s
14 person and accessible property in accordance with the procedures
15 being applied to control access when entering or reentering a sterile
16 area of an airport, passenger vessel terminal, as defined in
17 subdivision (u), or public transit facility, as defined in Section
18 171.7, if the sterile area is posted with a statement providing
19 reasonable notice that prosecution may result from a trespass
20 described in this subdivision, is a violation of this subdivision,
21 punishable by a fine of not more than five hundred dollars (\$500)
22 for the first offense. A second and subsequent violation is a
23 misdemeanor, punishable by imprisonment in a county jail for a
24 period of not more than one year, or by a fine not to exceed one
25 thousand dollars (\$1,000), or by both that fine and imprisonment.

26 (2) Notwithstanding paragraph (1), if a first violation of this
27 subdivision is responsible for the evacuation of an airport terminal,
28 passenger vessel terminal, or public transit facility and is
29 responsible in any part for delays or cancellations of scheduled
30 flights or departures, it is punishable by imprisonment of not more
31 than one year in a county jail.

32 (w) Refusing or failing to leave a battered women’s shelter at
33 any time after being requested to leave by a managing authority
34 of the shelter.

35 (1) A person who is convicted of violating this subdivision shall
36 be punished by imprisonment in a county jail for not more than
37 one year.

38 (2) The court may order a defendant who is convicted of
39 violating this subdivision to make restitution to a battered woman
40 in an amount equal to the relocation expenses of the battered

1 woman and her children if those expenses are incurred as a result
2 of trespass by the defendant at a battered women’s shelter.

3 (x) (1) Knowingly entering or remaining in a neonatal unit,
4 maternity ward, or birthing center located in a hospital or clinic
5 without lawful business to pursue therein, if the area has been
6 posted so as to give reasonable notice restricting access to those
7 with lawful business to pursue therein and the surrounding
8 circumstances would indicate to a reasonable person that he or she
9 has no lawful business to pursue therein. Reasonable notice is that
10 which would give actual notice to a reasonable person, and is
11 posted, at a minimum, at each entrance into the area.

12 (2) A person convicted of a violation of paragraph (1) shall be
13 punished as follows:

14 (A) As an infraction, by a fine not exceeding one hundred dollars
15 (\$100).

16 (B) By imprisonment in a county jail not exceeding one year,
17 or by a fine not exceeding one thousand dollars (\$1,000), or by
18 both that fine and imprisonment, if the person refuses to leave the
19 posted area after being requested to leave by a peace officer or
20 other authorized person.

21 (C) By imprisonment in a county jail not exceeding one year,
22 or by a fine not exceeding two thousand dollars (\$2,000), or by
23 both that fine and imprisonment, for a second or subsequent
24 offense.

25 (D) If probation is granted or the execution or imposition of
26 sentencing is suspended for any person convicted under this
27 subdivision, it shall be a condition of probation that the person
28 participate in counseling, as designated by the court, unless the
29 court finds good cause not to impose this requirement. The court
30 shall require the person to pay for this counseling, if ordered, unless
31 good cause not to pay is shown.

32 (y) Except as permitted by federal law, intentionally avoiding
33 submission to the screening and inspection of one’s person and
34 accessible property in accordance with the procedures being applied
35 to control access when entering or reentering a courthouse or a
36 city, county, city and county, or state building if entrances to the
37 courthouse or the city, county, city and county, or state building
38 have been posted with a statement providing reasonable notice
39 that prosecution may result from a trespass described in this
40 subdivision.

1 ~~SEC. 386.~~

2 *SEC. 390.* Section 626.9 of the Penal Code is amended to read:

3 626.9. (a) This section shall be known, and may be cited, as
4 the Gun-Free School Zone Act of 1995.

5 (b) A person who possesses a firearm in a place that the person
6 knows, or reasonably should know, is a school zone, as defined in
7 paragraph (1) of subdivision (e), unless it is with the written
8 permission of the school district superintendent, his or her designee,
9 or equivalent school authority, shall be punished as specified in
10 subdivision (f).

11 (c) Subdivision (b) does not apply to the possession of a firearm
12 under any of the following circumstances:

13 (1) Within a place of residence or place of business or on private
14 property, if the place of residence, place of business, or private
15 property is not part of the school grounds and the possession of
16 the firearm is otherwise lawful.

17 (2) When the firearm is an unloaded pistol, revolver, or other
18 firearm capable of being concealed on the person and is in a locked
19 container or within the locked trunk of a motor vehicle.

20 This section does not prohibit or limit the otherwise lawful
21 transportation of any other firearm, other than a pistol, revolver,
22 or other firearm capable of being concealed on the person, in
23 accordance with state law.

24 (3) When the person possessing the firearm reasonably believes
25 that he or she is in grave danger because of circumstances forming
26 the basis of a current restraining order issued by a court against
27 another person or persons who has or have been found to pose a
28 threat to his or her life or safety. This subdivision may not apply
29 when the circumstances involve a mutual restraining order issued
30 pursuant to Division 10 (commencing with Section 6200) of the
31 Family Code absent a factual finding of a specific threat to the
32 person's life or safety. Upon a trial for violating subdivision (b),
33 the trier of a fact shall determine whether the defendant was acting
34 out of a reasonable belief that he or she was in grave danger.

35 (4) When the person is exempt from the prohibition against
36 carrying a concealed firearm pursuant to Section 25615, 25625,
37 25630, or 25645.

38 (d) Except as provided in subdivision (b), it shall be unlawful
39 for any person, with reckless disregard for the safety of another,

1 to discharge, or attempt to discharge, a firearm in a school zone,
2 as defined in paragraph (1) of subdivision (e).

3 The prohibition contained in this subdivision does not apply to
4 the discharge of a firearm to the extent that the conditions of
5 paragraph (1) of subdivision (c) are satisfied.

6 (e) As used in this section, the following definitions shall apply:

7 (1) "School zone" means an area in, or on the grounds of, a
8 public or private school providing instruction in kindergarten or
9 grades 1 to 12, inclusive, or within a distance of 1,000 feet from
10 the grounds of the public or private school.

11 (2) "Firearm" has the same meaning as that term is given in
12 subdivisions (a) to (d), inclusive, of Section 16520.

13 (3) "Locked container" has the same meaning as that term is
14 given in Section 16850.

15 (4) "Concealed firearm" has the same meaning as that term is
16 given in Sections 25400 and 25610.

17 (f) (1) Any person who violates subdivision (b) by possessing
18 a firearm in, or on the grounds of, a public or private school
19 providing instruction in kindergarten or grades 1 to 12, inclusive,
20 shall be punished by imprisonment pursuant to subdivision (h) of
21 Section 1170 for two, three, or five years.

22 (2) Any person who violates subdivision (b) by possessing a
23 firearm within a distance of 1,000 feet from the grounds of a public
24 or private school providing instruction in kindergarten or grades
25 1 to 12, inclusive, shall be punished as follows:

26 (A) By imprisonment pursuant to subdivision (h) of Section
27 1170 for two, three, or five years, if any of the following
28 circumstances apply:

29 (i) If the person previously has been convicted of any felony,
30 or of any crime made punishable by any provision listed in Section
31 16580.

32 (ii) If the person is within a class of persons prohibited from
33 possessing or acquiring a firearm pursuant to Chapter 2
34 (commencing with Section 29800) or Chapter 3 (commencing with
35 Section 29900) of Division 9 of Title 4 of Part 6 of this code or
36 Section 8100 or 8103 of the Welfare and Institutions Code.

37 (iii) If the firearm is any pistol, revolver, or other firearm capable
38 of being concealed upon the person and the offense is punished as
39 a felony pursuant to Section 25400.

1 (B) By imprisonment in a county jail for not more than one year
2 or by imprisonment pursuant to subdivision (h) of Section 1170
3 for two, three, or five years, in all cases other than those specified
4 in subparagraph (A).

5 (3) Any person who violates subdivision (d) shall be punished
6 by imprisonment pursuant to subdivision (h) of Section 1170 for
7 three, five, or seven years.

8 (g) (1) Every person convicted under this section for a
9 misdemeanor violation of subdivision (b) who has been convicted
10 previously of a misdemeanor offense enumerated in Section 23515
11 shall be punished by imprisonment in a county jail for not less
12 than three months, or if probation is granted or if the execution or
13 imposition of sentence is suspended, it shall be a condition thereof
14 that he or she be imprisoned in a county jail for not less than three
15 months.

16 (2) Every person convicted under this section of a felony
17 violation of subdivision (b) or (d) who has been convicted
18 previously of a misdemeanor offense enumerated in Section 23515,
19 if probation is granted or if the execution of sentence is suspended,
20 it shall be a condition thereof that he or she be imprisoned in a
21 county jail for not less than three months.

22 (3) Every person convicted under this section for a felony
23 violation of subdivision (b) or (d) who has been convicted
24 previously of any felony, or of any crime made punishable by any
25 provision listed in Section 16580, if probation is granted or if the
26 execution or imposition of sentence is suspended, it shall be a
27 condition thereof that he or she be imprisoned in a county jail for
28 not less than three months.

29 (4) The court shall apply the three-month minimum sentence
30 specified in this subdivision, except in unusual cases where the
31 interests of justice would best be served by granting probation or
32 suspending the execution or imposition of sentence without the
33 minimum imprisonment required in this subdivision or by granting
34 probation or suspending the execution or imposition of sentence
35 with conditions other than those set forth in this subdivision, in
36 which case the court shall specify on the record and shall enter on
37 the minutes the circumstances indicating that the interests of justice
38 would best be served by this disposition.

39 (h) Notwithstanding Section 25605, a person who brings or
40 possesses a loaded firearm upon the grounds of a campus of, or

1 buildings owned or operated for student housing, teaching,
2 research, or administration by, a public or private university or
3 college, that are contiguous or are clearly marked university
4 property, unless it is with the written permission of the university
5 or college president, his or her designee, or equivalent university
6 or college authority, shall be punished by imprisonment pursuant
7 to subdivision (h) of Section 1170 for two, three, or four years.
8 Notwithstanding subdivision (k), a university or college shall post
9 a prominent notice at primary entrances on noncontiguous property
10 stating that firearms are prohibited on that property pursuant to
11 this subdivision.

12 (i) Notwithstanding Section 25605, a person who brings or
13 possesses a firearm upon the grounds of a campus of, or buildings
14 owned or operated for student housing, teaching, research, or
15 administration by, a public or private university or college, that
16 are contiguous or are clearly marked university property, unless
17 it is with the written permission of the university or college
18 president, his or her designee, or equivalent university or college
19 authority, shall be punished by imprisonment pursuant to
20 subdivision (h) of Section 1170 for one, two, or three years.
21 Notwithstanding subdivision (k), a university or college shall post
22 a prominent notice at primary entrances on noncontiguous property
23 stating that firearms are prohibited on that property pursuant to
24 this subdivision.

25 (j) For purposes of this section, a firearm shall be deemed to be
26 loaded when there is an unexpended cartridge or shell, consisting
27 of a case that holds a charge of powder and a bullet or shot, in, or
28 attached in any manner to, the firearm, including, but not limited
29 to, in the firing chamber, magazine, or clip thereof attached to the
30 firearm. A muzzle-loader firearm shall be deemed to be loaded
31 when it is capped or primed and has a powder charge and ball or
32 shot in the barrel or cylinder.

33 (k) This section does not require that notice be posted regarding
34 the proscribed conduct.

35 (l) This section does not apply to a duly appointed peace officer
36 as defined in Chapter 4.5 (commencing with Section 830) of Title
37 3 of Part 2, a full-time paid peace officer of another state or the
38 federal government who is carrying out official duties while in
39 California, any person summoned by any of these officers to assist
40 in making arrests or preserving the peace while he or she is actually

1 engaged in assisting the officer, a member of the military forces
2 of this state or of the United States who is engaged in the
3 performance of his or her duties, a person holding a valid license
4 to carry the firearm pursuant to Chapter 4 (commencing with
5 Section 26150) of Division 5 of Title 4 of Part 6, or an armored
6 vehicle guard, engaged in the performance of his or her duties, as
7 defined in subdivision (d) of Section 7582.1 of the Business and
8 Professions Code.

9 (m) This section does not apply to a security guard authorized
10 to carry a loaded firearm pursuant to Article 4 (commencing with
11 Section 26000) of Chapter 3 of Division 5 of Title 4 of Part 6.

12 (n) This section does not apply to an existing shooting range at
13 a public or private school or university or college campus.

14 (o) This section does not apply to an honorably retired peace
15 officer authorized to carry a concealed or loaded firearm pursuant
16 to any of the following:

17 (1) Article 2 (commencing with Section 25450) of Chapter 2
18 of Division 5 of Title 4 of Part 6.

19 (2) Section 25650.

20 (3) Sections 25900 to 25910, inclusive.

21 (4) Section 26020.

22 ~~SEC. 387.~~

23 *SEC. 391.* Section 814 of the Penal Code is amended to read:
24 814. A warrant of arrest issued under Section 813 may be in
25 substantially the following form:

26
27 County of _____

28 The people of the State of California to any peace officer of said
29 State:

30 Complaint on oath having this day been laid before me that the
31 crime of _____ (designating it generally) has been committed and
32 accusing _____ (naming defendant) thereof, you are therefore
33 commanded forthwith to arrest the above named defendant and
34 bring him or her before me at _____ (naming the place), or in case
35 of my absence or inability to act, before the nearest or most
36 accessible magistrate in this county.

37
38 Dated at _____ (place) this _____ day of _____,

39
40 20__.

1
2 _____
3 (Signature and full official title of magistrate.)
4

5 ~~SEC. 388.~~

6 *SEC. 392.* Section 830.14 of the Penal Code is amended to
7 read:

8 830.14. (a) A local or regional transit agency or a joint powers
9 agency operating rail service identified in an implementation
10 program adopted pursuant to Article 10 (commencing with Section
11 130450) of Chapter 4 of Division 12 of the Public Utilities Code
12 may authorize by contract designated persons as conductors
13 performing fare inspection duties who are employed by a railroad
14 corporation that operates public rail commuter transit services for
15 that agency to act as its agent in the enforcement of subdivisions
16 (a) to (d), inclusive, of Section 640 relating to the operation of the
17 rail service if they complete the training requirement specified in
18 this section.

19 (b) The governing board of the Altamont Commuter Express
20 Authority, a joint powers agency duly formed pursuant to Article
21 1 (commencing with Section 6500) of Chapter 5 of Division 7 of
22 Title 1 of the Government Code, by and between the Alameda
23 County Congestion Management Agency, the Santa Clara Valley
24 Transportation Authority, and the San Joaquin Regional Rail
25 Commission, may contract with designated persons to act as its
26 agents in the enforcement of subdivisions (a) to (d), inclusive, of
27 Section 640 relating to the operation of a public transportation
28 system if these persons complete the training requirement specified
29 in this section.

30 (c) The governing board of the Peninsula Corridor Joint Powers
31 Board, a joint powers agency duly formed pursuant to Article 1
32 (commencing with Section 6500) of Chapter 5 of Division 7 of
33 Title 1 of the Government Code, by and between the San Mateo
34 County Transit District, the Santa Clara Valley Transportation
35 Authority, and the City and County of San Francisco, may appoint
36 designated persons to act as its agents in the enforcement of
37 subdivisions (a) to (d), inclusive, of Section 640 relating to the
38 operation of a public transportation system if these persons
39 complete the training requirement specified in this section.

1 (d) The governing board of Foothill Transit, a joint powers
2 agency duly formed pursuant to Article 1 (commencing with
3 Section 6500) of Chapter 5 of Division 7 of Title 1 of the
4 Government Code, by and between the Cities of Arcadia, Azusa,
5 Baldwin Park, Bradbury, Claremont, Covina, Diamond Bar, Duarte,
6 El Monte, Glendora, Industry, Irwindale, La Habra Heights, La
7 Puente, La Verne, Monrovia, Pomona, San Dimas, South El Monte,
8 Temple City, Walnut, West Covina, and the County of Los
9 Angeles, may resolve to contract with designated persons to act
10 as its agents in the enforcement of subdivisions (a) to (d), inclusive,
11 of Section 640 relating to the operation of a public transportation
12 system if these persons complete the training requirement specified
13 in this section.

14 (e) The governing board of the Sacramento Regional Transit
15 District, a transit district duly formed pursuant to Part 14
16 (commencing with Section 102000) of Division 10 of the Public
17 Utilities Code, may designate persons regularly employed by the
18 district as inspectors or supervisors to enforce subdivisions (a) to
19 (d), inclusive, of Section 640, relating to the operation of a public
20 transportation system, and any ordinance adopted by the district
21 pursuant to subdivision (a) of Section 102122 of the Public Utilities
22 Code, if these persons complete the training requirement specified
23 in this section.

24 (f) The governing board of a transit district, as defined in
25 subdivision (b) of Section 99170 of the Public Utilities Code, may
26 designate employees, except for union-represented employees
27 employed to drive revenue-generating transit vehicles, or security
28 officers contracted by the transit district, to enforce subdivisions
29 (a) to (d), inclusive, of Section 640, and Section 640.5, and
30 violations of Section 99170 of the Public Utilities Code.

31 (g) Persons authorized pursuant to this section to enforce
32 subdivisions (a) to (d), inclusive, of Section 640, or Section 640.5,
33 or Section 99170 of the Public Utilities Code, shall complete a
34 specialized fare compliance course that shall be provided by the
35 authorizing agency. This training course shall include, but not be
36 limited to, the following topics:

- 37 (1) An overview of barrier-free fare inspection concepts.
- 38 (2) The scope and limitations of inspector authority.
- 39 (3) Familiarization with the elements of the infractions
- 40 enumerated in subdivisions (a) to (d), inclusive, of Section 640,

1 and, as applicable, the crimes enumerated in Section 640.5, and
2 Section 99170 of the Public Utilities Code.

3 (4) Techniques for conducting fare checks, including inspection
4 procedures, demeanor, and contacting violators.

5 (5) Citation issuance and court appearances.

6 (6) Fare media recognition.

7 (7) Handling argumentative violators and diffusing conflict.

8 (8) The mechanics of law enforcement support and interacting
9 with law enforcement for effective incident resolution.

10 (h) Persons described in this section are public officers, not
11 peace officers, have no authority to carry firearms or any other
12 weapon while performing the duties authorized in this section, and
13 may not exercise the powers of arrest of a peace officer while
14 performing the duties authorized in this section. These persons
15 may be authorized by the agencies specified in this section to issue
16 citations involving infractions relating to the operation of the rail
17 service specified in this section.

18 (i) This section does not affect the retirement or disability
19 benefits provided to employees described in this section or be in
20 violation of any collective bargaining agreement between a labor
21 organization and a railroad corporation.

22 (j) Notwithstanding any other provision of this section, the
23 primary responsibility of a conductor of a commuter passenger
24 train shall be functions related to safe train operation.

25 ~~SEC. 389.~~

26 *SEC. 393.* The heading of Chapter 5a (commencing with
27 Section 852) of Title 3 of Part 2 of the Penal Code is amended and
28 renumbered to read:

29

30 CHAPTER 5A. UNIFORM ACT ON FRESH PURSUIT

31

32 ~~SEC. 390.~~

33 *SEC. 394.* Section 1191.15 of the Penal Code is amended to
34 read:

35 1191.15. (a) The court may permit the victim of any crime,
36 his or her parent or guardian if the victim is a minor, or the next
37 of kin of the victim if the victim has died, to file with the court a
38 written, audiotaped, or videotaped statement, or statement stored
39 on a CD-ROM, DVD, or any other recording medium acceptable
40 to the court, expressing his or her views concerning the crime, the

1 person responsible, and the need for restitution, in lieu of or in
2 addition to the person personally appearing at the time of judgment
3 and sentence. The court shall consider the statement filed with the
4 court prior to imposing judgment and sentence.

5 Whenever an audio or video statement or statement stored on a
6 CD-ROM, DVD, or other medium is filed with the court, a written
7 transcript of the statement shall also be provided by the person
8 filing the statement, and shall be made available as a public record
9 of the court after the judgment and sentence have been imposed.

10 (b) Whenever a written, audio, or video statement or statement
11 stored on a CD-ROM, DVD, or other medium is filed with the
12 court, it shall remain sealed until the time set for imposition of
13 judgment and sentence except that the court, the probation officer,
14 and counsel for the parties may view and listen to the statement
15 not more than two court days prior to the date set for imposition
16 of judgment and sentence.

17 (c) A person or a court shall not permit any person to duplicate,
18 copy, or reproduce by audio or visual means a statement submitted
19 to the court under the provisions of this section.

20 (d) Nothing in this section shall be construed to prohibit the
21 prosecutor from representing to the court the views of the victim,
22 his or her parent or guardian, the next of kin, or the California
23 Victim Compensation and Government Claims Board.

24 (e) In the event the court permits an audio or video statement
25 or statement stored on a CD-ROM, DVD, or other medium to be
26 filed, the court shall not be responsible for providing any equipment
27 or resources needed to assist the victim in preparing the statement.

28 ~~SEC. 394.~~

29 *SEC. 395.* Section 2905 of the Penal Code is amended to read:

30 2905. (a) For purposes of this section, a “youth offender” is
31 an individual committed to the Department of Corrections and
32 Rehabilitation who is under 22 years of age.

33 (b) (1) The department shall conduct a youth offender
34 Institutional Classification Committee review at reception to
35 provide special classification consideration for every youth
36 offender. The youth offender Institutional Classification Committee
37 shall consist of the staff required by department regulations at any
38 Institutional Classification Committee, however at least one
39 member shall be a department staff member specially trained in
40 conducting the reviews. Training shall include, but not be limited

1 to, adolescent and young adult development and evidence-based
2 interviewing processes employing positive and motivational
3 techniques.

4 (2) The purpose of the youth offender Institutional Classification
5 Committee review is to meet with the youth offender and assess
6 the readiness of a youth offender for a lower security level or
7 placement permitting increased access to programs and to
8 encourage the youth offender to commit to positive change and
9 self-improvement.

10 (c) A youth offender shall be considered for placement at a
11 lower security level than corresponds with his or her classification
12 score or placement in a facility that permits increased access to
13 programs based on the Institutional Classification Committee
14 review and factors including, but not limited to, the following:

15 (1) Recent in-custody behavior while housed in juvenile or adult
16 facilities.

17 (2) Demonstrated efforts of progress toward self-improvement
18 in juvenile or adult facilities.

19 (3) Family or community ties supportive of rehabilitation.

20 (4) Evidence of commitment to working toward
21 self-improvement with a goal of being a law-abiding member of
22 society upon release.

23 (d) If the department determines, based on the review described
24 in subdivisions (b) and (c), that the youth offender may be
25 appropriately placed at a lower security level, the department shall
26 transfer the youth offender to a lower security level facility. If the
27 youth offender is denied a lower security level, then he or she shall
28 be considered for placement in a facility that permits increased
29 access to programs. If the department determines a youth offender
30 may appropriately be placed in a facility permitting increased
31 access to programs, the youth offender shall be transferred to such
32 a facility.

33 (e) If the youth offender demonstrates he or she is a safety risk
34 to inmates, staff, or the public, and does not otherwise demonstrate
35 a commitment to rehabilitation, the youth offender shall be
36 reclassified and placed at a security level that is consistent with
37 department regulations and procedures.

38 (f) A youth offender who at his or her initial youth offender
39 Institutional Classification Committee review is denied a lower
40 security level than corresponds with his or her placement score or

1 did not qualify for a placement permitting increased access to
2 programs due to previous incarceration history and was placed in
3 the highest security level shall nevertheless be eligible to have his
4 or her placement reconsidered pursuant to subdivisions (b) to (d),
5 inclusive, at his or her annual review until reaching 25 years of
6 age. If at an annual review it is determined that the youth offender
7 has had no serious rule violations for one year, the department
8 shall consider whether the youth would benefit from placement in
9 a lower level facility or placement permitting increased access to
10 programs.

11 (g) The department shall review and, as necessary, revise
12 existing regulations and adopt new regulations regarding
13 classification determinations made pursuant to this section, and
14 provide for training for staff.

15 (h) This section shall become operative on July 1, 2015.

16 ~~SEC. 392.~~

17 *SEC. 396.* Section 3016 of the Penal Code is amended to read:

18 3016. (a) The Secretary of the Department of Corrections and
19 Rehabilitation shall establish the Case Management Reentry Pilot
20 Program for offenders under the jurisdiction of the department
21 who have been sentenced to a term of imprisonment under Section
22 1170 and are likely to benefit from a case management reentry
23 strategy designed to address homelessness, joblessness, mental
24 disorders, and developmental disabilities among offenders
25 transitioning from prison into the community. The purpose of the
26 pilot program is to implement promising and evidence-based
27 practices and strategies that promote improved public safety
28 outcomes for offenders reentering society after serving a term in
29 state prison and while released to parole.

30 (b) The program shall be initiated in at least three counties over
31 three years, supported by department employees focusing primarily
32 on case management services for eligible parolees selected for the
33 pilot program. Department employees shall be experienced or
34 trained to work as social workers with a parole population.
35 Selection of a parolee for participation in the pilot program does
36 not guarantee the availability of services.

37 (c) Case management social workers shall assist offenders on
38 parole who are assigned to the program in managing basic needs,
39 including housing, job training and placement, medical and mental
40 health care, and any additional programming or responsibilities

1 attendant to the terms of the offender’s reentry requirements. Case
2 management social workers also shall work closely with offenders
3 to prepare, monitor, revise, and fulfill individualized offender
4 reentry plans consistent with this section during the term of the
5 program.

6 (d) Individualized offender reentry plans shall focus on
7 connecting offenders to services for which the offender is eligible
8 under existing federal, state, and local rules.

9 (e) Case management services shall be prioritized for offenders
10 identified as potentially benefiting from assistance with the
11 following:

12 (1) Food, including the immediate need and long-term planning
13 for obtaining food.

14 (2) Clothing, including the immediate need to obtain appropriate
15 clothing.

16 (3) Shelter, including obtaining housing consistent with the
17 goals of the most independent, least restrictive and potentially
18 durable housing in the local community and that are feasible for
19 the circumstances of each reentering offender.

20 (4) Benefits, including, but not limited to, the California Work
21 Opportunity and Responsibility to Kids program, general
22 assistance, benefits administered by the federal Social Security
23 Administration, Medi-Cal, and veterans benefits.

24 (5) Health services, including assisting parolee clients with
25 accessing community mental health, medical, and dental treatment.

26 (6) Substance abuse services, including assisting parolee clients
27 with obtaining community substance abuse treatment or related
28 12-step program information and locations.

29 (7) Income, including developing and implementing a feasible
30 plan to obtain an income and employment reflecting the highest
31 level of work appropriate for a reentering offender’s abilities and
32 experience.

33 (8) Identification cards, including assisting reentering offenders
34 with obtaining state identification cards.

35 (9) Life skills, including assisting with the development of skills
36 concerning money management, job interviewing, resume writing,
37 and activities of daily living.

38 (10) Activities, including working with reentering offenders in
39 choosing and engaging in suitable and productive activities.

1 (11) Support systems, including working with reentering
2 offenders on developing a support system, which may consist of
3 prosocial friends, family, and community groups and activities,
4 such as religious activities, recovery groups, and other social
5 events.

6 (12) Academic and vocational programs, including assisting
7 reentering offenders in developing and implementing a realistic
8 plan to achieve an academic education, or vocational training, or
9 both.

10 (13) Discharge planning, including developing postparole plans
11 to sustain parolees' achievements and goals to ensure long-term
12 community success.

13 (f) The department shall contract for an evaluation of the pilot
14 program that will assess its effectiveness in reducing recidivism
15 among offenders transitioning from prison into the community.

16 (g) The department shall submit a final report of the findings
17 from its evaluation of the pilot program to the Legislature and the
18 Governor no later than three years after the enactment of Assembly
19 Bill 1457 or Senate Bill 851 of the 2013?14 Regular Session. The
20 report shall be submitted in compliance with Section 9795 of the
21 Government Code.

22 (h) Implementation of this article is contingent on the availability
23 of funds and the pilot program may be limited in scope or duration
24 based on the availability of funds.

25 ~~SEC. 393.~~

26 *SEC. 397.* Section 3043 of the Penal Code is amended to read:

27 3043. (a) (1) Upon request to the Department of Corrections
28 and Rehabilitation and verification of the identity of the requester,
29 notice of any hearing to review or consider the parole suitability
30 or the setting of a parole date for any prisoner in a state prison
31 shall be given by telephone, certified mail, regular mail, or
32 electronic mail, using the method of communication selected by
33 the requesting party, if that method is available, by the Board of
34 Parole Hearings at least 90 days before the hearing to any victim
35 of any crime committed by the prisoner, or to the next of kin of
36 the victim if the victim has died, to include the commitment crimes,
37 determinate term commitment crimes for which the prisoner has
38 been paroled, and any other felony crimes or crimes against the
39 person for which the prisoner has been convicted. The requesting

1 party shall keep the board apprised of his or her current contact
2 information in order to receive the notice.

3 (2) No later than 30 days prior to the date selected for the
4 hearing, any person, other than the victim, entitled to attend the
5 hearing shall inform the board of his or her intention to attend the
6 hearing and the name and identifying information of any other
7 person entitled to attend the hearing who will accompany him or
8 her.

9 (3) No later than 14 days prior to the date selected for the
10 hearing, the board shall notify every person entitled to attend the
11 hearing confirming the date, time, and place of the hearing.

12 (b) (1) The victim, next of kin, members of the victim's family,
13 and two representatives designated as provided in paragraph (2)
14 of this subdivision have the right to appear, personally or by
15 counsel, at the hearing and to adequately and reasonably express
16 his, her, or their views concerning the prisoner and the case,
17 including, but not limited to, the commitment crimes, determinate
18 term commitment crimes for which the prisoner has been paroled,
19 any other felony crimes or crimes against the person for which the
20 prisoner has been convicted, the effect of the enumerated crimes
21 on the victim and the family of the victim, the person responsible
22 for these enumerated crimes, and the suitability of the prisoner for
23 parole.

24 (2) A statement provided by a representative designated by the
25 victim or next of kin may cover any subject about which the victim
26 or next of kin has the right to be heard, including any
27 recommendation regarding the granting of parole. The
28 representatives shall be designated by the victim or, in the event
29 that the victim is deceased or incapacitated, by the next of kin.
30 They shall be designated in writing for the particular hearing prior
31 to the hearing.

32 (c) A representative designated by the victim or the victim's
33 next of kin for purposes of this section may be an adult person
34 selected by the victim or the family of the victim. The board shall
35 permit a representative designated by the victim or the victim's
36 next of kin to attend a particular hearing, to provide testimony at
37 a hearing, and to submit a statement to be included in the hearing
38 as provided in Section 3043.2, even though the victim, next of kin,
39 or a member of the victim's immediate family is present at the
40 hearing, and even though the victim, next of kin, or a member of

1 the victim's immediate family has submitted a statement as
2 described in Section 3043.2.

3 (d) The board, in deciding whether to release the person on
4 parole, shall consider the entire and uninterrupted statements of
5 the victim or victims, next of kin, immediate family members of
6 the victim, and the designated representatives of the victim or next
7 of kin, if applicable, made pursuant to this section and shall include
8 in its report a statement whether the person would pose a threat to
9 public safety if released on parole.

10 (e) In those cases where there are more than two immediate
11 family members of the victim who wish to attend any hearing
12 covered in this section, the board shall allow attendance of
13 additional immediate family members to include the following:
14 spouse, children, parents, siblings, grandchildren, and grandparents.

15 ~~SEC. 394.~~

16 *SEC. 398.* Section 3063.1 of the Penal Code is amended to
17 read:

18 3063.1. (a) Notwithstanding any other provision of law, and
19 except as provided in subdivision (d), parole shall not be suspended
20 or revoked for commission of a nonviolent drug possession offense
21 or for violating any drug-related condition of parole.

22 As an additional condition of parole for all such offenses or
23 violations, the Parole Authority shall require participation in and
24 completion of an appropriate drug treatment program. Vocational
25 training, family counseling and literacy training may be imposed
26 as additional parole conditions.

27 The Parole Authority may require any person on parole who
28 commits a nonviolent drug possession offense or violates any
29 drug-related condition of parole, and who is reasonably able to do
30 so, to contribute to the cost of his or her own placement in a drug
31 treatment program.

32 (b) Subdivision (a) does not apply to:

33 (1) Any parolee who has been convicted of one or more serious
34 or violent felonies in violation of subdivision (c) of Section 667.5
35 or Section 1192.7.

36 (2) A parolee who, while on parole, commits one or more
37 nonviolent drug possession offenses and is found to have
38 concurrently committed a misdemeanor not related to the use of
39 drugs or any felony.

1 (3) A parolee who refuses drug treatment as a condition of
2 parole.

3 (c) Within seven days of a finding that the parolee has either
4 committed a nonviolent drug possession offense or violated any
5 drug-related condition of parole, the Department of Corrections
6 and Rehabilitation, Division of Adult Parole Operations shall notify
7 the treatment provider designated to provide drug treatment under
8 subdivision (a). Within 30 days thereafter the treatment provider
9 shall prepare an individualized drug treatment plan and forward
10 it to the Parole Authority and to the California Department of
11 Corrections and Rehabilitation, Division of Adult Parole Operations
12 agent responsible for supervising the parolee. On a quarterly basis
13 after the parolee begins drug treatment, the treatment provider
14 shall prepare and forward a progress report on the individual
15 parolee to these entities and individuals.

16 (1) If at any point during the course of drug treatment the
17 treatment provider notifies the Department of Corrections and
18 Rehabilitation, Division of Adult Parole Operations that the parolee
19 is unamenable to the drug treatment provided, but amenable to
20 other drug treatments or related programs, the Department of
21 Corrections and Rehabilitation, Division of Adult Parole Operations
22 may act to modify the terms of parole to ensure that the parolee
23 receives the alternative drug treatment or program.

24 (2) If at any point during the course of drug treatment the
25 treatment provider notifies the Department of Corrections and
26 Rehabilitation, Division of Adult Parole Operations that the parolee
27 is unamenable to the drug treatment provided and all other forms
28 of drug treatment provided pursuant to subdivision (b) of Section
29 1210 and the amenability factors described in subparagraph (B)
30 of paragraph (3) of subdivision (f) of Section 1210.1, the
31 Department of Corrections and Rehabilitation, Division of Adult
32 Parole Operations may act to revoke parole. At the revocation
33 hearing, parole may be revoked if it is proved that the parolee is
34 unamenable to all drug treatment.

35 (3) Drug treatment services provided by subdivision (a) as a
36 required condition of parole may not exceed 12 months, unless
37 the Department of Corrections and Rehabilitation, Division of
38 Adult Parole Operations makes a finding supported by the record
39 that the continuation of treatment services beyond 12 months is
40 necessary for drug treatment to be successful. If that finding is

1 made, the Department of Corrections and Rehabilitation, Division
2 of Adult Parole Operations may order up to two six-month
3 extensions of treatment services. The provision of treatment
4 services under this act shall not exceed 24 months.

5 (d) (1) If parole is revoked pursuant to the provisions of this
6 subdivision, the defendant may be incarcerated pursuant to
7 otherwise applicable law without regard to the provisions of this
8 section. Parole shall be revoked if the parole violation is proved
9 and a preponderance of the evidence establishes that the parolee
10 poses a danger to the safety of others.

11 (2) If a parolee receives drug treatment under subdivision (a),
12 and during the course of drug treatment violates parole either by
13 committing an offense other than a nonviolent drug possession
14 offense, or by violating a non-drug-related condition of parole,
15 and the Department of Corrections and Rehabilitation, Division
16 of Adult Parole Operations acts to revoke parole, a hearing shall
17 be conducted to determine whether parole shall be revoked.

18 Parole may be modified or revoked if the parole violation is
19 proved.

20 (3) (A) If a parolee receives drug treatment under subdivision
21 (a), and during the course of drug treatment violates parole either
22 by committing a nonviolent drug possession offense, or a
23 misdemeanor for simple possession or use of drugs or drug
24 paraphernalia, being present where drugs are used, or failure to
25 register as a drug offender, or any activity similar to those listed
26 in subdivision (d) of Section 1210, or by violating a drug-related
27 condition of parole, and the Department of Corrections and
28 Rehabilitation, Division of Adult Parole Operations acts to revoke
29 parole, a hearing shall be conducted to determine whether parole
30 shall be revoked. Parole shall be revoked if the parole violation is
31 proved and a preponderance of the evidence establishes that the
32 parolee poses a danger to the safety of others. If parole is not
33 revoked, the conditions of parole may be intensified to achieve
34 the goals of drug treatment.

35 (B) If a parolee receives drug treatment under subdivision (a),
36 and during the course of drug treatment for the second time violates
37 that parole either by committing a nonviolent drug possession
38 offense, or by violating a drug-related condition of parole, and the
39 Department of Corrections and Rehabilitation, Division of Adult
40 Parole Operations acts for a second time to revoke parole, a hearing

1 shall be conducted to determine whether parole shall be revoked.
2 If the alleged parole violation is proved, the parolee is not eligible
3 for continued parole under any provision of this section and may
4 be reincarcerated.

5 (C) If a parolee already on parole at the effective date of this
6 act violates that parole either by committing a nonviolent drug
7 possession offense, or a misdemeanor for simple possession or use
8 of drugs or drug paraphernalia, being present where drugs are used,
9 or failure to register as a drug offender, or any activity similar to
10 those listed in paragraph (1) of subdivision (d) of Section 1210,
11 or by violating a drug-related condition of parole, and the
12 Department of Corrections and Rehabilitation, Division of Adult
13 Parole Operations acts to revoke parole, a hearing shall be
14 conducted to determine whether parole shall be revoked. Parole
15 shall be revoked if the parole violation is proved and a
16 preponderance of the evidence establishes that the parolee poses
17 a danger to the safety of others. If parole is not revoked, the
18 conditions of parole may be modified to include participation in
19 a drug treatment program as provided in subdivision (a). This
20 paragraph does not apply to any parolee who at the effective date
21 of this act has been convicted of one or more serious or violent
22 felonies in violation of subdivision (c) of Section 667.5 or Section
23 1192.7.

24 (D) If a parolee already on parole at the effective date of this
25 act violates that parole for the second time either by committing
26 a nonviolent drug possession offense, or by violating a drug-related
27 condition of parole, and the parole authority acts for a second time
28 to revoke parole, a hearing shall be conducted to determine whether
29 parole shall be revoked. If the alleged parole violation is proved,
30 the parolee may be reincarcerated or the conditions of parole may
31 be intensified to achieve the goals of drug treatment.

32 (e) The term “drug-related condition of parole” shall include a
33 parolee’s specific drug treatment regimen, and, if ordered by the
34 Department of Corrections and Rehabilitation, Division of Adult
35 Parole Operations pursuant to this section, employment, vocational
36 training, educational programs, psychological counseling, and
37 family counseling.

38 ~~SEC. 395.~~

39 *SEC. 399.* Section 3440 of the Penal Code is amended to read:

1 3440. (a) Sterilization for the purpose of birth control,
2 including, but not limited to, during labor and delivery, of an
3 individual under the control of the department or a county and
4 imprisoned in the state prison or a reentry facility, community
5 correctional facility, county jail, or any other institution in which
6 an individual is involuntarily confined or detained under a civil or
7 criminal statute, is prohibited.

8 (b) Sterilization of an individual under the control of the
9 department or a county and imprisoned in the state prison or a
10 reentry facility, community correctional facility, county jail, or
11 any other institution in which an individual is involuntarily
12 confined or detained under a civil or criminal statute, through tubal
13 ligation, hysterectomy, oophorectomy, salpingectomy, or any other
14 means rendering an individual permanently incapable of
15 reproducing, is prohibited except in either of the following
16 circumstances:

17 (1) The procedure is required for the immediate preservation
18 of the individual's life in an emergency medical situation.

19 (2) The sterilizing procedure is medically necessary, as
20 determined by contemporary standards of evidence-based medicine,
21 to treat a diagnosed condition, and all of the following requirements
22 are satisfied:

23 (A) Less invasive measures to address the medical need are
24 nonexistent, are refused by the individual, or are first attempted
25 and deemed unsuccessful by the individual, in consultation with
26 his or her medical provider.

27 (B) A second physician, independent of, and not employed by,
28 but authorized to provide services to individuals in the custody of,
29 and to receive payment for those services from, the department or
30 county department overseeing the confinement of the individual,
31 conducts an in-person consultation with the individual and confirms
32 the need for a medical intervention resulting in sterilization to
33 address the medical need.

34 (C) Patient consent is obtained after the individual is made aware
35 of the full and permanent impact the procedure will have on his
36 or her reproductive capacity, that future medical treatment while
37 under the control of the department or county will not be withheld
38 should the individual refuse consent to the procedure, and the side
39 effects of the procedure.

1 (c) If a sterilization procedure is performed pursuant to
2 paragraph (1) or (2) of subdivision (b), presterilization and
3 poststerilization psychological consultation and medical followup,
4 including providing relevant hormone therapy to address surgical
5 menopause, shall be made available to the individual sterilized
6 while under the control of the department or the county.

7 (d) (1) The department shall, if a sterilization procedure is
8 performed on one or more individuals under its control, annually
9 publish on its Internet Web site data related to the number of
10 sterilizations performed, disaggregated by race, age, medical
11 justification, and method of sterilization.

12 (2) (A) Each county jail or other institution of confinement
13 shall, if a sterilization procedure is performed on one or more
14 individuals under its control, annually submit to the Board of State
15 and Community Corrections data related to the number of
16 sterilizations performed, disaggregated by race, age, medical
17 justification, and method of sterilization.

18 (B) The Board of State and Community Corrections shall
19 annually publish the data received pursuant to subparagraph (A)
20 on its Internet Web site.

21 (e) The department and all county jails or other institutions of
22 confinement shall provide notification to all individuals under their
23 custody and to all employees who are involved in providing health
24 care services of their rights and responsibilities under this section.

25 (f) An employee of the department or of a county jail or other
26 institution of confinement who reports the sterilization of an
27 individual performed in violation of this section is entitled to the
28 protection available under subparagraphs (A) and (B) of paragraph
29 (2) of subdivision (a) of Section 6129, or under the California
30 Whistleblower Protection Act (Article 3 (commencing with Section
31 8547) of Chapter 6.5 of Division 1 of Title 2 of the Government
32 Code) or the Whistleblower Protection Act (Article 10
33 (commencing with Section 9149.20) of Chapter 1.5 of Part 1 of
34 Division 2 of Title 2 of the Government Code).

35 *SEC. 400. Section 3502 of the Penal Code is amended to read:*

36 3502. ~~Except as provided in Section 1706 of the Welfare and~~
37 ~~Institutions Code, no biomedical~~ *Biomedical* research shall *not* be
38 conducted on any prisoner in this state.

39 ~~SEC. 396.~~

40 *SEC. 401. Section 4501 of the Penal Code is amended to read:*

1 4501. (a) Except as provided in Section 4500, every person
2 confined in the state prison of this state who commits an assault
3 upon the person of another with a deadly weapon or instrument
4 shall be guilty of a felony and shall be imprisoned in the state
5 prison for two, four, or six years to be served consecutively.

6 (b) Except as provided in Section 4500, every person confined
7 in the state prison of this state who commits an assault upon the
8 person of another by any means of force likely to produce great
9 bodily injury shall be guilty of a felony and shall be imprisoned
10 in the state prison for two, four, or six years to be served
11 consecutively.

12 ~~SEC. 397.~~

13 *SEC. 402.* Section 4852.08 of the Penal Code is amended to
14 read:

15 4852.08. During the proceedings upon the petition, the
16 petitioner may be represented by counsel of his or her own
17 selection. If the petitioner does not have counsel, he or she shall
18 be represented by the public defender, if there is one in the county,
19 and if there is none, by the adult probation officer of the county,
20 or if in the opinion of the court the petitioner needs counsel, the
21 court shall assign counsel to represent him or her.

22 ~~SEC. 398.~~

23 *SEC. 403.* Section 4852.11 of the Penal Code is amended to
24 read:

25 4852.11. A peace officer shall report to the court, upon
26 receiving a request as provided in Section 4852.1, all known
27 violations of law committed by the petitioner. Upon receiving
28 satisfactory proof of a violation the court may deny the petition
29 and determine a new period of rehabilitation not to exceed the
30 original period of rehabilitation for the same crime. In that event,
31 before granting the petition, the court may require the petitioner
32 to fulfill all the requirements provided to be fulfilled before the
33 granting of the certificate under the original petition.

34 ~~SEC. 399.~~

35 *SEC. 404.* Section 4852.12 of the Penal Code is amended to
36 read:

37 4852.12. (a) In a proceeding for the ascertainment and
38 declaration of the fact of rehabilitation under this chapter, the court,
39 upon the filing of the application for petition of rehabilitation, may
40 request from the district attorney an investigation of the residence

1 of the petitioner, the criminal record of the petitioner as shown by
2 the records of the Department of Justice, any representation made
3 to the court by the applicant, the conduct of the petitioner during
4 the period of rehabilitation, including all matters mentioned in
5 Section 4852.11, and any other information the court deems
6 necessary in making its determination. The district attorney shall,
7 upon request of the court, provide the court with a full and
8 complete report of the investigations.

9 (b) In any proceeding for the ascertainment and declaration of
10 the fact of rehabilitation under this chapter of a person convicted
11 of a crime the accusatory pleading of which has been dismissed
12 pursuant to Section 1203.4, the district attorney, upon request of
13 the court, shall deliver to the court the criminal record of petitioner
14 as shown by the records of the Department of Justice. The district
15 attorney may investigate any representation made to the court by
16 petitioner and may file with the court a report of the investigation
17 including all matters known to the district attorney relating to the
18 conduct of the petitioner, the place and duration of residence of
19 the petitioner during the period of rehabilitation, and all known
20 violations of law committed by the petitioner.

21 ~~SEC. 400.~~

22 *SEC. 405.* Section 4852.14 of the Penal Code is amended to
23 read:

24 4852.14. The clerk of the court shall immediately transmit
25 certified copies of the certificate of rehabilitation to the Governor,
26 to the Board of Parole Hearings and the Department of Justice,
27 and, in the case of persons twice convicted of a felony, to the
28 Supreme Court.

29 ~~SEC. 401.~~

30 *SEC. 406.* Section 4852.18 of the Penal Code is amended to
31 read:

32 4852.18. The Board of Parole Hearings shall furnish to the
33 clerk of the superior court of each county a set of sample forms
34 for a petition for certificate of rehabilitation and pardon, a notice
35 of filing of petition for certificate of rehabilitation and pardon, and
36 a certificate of rehabilitation. The clerk of the court shall have a
37 sufficient number of these forms printed to meet the needs of the
38 people of the county, and shall make these forms available at no
39 charge to persons requesting them.

1 ~~SEC. 402.~~

2 *SEC. 407.* Section 11105.05 of the Penal Code is repealed.

3 ~~SEC. 403.~~

4 *SEC. 408.* Section 13510.5 of the Penal Code is amended to
5 read:

6 13510.5. For the purpose of maintaining the level of
7 competence of state law enforcement officers, the commission
8 shall adopt, and may, from time to time amend, rules establishing
9 minimum standards for training of peace officers as defined in
10 Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2,
11 who are employed by any railroad company, the University of
12 California police department, a California State University police
13 department, the Department of Alcoholic Beverage Control, the
14 Division of Investigation of the Department of Consumer Affairs,
15 the Wildlife Protection Branch of the Department of Fish and
16 Wildlife, the Department of Forestry and Fire Protection, including
17 the Office of the State Fire Marshal, the Department of Motor
18 Vehicles, the California Horse Racing Board, the Food and Drug
19 Section of the State Department of Public Health, the Division of
20 Labor Standards Enforcement, the Director of Parks and
21 Recreation, the State Department of Health Care Services, the
22 Department of Toxic Substances Control, the State Department of
23 Social Services, the State Department of State Hospitals, the State
24 Department of Developmental Services, the Office of Statewide
25 Health Planning and Development, and the Department of Justice.
26 All rules shall be adopted and amended pursuant to Chapter 3.5
27 (commencing with Section 11340) of Part 1 of Division 3 of Title
28 2 of the Government Code.

29 ~~SEC. 404.~~

30 *SEC. 409.* Section 13980 of the Penal Code is amended and
31 renumbered to read:

32 13908. (a) The Office of Criminal Justice Planning shall
33 undertake a study to determine whether it would be feasible to
34 develop a state-operated center on computer forensics for the
35 purpose of collecting, compiling, and analyzing information,
36 including evidence seized in connection with criminal proceedings,
37 in computer formats to provide assistance to state and local law
38 enforcement agencies in the investigation and prosecution of crimes
39 involving computer technology.

1 (b) The office shall involve state and local law enforcement
2 agencies as well as representatives of the computer industry in the
3 development of the feasibility study required by this section.

4 (c) The office shall report its findings and conclusions to the
5 Legislature on or before June 30, 2000.

6 ~~SEC. 405.~~

7 *SEC. 410.* The heading of Title 6.7 (commencing with Section
8 13990) of Part 4 of the Penal Code is repealed.

9 ~~SEC. 406.~~

10 *SEC. 411.* Section 18115 of the Penal Code is amended to read:

11 18115. (a) The court shall notify the Department of Justice
12 when a gun violence restraining order has been issued or renewed
13 under this division no later than one court day after issuing or
14 renewing the order.

15 (b) The court shall notify the Department of Justice when a gun
16 violence restraining order has been dissolved or terminated under
17 this division no later than five court days after dissolving or
18 terminating the order. Upon receipt of either a notice of dissolution
19 or a notice of termination of a gun violence restraining order, the
20 Department of Justice shall, within 15 days, document the updated
21 status of any order issued under this division.

22 (c) The notices required to be submitted to the Department of
23 Justice pursuant to this section shall be submitted in an electronic
24 format, in a manner prescribed by the department.

25 (d) When notifying the Department of Justice pursuant to
26 subdivision (a) or (b), the court shall indicate in the notice whether
27 the person subject to the gun violence restraining order was present
28 in court to be informed of the contents of the order or if the person
29 failed to appear. The person's presence in court constitutes proof
30 of service of notice of the terms of the order.

31 (e) (1) Within one business day of service, a law enforcement
32 officer who served a gun violence restraining order shall submit
33 the proof of service directly into the California Restraining and
34 Protective Order System, including his or her name and law
35 enforcement agency, and shall transmit the original proof of service
36 form to the issuing court.

37 (2) Within one business day of receipt of proof of service by a
38 person other than a law enforcement officer, the clerk of the court
39 shall submit the proof of service of a gun violence restraining order
40 directly into the California Restraining and Protective Order

1 System, including the name of the person who served the order.
2 If the court is unable to provide this notification to the Department
3 of Justice by electronic transmission, the court shall, within one
4 business day of receipt, transmit a copy of the proof of service to
5 a local law enforcement agency. The local law enforcement agency
6 shall submit the proof of service directly into the California
7 Restraining and Protective Order System within one business day
8 of receipt from the court.

9 ~~SEC. 407.~~

10 *SEC. 412.* Section 18150 of the Penal Code is amended to read:

11 18150. (a) (1) An immediate family member of a person or
12 a law enforcement officer may file a petition requesting that the
13 court issue an ex parte gun violence restraining order enjoining
14 the subject of the petition from having in his or her custody or
15 control, owning, purchasing, possessing, or receiving a firearm or
16 ammunition.

17 (2) For purposes of this subdivision, “immediate family
18 member” has the same meaning as in paragraph (3) of subdivision
19 (b) of Section 422.4.

20 (b) A court may issue an ex parte gun violence restraining order
21 if the petition, supported by an affidavit made in writing and signed
22 by the petitioner under oath, or an oral statement taken pursuant
23 to subdivision (a) of Section 18155, and any additional information
24 provided to the court shows that there is a substantial likelihood
25 that both of the following are true:

26 (1) The subject of the petition poses a significant danger, in the
27 near future, of causing personal injury to himself, herself, or
28 another by having in his or her custody or control, owning,
29 purchasing, possessing, or receiving a firearm as determined by
30 considering the factors listed in Section 18155.

31 (2) An ex parte gun violence restraining order is necessary to
32 prevent personal injury to the subject of the petition or another
33 because less restrictive alternatives either have been tried and
34 found to be ineffective, or are inadequate or inappropriate for the
35 circumstances of the subject of the petition.

36 (c) An affidavit supporting a petition for the issuance of an ex
37 parte gun violence restraining order shall set forth the facts tending
38 to establish the grounds of the petition, or the reason for believing
39 that they exist.

1 (d) An ex parte order under this chapter shall be issued or denied
2 on the same day that the petition is submitted to the court, unless
3 the petition is filed too late in the day to permit effective review,
4 in which case the order shall be issued or denied on the next day
5 of judicial business in sufficient time for the order to be filed that
6 day with the clerk of the court.

7 ~~SEC. 408.~~

8 *SEC. 413.* Section 18155 of the Penal Code is amended to read:

9 18155. (a) (1) The court, before issuing an ex parte gun
10 violence restraining order, shall examine on oath, the petitioner
11 and any witness the petitioner may produce.

12 (2) In lieu of examining the petitioner and any witness the
13 petitioner may produce, the court may require the petitioner and
14 any witness to submit a written affidavit signed under oath.

15 (b) (1) In determining whether grounds for a gun violence
16 restraining order exist, the court shall consider all evidence of the
17 following:

18 (A) A recent threat of violence or act of violence by the subject
19 of the petition directed toward another.

20 (B) A recent threat of violence or act of violence by the subject
21 of the petition directed toward himself or herself.

22 (C) A violation of an emergency protective order issued pursuant
23 to Section 646.91 or Part 3 (commencing with Section 6240) of
24 Division 10 of the Family Code that is in effect at the time the
25 court is considering the petition.

26 (D) A recent violation of an unexpired protective order issued
27 pursuant to Part 4 (commencing with Section 6300) of Division
28 10 of the Family Code, Section 136.2, Section 527.6 of the Code
29 of Civil Procedure, or Section 213.5 or 15657.03 of the Welfare
30 and Institutions Code.

31 (E) A conviction for any offense listed in Section 29805.

32 (F) A pattern of violent acts or violent threats within the past
33 12 months, including, but not limited to, threats of violence or acts
34 of violence by the subject of the petition directed toward himself,
35 herself, or another.

36 (2) In determining whether grounds for a gun violence
37 restraining order exist, the court may consider any other evidence
38 of an increased risk for violence, including, but not limited to,
39 evidence of any of the following:

1 (A) The unlawful and reckless use, display, or brandishing of
2 a firearm by the subject of the petition.

3 (B) The history of use, attempted use, or threatened use of
4 physical force by the subject of the petition against another person.

5 (C) A prior arrest of the subject of the petition for a felony
6 offense.

7 (D) A history of a violation by the subject of the petition of an
8 emergency protective order issued pursuant to Section 646.91 or
9 Part 3 (commencing with Section 6240) of Division 10 of the
10 Family Code.

11 (E) A history of a violation by the subject of the petition of a
12 protective order issued pursuant to Part 4 (commencing with
13 Section 6300) of Division 10 of the Family Code, Section 136.2,
14 Section 527.6 of the Code of Civil Procedure, or Section 213.5 or
15 15657.03 of the Welfare and Institutions Code.

16 (F) Documentary evidence, including, but not limited to, police
17 reports and records of convictions, of either recent criminal
18 offenses by the subject of the petition that involve controlled
19 substances or alcohol or ongoing abuse of controlled substances
20 or alcohol by the subject of the petition.

21 (G) Evidence of recent acquisition of firearms, ammunition, or
22 other deadly weapons.

23 (3) For the purposes of this subdivision, “recent” means within
24 the six months prior to the date the petition was filed.

25 (c) If the court determines that the grounds to issue an ex parte
26 gun violence restraining order exist, it shall issue an ex parte gun
27 violence restraining order that prohibits the subject of the petition
28 from having in his or her custody or control, owning, purchasing,
29 possessing, or receiving, or attempting to purchase or receive, a
30 firearm or ammunition, and expires no later than 21 days from the
31 date of the order.

32 ~~SEC. 409.~~

33 *SEC. 414.* Section 18175 of the Penal Code is amended to read:

34 18175. (a) In determining whether to issue a gun violence
35 restraining order under this chapter, the court shall consider
36 evidence of the facts identified in paragraph (1) of subdivision (b)
37 of Section 18155 and may consider any other evidence of an
38 increased risk for violence, including, but not limited to, evidence
39 of the facts identified in paragraph (2) of subdivision (b) of Section
40 18155.

1 (b) At the hearing, the petitioner shall have the burden of
2 proving, by clear and convincing evidence, that both of the
3 following are true:

4 (1) The subject of the petition, or a person subject to an ex parte
5 gun violence restraining order, as applicable, poses a significant
6 danger of causing personal injury to himself, herself, or another
7 by having in his or her custody or control, owning, purchasing,
8 possessing, or receiving a firearm or ammunition.

9 (2) A gun violence restraining order is necessary to prevent
10 personal injury to the subject of the petition, or the person subject
11 to an ex parte gun violence restraining order, as applicable, or
12 another because less restrictive alternatives either have been tried
13 and found to be ineffective, or are inadequate or inappropriate for
14 the circumstances of the subject of the petition, or the person
15 subject to an ex parte gun violence restraining order, as applicable.

16 (c) (1) If the court finds that there is clear and convincing
17 evidence to issue a gun violence restraining order, the court shall
18 issue a gun violence restraining order that prohibits the subject of
19 the petition from having in his or her custody or control, owning,
20 purchasing, possessing, or receiving, or attempting to purchase or
21 receive, a firearm or ammunition.

22 (2) If the court finds that there is not clear and convincing
23 evidence to support the issuance of a gun violence restraining
24 order, the court shall dissolve any temporary emergency or ex
25 parte gun violence restraining order then in effect.

26 (d) A gun violence restraining order issued under this chapter
27 has a duration of one year, subject to termination by further order
28 of the court at a hearing held pursuant to Section 18185 and
29 renewal by further order of the court pursuant to Section 18190.

30 ~~SEC. 410.~~

31 *SEC. 415.* Section 27210 of the Penal Code is amended to read:

32 27210. (a) The producer and facility's manager of a gun show
33 or event shall prepare an annual event and security plan and
34 schedule that shall include, at a minimum, the following
35 information for each show or event:

36 (1) The type of show or event, including, but not limited to,
37 antique or general firearms.

38 (2) The estimated number of vendors offering firearms for sale
39 or display.

40 (3) The estimated number of attendees.

1 (4) The number of entrances and exits at the gun show or event
2 site.

3 (5) The location, dates, and times of the show or event.

4 (6) The contact person and telephone number for both the
5 producer and the facility.

6 (7) The number of sworn peace officers employed by the
7 producer or the facility’s manager who will be present at the show
8 or event.

9 (8) The number of nonsworn security personnel employed by
10 the producer or the facility’s manager who will be present at the
11 show or event.

12 (b) The annual event and security plan shall be submitted by
13 either the producer or the facility’s manager to the Department of
14 Justice and the law enforcement agency with jurisdiction over the
15 facility.

16 (c) If significant changes have been made since the annual plan
17 was submitted, the producer shall, not later than 15 days before
18 commencement of the gun show or event, submit to the department,
19 the law enforcement agency with jurisdiction over the facility site,
20 and the facility’s manager, a revised event and security plan,
21 including a revised list of vendors that the producer knows, or
22 reasonably should know, will be renting tables, space, or otherwise
23 participating in the gun show or event.

24 (d) The event and security plan shall be approved by the
25 facility’s manager before the event or show, after consultation with
26 the law enforcement agency with jurisdiction over the facility.

27 (e) A gun show or event shall not commence unless the
28 requirements of subdivisions (b), (c), and (d) are met.

29 ~~SEC. 411.~~

30 *SEC. 416.* Section 30625 of the Penal Code is amended to read:

31 30625. Sections 30600, 30605, and 30610 do not apply to the
32 sale of an assault weapon or .50 BMG rifle to, or the purchase,
33 importation, or possession of an assault weapon or a .50 BMG
34 rifle by, the Department of Justice, police departments, sheriffs’
35 offices, marshals’ offices, the Department of Corrections and
36 Rehabilitation, the Department of the California Highway Patrol,
37 district attorneys’ offices, the Department of Fish and Wildlife,
38 the Department of Parks and Recreation, or the military or naval
39 forces of this state or of the United States, or any federal law
40 enforcement agency for use in the discharge of their official duties.

1 ~~SEC. 412.~~

2 *SEC. 417.* The heading of Part 14 (commencing with Section
3 900) of Division 2 of the Probate Code, as added by Section 14 of
4 Chapter 79 of the Statutes of 1990, is repealed.

5 ~~SEC. 413.~~

6 *SEC. 418.* The heading of Article 1 (commencing with Section
7 7200) of Chapter 3 of Part 1 of Division 7 of the Probate Code is
8 repealed.

9 *SEC. 419.* *Section 6100 of the Public Contract Code is amended*
10 *to read:*

11 6100. (a) ~~Any A state agency or department, agency,~~ as defined
12 in Section ~~10357, which~~ 10335.7 that is subject to this code, shall,
13 prior to awarding a contract for work to be performed by a
14 contractor, as defined by Section 7026 of the Business and
15 Professions Code, verify with the ~~Contractors'~~ *Contractors'* State
16 License Board that the person seeking the contract is licensed in
17 a classification appropriate to the work to be undertaken.
18 Verification as required by this section need only be made once
19 every two years with respect to the same contractor.

20 (b) In lieu of the verification, the state entity may require the
21 person seeking the contract to present his or her pocket license or
22 certificate of licensure and provide a signed statement which
23 swears, under penalty of perjury, that the pocket license or
24 certificate of licensure presented is his or hers, is current and valid,
25 and is in a classification appropriate to the work to be undertaken.

26 *SEC. 420.* *Section 6101 of the Public Contract Code is amended*
27 *to read:*

28 6101. ~~No A state agency or department, agency,~~ as defined in
29 Section ~~10357, 10335.7,~~ that is subject to this code, shall *not* award
30 a public works or purchase contract to a bidder or contractor, nor
31 shall a bidder or contractor be eligible to bid for or receive a public
32 works or purchase contract, who has, in the preceding five years,
33 been convicted of violating a state or federal law respecting the
34 employment of undocumented aliens.

35 ~~SEC. 414.~~

36 *SEC. 421.* Section 10299 of the Public Contract Code, as added
37 by Section 33 of Chapter 71 of the Statutes of 2000, is repealed.

38 ~~SEC. 415.~~

39 *SEC. 422.* Section 20427 of the Public Contract Code is
40 amended to read:

1 20427. At any time prior to publication and posting notice
2 inviting bids, the legislative body by resolution, may determine
3 that if the contractor, contracting owners included, does not
4 complete the work within the time limit specified in the contract
5 or within the further time that the legislative body authorized, the
6 contractor or contracting owners, as the case may be, shall pay to
7 the city liquidated damages in the amount fixed by the legislative
8 body in the resolution. The amount so fixed is valid as liquidated
9 damages unless manifestly unreasonable under the circumstances
10 existing at the time the contract was made. If this determination
11 is made, the plans or specifications and the contract shall contain
12 provisions in accordance with that determination.

13 Any moneys received by the city on account of those liquidated
14 damages shall be applied as follows:

15 (1) If received prior to confirmation of the assessment, those
16 moneys shall be applied as a contribution against the assessment.

17 (2) If received after the confirmation of the assessment, those
18 moneys shall be applied in the manner provided in Section 5132.05
19 of the Streets and Highways Code for the disposition of excess
20 acquisition funds.

21 (3) If a contribution has previously been made or ordered by
22 any agency, the legislative body may order a refund to the
23 contributing agency in the proportion that the contribution bears
24 to the total costs and expenses of the work.

25 ~~SEC. 416.~~

26 *SEC. 423.* Section 541.5 of the Public Resources Code is
27 amended to read:

28 541.5. (a) The department shall not close, or propose to close,
29 a state park in the 2012–13 or 2013–14 fiscal year. The commission
30 and the department shall recommend all necessary steps to establish
31 a sustainable funding strategy for the department to the Legislature
32 on or before January 1, 2015.

33 (b) There is hereby appropriated twenty million five hundred
34 thousand dollars (\$20,500,000) to the department from the State
35 Parks and Recreation Fund, which shall be available for
36 encumbrance until June 30, 2016, and for liquidation until June
37 30, 2018, to be expended as follows:

38 (1) Ten million dollars (\$10,000,000) shall be available to
39 provide for matching funds pursuant to subdivision (c).

1 (2) Ten million dollars (\$10,000,000) shall be available for the
2 department to direct funds to parks that remain at risk of closure
3 or that will keep parks open during the 2012–13 to 2015–16 fiscal
4 years, inclusive. Priority may be given to parks subject to a donor
5 or operating agreement or other contractual arrangement with the
6 department.

7 (3) Up to five hundred thousand dollars (\$500,000) shall be
8 available for the department to pay for ongoing audits and
9 investigations as directed by the Joint Legislative Audit Committee,
10 the office of the Attorney General, the Department of Finance, or
11 other state agency.

12 (c) The department shall match on a dollar-for-dollar basis all
13 financial contributions contributed by a donor pursuant to an
14 agreement for the 2012–13 fiscal year for which the department
15 received funds as of July 31, 2013, and for agreements entered
16 into in the 2013–14 fiscal year. These matching funds shall be
17 used exclusively in the park unit subject to those agreements.

18 (d) The department shall notify the Joint Legislative Budget
19 Committee in writing not less than 30 days before the expenditure
20 of funds under this section of the funding that shall be expended,
21 the manner of the expenditure, and the recipient of the expenditure.

22 (e) The prohibition on the closure, or proposed closure, of a
23 state park in the 2012–13 or 2013–14 fiscal year, pursuant to
24 paragraph (a), does not limit or affect the department’s authority
25 to enter into an operating agreement, pursuant to Section 5080.42,
26 during the 2012–13 or 2013–14 fiscal year, for purposes of the
27 operation of the entirety of a state park during the 2012–13 or
28 2013–14 fiscal year.

29 ~~SEC. 417.~~

30 *SEC. 424.* Section 4598.1 of the Public Resources Code is
31 amended to read:

32 4598.1. (a) The purpose of this article is to encourage private
33 investments in, and improved long-term management of,
34 timberlands and resources within the state to promote carbon
35 sequestration through increased timber growth and inventory,
36 reduced carbon emissions from wildland fires by creating fire
37 resiliency on private timberlands, and the protection, maintenance,
38 and enhancement of a productive and stable forest resource system
39 for the benefit of present and future generations.

1 (b) The primary emphasis of the program established by this
 2 article shall be upon increasing carbon sequestration in timberlands
 3 and reducing carbon emissions from wildland fires. Consistent
 4 with this primary emphasis, the program shall also be managed to
 5 maintain or improve all forest resources, such as fish and wildlife
 6 habitat and soil resources, so that the overall effect of the program
 7 is to improve the total forest resource system.

8 ~~SEC. 418:~~

9 *SEC. 425.* Section 4598.6 of the Public Resources Code is
 10 amended to read:

11 4598.6. To be eligible for participation in an agreement or grant
 12 pursuant to Section 4598.5, the following conditions shall be met:

13 (a) The application requirements established by the board are
 14 satisfied.

15 (b) The landowner is a smaller nonindustrial landowner, as
 16 defined in Section 4598.3. Where the timberland is owned jointly
 17 by more than one individual, group, association, or corporation,
 18 as joint tenants, tenants in common, tenants by the entirety, or
 19 otherwise, the joint owners shall be considered, for the purposes
 20 of this article, as one landowner.

21 (c) The parcel or parcels of timberland to which the PTEIR shall
 22 apply is either:

23 (1) Within a timber preserve zone established pursuant to Article
 24 6.7 (commencing with Section 51100) of Part 1 of Division 1 of
 25 Title 5 of the Government Code and not the subject of an
 26 application for rezoning or immediate rezoning pursuant to Section
 27 51120 of, or Article 4 (commencing with Section 51130) of
 28 Chapter 6.7 of Part 1 of Division 1 of Title 5, of the Government
 29 Code.

30 (2) Subject to a contract signed by the landowner in which the
 31 landowner agrees not to develop the parcel of timberland for uses
 32 incompatible with the PTEIR within 20 years following the
 33 execution of an agreement or the making of a grant pursuant to
 34 Section 4598.5. The director shall record the contract in the office
 35 of the county recorder in the county in which the parcel of
 36 timberland is located and, upon recordation, the contract shall be
 37 binding upon any person to whom the parcel of timberland is sold,
 38 assigned, devised, or otherwise transferred by agreement or
 39 operation of law.

1 ~~SEC. 419.~~

2 *SEC. 426.* Section 4598.7 of the Public Resources Code is
3 amended to read:

4 4598.7. Payments or grants pursuant to this article may be
5 made for work that is also the subject of payments or other
6 assistance provided pursuant to federal law. Payments or grants
7 shall not be made pursuant to this article to satisfy landowner cost
8 share requirements of, or repay loans received pursuant to, federal
9 law. The combined state and federal payments or other assistance
10 shall not together exceed the amount of the actual cost of the
11 PTEIR to the landowner.

12 ~~SEC. 420.~~

13 *SEC. 427.* Section 5080.16 of the Public Resources Code is
14 amended to read:

15 5080.16. If the director determines that it is in the best interests
16 of the state, the director, upon giving notice to the State Park and
17 Recreation Commission, may negotiate or renegotiate a contract,
18 including terms and conditions, when one or more of the following
19 conditions exist:

20 (a) The bid process as prescribed in this article has failed to
21 produce a best responsible bidder.

22 (b) The negotiation or renegotiation would constitute an
23 extension of an existing contract obtained through the process
24 required by this article and the extended contract would provide
25 for substantial and additional concession facilities, which would
26 be constructed at the sole expense of the concessionaire and which
27 are set forth in the general plan for the unit and are needed to
28 accommodate existing or projected increased public usage.

29 (c) Lands in the state park system administered by the
30 department and lands under the legal control of the prospective
31 concessionaire are so situated that the concession is dependent
32 upon the use of those public and private lands for the physical or
33 economic success, or both, of the concession.

34 (d) A concession is desired for particular interpretive purposes
35 in a unit of the state park system and the prospective concessionaire
36 possesses special knowledge, experience, skills, or ability
37 appropriate to the particular interpretive purposes.

38 (e) The concession has been severely and adversely impacted
39 through no fault of the concessionaire by an unanticipated calamity,
40 park closure, major construction, or other harmful event or action.

1 (f) The estimated administrative costs for the bid process exceed
2 the projected annual net rental revenue to the state.

3 ~~SEC. 421.~~

4 *SEC. 428.* Section 5096.955 of the Public Resources Code, as
5 added by Section 14 of Chapter 178 of the Statutes of 2007, is
6 amended and renumbered to read:

7 5096.9545 (a) For the purposes of any levee evaluation
8 activities funded by the department, the department shall not
9 require a local cost-share for the following levee evaluations:

10 (1) Evaluations of levees that are part of the facilities of the
11 State Plan of Flood Control.

12 (2) Evaluations of levees located in the Central Valley that are
13 not part of the State Plan of Flood Control, and that protect an
14 urban area, as defined by subdivision (k) of Section 5096.805.

15 (3) Evaluations of levees chosen to be performed by the
16 department as part of an effort to protect critical water conveyance
17 infrastructure through the Sacramento-San Joaquin Delta.

18 (b) The department shall identify the levees described in
19 paragraph (2) of subdivision (a) in the Bond Expenditure Disaster
20 Preparedness and Flood Prevention Plan described in Section
21 5096.820 and notify the Governor and the Legislature of the
22 location of these levees.

23 ~~SEC. 422.~~

24 *SEC. 429.* Section 6217.2 of the Public Resources Code, as
25 added by Section 5 of Chapter 326 of the Statutes of 1998, is
26 repealed.

27 ~~SEC. 423.~~

28 *SEC. 430.* The heading of Chapter 6 (commencing with Section
29 12292) of Division 10.5 of the Public Resources Code is repealed.

30 ~~SEC. 424.~~

31 *SEC. 431.* Section 14591.2 of the Public Resources Code is
32 amended to read:

33 14591.2. (a) The department may take disciplinary action
34 against any party responsible for directing, contributing to,
35 participating in, or otherwise influencing the operations of a
36 certified or registered facility or program. A responsible party
37 includes, but is not limited to, the certificate holder, registrant,
38 officer, director, or managing employee. Except as otherwise
39 provided in this division, the department shall provide a notice
40 and hearing in accordance with Chapter 5 (commencing with

1 Section 11500) of Part 1 of Division 3 of Title 2 of the Government
2 Code before taking any disciplinary action against a certificate
3 holder.

4 (b) All of the following are grounds for disciplinary action, in
5 the form determined by the department in accordance with
6 subdivision (c):

7 (1) The responsible party engaged in fraud or deceit to obtain
8 a certificate or registration.

9 (2) The responsible party engaged in dishonesty, incompetence,
10 negligence, or fraud in performing the functions and duties of a
11 certificate holder or registrant.

12 (3) The responsible party violated this division or any regulation
13 adopted pursuant to this division, including, but not limited to, any
14 requirements concerning auditing, reporting, standards of operation,
15 or being open for business.

16 (4) The responsible party is convicted of any crime of moral
17 turpitude or fraud, any crime involving dishonesty, or any crime
18 substantially related to the qualifications, functions, or duties of a
19 certificate holder.

20 (c) The department may take disciplinary action pursuant to this
21 section, by taking any one of, or any combination of, the following:

22 (1) Immediate revocation of the certificate or registration, or
23 revocation of a certificate or registration as of a specific date in
24 the future.

25 (2) Immediate suspension of the certificate or registration for a
26 specified period of time, or suspension of the certificate or
27 registration as of a specific date in the future. Notwithstanding
28 subdivision (a), the department may impose a suspension of five
29 days or less through an informal notice, if the action is subject to
30 a stay on appeal, pending an informal hearing convened in
31 accordance with Article 10 (commencing with Section 11445.10)
32 of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government
33 Code.

34 (3) Imposition on the certificate or registration of any condition
35 that the department determines would further the goals of this
36 division.

37 (4) Issuance of a probationary certificate or registration with
38 conditions determined by the department.

39 (5) Collection of amounts in restitution of any money improperly
40 paid to the certificate holder or registrant from the fund.

1 (6) Imposition of civil penalties pursuant to Section 14591.1.

2 (7) Suspension for a specified period of time or permanent
3 revocation of eligibility of a supermarket site, rural region recycler,
4 or a nonprofit convenience zone recycler to receive handling fees
5 at one or more of the certificate holder's certified recycling centers.

6 (d) The department may do any of the following in taking
7 disciplinary action pursuant to this section:

8 (1) If a certificate holder or registrant holds certificates or is
9 registered to operate at more than one site or to operate in more
10 than one capacity at one location, such as an entity certified as
11 both a processor and a recycling center, the department may
12 simultaneously revoke, suspend, or impose conditions upon some,
13 or all, of the certificates held by the responsible party.

14 (2) If the responsible party is an officer, director, partner,
15 manager, employee, or the owner of a controlling ownership
16 interest of another certificate holder or registrant, that other
17 operator's certificate or registration may also be revoked,
18 suspended, or conditioned by the department in the same
19 proceeding, if the other certificate holder or registrant is given
20 notice of that proceeding, or in a subsequent proceeding.

21 (3) (A) If, pursuant to notice and a hearing conducted by the
22 director or the director's designee in accordance with Article 10
23 (commencing with Section 11445.10) of Chapter 4.5 of Part 1 of
24 Division 3 of Title 2 of the Government Code, the department
25 determines that the continued operation of a certified or registered
26 entity poses an immediate and significant threat to the fund, the
27 department may order the immediate suspension of the certificate
28 holder or registrant, pending revocation of the certificate or
29 registration, or the issuance of a probationary certificate imposing
30 reasonable terms and conditions. The department shall record the
31 testimony at the hearing and, upon request, prepare a transcript.
32 For purposes of this section, an immediate and significant threat
33 to the fund means any of the following:

34 (i) A loss to the fund of at least ten thousand dollars (\$10,000)
35 during the six-month period immediately preceding the order of
36 suspension.

37 (ii) Missing or fraudulent records associated with a claim or
38 claims totaling at least ten thousand dollars (\$10,000) during the
39 six-month period immediately preceding the order of suspension.

1 (iii) A pattern of deceit, fraud, or intentional misconduct in
2 carrying out the duties and responsibilities of a certificate holder
3 during the six-month period immediately preceding the order of
4 suspension. For purposes of this section, a pattern of deceit, fraud,
5 or intentional misconduct in carrying out the duties of a certificate
6 holder includes, but is not limited to, the destruction or concealment
7 of any records six months immediately preceding the order of
8 suspension.

9 (iv) At least three claims submitted for ineligible material in
10 violation of this division, including, but not limited to, a violation
11 of Section 14595.5, during the six-month period immediately
12 preceding the order of suspension.

13 (B) An order of suspension or probation may be issued to any
14 or all certified or registered facilities or programs operated by a
15 person or entity that the department determines to be culpable or
16 responsible for the loss or conduct identified pursuant to
17 subparagraph (A).

18 (C) The order of suspension or issuance of a probationary
19 certificate imposing terms or conditions shall become effective
20 upon written notice of the order to the certificate holder or
21 registrant. Within 20 days after notice of the order of suspension,
22 the department shall file an accusation seeking revocation of any
23 or all certificates or registrations held by the certificate holder or
24 registrant. The certificate holder or registrant may, upon receiving
25 the notice of the order of suspension or probation, appeal the order
26 by requesting a hearing in accordance with Chapter 5 (commencing
27 with Section 11500) of Part 1 of Division 3 of Title 2 of the
28 Government Code. A request for a hearing or appeal from an order
29 of the department does not stay the action of the department for
30 which the notice of the order is given. The department may
31 combine hearings to appeal an order of suspension and a hearing
32 for the proposed revocation of a certificate or registration into one
33 proceeding.

34 (D) This section does not prohibit the department from
35 immediately revoking a probationary certificate pursuant to
36 subdivision (b) of Section 14541 or from taking other disciplinary
37 action pursuant to Section 14591.2.

1 ~~SEC. 425.~~

2 ~~SEC. 432.~~ Section 21080.35 of the Public Resources Code, as
3 added by Section 1 of Chapter 534 of the Statutes of 2001, is
4 amended and renumbered to read:

5 21080.34 For the purposes of Section 21069, the phrase
6 “carrying out or approving a project” shall include the carrying
7 out or approval of a plan for a project that expands or enlarges an
8 existing publicly owned airport by any political subdivision, as
9 described in Section 21661.6 of the Public Utilities Code.

10 ~~SEC. 426.~~

11 ~~SEC. 433.~~ Section 21082.3 of the Public Resources Code is
12 amended to read:

13 21082.3. (a) Any mitigation measures agreed upon in the
14 consultation conducted pursuant to Section 21080.3.2 shall be
15 recommended for inclusion in the environmental document and
16 in an adopted mitigation monitoring and reporting program, if
17 determined to avoid or lessen the impact pursuant to paragraph
18 (2) of subdivision (b), and shall be fully enforceable.

19 (b) If a project may have a significant impact on a tribal cultural
20 resource, the lead agency’s environmental document shall discuss
21 both of the following:

22 (1) Whether the proposed project has a significant impact on
23 an identified tribal cultural resource.

24 (2) Whether feasible alternatives or mitigation measures,
25 including those measures that may be agreed to pursuant to
26 subdivision (a), avoid or substantially lessen the impact on the
27 identified tribal cultural resource.

28 (c) (1) Any information, including, but not limited to, the
29 location, description, and use of the tribal cultural resources, that
30 is submitted by a California Native American tribe during the
31 environmental review process shall not be included in the
32 environmental document or otherwise disclosed by the lead agency
33 or any other public agency to the public, consistent with
34 subdivision (r) of Section 6254 of, and Section 6254.10 of, the
35 Government Code, and subdivision (d) of Section 15120 of Title
36 14 of the California Code of Regulations, without the prior consent
37 of the tribe that provided the information. If the lead agency
38 publishes any information submitted by a California Native
39 American tribe during the consultation or environmental review
40 process, that information shall be published in a confidential

1 appendix to the environmental document unless the tribe that
2 provided the information consents, in writing, to the disclosure of
3 some or all of the information to the public. This subdivision does
4 not prohibit the confidential exchange of the submitted information
5 between public agencies that have lawful jurisdiction over the
6 preparation of the environmental document.

7 (2) (A) This subdivision does not prohibit the confidential
8 exchange of information regarding tribal cultural resources
9 submitted by a California Native American tribe during the
10 consultation or environmental review process among the lead
11 agency, the California Native American tribe, the project applicant,
12 or the project applicant's agent. Except as provided in subparagraph
13 (B) or unless the California Native American tribe providing the
14 information consents, in writing, to public disclosure, the project
15 applicant or the project applicant's legal advisers, using a
16 reasonable degree of care, shall maintain the confidentiality of the
17 information exchanged for the purposes of preventing looting,
18 vandalism, or damage to tribal cultural resources and shall not
19 disclose to a third party confidential information regarding tribal
20 cultural resources.

21 (B) This paragraph does not apply to data or information that
22 are or become publicly available, are already in the lawful
23 possession of the project applicant before the provision of the
24 information by the California Native American tribe, are
25 independently developed by the project applicant or the project
26 applicant's agents, or are lawfully obtained by the project applicant
27 from a third party that is not the lead agency, a California Native
28 American tribe, or another public agency.

29 (3) This subdivision does not affect or alter the application of
30 subdivision (r) of Section 6254 of the Government Code, Section
31 6254.10 of the Government Code, or subdivision (d) of Section
32 15120 of Title 14 of the California Code of Regulations.

33 (4) This subdivision does not prevent a lead agency or other
34 public agency from describing the information in general terms in
35 the environmental document so as to inform the public of the basis
36 of the lead agency's or other public agency's decision without
37 breaching the confidentiality required by this subdivision.

38 (d) In addition to other provisions of this division, the lead
39 agency may certify an environmental impact report or adopt a
40 mitigated negative declaration for a project with a significant

1 impact on an identified tribal cultural resource only if one of the
2 following occurs:

3 (1) The consultation process between the California Native
4 American tribe and the lead agency has occurred as provided in
5 Sections 21080.3.1 and 21080.3.2 and concluded pursuant to
6 subdivision (b) of Section 21080.3.2.

7 (2) The California Native American tribe has requested
8 consultation pursuant to Section 21080.3.1 and has failed to provide
9 comments to the lead agency, or otherwise failed to engage, in the
10 consultation process.

11 (3) The lead agency has complied with subdivision (d) of Section
12 21080.3.1 and the California Native American tribe has failed to
13 request consultation within 30 days.

14 (e) If the mitigation measures recommended by the staff of the
15 lead agency as a result of the consultation process are not included
16 in the environmental document or if there are no agreed upon
17 mitigation measures at the conclusion of the consultation or if
18 consultation does not occur, and if substantial evidence
19 demonstrates that a project will cause a significant effect to a tribal
20 cultural resource, the lead agency shall consider feasible mitigation
21 pursuant to subdivision (b) of Section 21084.3.

22 (f) Consistent with subdivision (c), the lead agency shall publish
23 confidential information obtained from a California Native
24 American tribe during the consultation process in a confidential
25 appendix to the environmental document and shall include a
26 general description of the information, as provided in paragraph
27 (4) of subdivision (c) in the environmental document for public
28 review during the public comment period provided pursuant to
29 this division.

30 (g) This section is not intended, and may not be construed, to
31 limit consultation between the state and tribal governments,
32 existing confidentiality provisions, or the protection of religious
33 exercise to the fullest extent permitted under state and federal law.

34 ~~SEC. 427.~~

35 *SEC. 434.* Section 30103 of the Public Resources Code is
36 amended to read:

37 30103. (a) “Coastal zone” means that land and water area of
38 the State of California from the Oregon border to the border of the
39 Republic of Mexico, specified on the maps identified and set forth
40 in Section 17 of Chapter 1330 of the Statutes of 1976, extending

1 seaward to the state’s outer limit of jurisdiction, including all
2 offshore islands, and extending inland generally 1,000 yards from
3 the mean high tide line of the sea. In significant coastal estuarine,
4 habitat, and recreational areas it extends inland to the first major
5 ridgeline paralleling the sea or five miles from the mean high tide
6 line of the sea, whichever is less, and in developed urban areas the
7 zone generally extends inland less than 1,000 yards. The coastal
8 zone does not include the area of jurisdiction of the San Francisco
9 Bay Conservation and Development Commission, established
10 pursuant to Title 7.2 (commencing with Section 66600) of the
11 Government Code, nor any area contiguous thereto, including any
12 river, stream, tributary, creek, or flood control or drainage channel
13 flowing into such area.

14 (b) The commission shall, within 60 days after its first meeting,
15 prepare and adopt a detailed map, on a scale of one inch equals
16 24,000 inches for the coastal zone and shall file a copy of the map
17 with the county clerk of each coastal county. The purpose of this
18 provision is to provide greater detail than is provided by the maps
19 identified in Section 17 of Chapter 1330 of the Statutes of 1976.
20 The commission may adjust the inland boundary of the coastal
21 zone the minimum landward distance necessary up to a maximum
22 of 100 yards except as otherwise provided in this subdivision, or
23 the minimum distance seaward necessary up to a maximum of 200
24 yards, to avoid bisecting any single lot or parcel or to conform it
25 to readily identifiable natural or manmade features. Where a
26 landward adjustment is requested by the local government and
27 agreed to by the property owner, the maximum distance shall be
28 200 yards.

29 ~~SEC. 428.~~

30 *SEC. 435.* Chapter 1 (commencing with Section 32600) of
31 Division 22.8 of the Public Resources Code, as added by Section
32 1 of Chapter 788 of the Statutes of 1999, is repealed.

33 ~~SEC. 429.~~

34 *SEC. 436.* Section 42356 of the Public Resources Code is
35 amended to read:

36 42356. For purposes of this chapter, the following definitions
37 apply:

38 (a) “ASTM” means the ASTM International.

39 (b) (1) “ASTM standard specification” means one of the
40 following:

1 (A) The ASTM Standard Specification for Compostable Plastics
2 D6400, as published in September 2004, except as provided in
3 subdivision (c) of Section 42356.1.

4 (B) The ASTM Standard Specification for Non-Floating
5 Biodegradable Plastics in the Marine Environment D7081, as
6 published in August 2005, except as provided in subdivision (c)
7 of Section 42356.1.

8 (C) The ASTM Standard Specification for Biodegradable
9 Plastics Used as Coatings on Paper and Other Compostable
10 Substrates D6868, as published in August 2003, except as specified
11 in subdivision (c) of Section 42356.1.

12 (2) “ASTM standard specification” does not include an ASTM
13 Standard Guide, a Standard Practice, or a Standard Test Method.

14 (c) “Department” means the Department of Resources Recycling
15 and Recovery.

16 (d) “Manufacturer” means a person, firm, association,
17 partnership, or corporation that produces a plastic product.

18 (e) “OK home compost” means conformity with the existing
19 Vincotte certification “OK Compost HOME certification” which,
20 as of January 1, 2011, uses European Norm 13432 standard adapted
21 to low-temperature composting in accordance with the Vincotte
22 program “OK 2-Home Compostability of Products.”

23 (f) “Plastic product” means a product made of plastic, whether
24 alone or in combination with other material, including, but not
25 limited to, paperboard. A plastic product includes, but is not limited
26 to, any of the following:

27 (1) (A) A consumer product.

28 (B) For purposes of this paragraph, “consumer product” means
29 a product or part of a product that is used, bought, or leased for
30 use by a person for any purpose.

31 (2) A package or a packaging component.

32 (3) A bag, sack, wrap, or other thin plastic sheet film product.

33 (4) A food or beverage container or a container component,
34 including, but not limited to, a straw, lid, or utensil.

35 (g) “Supplier” means a person who does one or more of the
36 following:

37 (1) Sells, offers for sale, or offers for promotional purposes, a
38 plastic product that is used.

1 (2) Takes title to a plastic product, produced either domestically
2 or in a foreign country, that is purchased for resale or promotional
3 purposes.

4 (h) “Vincotte certification” means a certification of a European
5 norm (EN) standard adopted by the Belgian-accredited inspection
6 and certification organization Vincotte.

7 ~~SEC. 430.~~

8 *SEC. 437.* Section 42649.82 of the Public Resources Code is
9 amended to read:

10 42649.82. (a) (1) In addition to the requirements of Section
11 42649.3, on and after January 1, 2016, each jurisdiction shall
12 implement an organic waste recycling program that is appropriate
13 for that jurisdiction and designed specifically to divert organic
14 waste generated by businesses subject to Section 42649.81, whether
15 or not the jurisdiction has met the requirements of Section 41780.

16 (2) (A) A county board of supervisors of a rural county may
17 adopt a resolution, as prescribed in this paragraph, to make the
18 rural county exempt from the requirements of this section. If a
19 rural jurisdiction is a city, the city council may adopt a resolution,
20 as prescribed in this paragraph, to make the rural jurisdiction
21 exempt from this section. If a rural jurisdiction is a regional agency
22 comprised of jurisdictions that are located entirely within one or
23 more rural counties, the board of the regional agency may adopt
24 a resolution, as prescribed in this paragraph, to make the rural
25 jurisdiction exempt from the requirements of this section.

26 (B) A resolution adopted pursuant to subparagraph (A) shall
27 include findings as to the purpose of and need for the exemption.

28 (C) A resolution to exempt a rural jurisdiction pursuant to
29 subparagraph (A) shall be submitted to the department at least six
30 months before the operative date of the exemption.

31 (D) On or after January 1, 2020, if the department determines
32 that statewide disposal of organic waste has not been reduced to
33 50 percent of the level of disposal during the 2014 calendar year,
34 all exemptions authorized by this paragraph shall terminate unless
35 the department determines that applying this chapter to rural
36 jurisdictions will not result in significant additional reductions of
37 disposal of organic waste.

38 (b) If a jurisdiction, as of January 1, 2016, has in place an
39 organic waste recycling program that meets the requirements of

1 this section, it is not required to implement a new or expanded
2 organic waste recycling program.

3 (c) The organic waste recycling program required by this section
4 shall be directed at organic waste generators and may include, but
5 is not limited to, one or more of the following:

6 (1) Implementing a mandatory commercial organic waste
7 recycling policy or ordinance that addresses organic waste
8 recycling.

9 (2) Requiring a mandatory commercial organic waste recycling
10 program through a franchise contract or agreement.

11 (3) Requiring organic waste to go through a source separated
12 or mixed processing system that diverts material from disposal.

13 (d) (1) The organic waste recycling program shall do all of the
14 following:

15 (A) Identify all of the following:

16 (i) Existing organic waste recycling facilities within a reasonable
17 vicinity and the capacities available for materials to be accepted
18 at each facility.

19 (ii) Existing solid waste and organic waste recycling facilities
20 within the jurisdiction that may be suitable for potential expansion
21 or colocation of organic waste processing or recycling facilities.

22 (iii) Efforts of which the jurisdiction is aware that are underway
23 to develop new private or public regional organic waste recycling
24 facilities that may serve some or all of the organic waste recycling
25 needs of the commercial waste generators within the jurisdiction
26 subject to this chapter, and the anticipated timeframe for
27 completion of those facilities.

28 (iv) Closed or abandoned sites that might be available for new
29 organic waste recycling facilities.

30 (v) Other nondisposal opportunities and markets.

31 (vi) Appropriate zoning and permit requirements for the location
32 of new organic waste recycling facilities.

33 (vii) Incentives available, if any, for developing new organic
34 waste recycling facilities within the jurisdiction.

35 (B) Identify barriers to siting new or expanded compostable
36 materials handling operations, as defined in paragraph (12) of
37 subdivision (a) of Section 17852 of Title 14 of the California Code
38 of Regulations, and specify a plan to remedy those barriers that
39 are within the control of the local jurisdiction.

1 (C) Provide for the education of, outreach to, and monitoring
2 of, businesses. The program shall require the jurisdiction to notify
3 a business if the business is not in compliance with Section
4 42649.81.

5 (2) For purposes of subparagraph (A) of paragraph (1), an
6 “organic waste recycling facility” shall include compostable
7 materials handling operations, as defined in paragraph (12) of
8 subdivision (a) of Section 17852 of Title 14 of the California Code
9 of Regulations, and may include other facilities that recycle organic
10 waste.

11 (e) The organic waste recycling program may include any one
12 or more of the following:

13 (1) Enforcement provisions that are consistent with the
14 jurisdiction’s authority, including a structure for fines and penalties.

15 (2) Certification requirements for self-haulers.

16 (3) Exemptions, on a case-by-case basis, from the requirements
17 of Section 42649.81 that are deemed appropriate by the jurisdiction
18 for any of the following reasons:

19 (A) Lack of sufficient space in multifamily complexes or
20 businesses to provide additional organic material recycling bins.

21 (B) The current implementation by a business of actions that
22 result in the recycling of a significant portion of its organic waste.

23 (C) The business or group of businesses does not generate at
24 least one-half of a cubic yard of organic waste per week.

25 (D) Limited-term exemptions for extraordinary and unforeseen
26 events.

27 (E) (i) The business or group of businesses does not generate
28 at least one cubic yard of organic waste per week, if the local
29 jurisdiction provides the department with information that explains
30 the need for this higher exemption than that authorized by
31 subparagraph (C).

32 (ii) The information described in clause (i) shall be provided to
33 the department with the information provided pursuant to
34 subdivision (f).

35 (iii) This subparagraph shall not be operative on or after January
36 1, 2020, if the department, pursuant to paragraph (4) of subdivision
37 (a) of Section 42649.81, determines that statewide disposal of
38 organic waste has not been reduced to 50 percent of the level of
39 disposal during the 2014 calendar year.

1 (f) (1) Each jurisdiction shall provide the department with
2 information on the number of regulated businesses that generate
3 organic waste and, if available, the number that are recycling
4 organic waste. The jurisdiction shall include this information as
5 part of the annual report required pursuant to Section 41821.

6 (2) On and after August 1, 2017, in addition to the information
7 required by paragraph (1), each jurisdiction shall report to the
8 department on the progress achieved in implementing its organic
9 waste recycling program, including education, outreach,
10 identification, and monitoring, on its rationale for allowing
11 exemptions, and, if applicable, on enforcement efforts. The
12 jurisdiction shall include this information as part of the annual
13 report required pursuant to Section 41821.

14 (g) (1) The department shall review a jurisdiction's compliance
15 with this section as part of the department's review required by
16 Section 41825.

17 (2) The department also may review whether a jurisdiction is
18 in compliance with this section at any time that the department
19 receives information that a jurisdiction has not implemented, or is
20 not making a good faith effort to implement, an organic waste
21 recycling program.

22 (h) During a review pursuant to subdivision (g), the department
23 shall determine whether the jurisdiction has made a good faith
24 effort to implement its selected organic waste recycling program.
25 For purposes of this section, "good faith effort" means all
26 reasonable and feasible efforts by a jurisdiction to implement its
27 organic waste recycling program. During its review, the department
28 may include, but is not limited to, consideration of the following
29 factors in its evaluation of a jurisdiction's good faith effort:

30 (1) The extent to which businesses have complied with Section
31 42649.81, including information on the amount of disposal that is
32 being diverted from the businesses, if available, and on the number
33 of businesses that are complying with Section 42649.81.

34 (2) The recovery rate of the organic waste from the material
35 recovery facilities that are utilized by the businesses, all
36 information, methods, and calculations, and any additional
37 performance data, as requested by the department from the material
38 recovery facilities pursuant to Section 18809.4 of Title 14 of the
39 California Code of Regulations.

1 (3) The extent to which the jurisdiction is conducting education
2 and outreach to businesses.

3 (4) The extent to which the jurisdiction is monitoring businesses
4 and notifying those businesses that are not in compliance.

5 (5) The appropriateness of exemptions allowed by the
6 jurisdiction.

7 (6) The availability of markets for collected organic waste
8 recyclables.

9 (7) Budgetary constraints.

10 (8) In the case of a rural jurisdiction, the effects of small
11 geographic size, low population density, or distance to markets.

12 (9) The availability, or lack thereof, of sufficient organic waste
13 processing infrastructure, organic waste recycling facilities, and
14 other nondisposal opportunities and markets.

15 (10) The extent to which the jurisdiction has taken steps that
16 are under its control to remove barriers to siting and expanding
17 organic waste recycling facilities.

18 ~~SEC. 431.~~

19 *SEC. 438.* Section 42987 of the Public Resources Code is
20 amended to read:

21 42987. (a) (1) A qualified industry association or a successor
22 organization may establish a mattress recycling organization for
23 purposes of this chapter, which shall be composed of
24 manufacturers, renovators, and retailers and be certified pursuant
25 to this section to develop, implement, and administer the mattress
26 recycling program established pursuant to this chapter.

27 (2) Within 60 days of receipt of a request for certification, the
28 department shall notify the requesting qualified industry association
29 of the department's decision whether or not to certify that a
30 mattress recycling organization has been established by the
31 qualified industry association or successor organization and is
32 composed of manufacturers, renovators, and retailers for purposes
33 of establishing the mattress recycling plan.

34 (3) Prior to certification by the department, the department's
35 director shall appoint an advisory committee to be part of the
36 mattress recycling organization.

37 (A) The advisory committee may be comprised of members of
38 the environmental community, solid waste industry, and local
39 government public and private representatives involved in the

1 collection, processing, and recycling of used mattresses, and other
 2 interested parties.

3 (B) The mattress recycling organization shall consult the
 4 advisory committee at least once during the development and
 5 implementation of the plan required pursuant to Section 42987.1,
 6 and annually prior to the submittal of both an annual report required
 7 pursuant to Section 42990.1 and an annual budget required pursuant
 8 to Section 42988.

9 (b) (1) Each manufacturer, retailer, and renovator shall register
 10 with the mattress recycling organization.

11 (2) A retailer may register with the mattress recycling
 12 organization as a manufacturer for a brand for which there is not
 13 a registered manufacturer.

14 (c) On and after January 1, 2016, a retailer shall not sell,
 15 distribute, or offer for sale a mattress in the state unless the retailer
 16 is in compliance with this chapter and the manufacturer or
 17 renovator of the mattress sold by the retailer is listed in compliance
 18 with this chapter.

19 (d) On and after January 1, 2016, a manufacturer or renovator
 20 shall not sell, offer for sale, or import a mattress in this state, or
 21 sell or distribute a mattress to a distributor or retailer, unless the
 22 manufacturer or renovator is in compliance with this chapter.

23 ~~SEC. 432.~~

24 *SEC. 439.* Section 42987.1 of the Public Resources Code is
 25 amended to read:

26 42987.1. On or before July 1, 2015, the mattress recycling
 27 organization shall develop and submit to the department a plan for
 28 recycling used mattresses in the state in an economically efficient
 29 and practical manner that includes all of the following goals and
 30 elements:

31 (a) Program objectives consistent with the state’s solid waste
 32 management hierarchy.

33 (b) The names of manufacturers, renovators, and brands covered
 34 under the plan.

35 (c) A consultation process with affected stakeholders, including,
 36 but not limited to, local government representatives, recyclers, and
 37 solid waste industry representatives.

38 (d) Methods to increase the number of used mattresses diverted
 39 from landfills, reduce the number of illegally dumped used

1 mattresses, and increase the quantity of used materials recovered
2 through this process and recycled for other uses.

3 (e) (1) The establishment and administration of a means for
4 funding the plan in a manner that distributes the mattress recycling
5 organization's costs uniformly over all mattresses sold in the state.

6 (2) The funding mechanism shall provide sufficient funding for
7 the mattress recycling organization to carry out the plan, including
8 the administrative, operational, and capital costs of the plan.

9 (f) The publishing of an annual report for each calendar year of
10 operation.

11 (g) Conducting research, as needed, related to improving used
12 mattress collection, dismantling, and recycling operations,
13 including pilot programs to test new processes, methods, or
14 equipment on a local, regional, or otherwise limited basis.

15 (h) A program performance measurement that shall collect
16 program data for the purpose of the annual report. The information
17 shall include:

18 (1) A methodology for estimating the amount of mattresses sold
19 in the state and used mattresses available for collection in the state,
20 and for quantifying the number of used mattresses collected and
21 recycled in the state.

22 (2) A methodology for determining mattresses sold in the state
23 by the manufacturers and renovators of the mattress recycling
24 organization.

25 (i) A description of methods used to coordinate activities with
26 existing used mattress collecting and recycling programs, including
27 existing nonprofit mattress recyclers, and with other relevant parties
28 as appropriate, with regard to the proper management or recycling
29 of discarded or abandoned mattresses, for purposes of providing
30 the efficient delivery of services and avoiding unnecessary
31 duplication of effort and expense.

32 (j) Entering into contracts or agreements, which may include
33 contracts and agreements with existing nonprofit or for-profit
34 recyclers, that are necessary and proper for the mattress recycling
35 organization to carry out these duties consistent with the terms of
36 this chapter.

37 (k) Establishing a financial incentive to encourage parties to
38 collect for recycling used mattresses discarded or illegally dumped
39 in the state.

1 (l) Ensuring, to the maximum extent possible, that urban and
2 rural local governments and participating permitted solid waste
3 facilities and authorized solid waste operations that accept
4 mattresses are provided with a mechanism for the recovery of
5 illegally disposed used mattresses that is funded at no additional
6 cost to the local government, solid waste facility, or solid waste
7 operation.

8 (m) Developing processes to collect used mattresses from
9 low-income communities for recycling in accordance with the
10 poverty line annually established by the Secretary of California
11 Health and Human Services pursuant to the federal Omnibus
12 Budget Reconciliation Act of 1981 (Public Law 97-35), as
13 amended.

14 (n) Providing outreach efforts and education to consumers,
15 manufacturers, and retailers, for the purpose of promoting the
16 recycling of used mattresses and options available to consumers
17 for the free dropoff of used mattresses.

18 (o) A provision that allows an individual to drop off, at no
19 charge, a mattress at a recycler, renovator, mattress recycling
20 center, permitted solid waste facility, authorized solid waste
21 operation, or other municipal facility that accepts mattresses
22 consistent with state solid waste regulations, and that provides for
23 the payment to a municipal or solid waste facility or operation that
24 accepts mattresses an amount determined by the municipal or solid
25 waste facility or operation and the mattress recycling organization
26 to be reasonable for accepting, collecting, storing, transporting,
27 and handling used mattresses.

28 (p) Ensuring that the impact of Article XIII C of the California
29 Constitution is addressed for local governments participating in
30 the program.

31 (q) A report from the advisory committee, established pursuant
32 to paragraph (3) of subdivision (a) of Section 42987, that includes
33 a summary of the consultative process between the advisory
34 committee and the mattress recycling organization during the
35 development of the plan, as well as any other information deemed
36 pertinent by the advisory committee to maximizing the recovery
37 and recycling of used mattresses in the state.

38 (r) Other information requested by the department that is
39 reasonably related to compliance with the recycling plan and that
40 the organization can reasonably compile.

1 ~~SEC. 433.~~

2 *SEC. 440.* Section 42989.1 of the Public Resources Code is
3 amended to read:

4 42989.1. (a) Commencing 90 days after the date the department
5 approves the budget pursuant to Section 42988.1, each
6 manufacturer, renovator, retailer, or distributor that sells a mattress
7 to a consumer or to the ultimate end user of the mattress in the
8 state shall add the charge to the purchase price of the mattress and
9 shall remit the charge collected to the mattress recycling
10 organization.

11 (b) In each transaction described in subdivision (a), the charge
12 shall be clearly visible as a separate line item on the invoice,
13 receipt, or functionally equivalent billing document provided by
14 the seller to the consumer.

15 (c) The mattress recycling organization shall develop
16 reimbursement criteria to enable retailers to recover administrative
17 costs associated with collecting the charge.

18 (d) The mattress recycling organization shall determine the rules
19 and procedures that are necessary and proper to implement the
20 collection of the charge in a fair, efficient, and lawful manner.

21 ~~SEC. 434.~~

22 *SEC. 441.* Section 44107 of the Public Resources Code is
23 amended to read:

24 44107. (a) A solid waste facility, as defined in Section 40194,
25 sending materials to a biomass conversion facility, shall ensure
26 that the materials are limited to those listed in subdivision (a) of
27 Section 40106. The enforcement agency may inspect solid waste
28 facilities and operations for compliance with this section.

29 (b) On or before April 1, 2016, and on or before April 1 of each
30 year thereafter, the operator or owner of a biomass conversion
31 facility shall provide an annual report to the department, in writing,
32 for the preceding year, containing all of the following information:

33 (1) The name, address, and telephone number of the facility,
34 the operator, and the owner.

35 (2) The total amount and type of material accepted by the
36 facility.

37 (3) The name and address, or the physical location, of the source
38 of each type of material accepted by the facility. A facility that
39 cannot provide the name and address, or the physical location, of

1 a source of material accepted by the facility shall provide an
2 explanation why the information is not available.

3 (4) The total amount and type of material that was rejected by
4 the facility.

5 (5) The name and address, or physical location, of the source
6 of each type of material rejected by the facility and the reasons for
7 the rejection. A facility that cannot provide the name and address,
8 or the physical location, of a source of material rejected by the
9 facility shall provide an explanation why the information is not
10 available.

11 (6) The name and address, or physical location, of the final end
12 user of ash or other byproducts produced by the facility. Until
13 January 1, 2017, a facility that cannot provide the name and
14 address, or physical location, of the final end user of ash or
15 byproducts shall provide an explanation why that information is
16 not available.

17 (7) Signatures of the operator and owner of the facility certifying
18 the accuracy of the information provided under the penalty of
19 perjury.

20 (8) Any other information that is necessary for the department
21 to determine the accuracy of the information provided pursuant to
22 this subdivision.

23 (c) To the extent that information specified in subdivision (b)
24 has previously been submitted by the owner or operator of a
25 biomass conversion facility in reports to another state agency or
26 instrument of a state agency, the owner or operator of the facility
27 may submit those reports to the department in satisfaction of the
28 requirements of subdivision (b) regarding that information.
29 Information required by subdivision (b) and not contained in the
30 previously submitted reports shall be provided separately to the
31 department.

32 (d) If information provided by a biomass conservation facility
33 pursuant to this section is designated as confidential, the department
34 shall treat that information in accordance with Section 40062 and
35 its implementing regulations.

36 ~~SEC. 435.~~

37 *SEC. 442.* Section 75220 of the Public Resources Code is
38 amended to read:

39 75220. (a) The Transit and Intercity Rail Capital Program is
40 hereby created to fund capital improvements and operational

1 investments that will reduce greenhouse gas emissions, modernize
2 California’s intercity, commuter, and urban rail systems to achieve
3 all of the following policy objectives:

- 4 (1) Reduce greenhouse gas emissions.
- 5 (2) Expand and improve rail service to increase ridership.
- 6 (3) Integrate the rail service of the state’s various rail operators,
7 including integration with the high-speed rail system.
- 8 (4) Improve rail safety.

9 (b) The Transportation Agency shall evaluate applications for
10 funding under the program consistent with the criteria set forth in
11 this part and prepare a list of projects recommended for funding.
12 The list may be revised at any time.

13 (c) The California Transportation Commission shall award
14 grants to applicants pursuant to the list prepared by the
15 Transportation Agency.

16 ~~SEC. 436.~~

17 *SEC. 443.* Section 765 of the Public Utilities Code is amended
18 to read:

19 765. (a) When the federal National Transportation Safety
20 Board (NTSB) submits a safety recommendation letter concerning
21 rail safety to the commission, the commission shall provide the
22 NTSB with a formal written response to each recommendation no
23 later than 90 days after receiving the letter. The response shall
24 state one of the following:

25 (1) The commission’s intent to implement the recommendations
26 in full, with a proposed timetable for implementation of the
27 recommendations.

28 (2) The commission’s intent to implement part of the
29 recommendations, with a proposed timetable for implementation
30 of those recommendations, and detailed reasons for the
31 commission’s refusal to implement those recommendations that
32 the commission does not intend to implement.

33 (3) The commission’s refusal to implement the
34 recommendations, with detailed reasons for the commission’s
35 refusal to implement the recommendations.

36 (b) If the NTSB issues a safety recommendation letter
37 concerning any commission-regulated rail facility to the United
38 States Department of Transportation, the Federal Transit
39 Administration, a commission-regulated rail operator, or the
40 commission, or if the Federal Transit Administration issues a safety

1 advisory concerning any commission-regulated rail facility, the
 2 commission shall determine if implementation of the
 3 recommendation or advisory is appropriate. The basis for the
 4 commission’s determination shall be detailed in writing and shall
 5 be approved by a majority vote of the commission.

6 (c) If the commission determines that a safety recommendation
 7 made by the NTSB is appropriate, or that action concerning a
 8 safety advisory is necessary, the commission shall issue orders or
 9 adopt rules to implement the safety recommendation or advisory
 10 as soon as practicable. In implementing the safety recommendation
 11 or advisory, the commission shall consider whether a more
 12 effective, or equally effective and less costly, alternative exists to
 13 address the safety issue that the recommendation or advisory
 14 addresses.

15 (d) An action taken by the commission on a safety
 16 recommendation letter or safety advisory shall be reported
 17 annually, in detail, to the Legislature with the report required by
 18 Section 321.6. Correspondence from the NTSB indicating that a
 19 recommendation has been closed following an action that the
 20 NTSB finds unacceptable shall be noted in the report required by
 21 Section 321.6.

22 ~~SEC. 437.~~

23 *SEC. 444.* Section 957 of the Public Utilities Code, as added
 24 by Section 2 of Chapter 519 of the Statutes of 2011, is repealed.

25 ~~SEC. 438.~~

26 *SEC. 445.* Section 960 of the Public Utilities Code is amended
 27 to read:

28 960. (a) When the federal National Transportation Safety
 29 Board (NTSB) submits a safety recommendation letter concerning
 30 gas pipeline safety to the commission, the commission shall provide
 31 the NTSB with a formal written response to each recommendation
 32 not later than 90 days after receiving the letter. The response shall
 33 state one of the following:

34 (1) The commission’s intent to implement the recommendations
 35 in full, with a proposed timetable for implementation of the
 36 recommendations.

37 (2) The commission’s intent to implement part of the
 38 recommendations, with a proposed timetable for implementation
 39 of those recommendations, and detailed reasons for the

1 commission's refusal to implement those recommendations that
2 the commission does not intend to implement.

3 (3) The commission's refusal to implement the
4 recommendations, with detailed reasons for the commission's
5 refusal to implement the recommendations.

6 (b) If the NTSB issues a safety recommendation letter
7 concerning any commission-regulated gas pipeline facility to the
8 United States Department of Transportation, the federal Pipeline
9 and Hazardous Materials Safety Administration (PHMSA), a gas
10 corporation, or the commission, or the PHMSA issues an advisory
11 bulletin concerning any commission-regulated gas pipeline facility,
12 the commission shall determine if implementation of the
13 recommendation or advisory is appropriate. The basis for the
14 commission's determination shall be detailed in writing and shall
15 be approved by a majority vote of the commission.

16 (c) If the commission determines that a safety recommendation
17 made by the NTSB is appropriate or that action concerning an
18 advisory bulletin is necessary, the commission shall issue orders
19 or adopt rules to implement the safety recommendation or advisory
20 as soon as practicable. In implementing the safety recommendation
21 or advisory, the commission shall consider whether a more
22 effective, or equally effective and less costly, alternative exists to
23 address the safety issue that the recommendation or advisory
24 addresses.

25 (d) An action taken by the commission on a safety
26 recommendation letter or advisory bulletin shall be reported
27 annually, in detail, to the Legislature with the report required by
28 Section 321.6. Correspondence from the NTSB that indicates that
29 a recommendation of the NTSB has been closed following an
30 action that the NTSB finds unacceptable shall be noted in the report
31 required by Section 321.6.

32 ~~SEC. 439.~~

33 *SEC. 446.* Section 5384.2 of the Public Utilities Code, as added
34 by Section 2 of Chapter 649 of the Statutes of 2008, is amended
35 and renumbered to read:

36 5395. A school, school district, or the state is not liable for
37 transportation services provided by an operator of a charter-party
38 carrier operating a motor vehicle as specified in subdivision (k)
39 of Section 545 of the Vehicle Code for which the school or school
40 district has not contracted, arranged, or otherwise provided.

1 ~~SEC. 440.~~
2 *SEC. 447.* Section 120260 of the Public Utilities Code is
3 amended to read:
4 120260. The board shall provide input to the San Diego
5 Association of Governments on the planning and construction of
6 exclusive public mass transit guideways in the area under its
7 jurisdiction in conformance with the California Transportation
8 Plan and the regional transportation plan developed pursuant to
9 Chapter 2.5 (commencing with Section 65080) of Division 1 of
10 Title 7 of the Government Code.
11 ~~SEC. 441.~~
12 *SEC. 448.* The heading of Article 5 (commencing with Section
13 125300) of Chapter 4 of Division 11.5 of the Public Utilities Code
14 is repealed.
15 ~~SEC. 442.~~
16 *SEC. 449.* Section 125450 of the Public Utilities Code, as added
17 by Section 7 of Chapter 990 of the Statutes of 1993, is repealed.
18 ~~SEC. 443.~~
19 *SEC. 450.* Section 125500 of the Public Utilities Code, as added
20 by Chapter 1188 of the Statutes of 1975, is repealed.
21 ~~SEC. 444.~~
22 *SEC. 451.* Section 54 of the Revenue and Taxation Code is
23 repealed.
24 ~~SEC. 445.~~
25 *SEC. 452.* Section 196.91 of the Revenue and Taxation Code,
26 as added by Section 1 of Chapter 3 of the First Extraordinary
27 Session of the Statutes of 1995, is repealed.
28 ~~SEC. 446.~~
29 *SEC. 453.* Section 196.91 of the Revenue and Taxation Code,
30 as added by Section 1 of Chapter 4 of the First Extraordinary
31 Session of the Statutes of 1995, is repealed.
32 ~~SEC. 447.~~
33 *SEC. 454.* Section 196.92 of the Revenue and Taxation Code,
34 as added by Section 2 of Chapter 3 of the First Extraordinary
35 Session of the Statutes of 1995, is repealed.
36 ~~SEC. 448.~~
37 *SEC. 455.* Section 196.92 of the Revenue and Taxation Code,
38 as added by Section 2 of Chapter 4 of the First Extraordinary
39 Session of the Statutes of 1995, is repealed.

1 ~~SEC. 449.~~

2 *SEC. 456.* Section 441 of the Revenue and Taxation Code is
3 amended to read:

4 441. (a) Each person owning taxable personal property, other
5 than a manufactured home subject to Part 13 (commencing with
6 Section 5800), having an aggregate cost of one hundred thousand
7 dollars (\$100,000) or more for any assessment year shall file a
8 signed property statement with the assessor. Every person owning
9 personal property that does not require the filing of a property
10 statement or real property shall, upon request of the assessor, file
11 a signed property statement. Failure of the assessor to request or
12 secure the property statement does not render any assessment
13 invalid.

14 (b) The property statement shall be declared to be true under
15 the penalty of perjury and filed annually with the assessor between
16 the lien date and 5 p.m. on April 1. The penalty provided by Section
17 463 applies for property statements not filed by May 7. If May 7
18 falls on a Saturday, Sunday, or legal holiday, a property statement
19 that is mailed and postmarked on the next business day shall be
20 deemed to have been filed between the lien date and 5 p.m. on
21 May 7. If, on the dates specified in this subdivision, the county's
22 offices are closed for the entire day, that day is considered a legal
23 holiday for purposes of this section.

24 (c) The property statement may be filed with the assessor
25 through the United States mail, properly addressed with postage
26 prepaid. For purposes of determining the date upon which the
27 property statement is deemed filed with the assessor, the date of
28 postmark as affixed by the United States Postal Service, or the
29 date certified by a bona fide private courier service on the envelope
30 containing the application, shall control. This subdivision applies
31 to every taxing agency, including, but not limited to, a chartered
32 city and county, or chartered city.

33 (d) (1) At any time, as required by the assessor for assessment
34 purposes, every person shall make available for examination
35 information or records regarding his or her property or any other
36 personal property located on premises he or she owns or controls.
37 In this connection details of property acquisition transactions,
38 construction and development costs, rental income, and other data
39 relevant to the determination of an estimate of value are to be

1 considered as information essential to the proper discharge of the
2 assessor's duties.

3 (2) (A) This subdivision also applies to an owner-builder or an
4 owner-developer of new construction that is sold to a third party,
5 is constructed on behalf of a third party, or is constructed for the
6 purpose of selling that property to a third party.

7 (B) The owner-builder or owner-developer of new construction
8 described in subparagraph (A), shall, within 45 days of receipt of
9 a written request by the assessor for information or records, provide
10 the assessor with all information and records regarding that
11 property. The information and records provided to the assessor
12 shall include the total consideration provided either by the
13 purchaser or on behalf of the purchaser that was paid or provided
14 either, as part of or outside of the purchase agreement, including,
15 but not limited to, consideration paid or provided for the purchase
16 or acquisition of upgrades, additions, or for any other additional
17 or supplemental work performed or arranged for by the
18 owner-builder or owner-developer on behalf of the purchaser.

19 (e) In the case of a corporate owner of property, the property
20 statement shall be signed either by an officer of the corporation or
21 an employee or agent who has been designated in writing by the
22 board of directors to sign the statements on behalf of the
23 corporation.

24 (f) In the case of property owned by a bank or other financial
25 institution and leased to an entity other than a bank or other
26 financial institution, the property statement shall be submitted by
27 the owner bank or other financial institution.

28 (g) The assessor may refuse to accept any property statement
29 he or she determines to be in error.

30 (h) If a taxpayer fails to provide information to the assessor
31 pursuant to subdivision (d) and introduces any requested materials
32 or information at any assessment appeals board hearing, the
33 assessor may request and shall be granted a continuance for a
34 reasonable period of time. The continuance shall extend the
35 two-year period specified in subdivision (c) of Section 1604 for a
36 period of time equal to the period of the continuance.

37 (i) Notwithstanding any other provision of law, every person
38 required to file a property statement pursuant to this section shall
39 be permitted to amend that property statement until May 31 of the
40 year in which the property statement is due, for errors and

1 omissions not the result of willful intent to erroneously report. The
2 penalty authorized by Section 463 does not apply to an amended
3 statement received prior to May 31, provided the original statement
4 is not subject to penalty pursuant to subdivision (b). The amended
5 property statement shall otherwise conform to the requirements
6 of a property statement as provided in this article.

7 (j) This subdivision applies to the oil, gas, and mineral extraction
8 industry only. Any information that is necessary to file a true,
9 correct, and complete statement shall be made available by the
10 assessor, upon request, to the taxpayer by mail or at the office of
11 the assessor by February 28. For each business day beyond
12 February 28 that the information is unavailable, the filing deadline
13 in subdivision (b) shall be extended in that county by one business
14 day, for those statements affected by the delay. In no case shall
15 the filing deadline be extended beyond June 1 or the first business
16 day thereafter.

17 (k) The assessor may accept the filing of a property statement
18 by the use of electronic media. In lieu of the signature required by
19 subdivision (a) and the declaration under penalty of perjury
20 required by subdivision (b), property statements filed using
21 electronic media shall be authenticated pursuant to methods
22 specified by the assessor and approved by the board. Electronic
23 media includes, but is not limited to, computer modem, magnetic
24 media, optical disk, and facsimile machine.

25 (l) (1) After receiving the notice required by Section 1162, the
26 manager in control of a fleet of fractionally owned aircraft shall
27 file with the lead county assessor's office one signed property
28 statement for all of its aircraft that have acquired situs in the state,
29 as described in Section 1161.

30 (2) Flight data required to compute fractionally owned aircraft
31 allocation under Section 1161 shall be segregated by airport.

32 (m) (1) After receiving the notice required by paragraph (5) of
33 subdivision (b) of Section 1153.5, a commercial air carrier whose
34 certificated aircraft is subject to Article 6 (commencing with
35 Section 1150) of Chapter 5 shall file with the lead county assessor's
36 office designated under Section 1153.5 one signed property
37 statement for its personal property at all airport locations and
38 fixtures at all airport locations.

1 (2) Each commercial air carrier may file one schedule for all of
2 its certificated aircraft that have acquired situs in this state under
3 Section 1151.

4 (3) Flight data required to compute certificated aircraft allocation
5 under Section 1152 and subdivision (g) of Section 202 of Title 18
6 of the California Code of Regulations shall be segregated by airport
7 location.

8 (4) Beginning with the 2006 assessment year, a commercial air
9 carrier may file a statement described in this subdivision
10 electronically by means of the California Assessor's Standard Data
11 Record (SDR) network. If the SDR is not equipped to accept
12 electronic filings for the 2006 assessment year, an air carrier may
13 file a printed version of its property statement for that year with
14 its lead county assessor's office.

15 (5) This subdivision shall become inoperative on December 31,
16 2015.

17 ~~SEC. 450.~~

18 *SEC. 457.* Section 6051.7 of the Revenue and Taxation Code
19 is repealed.

20 ~~SEC. 451.~~

21 *SEC. 458.* The heading of Article 1.5 (commencing with
22 Section 7063) of Chapter 8 of Part 1 of Division 2 of the Revenue
23 and Taxation Code, as added by Section 1 of Chapter 443 of the
24 Statutes of 1999, is repealed.

25 ~~SEC. 452.~~

26 *SEC. 459.* Chapter 3.5 (commencing with Section 7288.1) of
27 Part 1.7 of Division 2 of the Revenue and Taxation Code, as added
28 by Section 2 of Chapter 14 of the 1st Extraordinary Session of the
29 Statutes of 1991, is repealed.

30 ~~SEC. 453.~~

31 *SEC. 460.* The heading of Part 5.5 (commencing with Section
32 11151) of Division 2 of the Revenue and Taxation Code, as added
33 by Section 1 of Chapter 966 of the Statutes of 1993, is amended
34 and renumbered to read:

35

36 **PART 5.6. LOCAL VEHICLE LICENSE FEE SURCHARGE**

37

38 ~~SEC. 454.~~

39 *SEC. 461.* Section 17053.34 of the Revenue and Taxation Code
40 is amended to read:

1 17053.34. (a) For each taxable year beginning on or after
2 January 1, 1998, there shall be allowed a credit against the “net
3 tax” (as defined in Section 17039) to a qualified taxpayer who
4 employs a qualified employee in a targeted tax area during the
5 taxable year. The credit shall be equal to the sum of each of the
6 following:

7 (1) Fifty percent of qualified wages in the first year of
8 employment.

9 (2) Forty percent of qualified wages in the second year of
10 employment.

11 (3) Thirty percent of qualified wages in the third year of
12 employment.

13 (4) Twenty percent of qualified wages in the fourth year of
14 employment.

15 (5) Ten percent of qualified wages in the fifth year of
16 employment.

17 (b) For purposes of this section:

18 (1) “Qualified wages” means:

19 (A) That portion of wages paid or incurred by the qualified
20 taxpayer during the taxable year to qualified employees that does
21 not exceed 150 percent of the minimum wage.

22 (B) Wages received during the 60-month period beginning with
23 the first day the employee commences employment with the
24 qualified taxpayer. Reemployment in connection with any increase,
25 including a regularly occurring seasonal increase, in the trade or
26 business operations of the qualified taxpayer does not constitute
27 commencement of employment for purposes of this section.

28 (C) Qualified wages do not include any wages paid or incurred
29 by the qualified taxpayer on or after the targeted tax area expiration
30 date. However, wages paid or incurred with respect to qualified
31 employees who are employed by the qualified taxpayer within the
32 targeted tax area within the 60-month period prior to the targeted
33 tax area expiration date shall continue to qualify for the credit
34 under this section after the targeted tax area expiration date, in
35 accordance with all provisions of this section applied as if the
36 targeted tax area designation were still in existence and binding.

37 (2) “Minimum wage” means the wage established by the
38 Industrial Welfare Commission as provided for in Chapter 1
39 (commencing with Section 1171) of Part 4 of Division 2 of the
40 Labor Code.

- 1 (3) “Targeted tax area expiration date” means the date the
2 targeted tax area designation expires, is revoked, is no longer
3 binding, becomes inoperative, or is repealed.
- 4 (4) (A) “Qualified employee” means an individual who meets
5 all of the following requirements:
- 6 (i) At least 90 percent of his or her services for the qualified
7 taxpayer during the taxable year are directly related to the conduct
8 of the qualified taxpayer’s trade or business located in a targeted
9 tax area.
- 10 (ii) Performs at least 50 percent of his or her services for the
11 qualified taxpayer during the taxable year in a targeted tax area.
- 12 (iii) Is hired by the qualified taxpayer after the date of original
13 designation of the area in which services were performed as a
14 targeted tax area.
- 15 (iv) Is any of the following:
- 16 (I) Immediately preceding the qualified employee’s
17 commencement of employment with the qualified taxpayer, was
18 a person eligible for services under the federal Job Training
19 Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor,
20 who is receiving, or is eligible to receive, subsidized employment,
21 training, or services funded by the federal Job Training Partnership
22 Act, or its successor.
- 23 (II) Immediately preceding the qualified employee’s
24 commencement of employment with the qualified taxpayer, was
25 a person eligible to be a voluntary or mandatory registrant under
26 the Greater Avenues for Independence Act of 1985 (GAIN)
27 provided for pursuant to Article 3.2 (commencing with Section
28 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and
29 Institutions Code, or its successor.
- 30 (III) Immediately preceding the qualified employee’s
31 commencement of employment with the qualified taxpayer, was
32 an economically disadvantaged individual 14 years of age or older.
- 33 (IV) Immediately preceding the qualified employee’s
34 commencement of employment with the qualified taxpayer, was
35 a dislocated worker who meets any of the following:
- 36 (ia) Has been terminated or laid off or who has received a notice
37 of termination or layoff from employment, is eligible for or has
38 exhausted entitlement to unemployment insurance benefits, and
39 is unlikely to return to his or her previous industry or occupation.

- 1 (ib) Has been terminated or has received a notice of termination
2 of employment as a result of any permanent closure or any
3 substantial layoff at a plant, facility, or enterprise, including an
4 individual who has not received written notification but whose
5 employer has made a public announcement of the closure or layoff.
- 6 (ic) Is long-term unemployed and has limited opportunities for
7 employment or reemployment in the same or a similar occupation
8 in the area in which the individual resides, including an individual
9 55 years of age or older who may have substantial barriers to
10 employment by reason of age.
- 11 (id) Was self-employed (including farmers and ranchers) and
12 is unemployed as a result of general economic conditions in the
13 community in which he or she resides or because of natural
14 disasters.
- 15 (ie) Was a civilian employee of the Department of Defense
16 employed at a military installation being closed or realigned under
17 the Defense Base Closure and Realignment Act of 1990.
- 18 (if) Was an active member of the Armed Forces or National
19 Guard as of September 30, 1990, and was either involuntarily
20 separated or separated pursuant to a special benefits program.
- 21 (ig) Is a seasonal or migrant worker who experiences chronic
22 seasonal unemployment and underemployment in the agriculture
23 industry, aggravated by continual advancements in technology and
24 mechanization.
- 25 (ih) Has been terminated or laid off, or has received a notice of
26 termination or layoff, as a consequence of compliance with the
27 Clean Air Act.
- 28 (V) Immediately preceding the qualified employee's
29 commencement of employment with the qualified taxpayer, was
30 a disabled individual who is eligible for or enrolled in, or has
31 completed a state rehabilitation plan or is a service-connected
32 disabled veteran, veteran of the Vietnam era, or veteran who is
33 recently separated from military service.
- 34 (VI) Immediately preceding the qualified employee's
35 commencement of employment with the qualified taxpayer, was
36 an ex-offender. An individual shall be treated as convicted if he
37 or she was placed on probation by a state court without a finding
38 of guilty.

1 (VII) Immediately preceding the qualified employee’s
 2 commencement of employment with the qualified taxpayer, was
 3 a person eligible for or a recipient of any of the following:

- 4 (ia) Federal Supplemental Security Income benefits.
- 5 (ib) Aid to Families with Dependent Children.
- 6 (ic) CalFresh benefits.
- 7 (id) State and local general assistance.

8 (VIII) Immediately preceding the qualified employee’s
 9 commencement of employment with the qualified taxpayer, was
 10 a member of a federally recognized Indian tribe, band, or other
 11 group of Native American descent.

12 (IX) Immediately preceding the qualified employee’s
 13 commencement of employment with the qualified taxpayer, was
 14 a resident of a targeted tax area.

15 (X) Immediately preceding the qualified employee’s
 16 commencement of employment with the taxpayer, was a member
 17 of a targeted group as defined in Section 51(d) of the Internal
 18 Revenue Code, or its successor.

19 (B) Priority for employment shall be provided to an individual
 20 who is enrolled in a qualified program under the federal Job
 21 Training Partnership Act or the Greater Avenues for Independence
 22 Act of 1985 or who is eligible as a member of a targeted group
 23 under the Work Opportunity Tax Credit (Section 51 of the Internal
 24 Revenue Code), or its successor.

25 (5) (A) “Qualified taxpayer” means a person or entity that meets
 26 both of the following:

27 (i) Is engaged in a trade or business within a targeted tax area
 28 designated pursuant to Chapter 12.93 (commencing with Section
 29 7097) of Division 7 of Title 1 of the Government Code.

30 (ii) Is engaged in those lines of business described in Codes
 31 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
 32 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,
 33 of the Standard Industrial Classification (SIC) Manual published
 34 by the United States Office of Management and Budget, 1987
 35 edition.

36 (B) In the case of any passthrough entity, the determination of
 37 whether a taxpayer is a qualified taxpayer under this section shall
 38 be made at the entity level and any credit under this section or
 39 Section 23634 shall be allowed to the passthrough entity and passed
 40 through to the partners or shareholders in accordance with

1 applicable provisions of this part or Part 11 (commencing with
2 Section 23001). For purposes of this subdivision, the term
3 “passthrough entity” means any partnership or S corporation.

4 (6) “Seasonal employment” means employment by a qualified
5 taxpayer that has regular and predictable substantial reductions in
6 trade or business operations.

7 (c) If the qualified taxpayer is allowed a credit for qualified
8 wages pursuant to this section, only one credit shall be allowed to
9 the taxpayer under this part with respect to those qualified wages.

10 (d) The qualified taxpayer shall do both of the following:

11 (1) Obtain from the Employment Development Department, as
12 permitted by federal law, the local county or city Job Training
13 Partnership Act administrative entity, the local county GAIN office
14 or social services agency, or the local government administering
15 the targeted tax area, a certification that provides that a qualified
16 employee meets the eligibility requirements specified in clause
17 (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The
18 Employment Development Department may provide preliminary
19 screening and referral to a certifying agency. The Department of
20 Housing and Community Development shall develop regulations
21 governing the issuance of certificates pursuant to subdivision (g)
22 of Section 7097 of the Government Code, and shall develop forms
23 for this purpose.

24 (2) Retain a copy of the certification and provide it upon request
25 to the Franchise Tax Board.

26 (e) (1) For purposes of this section:

27 (A) All employees of trades or businesses, which are not
28 incorporated, that are under common control shall be treated as
29 employed by a single taxpayer.

30 (B) The credit, if any, allowable by this section with respect to
31 each trade or business shall be determined by reference to its
32 proportionate share of the expense of the qualified wages giving
33 rise to the credit, and shall be allocated in that manner.

34 (C) Principles that apply in the case of controlled groups of
35 corporations, as specified in subdivision (e) of Section 23634,
36 apply with respect to determining employment.

37 (2) If an employer acquires the major portion of a trade or
38 business of another employer (hereinafter in this paragraph referred
39 to as the “predecessor”) or the major portion of a separate unit of
40 a trade or business of a predecessor, then, for purposes of applying

1 this section (other than subdivision (f)) for any calendar year ending
2 after that acquisition, the employment relationship between a
3 qualified employee and an employer shall not be treated as
4 terminated if the employee continues to be employed in that trade
5 or business.

6 (f) (1) (A) If the employment, other than seasonal employment,
7 of any qualified employee, with respect to whom qualified wages
8 are taken into account under subdivision (a) is terminated by the
9 qualified taxpayer at any time during the first 270 days of that
10 employment (whether or not consecutive) or before the close of
11 the 270th calendar day after the day in which that employee
12 completes 90 days of employment with the qualified taxpayer, the
13 tax imposed by this part for the taxable year in which that
14 employment is terminated shall be increased by an amount equal
15 to the credit allowed under subdivision (a) for that taxable year
16 and all prior taxable years attributable to qualified wages paid or
17 incurred with respect to that employee.

18 (B) If the seasonal employment of any qualified employee, with
19 respect to whom qualified wages are taken into account under
20 subdivision (a) is not continued by the qualified taxpayer for a
21 period of 270 days of employment during the 60-month period
22 beginning with the day the qualified employee commences seasonal
23 employment with the qualified taxpayer, the tax imposed by this
24 part, for the taxable year that includes the 60th month following
25 the month in which the qualified employee commences seasonal
26 employment with the qualified taxpayer, shall be increased by an
27 amount equal to the credit allowed under subdivision (a) for that
28 taxable year and all prior taxable years attributable to qualified
29 wages paid or incurred with respect to that qualified employee.

30 (2) (A) Subparagraph (A) of paragraph (1) does not apply to
31 any of the following:

32 (i) A termination of employment of a qualified employee who
33 voluntarily leaves the employment of the qualified taxpayer.

34 (ii) A termination of employment of a qualified employee who,
35 before the close of the period referred to in subparagraph (A) of
36 paragraph (1), becomes disabled and unable to perform the services
37 of that employment, unless that disability is removed before the
38 close of that period and the qualified taxpayer fails to offer
39 reemployment to that employee.

1 (iii) A termination of employment of a qualified employee, if
2 it is determined that the termination was due to the misconduct (as
3 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
4 the California Code of Regulations) of that employee.

5 (iv) A termination of employment of a qualified employee due
6 to a substantial reduction in the trade or business operations of the
7 qualified taxpayer.

8 (v) A termination of employment of a qualified employee, if
9 that employee is replaced by other qualified employees so as to
10 create a net increase in both the number of employees and the
11 hours of employment.

12 (B) Subparagraph (B) of paragraph (1) shall not apply to any
13 of the following:

14 (i) A failure to continue the seasonal employment of a qualified
15 employee who voluntarily fails to return to the seasonal
16 employment of the qualified taxpayer.

17 (ii) A failure to continue the seasonal employment of a qualified
18 employee who, before the close of the period referred to in
19 subparagraph (B) of paragraph (1), becomes disabled and unable
20 to perform the services of that seasonal employment, unless that
21 disability is removed before the close of that period and the
22 qualified taxpayer fails to offer seasonal employment to that
23 qualified employee.

24 (iii) A failure to continue the seasonal employment of a qualified
25 employee, if it is determined that the failure to continue the
26 seasonal employment was due to the misconduct (as defined in
27 Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California
28 Code of Regulations) of that qualified employee.

29 (iv) A failure to continue seasonal employment of a qualified
30 employee due to a substantial reduction in the regular seasonal
31 trade or business operations of the qualified taxpayer.

32 (v) A failure to continue the seasonal employment of a qualified
33 employee, if that qualified employee is replaced by other qualified
34 employees so as to create a net increase in both the number of
35 seasonal employees and the hours of seasonal employment.

36 (C) For purposes of paragraph (1), the employment relationship
37 between the qualified taxpayer and a qualified employee shall not
38 be treated as terminated by reason of a mere change in the form
39 of conducting the trade or business of the qualified taxpayer, if the
40 qualified employee continues to be employed in that trade or

1 business and the qualified taxpayer retains a substantial interest
2 in that trade or business.

3 (3) An increase in tax under paragraph (1) shall not be treated
4 as tax imposed by this part for purposes of determining the amount
5 of any credit allowable under this part.

6 (g) In the case of an estate or trust, both of the following apply:

7 (1) The qualified wages for any taxable year shall be apportioned
8 between the estate or trust and the beneficiaries on the basis of the
9 income of the estate or trust allocable to each.

10 (2) A beneficiary to whom any qualified wages have been
11 apportioned under paragraph (1) shall be treated, for purposes of
12 this part, as the employer with respect to those wages.

13 (h) For purposes of this section, “targeted tax area” means an
14 area designated pursuant to Chapter 12.93 (commencing with
15 Section 7097) of Division 7 of Title 1 of the Government Code.

16 (i) In the case in which the credit otherwise allowed under this
17 section exceeds the “net tax” for the taxable year, that portion of
18 the credit that exceeds the “net tax” may be carried over and added
19 to the credit, if any, in the succeeding 10 taxable years, if necessary,
20 until the credit is exhausted. The credit shall be applied first to the
21 earliest taxable years possible.

22 (j) (1) The amount of the credit otherwise allowed under this
23 section and Section 17053.33, including any credit carryover from
24 prior years, that may reduce the “net tax” for the taxable year shall
25 not exceed the amount of tax that would be imposed on the
26 qualified taxpayer’s business income attributable to the targeted
27 tax area determined as if that attributable income represented all
28 of the income of the qualified taxpayer subject to tax under this
29 part.

30 (2) Attributable income shall be that portion of the taxpayer’s
31 California source business income that is apportioned to the
32 targeted tax area. For that purpose, the taxpayer’s business income
33 attributable to sources in this state first shall be determined in
34 accordance with Chapter 17 (commencing with Section 25101) of
35 Part 11. That business income shall be further apportioned to the
36 targeted tax area in accordance with Article 2 (commencing with
37 Section 25120) of Chapter 17 of Part 11, modified for purposes
38 of this section in accordance with paragraph (3).

39 (3) Business income shall be apportioned to the targeted tax
40 area by multiplying the total California business income of the

1 taxpayer by a fraction, the numerator of which is the property
2 factor plus the payroll factor, and the denominator of which is two.
3 For purposes of this paragraph:

4 (A) The property factor is a fraction, the numerator of which is
5 the average value of the taxpayer's real and tangible personal
6 property owned or rented and used in the targeted tax area during
7 the taxable year, and the denominator of which is the average value
8 of all the taxpayer's real and tangible personal property owned or
9 rented and used in this state during the taxable year.

10 (B) The payroll factor is a fraction, the numerator of which is
11 the total amount paid by the taxpayer in the targeted tax area during
12 the taxable year for compensation, and the denominator of which
13 is the total compensation paid by the taxpayer in this state during
14 the taxable year.

15 (4) The portion of any credit remaining, if any, after application
16 of this subdivision, shall be carried over to succeeding taxable
17 years, if necessary, until the credit is exhausted, as if it were an
18 amount exceeding the "net tax" for the taxable year, as provided
19 in subdivision (i). However, the portion of any credit remaining
20 for carryover to taxable years beginning on or after January 1,
21 2014, if any, after application of this subdivision, shall be carried
22 over only to the succeeding 10 taxable years, if necessary, until
23 the credit is exhausted, as if it were an amount exceeding the "net
24 tax" for the taxable year, as provided in subdivision (i).

25 (5) In the event that a credit carryover is allowable under
26 subdivision (i) for any taxable year after the targeted tax area
27 expiration date, the targeted tax area shall be deemed to remain in
28 existence for purposes of computing the limitation specified in
29 this subdivision.

30 (k) (1) Except as provided in paragraph (2), this section shall
31 cease to be operative for taxable years beginning on or after January
32 1, 2014, and shall be repealed on December 1, 2019.

33 (2) The section shall continue to apply with respect to qualified
34 employees who are employed by the qualified taxpayer within the
35 targeted tax area within the 60-month period immediately preceding
36 January 1, 2014, and qualified wages paid or incurred with respect
37 to those qualified employees shall continue to qualify for the credit
38 under this section for taxable years beginning on or after January
39 1, 2014, in accordance with this section, as amended by the act
40 adding this subdivision.

1 ~~SEC. 455.~~

2 *SEC. 462.* Section 17053.46 of the Revenue and Taxation Code
3 is amended to read:

4 17053.46. (a) For each taxable year beginning on or after
5 January 1, 1995, there shall be allowed as a credit against the “net
6 tax” (as defined in Section 17039) to a qualified taxpayer for hiring
7 a qualified disadvantaged individual or a qualified displaced
8 employee during the taxable year for employment in the LAMBRA.
9 The credit shall be equal to the sum of each of the following:

10 (1) Fifty percent of the qualified wages in the first year of
11 employment.

12 (2) Forty percent of the qualified wages in the second year of
13 employment.

14 (3) Thirty percent of the qualified wages in the third year of
15 employment.

16 (4) Twenty percent of the qualified wages in the fourth year of
17 employment.

18 (5) Ten percent of the qualified wages in the fifth year of
19 employment.

20 (b) For purposes of this section:

21 (1) “Qualified wages” means:

22 (A) That portion of wages paid or incurred by the employer
23 during the taxable year to qualified disadvantaged individuals or
24 qualified displaced employees that does not exceed 150 percent
25 of the minimum wage.

26 (B) The total amount of qualified wages which may be taken
27 into account for purposes of claiming the credit allowed under this
28 section shall not exceed two million dollars (\$2,000,000) per
29 taxable year.

30 (C) Wages received during the 60-month period beginning with
31 the first day the individual commences employment with the
32 taxpayer. Reemployment in connection with any increase, including
33 a regularly occurring seasonal increase, in the trade or business
34 operations of the qualified taxpayer does not constitute
35 commencement of employment for purposes of this section.

36 (D) Qualified wages do not include any wages paid or incurred
37 by the qualified taxpayer on or after the LAMBRA expiration date.
38 However, wages paid or incurred with respect to qualified
39 disadvantaged individuals or qualified displaced employees who
40 are employed by the qualified taxpayer within the LAMBRA within

1 the 60-month period prior to the LAMBRA expiration date shall
2 continue to qualify for the credit under this section after the
3 LAMBRA expiration date, in accordance with all provisions of
4 this section applied as if the LAMBRA designation were still in
5 existence and binding.

6 (2) “Minimum wage” means the wage established by the
7 Industrial Welfare Commission as provided for in Chapter 1
8 (commencing with Section 1171) of Part 4 of Division 2 of the
9 Labor Code.

10 (3) “LAMBRA” means a local agency military base recovery
11 area designated in accordance with Section 7114 of the Government
12 Code.

13 (4) “Qualified disadvantaged individual” means an individual
14 who satisfies all of the following requirements:

15 (A) (i) At least 90 percent of whose services for the taxpayer
16 during the taxable year are directly related to the conduct of the
17 taxpayer’s trade or business located in a LAMBRA.

18 (ii) Who performs at least 50 percent of his or her services for
19 the taxpayer during the taxable year in the LAMBRA.

20 (B) Who is hired by the employer after the designation of the
21 area as a LAMBRA in which the individual’s services were
22 primarily performed.

23 (C) Who is any of the following immediately preceding the
24 individual’s commencement of employment with the taxpayer:

25 (i) An individual who has been determined eligible for services
26 under the federal Job Training Partnership Act (29 U.S.C. Sec.
27 1501 et seq.).

28 (ii) Any voluntary or mandatory registrant under the Greater
29 Avenues for Independence Act of 1985 as provided pursuant to
30 Article 3.2 (commencing with Section 11320) of Chapter 2 of Part
31 3 of Division 9 of the Welfare and Institutions Code.

32 (iii) An economically disadvantaged individual age 16 years or
33 older.

34 (iv) A dislocated worker who meets any of the following
35 conditions:

36 (I) Has been terminated or laid off or who has received a notice
37 of termination or layoff from employment, is eligible for or has
38 exhausted entitlement to unemployment insurance benefits, and
39 is unlikely to return to his or her previous industry or occupation.

1 (II) Has been terminated or has received a notice of termination
2 of employment as a result of any permanent closure or any
3 substantial layoff at a plant, facility, or enterprise, including an
4 individual who has not received written notification but whose
5 employer has made a public announcement of the closure or layoff.

6 (III) Is long-term unemployed and has limited opportunities for
7 employment or reemployment in the same or a similar occupation
8 in the area in which the individual resides, including an individual
9 55 years of age or older who may have substantial barriers to
10 employment by reason of age.

11 (IV) Was self-employed (including farmers and ranchers) and
12 is unemployed as a result of general economic conditions in the
13 community in which he or she resides or because of natural
14 disasters.

15 (V) Was a civilian employee of the Department of Defense
16 employed at a military installation being closed or realigned under
17 the Defense Base Closure and Realignment Act of 1990.

18 (VI) Was an active member of the Armed Forces or National
19 Guard as of September 30, 1990, and was either involuntarily
20 separated or separated pursuant to a special benefits program.

21 (VII) Experiences chronic seasonal unemployment and
22 underemployment in the agriculture industry, aggravated by
23 continual advancements in technology and mechanization.

24 (VIII) Has been terminated or laid off or has received a notice
25 of termination or layoff as a consequence of compliance with the
26 Clean Air Act.

27 (v) An individual who is enrolled in or has completed a state
28 rehabilitation plan or is a service-connected disabled veteran,
29 veteran of the Vietnam era, or veteran who is recently separated
30 from military service.

31 (vi) An ex-offender. An individual shall be treated as convicted
32 if he or she was placed on probation by a state court without a
33 finding of guilty.

34 (vii) A recipient of:

35 (I) Federal Supplemental Security Income benefits.

36 (II) Aid to Families with Dependent Children.

37 (III) CalFresh benefits.

38 (IV) State and local general assistance.

39 (viii) Is a member of a federally recognized Indian tribe, band,
40 or other group of Native American descent.

1 (5) “Qualified taxpayer” means a taxpayer or partnership that
2 conducts a trade or business within a LAMBRA and, for the first
3 two taxable years, has a net increase in jobs (defined as 2,000 paid
4 hours per employee per year) of one or more employees in the
5 LAMBRA.

6 (A) The net increase in the number of jobs shall be determined
7 by subtracting the total number of full-time employees (defined
8 as 2,000 paid hours per employee per year) the taxpayer employed
9 in this state in the taxable year prior to commencing business
10 operations in the LAMBRA from the total number of full-time
11 employees the taxpayer employed in this state during the second
12 taxable year after commencing business operations in the
13 LAMBRA. For taxpayers who commence doing business in this
14 state with their LAMBRA business operation, the number of
15 employees for the taxable year prior to commencing business
16 operations in the LAMBRA shall be zero. If the taxpayer has a net
17 increase in jobs in the state, the credit shall be allowed only if one
18 or more full-time employees is employed within the LAMBRA.

19 (B) The total number of employees employed in the LAMBRA
20 shall equal the sum of both of the following:

21 (i) The total number of hours worked in the LAMBRA for the
22 taxpayer by employees (not to exceed 2,000 hours per employee)
23 who are paid an hourly wage divided by 2,000.

24 (ii) The total number of months worked in the LAMBRA for
25 the taxpayer by employees who are salaried employees divided
26 by 12.

27 (C) In the case of a taxpayer who first commences doing
28 business in the LAMBRA during the taxable year, for purposes of
29 clauses (i) and (ii), respectively, of subparagraph (B), the divisors
30 “2,000” and “12” shall be multiplied by a fraction, the numerator
31 of which is the number of months of the taxable year that the
32 taxpayer was doing business in the LAMBRA and the denominator
33 of which is 12.

34 (6) “Qualified displaced employee” means an individual who
35 satisfies all of the following requirements:

36 (A) Any civilian or military employee of a base or former base
37 who has been displaced as a result of a federal base closure act.

38 (B) (i) At least 90 percent of whose services for the taxpayer
39 during the taxable year are directly related to the conduct of the
40 taxpayer’s trade or business located in a LAMBRA.

- 1 (ii) Who performs at least 50 percent of his or her services for
- 2 the taxpayer during the taxable year in a LAMBRA.
- 3 (C) Who is hired by the employer after the designation of the
- 4 area in which services were performed as a LAMBRA.
- 5 (7) “Seasonal employment” means employment by a qualified
- 6 taxpayer that has regular and predictable substantial reductions in
- 7 trade or business operations.
- 8 (8) “LAMBRA expiration date” means the date the LAMBRA
- 9 designation expires, is no longer binding, becomes inoperative, or
- 10 is repealed.
- 11 (c) For qualified disadvantaged individuals or qualified displaced
- 12 employees hired on or after January 1, 2001, the taxpayer shall do
- 13 both of the following:
- 14 (1) Obtain from the Employment Development Department, as
- 15 permitted by federal law, the local county or city Job Training
- 16 Partnership Act administrative entity, the local county GAIN office
- 17 or social services agency, or the local government administering
- 18 the LAMBRA, a certification that provides that a qualified
- 19 disadvantaged individual or qualified displaced employee meets
- 20 the eligibility requirements specified in subparagraph (C) of
- 21 paragraph (4) of subdivision (b) or subparagraph (A) of paragraph
- 22 (6) of subdivision (b). The Employment Development Department
- 23 may provide preliminary screening and referral to a certifying
- 24 agency. The Department of Housing and Community Development
- 25 shall develop regulations governing the issuance of certificates
- 26 pursuant to Section 7114.2 of the Government Code and shall
- 27 develop forms for this purpose.
- 28 (2) Retain a copy of the certification and provide it upon request
- 29 to the Franchise Tax Board.
- 30 (d) (1) For purposes of this section, both of the following apply:
- 31 (A) All employees of trades or businesses that are under
- 32 common control shall be treated as employed by a single employer.
- 33 (B) The credit (if any) allowable by this section with respect to
- 34 each trade or business shall be determined by reference to its
- 35 proportionate share of the qualified wages giving rise to the credit.
- 36 The regulations prescribed under this paragraph shall be based
- 37 on principles similar to the principles that apply in the case of
- 38 controlled groups of corporations as specified in paragraph (1) of
- 39 subdivision (d) of Section 23622.7.

1 (2) If an employer acquires the major portion of a trade or
2 business of another employer (hereinafter in this paragraph referred
3 to as the “predecessor”) or the major portion of a separate unit of
4 a trade or business of a predecessor, then, for purposes of applying
5 this section (other than subdivision (d)) for any calendar year
6 ending after that acquisition, the employment relationship between
7 an employee and an employer shall not be treated as terminated if
8 the employee continues to be employed in that trade or business.

9 (e) (1) (A) If the employment, other than seasonal employment,
10 of any employee, with respect to whom qualified wages are taken
11 into account under subdivision (a), is terminated by the taxpayer
12 at any time during the first 270 days of that employment (whether
13 or not consecutive) or before the close of the 270th calendar day
14 after the day in which that employee completes 90 days of
15 employment with the taxpayer, the tax imposed by this part for
16 the taxable year in which that employment is terminated shall be
17 increased by an amount (determined under those regulations) equal
18 to the credit allowed under subdivision (a) for that taxable year
19 and all prior taxable years attributable to qualified wages paid or
20 incurred with respect to that employee.

21 (B) If the seasonal employment of a qualified disadvantaged
22 individual, with respect to whom qualified wages are taken into
23 account under subdivision (a), is not continued by the qualified
24 taxpayer for a period of 270 days of employment during the
25 60-month period beginning with the day the qualified
26 disadvantaged individual commences seasonal employment with
27 the qualified taxpayer, the tax imposed by this part, for the taxable
28 year that includes the 60th month following the month in which
29 the qualified disadvantaged individual commences seasonal
30 employment with the qualified taxpayer, shall be increased by an
31 amount equal to the credit allowed under subdivision (a) for that
32 taxable year and all prior taxable years attributable to qualified
33 wages paid or incurred with respect to that qualified disadvantaged
34 individual.

35 (2) (A) Subparagraph (A) of paragraph (1) does not apply to
36 any of the following:

37 (i) A termination of employment of an employee who voluntarily
38 leaves the employment of the taxpayer.

39 (ii) A termination of employment of an individual who, before
40 the close of the period referred to in subparagraph (A) of paragraph

- 1 (1), becomes disabled to perform the services of that employment,
 2 unless that disability is removed before the close of that period
 3 and the taxpayer fails to offer reemployment to that individual.
- 4 (iii) A termination of employment of an individual, if it is
 5 determined that the termination was due to the misconduct (as
 6 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
 7 the California Code of Regulations) of that individual.
- 8 (iv) A termination of employment of an individual due to a
 9 substantial reduction in the trade or business operations of the
 10 taxpayer.
- 11 (v) A termination of employment of an individual, if that
 12 individual is replaced by other qualified employees so as to create
 13 a net increase in both the number of employees and the hours of
 14 employment.
- 15 (B) Subparagraph (B) of paragraph (1) does not apply to any
 16 of the following:
- 17 (i) A failure to continue the seasonal employment of a qualified
 18 disadvantaged individual who voluntarily fails to return to the
 19 seasonal employment of the qualified taxpayer.
- 20 (ii) A failure to continue the seasonal employment of a qualified
 21 disadvantaged individual who, before the close of the period
 22 referred to in subparagraph (B) of paragraph (1), becomes disabled
 23 and unable to perform the services of that seasonal employment,
 24 unless that disability is removed before the close of that period
 25 and the qualified taxpayer fails to offer seasonal employment to
 26 that individual.
- 27 (iii) A failure to continue the seasonal employment of a qualified
 28 disadvantaged individual, if it is determined that the failure to
 29 continue the seasonal employment was due to the misconduct (as
 30 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
 31 the California Code of Regulations) of that qualified disadvantaged
 32 individual.
- 33 (iv) A failure to continue seasonal employment of a qualified
 34 disadvantaged individual due to a substantial reduction in the
 35 regular seasonal trade or business operations of the qualified
 36 taxpayer.
- 37 (v) A failure to continue the seasonal employment of a qualified
 38 disadvantaged individual, if that individual is replaced by other
 39 qualified displaced employees so as to create a net increase in both

1 the number of seasonal employees and the hours of seasonal
2 employment.

3 (C) For purposes of paragraph (1), the employment relationship
4 between the taxpayer and an employee shall not be treated as
5 terminated by reason of a mere change in the form of conducting
6 the trade or business of the taxpayer, if the employee continues to
7 be employed in that trade or business and the taxpayer retains a
8 substantial interest in that trade or business.

9 (3) An increase in tax under paragraph (1) shall not be treated
10 as tax imposed by this part for purposes of determining the amount
11 of any credit allowable under this part.

12 (4) At the close of the second taxable year, if the taxpayer has
13 not increased the number of its employees as determined by
14 paragraph (5) of subdivision (b), then the amount of the credit
15 previously claimed shall be added to the taxpayer's net tax for the
16 taxpayer's second taxable year.

17 (f) In the case of an estate or trust, both of the following apply:

18 (1) The qualified wages for any taxable year shall be apportioned
19 between the estate or trust and the beneficiaries on the basis of the
20 income of the estate or trust allocable to each.

21 (2) A beneficiary to whom any qualified wages have been
22 apportioned under paragraph (1) shall be treated (for purposes of
23 this part) as the employer with respect to those wages.

24 (g) The credit shall be reduced by the credit allowed under
25 Section 17053.7. The credit shall also be reduced by the federal
26 credit allowed under Section 51 of the Internal Revenue Code.

27 In addition, any deduction otherwise allowed under this part for
28 the wages or salaries paid or incurred by the taxpayer upon which
29 the credit is based shall be reduced by the amount of the credit,
30 prior to any reduction required by subdivision (h) or (i).

31 (h) In the case where the credit otherwise allowed under this
32 section exceeds the "net tax" for the taxable year, that portion of
33 the credit that exceeds the "net tax" may be carried over and added
34 to the credit, if any, in the succeeding 10 taxable years, if necessary,
35 until the credit is exhausted. The credit shall be applied first to the
36 earliest taxable years possible.

37 (i) (1) The amount of credit otherwise allowed under this section
38 and Section 17053.45, including prior year credit carryovers, that
39 may reduce the "net tax" for the taxable year shall not exceed the
40 amount of tax that would be imposed on the taxpayer's business

1 income attributed to a LAMBRA determined as if that attributed
2 income represented all of the net income of the taxpayer subject
3 to tax under this part.

4 (2) Attributable income shall be that portion of the taxpayer's
5 California source business income that is apportioned to the
6 LAMBRA. For that purpose, the taxpayer's business income that
7 is attributable to sources in this state first shall be determined in
8 accordance with Chapter 17 (commencing with Section 25101) of
9 Part 11. That business income shall be further apportioned to the
10 LAMBRA in accordance with Article 2 (commencing with Section
11 25120) of Chapter 17 of Part 11, modified for purposes of this
12 section in accordance with paragraph (3).

13 (3) Income shall be apportioned to a LAMBRA by multiplying
14 the total California business income of the taxpayer by a fraction,
15 the numerator of which is the property factor plus the payroll factor,
16 and the denominator of which is two. For purposes of this
17 paragraph:

18 (A) The property factor is a fraction, the numerator of which is
19 the average value of the taxpayer's real and tangible personal
20 property owned or rented and used in the LAMBRA during the
21 taxable year, and the denominator of which is the average value
22 of all the taxpayer's real and tangible personal property owned or
23 rented and used in this state during the taxable year.

24 (B) The payroll factor is a fraction, the numerator of which is
25 the total amount paid by the taxpayer in the LAMBRA during the
26 taxable year for compensation, and the denominator of which is
27 the total compensation paid by the taxpayer in this state during the
28 taxable year.

29 (4) The portion of any credit remaining, if any, after application
30 of this subdivision, shall be carried over to succeeding taxable
31 years, if necessary, until the credit is exhausted, as if it were an
32 amount exceeding the "net tax" for the taxable year, as provided
33 in subdivision (h). However, the portion of any credit remaining
34 for carryover to taxable years beginning on or after January 1,
35 2014, if any, after application of this subdivision, shall be carried
36 over only to the succeeding 10 taxable years if necessary, until the
37 credit is exhausted, as if it were an amount exceeding the "net tax"
38 for the taxable year, as provided in subdivision (h).

39 (j) If the taxpayer is allowed a credit pursuant to this section for
40 qualified wages paid or incurred, only one credit shall be allowed

1 to the taxpayer under this part with respect to any wage consisting
2 in whole or in part of those qualified wages.

3 (k) (1) Except as provided in paragraph (2), this section shall
4 cease to be operative on January 1, 2014, and shall be repealed on
5 December 1, 2019. A credit shall not be allowed under this section
6 with respect to an employee who first commences employment
7 with a qualified taxpayer on or after January 1, 2014.

8 (2) This section shall continue to apply with respect to qualified
9 disadvantaged individuals or qualified displaced employees who
10 are employed by the qualified taxpayer within the LAMBRA within
11 the 60-month period immediately preceding January 1, 2014, and
12 qualified wages paid or incurred with respect to those qualified
13 disadvantaged individuals or qualified displaced employees shall
14 continue to qualify for the credit under this section for taxable
15 years beginning on or after January 1, 2014, in accordance with
16 this section, as amended by the act adding this subdivision.

17 ~~SEC. 456.~~

18 *SEC. 463.* Section 17053.73 of the Revenue and Taxation Code
19 is amended to read:

20 17053.73. (a) (1) For each taxable year beginning on or after
21 January 1, 2014, and before January 1, 2021, there shall be allowed
22 to a qualified taxpayer that hires a qualified full-time employee
23 and pays or incurs qualified wages attributable to work performed
24 by the qualified full-time employee in a designated census tract
25 or economic development area, and that receives a tentative credit
26 reservation for that qualified full-time employee, a credit against
27 the “net tax,” as defined in Section 17039, in an amount calculated
28 under this section.

29 (2) The amount of the credit allowable under this section for a
30 taxable year shall be equal to the product of the tentative credit
31 amount for the taxable year and the applicable percentage for that
32 taxable year.

33 (3) (A) If a qualified taxpayer relocates to a designated census
34 tract or economic development area, the qualified taxpayer shall
35 be allowed a credit with respect to qualified wages for each
36 qualified full-time employee employed within the new location
37 only if the qualified taxpayer provides each employee at the
38 previous location or locations a written offer of employment at the
39 new location in the designated census tract or economic
40 development area with comparable compensation.

1 (B) For purposes of this paragraph, “relocates to a designated
2 census tract or economic development area” means an increase in
3 the number of qualified full-time employees, employed by a
4 qualified taxpayer, within a designated census tract or tracts or
5 economic development areas within a 12-month period in which
6 there is a decrease in the number of full-time employees, employed
7 by the qualified taxpayer in this state, but outside of designated
8 census tracts or economic development areas.

9 (C) This paragraph does not apply to a small business.

10 (4) The credit allowed by this section may be claimed only on
11 a timely filed original return of the qualified taxpayer and only
12 with respect to a qualified full-time employee for whom the
13 qualified taxpayer has received a tentative credit reservation.

14 (b) For purposes of this section:

15 (1) The “tentative credit amount” for a taxable year shall be
16 equal to the product of the applicable credit percentage for each
17 qualified full-time employee and the qualified wages paid by the
18 qualified taxpayer during the taxable year to that qualified full-time
19 employee.

20 (2) The “applicable percentage” for a taxable year shall be equal
21 to a fraction, the numerator of which is the net increase in the total
22 number of full-time employees employed in this state during the
23 taxable year, determined on an annual full-time equivalent basis,
24 as compared with the total number of full-time employees
25 employed in this state during the base year, determined on the
26 same basis, and the denominator of which shall be the total number
27 of qualified full-time employees employed in this state during the
28 taxable year. The applicable percentage shall not exceed 100
29 percent.

30 (3) The “applicable credit percentage” means the credit
31 percentage for the calendar year during which a qualified full-time
32 employee was first employed by the qualified taxpayer. The
33 applicable credit percentage for all calendar years shall be 35
34 percent.

35 (4) “Base year” means the 2013 taxable year, except in the case
36 of a qualified taxpayer who first hires a qualified full-time
37 employee in a taxable year beginning on or after January 1, 2015,
38 the base year means the taxable year immediately preceding the
39 taxable year in which a qualified full-time employee was first hired
40 by the qualified taxpayer.

1 (5) “Acquired” includes any gift, inheritance, transfer incident
2 to divorce, or any other transfer, whether or not for consideration.

3 (6) “Annual full-time equivalent” means either of the following:

4 (A) In the case of a full-time employee paid hourly qualified
5 wages, “annual full-time equivalent” means the total number of
6 hours worked for the qualified taxpayer by the employee, not to
7 exceed 2,000 hours per employee, divided by 2,000.

8 (B) In the case of a salaried full-time employee, “annual
9 full-time equivalent” means the total number of weeks worked for
10 the qualified taxpayer by the employee divided by 52.

11 (7) “Designated census tract” means a census tract within the
12 state that is determined by the Department of Finance to have a
13 civilian unemployment rate that is within the top 25 percent of all
14 census tracts within the state and has a poverty rate within the top
15 25 percent of all census tracts within the state, as prescribed in
16 Section 13073.5 of the Government Code.

17 (8) “Economic development area” means either of the following:

18 (A) A former enterprise zone. For purposes of this section,
19 “former enterprise zone” means an enterprise zone designated and
20 in effect as of December 31, 2011, any enterprise zone designated
21 during 2012, and any revision of an enterprise zone prior to June
22 30, 2013, under former Chapter 12.8 (commencing with Section
23 7070) of Division 7 of Title 1 of the Government Code, as in effect
24 on December 31, 2012, excluding any census tract within an
25 enterprise zone that is identified by the Department of Finance
26 pursuant to Section 13073.5 of the Government Code as a census
27 tract within the lowest quartile of census tracts with the lowest
28 civilian unemployment and poverty.

29 (B) A local agency military base recovery area designated as
30 of the effective date of the act adding this subparagraph, in
31 accordance with Section 7114 of the Government Code.

32 (9) “Minimum wage” means the wage established pursuant to
33 Chapter 1 (commencing with Section 1171) of Part 4 of Division
34 2 of the Labor Code.

35 (10) (A) “Qualified full-time employee” means an individual
36 who meets all of the following requirements:

37 (i) Performs at least 50 percent of his or her services for the
38 qualified taxpayer during the taxable year in a designated census
39 tract or economic development area.

- 1 (ii) Receives starting wages that are at least 150 percent of the
2 minimum wage.
- 3 (iii) Is hired by the qualified taxpayer on or after January 1,
4 2014.
- 5 (iv) Is hired by the qualified taxpayer after the date the
6 Department of Finance determines that the census tract referred
7 to in clause (i) is a designated census tract or that the census tracts
8 within a former enterprise zone are not census tracts with the lowest
9 civilian unemployment and poverty.
- 10 (v) Satisfies either of the following conditions:
 - 11 (I) Is paid qualified wages by the qualified taxpayer for services
12 not less than an average of 35 hours per week.
 - 13 (II) Is a salaried employee and was paid compensation during
14 the taxable year for full-time employment, within the meaning of
15 Section 515 of the Labor Code, by the qualified taxpayer.
- 16 (vi) Upon commencement of employment with the qualified
17 taxpayer, satisfies any of the following conditions:
 - 18 (I) Was unemployed for the six months immediately preceding
19 employment with the qualified taxpayer. In the case of an
20 individual that completed a program of study at a college,
21 university, or other postsecondary educational institution, received
22 a baccalaureate, postgraduate, or professional degree, and was
23 unemployed for the six months immediately preceding employment
24 with the qualified taxpayer, that individual must have completed
25 that program of study at least 12 months prior to the individual's
26 commencement of employment with the qualified taxpayer.
 - 27 (II) Is a veteran who separated from service in the Armed Forces
28 of the United States within the 12 months preceding
29 commencement of employment with the qualified taxpayer.
 - 30 (III) Was a recipient of the credit allowed under Section 32 of
31 the Internal Revenue Code, relating to earned income, as applicable
32 for federal purposes, for the previous taxable year.
 - 33 (IV) Is an ex-offender previously convicted of a felony.
 - 34 (V) Is a recipient of either CalWORKs, in accordance with
35 Article 2 (commencing with Section 11250) of Chapter 2 of Part
36 3 of Division 9 of the Welfare and Institutions Code, or general
37 assistance, in accordance with Section 17000.5 of the Welfare and
38 Institutions Code.
 - 39 (B) An individual may be considered a qualified full-time
40 employee only for the period of time commencing with the date

1 the individual is first employed by the qualified taxpayer and
2 ending 60 months thereafter.

3 (11) (A) “Qualified taxpayer” means a person or entity engaged
4 in a trade or business within a designated census tract or economic
5 development area that, during the taxable year, pays or incurs
6 qualified wages.

7 (B) In the case of any pass-thru entity, the determination of
8 whether a taxpayer is a qualified taxpayer under this section shall
9 be made at the entity level and any credit under this section or
10 Section 23626 shall be allowed to the pass-thru entity and passed
11 through to the partners and shareholders in accordance with
12 applicable provisions of this part or Part 11 (commencing with
13 Section 23001). For purposes of this subdivision, the term
14 “pass-thru entity” means any partnership or “S” corporation.

15 (C) “Qualified taxpayers” shall not include any of the following:

16 (i) Employers that provide temporary help services, as described
17 in Code 561320 of the North American Industry Classification
18 System (NAICS) published by the United States Office of
19 Management and Budget, 2012 edition.

20 (ii) Employers that provide retail trade services, as described
21 in Sector 44-45 of the North American Industry Classification
22 System (NAICS) published by the United States Office of
23 Management and Budget, 2012 edition.

24 (iii) Employers that are primarily engaged in providing food
25 services, as described in Code 711110, 722511, 722513, 722514,
26 or 722515 of the North American Industry Classification System
27 (NAICS) published by the United States Office of Management
28 and Budget, 2012 edition.

29 (iv) Employers that are primarily engaged in services as
30 described in Code 713210, 721120, or 722410 of the North
31 American Industry Classification System (NAICS) published by
32 the United States Office of Management and Budget, 2012 edition.

33 (v) (I) An employer that is a sexually oriented business.

34 (II) For purposes of this clause:

35 (ia) “Sexually oriented business” means a nightclub, bar,
36 restaurant, or similar commercial enterprise that provides for an
37 audience of two or more individuals live nude entertainment or
38 live nude performances where the nudity is a function of everyday
39 business operations and where nudity is a planned and intentional
40 part of the entertainment or performance.

1 (ib) “Nude” means clothed in a manner that leaves uncovered
2 or visible, through less than fully opaque clothing, any portion of
3 the genitals or, in the case of a female, any portion of the breasts
4 below the top of the areola of the breasts.

5 (D) Subparagraph (C) shall not apply to a taxpayer that is a
6 “small business.”

7 (12) “Qualified wages” means those wages that meet all of the
8 following requirements:

9 (A) (i) Except as provided in clause (ii), that portion of wages
10 paid or incurred by the qualified taxpayer during the taxable year
11 to each qualified full-time employee that exceeds 150 percent of
12 minimum wage, but does not exceed 350 percent of minimum
13 wage.

14 (ii) (I) In the case of a qualified full-time employee employed
15 in a designated pilot area, that portion of wages paid or incurred
16 by the qualified taxpayer during the taxable year to each qualified
17 full-time employee that exceeds ten dollars (\$10) per hour or an
18 equivalent amount for salaried employees, but does not exceed
19 350 percent of minimum wage. For qualified full-time employees
20 described in the preceding sentence, clause (ii) of subparagraph
21 (A) of paragraph (10) is modified by substituting “ten dollars (\$10)
22 per hour or an equivalent amount for salaried employees” for “150
23 percent of the minimum wage.”

24 (II) For purposes of this clause:

25 (ia) “Designated pilot area” means an area designated as a
26 designated pilot area by the Governor’s Office of Business and
27 Economic Development.

28 (ib) Areas that may be designated as a designated pilot area are
29 limited to areas within a designated census tract or an economic
30 development area with average wages less than the statewide
31 average wages, based on information from the Labor Market
32 Division of the Employment Development Department, and areas
33 within a designated census tract or an economic development area
34 based on high poverty or high unemployment.

35 (ic) The total number of designated pilot areas that may be
36 designated is limited to five, one or more of which must be an area
37 within five or fewer designated census tracts within a single county
38 based on high poverty or high unemployment or an area within an
39 economic development area based on high poverty or high
40 unemployment.

1 (id) The designation of a designated pilot area shall be applicable
2 for a period of four calendar years, commencing with the first
3 calendar year for which the designation of a designated pilot area
4 is effective. The applicable period of a designated pilot area may
5 be extended, in the sole discretion of the Governor’s Office of
6 Business and Economic Development, for an additional period of
7 up to three calendar years. The applicable period, and any extended
8 period, shall not extend beyond December 31, 2020.

9 (III) The designation of an area as a designated pilot area and
10 the extension of the applicable period of a designated pilot area
11 shall be at the sole discretion of the Governor’s Office of Business
12 and Economic Development and shall not be subject to
13 administrative appeal or judicial review.

14 (B) Wages paid or incurred during the 60-month period
15 beginning with the first day the qualified full-time employee
16 commences employment with the qualified taxpayer. In the case
17 of any employee who is reemployed, including a regularly
18 occurring seasonal increase, in the trade or business operations of
19 the qualified taxpayer, this reemployment shall not be treated as
20 constituting commencement of employment for purposes of this
21 section.

22 (C) Except as provided in paragraph (3) of subdivision (n),
23 qualified wages shall not include any wages paid or incurred by
24 the qualified taxpayer on or after the date that the Department of
25 Finance’s redesignation of designated census tracts is effective,
26 as provided in paragraph (2) of subdivision (g), so that a census
27 tract is no longer a designated census tract.

28 (13) “Seasonal employment” means employment by a qualified
29 taxpayer that has regular and predictable substantial reductions in
30 trade or business operations.

31 (14) (A) “Small business” means a trade or business that has
32 aggregate gross receipts, less returns and allowances reportable to
33 this state, of less than two million dollars (\$2,000,000) during the
34 previous taxable year.

35 (B) (i) For purposes of this paragraph, “gross receipts, less
36 returns and allowances reportable to this state,” means the sum of
37 the gross receipts from the production of business income, as
38 defined in subdivision (a) of Section 25120, and the gross receipts
39 from the production of nonbusiness income, as defined in
40 subdivision (d) of Section 25120.

1 (ii) In the case of any trade or business activity conducted by a
2 partnership or an “S” corporation, the limitations set forth in
3 subparagraph (A) shall be applied to the partnership or “S”
4 corporation and to each partner or shareholder.

5 (C) (i) “Small business” shall not include a sexually oriented
6 business.

7 (ii) For purposes of this subparagraph:

8 (I) “Sexually oriented business” means a nightclub, bar,
9 restaurant, or similar commercial enterprise that provides for an
10 audience of two or more individuals live nude entertainment or
11 live nude performances where the nudity is a function of everyday
12 business operations and where nudity is a planned and intentional
13 part of the entertainment or performance.

14 (II) “Nude” means clothed in a manner that leaves uncovered
15 or visible, through less than fully opaque clothing, any portion of
16 the genitals or, in the case of a female, any portion of the breasts
17 below the top of the areola of the breasts.

18 (15) An individual is “unemployed” for any period for which
19 the individual is all of the following:

20 (A) Not in receipt of wages subject to withholding under Section
21 13020 of the Unemployment Insurance Code for that period.

22 (B) Not a self-employed individual (within the meaning of
23 Section 401(c)(1)(B) of the Internal Revenue Code, relating to
24 self-employed individual) for that period.

25 (C) Not a registered full-time student at a high school, college,
26 university, or other postsecondary educational institution for that
27 period.

28 (c) The net increase in full-time employees of a qualified
29 taxpayer shall be determined as provided by this subdivision:

30 (1) (A) The net increase in full-time employees shall be
31 determined on an annual full-time equivalent basis by subtracting
32 from the amount determined in subparagraph (C) the amount
33 determined in subparagraph (B).

34 (B) The total number of full-time employees employed in the
35 base year by the taxpayer and by any trade or business acquired
36 by the taxpayer during the current taxable year.

37 (C) The total number of full-time employees employed in the
38 current taxable year by the taxpayer and by any trade or business
39 acquired during the current taxable year.

1 (2) For taxpayers who first commence doing business in this
2 state during the taxable year, the number of full-time employees
3 for the base year shall be zero.

4 (d) For purposes of this section:

5 (1) All employees of the trades or businesses that are treated as
6 related under Section 267, 318, or 707 of the Internal Revenue
7 Code shall be treated as employed by a single taxpayer.

8 (2) In determining whether the taxpayer has first commenced
9 doing business in this state during the taxable year, the provisions
10 of subdivision (f) of Section 17276, without application of
11 paragraph (7) of that subdivision, shall apply.

12 (e) (1) To be eligible for the credit allowed by this section, a
13 qualified taxpayer shall, upon hiring a qualified full-time employee,
14 request a tentative credit reservation from the Franchise Tax Board
15 within 30 days of complying with the Employment Development
16 Department's new hire reporting requirements as provided in
17 Section 1088.5 of the Unemployment Insurance Code, in the form
18 and manner prescribed by the Franchise Tax Board.

19 (2) To obtain a tentative credit reservation with respect to a
20 qualified full-time employee, the qualified taxpayer shall provide
21 necessary information, as determined by the Franchise Tax Board,
22 including the name, social security number, the start date of
23 employment, the rate of pay of the qualified full-time employee,
24 the qualified taxpayer's gross receipts, less returns and allowances,
25 for the previous taxable year, and whether the qualified full-time
26 employee is a resident of a targeted employment area, as defined
27 in former Section 7072 of the Government Code, as in effect on
28 December 31, 2013.

29 (3) The qualified taxpayer shall provide the Franchise Tax Board
30 an annual certification of employment with respect to each
31 qualified full-time employee hired in a previous taxable year, on
32 or before, the 15th day of the third month of the taxable year. The
33 certification shall include necessary information, as determined
34 by the Franchise Tax Board, including the name, social security
35 number, start date of employment, and rate of pay for each qualified
36 full-time employee employed by the qualified taxpayer.

37 (4) A tentative credit reservation provided to a taxpayer with
38 respect to an employee of that taxpayer shall not constitute a
39 determination by the Franchise Tax Board with respect to any of

1 the requirements of this section regarding a taxpayer's eligibility
2 for the credit authorized by this section.

3 (f) The Franchise Tax Board shall do all of the following:

4 (1) Approve a tentative credit reservation with respect to a
5 qualified full-time employee hired during a calendar year.

6 (2) Determine the aggregate tentative reservation amount and
7 the aggregate small business tentative reservation amount for a
8 calendar year.

9 (3) A tentative credit reservation request from a qualified
10 taxpayer with respect to a qualified full-time employee who is a
11 resident of a targeted employment area, as defined in former
12 Section 7072 of the Government Code, as in effect on December
13 31, 2013, shall be expeditiously processed by the Franchise Tax
14 Board. The residence of a qualified full-time employee in a targeted
15 employment area shall have no other effect on the eligibility of an
16 individual as a qualified full-time employee or the eligibility of a
17 qualified taxpayer for the credit authorized by this section.

18 (4) Notwithstanding Section 19542, provide as a searchable
19 database on its Internet Web site, for each taxable year beginning
20 on or after January 1, 2014, and before January 1, 2021, the
21 employer names, amounts of tax credit claimed, and number of
22 new jobs created for each taxable year pursuant to this section and
23 Section 23626.

24 (g) (1) The Department of Finance shall, by January 1, 2014,
25 and by January 1 of every fifth year thereafter, provide the
26 Franchise Tax Board with a list of the designated census tracts and
27 a list of census tracts with the lowest civilian unemployment rate.

28 (2) The redesignation of designated census tracts and lowest
29 civilian unemployment census tracts by the Department of Finance
30 as provided in Section 13073.5 of the Government Code shall be
31 effective, for purposes of this credit, one year after the date the
32 Department of Finance redesignates the designated census tracts.

33 (h) For purposes of this section:

34 (1) All employees of the trades or businesses that are treated as
35 related under Section 267, 318, or 707 of the Internal Revenue
36 Code shall be treated as employed by a single taxpayer.

37 (2) All employees of trades or businesses that are not
38 incorporated, and that are under common control, shall be treated
39 as employed by a single taxpayer.

1 (3) The credit, if any, allowable by this section with respect to
2 each trade or business shall be determined by reference to its
3 proportionate share of the expense of the qualified wages giving
4 rise to the credit, and shall be allocated to that trade or business in
5 that manner.

6 (4) Principles that apply in the case of controlled groups of
7 corporations, as specified in subdivision (h) of Section 23626,
8 shall apply with respect to determining employment.

9 (5) If an employer acquires the major portion of a trade or
10 business of another employer, hereinafter in this paragraph referred
11 to as the predecessor, or the major portion of a separate unit of a
12 trade or business of a predecessor, then, for purposes of applying
13 this section, other than subdivision (i), for any taxable year ending
14 after that acquisition, the employment relationship between a
15 qualified full-time employee and an employer shall not be treated
16 as terminated if the employee continues to be employed in that
17 trade or business.

18 (i) (1) If the employment of any qualified full-time employee,
19 with respect to whom qualified wages are taken into account under
20 subdivision (a), is terminated by the qualified taxpayer at any time
21 during the first 36 months after commencing employment with
22 the qualified taxpayer, whether or not consecutive, the tax imposed
23 by this part for the taxable year in which that employment is
24 terminated shall be increased by an amount equal to the credit
25 allowed under subdivision (a) for that taxable year and all prior
26 taxable years attributable to qualified wages paid or incurred with
27 respect to that employee.

28 (2) Paragraph (1) does not apply to any of the following:

29 (A) A termination of employment of a qualified full-time
30 employee who voluntarily leaves the employment of the qualified
31 taxpayer.

32 (B) A termination of employment of a qualified full-time
33 employee who, before the close of the period referred to in
34 paragraph (1), becomes disabled and unable to perform the services
35 of that employment, unless that disability is removed before the
36 close of that period and the qualified taxpayer fails to offer
37 reemployment to that employee.

38 (C) A termination of employment of a qualified full-time
39 employee, if it is determined that the termination was due to the

1 misconduct, as defined in Sections 1256-30 to 1256-43, inclusive,
2 of Title 22 of the California Code of Regulations, of that employee.

3 (D) A termination of employment of a qualified full-time
4 employee due to a substantial reduction in the trade or business
5 operations of the qualified taxpayer, including reductions due to
6 seasonal employment.

7 (E) A termination of employment of a qualified full-time
8 employee, if that employee is replaced by other qualified full-time
9 employees so as to create a net increase in both the number of
10 employees and the hours of employment.

11 (F) A termination of employment of a qualified full-time
12 employee, when that employment is considered seasonal
13 employment and the qualified employee is rehired on a seasonal
14 basis.

15 (3) For purposes of paragraph (1), the employment relationship
16 between the qualified taxpayer and a qualified full-time employee
17 shall not be treated as terminated by reason of a mere change in
18 the form of conducting the trade or business of the qualified
19 taxpayer, if the qualified full-time employee continues to be
20 employed in that trade or business and the qualified taxpayer retains
21 a substantial interest in that trade or business.

22 (4) An increase in tax under paragraph (1) shall not be treated
23 as tax imposed by this part for purposes of determining the amount
24 of any credit allowable under this part.

25 (j) In the case of an estate or trust, both of the following apply:

26 (1) The qualified wages for a taxable year shall be apportioned
27 between the estate or trust and the beneficiaries on the basis of the
28 income of the estate or trust allocable to each.

29 (2) A beneficiary to whom any qualified wages have been
30 apportioned under paragraph (1) shall be treated, for purposes of
31 this part, as the employer with respect to those wages.

32 (k) In the case in which the credit allowed by this section
33 exceeds the “net tax,” the excess may be carried over to reduce
34 the “net tax” in the following year, and the succeeding four years
35 if necessary, until the credit is exhausted.

36 (l) The Franchise Tax Board may prescribe rules, guidelines,
37 or procedures necessary or appropriate to carry out the purposes
38 of this section, including any guidelines regarding the allocation
39 of the credit allowed under this section. Chapter 3.5 (commencing
40 with Section 11340) of Part 1 of Division 3 of Title 2 of the

1 Government Code shall not apply to any rule, guideline, or
2 procedure prescribed by the Franchise Tax Board pursuant to this
3 section.

4 (m) (1) Upon the effective date of this section, the Department
5 of Finance shall estimate the total dollar amount of credits that
6 will be claimed under this section with respect to each fiscal year
7 from the 2013–14 fiscal year to the 2020–21 fiscal year, inclusive.

8 (2) The Franchise Tax Board shall annually provide to the Joint
9 Legislative Budget Committee, by no later than March 1, a report
10 of the total dollar amount of the credits claimed under this section
11 with respect to the relevant fiscal year. The report shall compare
12 the total dollar amount of credits claimed under this section with
13 respect to that fiscal year with the department’s estimate with
14 respect to that same fiscal year. If the total dollar amount of credits
15 claimed for the fiscal year is less than the estimate for that fiscal
16 year, the report shall identify options for increasing annual claims
17 of the credit so as to meet estimated amounts.

18 (n) (1) This section shall remain in effect only until December
19 1, 2024, and as of that date is repealed.

20 (2) Notwithstanding paragraph (1) of subdivision (a), this section
21 shall continue to be operative for taxable years beginning on or
22 after January 1, 2021, but only with respect to qualified full-time
23 employees who commenced employment with a qualified taxpayer
24 in a designated census tract or economic development area in a
25 taxable year beginning before January 1, 2021.

26 (3) This section shall remain operative for any qualified taxpayer
27 with respect to any qualified full-time employee after the
28 designated census tract is no longer designated or an economic
29 development area ceases to be an economic development area, as
30 defined in this section, for the remaining period, if any, of the
31 60-month period after the original date of hiring of an otherwise
32 qualified full-time employee and any wages paid or incurred with
33 respect to those qualified full-time employees after the designated
34 census tract is no longer designated or an economic development
35 area ceases to be an economic development area, as defined in this
36 section, shall be treated as qualified wages under this section,
37 provided the employee satisfies any other requirements of
38 paragraphs (10) and (12) of subdivision (b), as if the designated
39 census tract was still designated and binding or the economic
40 development area was still in existence.

1 ~~SEC. 457.~~

2 *SEC. 464.* Section 17053.74 of the Revenue and Taxation Code
3 is amended to read:

4 17053.74. (a) There shall be allowed a credit against the “net
5 tax” (as defined in Section 17039) to a taxpayer who employs a
6 qualified employee in an enterprise zone during the taxable year.
7 The credit shall be equal to the sum of each of the following:

8 (1) Fifty percent of qualified wages in the first year of
9 employment.

10 (2) Forty percent of qualified wages in the second year of
11 employment.

12 (3) Thirty percent of qualified wages in the third year of
13 employment.

14 (4) Twenty percent of qualified wages in the fourth year of
15 employment.

16 (5) Ten percent of qualified wages in the fifth year of
17 employment.

18 (b) For purposes of this section:

19 (1) “Qualified wages” means:

20 (A) (i) Except as provided in clause (ii), that portion of wages
21 paid or incurred by the taxpayer during the taxable year to qualified
22 employees that does not exceed 150 percent of the minimum wage.

23 (ii) For up to 1,350 qualified employees who are employed by
24 the taxpayer in the Long Beach Enterprise Zone in aircraft
25 manufacturing activities described in Codes 3721 to 3728,
26 inclusive, and Code 3812 of the Standard Industrial Classification
27 (SIC) Manual published by the United States Office of
28 Management and Budget, 1987 edition, “qualified wages” means
29 that portion of hourly wages that does not exceed 202 percent of
30 the minimum wage.

31 (B) Wages received during the 60-month period beginning with
32 the first day the employee commences employment with the
33 taxpayer. Reemployment in connection with any increase, including
34 a regularly occurring seasonal increase, in the trade or business
35 operations of the taxpayer does not constitute commencement of
36 employment for purposes of this section.

37 (C) Qualified wages do not include any wages paid or incurred
38 by the taxpayer on or after the zone expiration date. However,
39 wages paid or incurred with respect to qualified employees who
40 are employed by the taxpayer within the enterprise zone within

1 the 60-month period prior to the zone expiration date shall continue
2 to qualify for the credit under this section after the zone expiration
3 date, in accordance with all provisions of this section applied as
4 if the enterprise zone designation were still in existence and
5 binding.

6 (2) “Minimum wage” means the wage established by the
7 Industrial Welfare Commission as provided for in Chapter 1
8 (commencing with Section 1171) of Part 4 of Division 2 of the
9 Labor Code.

10 (3) “Zone expiration date” means the date the enterprise zone
11 designation expires, is no longer binding, becomes inoperative, or
12 is repealed.

13 (4) (A) “Qualified employee” means an individual who meets
14 all of the following requirements:

15 (i) At least 90 percent of whose services for the taxpayer during
16 the taxable year are directly related to the conduct of the taxpayer’s
17 trade or business located in an enterprise zone.

18 (ii) Performs at least 50 percent of his or her services for the
19 taxpayer during the taxable year in an enterprise zone.

20 (iii) Is hired by the taxpayer after the date of original designation
21 of the area in which services were performed as an enterprise zone.

22 (iv) Is any of the following:

23 (I) Immediately preceding the qualified employee’s
24 commencement of employment with the taxpayer, was a person
25 eligible for services under the federal Job Training Partnership
26 Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving,
27 or is eligible to receive, subsidized employment, training, or
28 services funded by the federal Job Training Partnership Act, or its
29 successor.

30 (II) Immediately preceding the qualified employee’s
31 commencement of employment with the taxpayer, was a person
32 eligible to be a voluntary or mandatory registrant under the Greater
33 Avenues for Independence Act of 1985 (GAIN) provided for
34 pursuant to Article 3.2 (commencing with Section 11320) of
35 Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions
36 Code, or its successor.

37 (III) Immediately preceding the qualified employee’s
38 commencement of employment with the taxpayer, was an
39 economically disadvantaged individual 14 years of age or older.

- 1 (IV) Immediately preceding the qualified employee’s
 2 commencement of employment with the taxpayer, was a dislocated
 3 worker who meets any of the following:
- 4 (ia) Has been terminated or laid off or who has received a notice
 5 of termination or layoff from employment, is eligible for or has
 6 exhausted entitlement to unemployment insurance benefits, and
 7 is unlikely to return to his or her previous industry or occupation.
 - 8 (ib) Has been terminated or has received a notice of termination
 9 of employment as a result of any permanent closure or any
 10 substantial layoff at a plant, facility, or enterprise, including an
 11 individual who has not received written notification but whose
 12 employer has made a public announcement of the closure or layoff.
 - 13 (ic) Is long-term unemployed and has limited opportunities for
 14 employment or reemployment in the same or a similar occupation
 15 in the area in which the individual resides, including an individual
 16 55 years of age or older who may have substantial barriers to
 17 employment by reason of age.
 - 18 (id) Was self-employed (including farmers and ranchers) and
 19 is unemployed as a result of general economic conditions in the
 20 community in which he or she resides or because of natural
 21 disasters.
 - 22 (ie) Was a civilian employee of the Department of Defense
 23 employed at a military installation being closed or realigned under
 24 the Defense Base Closure and Realignment Act of 1990.
 - 25 (if) Was an active member of the armed forces or National
 26 Guard as of September 30, 1990, and was either involuntarily
 27 separated or separated pursuant to a special benefits program.
 - 28 (ig) Is a seasonal or migrant worker who experiences chronic
 29 seasonal unemployment and underemployment in the agriculture
 30 industry, aggravated by continual advancements in technology and
 31 mechanization.
 - 32 (ih) Has been terminated or laid off, or has received a notice of
 33 termination or layoff, as a consequence of compliance with the
 34 Clean Air Act.
- 35 (V) Immediately preceding the qualified employee’s
 36 commencement of employment with the taxpayer, was a disabled
 37 individual who is eligible for or enrolled in, or has completed a
 38 state rehabilitation plan or is a service-connected disabled veteran,
 39 veteran of the Vietnam era, or veteran who is recently separated
 40 from military service.

1 (VI) Immediately preceding the qualified employee's
2 commencement of employment with the taxpayer, was an
3 ex-offender. An individual shall be treated as convicted if he or
4 she was placed on probation by a state court without a finding of
5 guilt.

6 (VII) Immediately preceding the qualified employee's
7 commencement of employment with the taxpayer, was a person
8 eligible for or a recipient of any of the following:

9 (ia) Federal Supplemental Security Income benefits.

10 (ib) Aid to Families with Dependent Children.

11 (ic) CalFresh benefits.

12 (id) State and local general assistance.

13 (VIII) Immediately preceding the qualified employee's
14 commencement of employment with the taxpayer, was a member
15 of a federally recognized Indian tribe, band, or other group of
16 Native American descent.

17 (IX) Immediately preceding the qualified employee's
18 commencement of employment with the taxpayer, was a resident
19 of a targeted employment area, as defined in Section 7072 of the
20 Government Code.

21 (X) An employee who qualified the taxpayer for the enterprise
22 zone hiring credit under former Section 17053.8 or the program
23 area hiring credit under former Section 17053.11.

24 (XI) Immediately preceding the qualified employee's
25 commencement of employment with the taxpayer, was a member
26 of a targeted group, as defined in Section 51(d) of the Internal
27 Revenue Code, or its successor.

28 (B) Priority for employment shall be provided to an individual
29 who is enrolled in a qualified program under the federal Job
30 Training Partnership Act or the Greater Avenues for Independence
31 Act of 1985 or who is eligible as a member of a targeted group
32 under the Work Opportunity Tax Credit (Section 51 of the Internal
33 Revenue Code), or its successor.

34 (5) "Taxpayer" means a person or entity engaged in a trade or
35 business within an enterprise zone designated pursuant to Chapter
36 12.8 (commencing with Section 7070) of the Government Code.

37 (6) "Seasonal employment" means employment by a taxpayer
38 that has regular and predictable substantial reductions in trade or
39 business operations.

40 (c) The taxpayer shall do both of the following:

1 (1) Obtain from the Employment Development Department, as
2 permitted by federal law, the local county or city Job Training
3 Partnership Act administrative entity, the local county GAIN office
4 or social services agency, or the local government administering
5 the enterprise zone, a certification which provides that a qualified
6 employee meets the eligibility requirements specified in clause
7 (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The
8 Employment Development Department may provide preliminary
9 screening and referral to a certifying agency. The Employment
10 Development Department shall develop a form for this purpose.
11 The Department of Housing and Community Development shall
12 develop regulations governing the issuance of certificates by local
13 governments pursuant to subdivision (a) of Section 7086 of the
14 Government Code.

15 (2) Retain a copy of the certification and provide it upon request
16 to the Franchise Tax Board.

17 (d) (1) For purposes of this section:

18 (A) All employees of trades or businesses, which are not
19 incorporated, that are under common control shall be treated as
20 employed by a single taxpayer.

21 (B) The credit, if any, allowable by this section with respect to
22 each trade or business shall be determined by reference to its
23 proportionate share of the expense of the qualified wages giving
24 rise to the credit, and shall be allocated in that manner.

25 (C) Principles that apply in the case of controlled groups of
26 corporations, as specified in paragraph (1) of subdivision (d) of
27 Section 23622.7, apply with respect to determining employment.

28 (2) If an employer acquires the major portion of a trade or
29 business of another employer (hereinafter in this paragraph referred
30 to as the “predecessor”) or the major portion of a separate unit of
31 a trade or business of a predecessor, then, for purposes of applying
32 this section (other than subdivision (e)) for any calendar year
33 ending after that acquisition, the employment relationship between
34 a qualified employee and an employer shall not be treated as
35 terminated if the employee continues to be employed in that trade
36 or business.

37 (e) (1) (A) If the employment, other than seasonal employment,
38 of any qualified employee, with respect to whom qualified wages
39 are taken into account under subdivision (a), is terminated by the
40 taxpayer at any time during the first 270 days of that employment

1 (whether or not consecutive) or before the close of the 270th
2 calendar day after the day in which that employee completes 90
3 days of employment with the taxpayer, the tax imposed by this
4 part for the taxable year in which that employment is terminated
5 shall be increased by an amount equal to the credit allowed under
6 subdivision (a) for that taxable year and all prior taxable years
7 attributable to qualified wages paid or incurred with respect to that
8 employee.

9 (B) If the seasonal employment of any qualified employee, with
10 respect to whom qualified wages are taken into account under
11 subdivision (a), is not continued by the taxpayer for a period of
12 270 days of employment during the 60-month period beginning
13 with the day the qualified employee commences seasonal
14 employment with the taxpayer, the tax imposed by this part, for
15 the taxable year that includes the 60th month following the month
16 in which the qualified employee commences seasonal employment
17 with the taxpayer, shall be increased by an amount equal to the
18 credit allowed under subdivision (a) for that taxable year and all
19 prior taxable years attributable to qualified wages paid or incurred
20 with respect to that qualified employee.

21 (2) (A) Subparagraph (A) of paragraph (1) does not apply to
22 any of the following:

23 (i) A termination of employment of a qualified employee who
24 voluntarily leaves the employment of the taxpayer.

25 (ii) A termination of employment of a qualified employee who,
26 before the close of the period referred to in paragraph (1), becomes
27 disabled and unable to perform the services of that employment,
28 unless that disability is removed before the close of that period
29 and the taxpayer fails to offer reemployment to that employee.

30 (iii) A termination of employment of a qualified employee, if
31 it is determined that the termination was due to the misconduct (as
32 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
33 the California Code of Regulations) of that employee.

34 (iv) A termination of employment of a qualified employee due
35 to a substantial reduction in the trade or business operations of the
36 taxpayer.

37 (v) A termination of employment of a qualified employee, if
38 that employee is replaced by other qualified employees so as to
39 create a net increase in both the number of employees and the
40 hours of employment.

1 (B) Subparagraph (B) of paragraph (1) does not apply to any
2 of the following:

3 (i) A failure to continue the seasonal employment of a qualified
4 employee who voluntarily fails to return to the seasonal
5 employment of the taxpayer.

6 (ii) A failure to continue the seasonal employment of a qualified
7 employee who, before the close of the period referred to in
8 subparagraph (B) of paragraph (1), becomes disabled and unable
9 to perform the services of that seasonal employment, unless that
10 disability is removed before the close of that period and the
11 taxpayer fails to offer seasonal employment to that qualified
12 employee.

13 (iii) A failure to continue the seasonal employment of a qualified
14 employee, if it is determined that the failure to continue the
15 seasonal employment was due to the misconduct (as defined in
16 Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California
17 Code of Regulations) of that qualified employee.

18 (iv) A failure to continue seasonal employment of a qualified
19 employee due to a substantial reduction in the regular seasonal
20 trade or business operations of the taxpayer.

21 (v) A failure to continue the seasonal employment of a qualified
22 employee, if that qualified employee is replaced by other qualified
23 employees so as to create a net increase in both the number of
24 seasonal employees and the hours of seasonal employment.

25 (C) For purposes of paragraph (1), the employment relationship
26 between the taxpayer and a qualified employee shall not be treated
27 as terminated by reason of a mere change in the form of conducting
28 the trade or business of the taxpayer, if the qualified employee
29 continues to be employed in that trade or business and the taxpayer
30 retains a substantial interest in that trade or business.

31 (3) An increase in tax under paragraph (1) shall not be treated
32 as tax imposed by this part for purposes of determining the amount
33 of any credit allowable under this part.

34 (f) In the case of an estate or trust, both of the following apply:

35 (1) The qualified wages for any taxable year shall be apportioned
36 between the estate or trust and the beneficiaries on the basis of the
37 income of the estate or trust allocable to each.

38 (2) A beneficiary to whom any qualified wages have been
39 apportioned under paragraph (1) shall be treated, for purposes of
40 this part, as the employer with respect to those wages.

1 (g) For purposes of this section, “enterprise zone” means an
2 area designated as an enterprise zone pursuant to Chapter 12.8
3 (commencing with Section 7070) of Division 7 of Title 1 of the
4 Government Code.

5 (h) The credit allowable under this section shall be reduced by
6 the credit allowed under Sections 17053.10, 17053.17, and
7 17053.46 claimed for the same employee. The credit shall also be
8 reduced by the federal credit allowed under Section 51 of the
9 Internal Revenue Code.

10 In addition, any deduction otherwise allowed under this part for
11 the wages or salaries paid or incurred by the taxpayer upon which
12 the credit is based shall be reduced by the amount of the credit,
13 prior to any reduction required by subdivision (i) or (j).

14 (i) In the case where the credit otherwise allowed under this
15 section exceeds the “net tax” for the taxable year, that portion of
16 the credit that exceeds the “net tax” may be carried over and added
17 to the credit, if any, in the succeeding 10 taxable years, if necessary,
18 until the credit is exhausted. The credit shall be applied first to the
19 earliest taxable years possible.

20 (j) (1) The amount of the credit otherwise allowed under this
21 section and Section 17053.70, including any credit carryover from
22 prior years, that may reduce the “net tax” for the taxable year shall
23 not exceed the amount of tax which would be imposed on the
24 taxpayer’s business income attributable to the enterprise zone
25 determined as if that attributable income represented all of the
26 income of the taxpayer subject to tax under this part.

27 (2) Attributable income shall be that portion of the taxpayer’s
28 California source business income that is apportioned to the
29 enterprise zone. For that purpose, the taxpayer’s business income
30 attributable to sources in this state first shall be determined in
31 accordance with Chapter 17 (commencing with Section 25101) of
32 Part 11. That business income shall be further apportioned to the
33 enterprise zone in accordance with Article 2 (commencing with
34 Section 25120) of Chapter 17 of Part 11, modified for purposes
35 of this section in accordance with paragraph (3).

36 (3) Business income shall be apportioned to the enterprise zone
37 by multiplying the total California business income of the taxpayer
38 by a fraction, the numerator of which is the property factor plus
39 the payroll factor, and the denominator of which is two. For
40 purposes of this paragraph:

1 (A) The property factor is a fraction, the numerator of which is
 2 the average value of the taxpayer’s real and tangible personal
 3 property owned or rented and used in the enterprise zone during
 4 the taxable year, and the denominator of which is the average value
 5 of all the taxpayer’s real and tangible personal property owned or
 6 rented and used in this state during the taxable year.

7 (B) The payroll factor is a fraction, the numerator of which is
 8 the total amount paid by the taxpayer in the enterprise zone during
 9 the taxable year for compensation, and the denominator of which
 10 is the total compensation paid by the taxpayer in this state during
 11 the taxable year.

12 (4) The portion of any credit remaining, if any, after application
 13 of this subdivision, shall be carried over to succeeding taxable
 14 years, if necessary, until the credit is exhausted, as if it were an
 15 amount exceeding the “net tax” for the taxable year, as provided
 16 in subdivision (i). However, the portion of any credit remaining
 17 for carryover to taxable years beginning on or after January 1,
 18 2014, if any, after application of this subdivision, shall be carried
 19 over only to the succeeding 10 taxable years if necessary, until the
 20 credit is exhausted, as if it were an amount exceeding the “net tax”
 21 for the taxable year, as provided in subdivision (i).

22 (k) The changes made to this section by the act adding this
 23 subdivision apply to taxable years beginning on or after January
 24 1, 1997.

25 (l) (1) Except as provided in paragraph (2), this section shall
 26 cease to be operative on January 1, 2014, and shall be repealed on
 27 December 1, 2019. A credit shall not be allowed under this section
 28 with respect to an employee who first commences employment
 29 with a taxpayer on or after January 1, 2014.

30 (2) This section shall continue to apply with respect to qualified
 31 employees who are employed by the taxpayer within the enterprise
 32 zone within the 60-month period immediately preceding January
 33 1, 2014, and qualified wages paid or incurred with respect to those
 34 qualified employees shall continue to qualify for the credit under
 35 this section for taxable years beginning on or after January 1, 2014,
 36 in accordance with this section, as amended by the act adding this
 37 subdivision.

38 ~~SEC. 458.~~

39 *SEC. 465.* Section 17058 of the Revenue and Taxation Code
 40 is amended to read:

1 17058. (a) (1) There shall be allowed as a credit against the
2 “net tax” (as defined in Section 17039) a state low-income housing
3 credit in an amount equal to the amount determined in subdivision
4 (c), computed in accordance with the provisions of Section 42 of
5 the Internal Revenue Code, except as otherwise provided in this
6 section.

7 (2) “Taxpayer” for purposes of this section means the sole owner
8 in the case of an individual, the partners in the case of a partnership,
9 and the shareholders in the case of an “S” corporation.

10 (3) “Housing sponsor” for purposes of this section means the
11 sole owner in the case of an individual, the partnership in the case
12 of a partnership, and the “S” corporation in the case of an “S”
13 corporation.

14 (b) (1) The amount of the credit allocated to any housing
15 sponsor shall be authorized by the California Tax Credit Allocation
16 Committee, or any successor thereof, based on a project’s need
17 for the credit for economic feasibility in accordance with the
18 requirements of this section.

19 (A) The low-income housing project shall be located in
20 California and shall meet either of the following requirements:

21 (i) Except for projects to provide farmworker housing, as defined
22 in subdivision (h) of Section 50199.7 of the Health and Safety
23 Code, that are allocated credits solely under the set-aside described
24 in subdivision (c) of Section 50199.20 of the Health and Safety
25 Code, the project’s housing sponsor has been allocated by the
26 California Tax Credit Allocation Committee a credit for federal
27 income tax purposes under Section 42 of the Internal Revenue
28 Code.

29 (ii) It qualifies for a credit under Section 42(h)(4)(B) of the
30 Internal Revenue Code.

31 (B) The California Tax Credit Allocation Committee shall not
32 require fees for the credit under this section in addition to those
33 fees required for applications for the tax credit pursuant to Section
34 42 of the Internal Revenue Code. The committee may require a
35 fee if the application for the credit under this section is submitted
36 in a calendar year after the year the application is submitted for
37 the federal tax credit.

38 (C) (i) For a project that receives a preliminary reservation of
39 the state low-income housing tax credit, allowed pursuant to
40 subdivision (a), on or after January 1, 2009, and before January 1,

1 2016, the credit shall be allocated to the partners of a partnership
2 owning the project in accordance with the partnership agreement,
3 regardless of how the federal low-income housing tax credit with
4 respect to the project is allocated to the partners, or whether the
5 allocation of the credit under the terms of the agreement has
6 substantial economic effect, within the meaning of Section 704(b)
7 of the Internal Revenue Code.

8 (ii) To the extent the allocation of the credit to a partner under
9 this section lacks substantial economic effect, any loss or deduction
10 otherwise allowable under this part that is attributable to the sale
11 or other disposition of that partner's partnership interest made prior
12 to the expiration of the federal credit shall not be allowed in the
13 taxable year in which the sale or other disposition occurs, but shall
14 instead be deferred until and treated as if it occurred in the first
15 taxable year immediately following the taxable year in which the
16 federal credit period expires for the project described in clause (i).

17 (iii) This subparagraph does not apply to a project that receives
18 a preliminary reservation of state low-income housing tax credits
19 under the set-aside described in subdivision (c) of Section 50199.20
20 of the Health and Safety Code unless the project also receives a
21 preliminary reservation of federal low-income housing tax credits.

22 (iv) This subparagraph shall cease to be operative with respect
23 to any project that receives a preliminary reservation of a credit
24 on or after January 1, 2016.

25 (2) (A) The California Tax Credit Allocation Committee shall
26 certify to the housing sponsor the amount of tax credit under this
27 section allocated to the housing sponsor for each credit period.

28 (B) In the case of a partnership or an "S" corporation, the
29 housing sponsor shall provide a copy of the California Tax Credit
30 Allocation Committee certification to the taxpayer.

31 (C) The taxpayer shall, upon request, provide a copy of the
32 certification to the Franchise Tax Board.

33 (D) All elections made by the taxpayer pursuant to Section 42
34 of the Internal Revenue Code apply to this section.

35 (E) (i) Except as described in clause (ii), for buildings located
36 in designated difficult development areas (DDAs) or qualified
37 census tracts (QCTs), as defined in Section 42(d)(5)(B) of the
38 Internal Revenue Code, credits may be allocated under this section
39 in the amounts prescribed in subdivision (c), provided that the
40 amount of credit allocated under Section 42 of the Internal Revenue

1 Code is computed on 100 percent of the qualified basis of the
2 building.

3 (ii) Notwithstanding clause (i), the California Tax Credit
4 Allocation Committee may allocate the credit for buildings located
5 in DDAs or QCTs that are restricted to having 50 percent of its
6 occupants be special needs households, as defined in the California
7 Code of Regulations by the California Tax Credit Allocation
8 Committee, even if the taxpayer receives federal credits pursuant
9 to Section 42(d)(5)(B) of the Internal Revenue Code, provided
10 that the credit allowed under this section shall not exceed 30
11 percent of the eligible basis of the building.

12 (F) (i) The California Tax Credit Allocation Committee may
13 allocate a credit under this section in exchange for a credit allocated
14 pursuant to Section 42(d)(5)(B) of the Internal Revenue Code in
15 amounts up to 30 percent of the eligible basis of a building if the
16 credits allowed under Section 42 of the Internal Revenue Code are
17 reduced by an equivalent amount.

18 (ii) An equivalent amount shall be determined by the California
19 Tax Credit Allocation Committee based upon the relative amount
20 required to produce an equivalent state tax credit to the taxpayer.

21 (c) Section 42(b) of the Internal Revenue Code shall be modified
22 as follows:

23 (1) In the case of any qualified low-income building placed in
24 service by the housing sponsor during 1987, the term “applicable
25 percentage” means 9 percent for each of the first three years and
26 3 percent for the fourth year for new buildings (whether or not the
27 building is federally subsidized) and for existing buildings.

28 (2) In the case of any qualified low-income building that receives
29 an allocation after 1989 and is a new building not federally
30 subsidized, the term “applicable percentage” means the following:

31 (A) For each of the first three years, the percentage prescribed
32 by the Secretary of the Treasury for new buildings that are not
33 federally subsidized for the taxable year, determined in accordance
34 with the requirements of Section 42(b)(2) of the Internal Revenue
35 Code, in lieu of the percentage prescribed in Section 42(b)(1)(B)
36 of the Internal Revenue Code.

37 (B) For the fourth year, the difference between 30 percent and
38 the sum of the applicable percentages for the first three years.

39 (3) In the case of any qualified low-income building that receives
40 an allocation after 1989 and that is a new building that is federally

1 subsidized or that is an existing building that is “at risk of
2 conversion,” the term “applicable percentage” means the following:

3 (A) For each of the first three years, the percentage prescribed
4 by the Secretary of the Treasury for new buildings that are federally
5 subsidized for the taxable year.

6 (B) For the fourth year, the difference between 13 percent and
7 the sum of the applicable percentages for the first three years.

8 (4) For purposes of this section, the term “at risk of conversion,”
9 with respect to an existing property means a property that satisfies
10 all of the following criteria:

11 (A) The property is a multifamily rental housing development
12 in which at least 50 percent of the units receive governmental
13 assistance pursuant to any of the following:

14 (i) New construction, substantial rehabilitation, moderate
15 rehabilitation, property disposition, and loan management set-aside
16 programs, or any other program providing project-based assistance
17 pursuant to Section 8 of the United States Housing Act of 1937,
18 Section 1437f of Title 42 of the United States Code, as amended.

19 (ii) The Below-Market-Interest-Rate Program pursuant to
20 Section 221(d)(3) of the National Housing Act, Sections
21 1715l(d)(3) and (5) of Title 12 of the United States Code.

22 (iii) Section 236 of the National Housing Act, Section 1715z-1
23 of Title 12 of the United States Code.

24 (iv) Programs for rent supplement assistance pursuant to Section
25 101 of the Housing and Urban Development Act of 1965, Section
26 1701s of Title 12 of the United States Code, as amended.

27 (v) Programs pursuant to Section 515 of the Housing Act of
28 1949, Section 1485 of Title 42 of the United States Code, as
29 amended.

30 (vi) The low-income housing credit program set forth in Section
31 42 of the Internal Revenue Code.

32 (B) The restrictions on rent and income levels will terminate or
33 the federal insured mortgage on the property is eligible for
34 prepayment any time within five years before or after the date of
35 application to the California Tax Credit Allocation Committee.

36 (C) The entity acquiring the property enters into a regulatory
37 agreement that requires the property to be operated in accordance
38 with the requirements of this section for a period equal to the
39 greater of 55 years or the life of the property.

1 (D) The property satisfies the requirements of Section 42(e) of
2 the Internal Revenue Code regarding rehabilitation expenditures,
3 except that the provisions of Section 42(e)(3)(A)(ii)(I) do not apply.

4 (d) The term “qualified low-income housing project” as defined
5 in Section 42(c)(2) of the Internal Revenue Code is modified by
6 adding the following requirements:

7 (1) The taxpayer shall be entitled to receive a cash distribution
8 from the operations of the project, after funding required reserves,
9 that, at the election of the taxpayer, is equal to:

10 (A) An amount not to exceed 8 percent of the lesser of:

11 (i) The owner equity that shall include the amount of the capital
12 contributions actually paid to the housing sponsor and shall not
13 include any amounts until they are paid on an investor note.

14 (ii) Twenty percent of the adjusted basis of the building as of
15 the close of the first taxable year of the credit period.

16 (B) The amount of the cashflow from those units in the building
17 that are not low-income units. For purposes of computing cashflow
18 under this subparagraph, operating costs shall be allocated to the
19 low-income units using the “floor space fraction,” as defined in
20 Section 42 of the Internal Revenue Code.

21 (C) Any amount allowed to be distributed under subparagraph
22 (A) that is not available for distribution during the first five years
23 of the compliance period may be accumulated and distributed any
24 time during the first 15 years of the compliance period but not
25 thereafter.

26 (2) The limitation on return applies in the aggregate to the
27 partners if the housing sponsor is a partnership and in the aggregate
28 to the shareholders if the housing sponsor is an “S” corporation.

29 (3) The housing sponsor shall apply any cash available for
30 distribution in excess of the amount eligible to be distributed under
31 paragraph (1) to reduce the rent on rent-restricted units or to
32 increase the number of rent-restricted units subject to the tests of
33 Section 42(g)(1) of the Internal Revenue Code.

34 (e) The provisions of Section 42(f) of the Internal Revenue Code
35 shall be modified as follows:

36 (1) The term “credit period” as defined in Section 42(f)(1) of
37 the Internal Revenue Code is modified by substituting “four taxable
38 years” for “10 taxable years.”

1 (2) The special rule for the first taxable year of the credit period
2 under Section 42(f)(2) of the Internal Revenue Code does not apply
3 to the tax credit under this section.

4 (3) Section 42(f)(3) of the Internal Revenue Code is modified
5 to read:

6 If, as of the close of any taxable year in the compliance period,
7 after the first year of the credit period, the qualified basis of any
8 building exceeds the qualified basis of that building as of the close
9 of the first year of the credit period, the housing sponsor, to the
10 extent of its tax credit allocation, shall be eligible for a credit on
11 the excess in an amount equal to the applicable percentage
12 determined pursuant to subdivision (c) for the four-year period
13 beginning with the taxable year in which the increase in qualified
14 basis occurs.

15 (f) The provisions of Section 42(h) of the Internal Revenue
16 Code shall be modified as follows:

17 (1) Section 42(h)(2) of the Internal Revenue Code does not
18 apply and instead the following provisions apply:

19 The total amount for the four-year period of the housing credit
20 dollars allocated in a calendar year to any building shall reduce
21 the aggregate housing credit dollar amount of the California Tax
22 Credit Allocation Committee for the calendar year in which the
23 allocation is made.

24 (2) Paragraphs (3), (4), (5), (6)(E)(i)(II), (6)(F), (6)(G), (6)(I),
25 (7), and (8) of Section 42(h) of the Internal Revenue Code do not
26 apply to this section.

27 (g) The aggregate housing credit dollar amount that may be
28 allocated annually by the California Tax Credit Allocation
29 Committee pursuant to this section, Section 12206, and Section
30 23610.5 shall be an amount equal to the sum of all the following:

31 (1) Seventy million dollars (\$70,000,000) for the 2001 calendar
32 year, and, for the 2002 calendar year and each calendar year
33 thereafter, seventy million dollars (\$70,000,000) increased by the
34 percentage, if any, by which the Consumer Price Index for the
35 preceding calendar year exceeds the Consumer Price Index for the
36 2001 calendar year. For the purposes of this paragraph, the term
37 “Consumer Price Index” means the last Consumer Price Index for
38 All Urban Consumers published by the federal Department of
39 Labor.

1 (2) The unused housing credit ceiling, if any, for the preceding
2 calendar years.

3 (3) The amount of housing credit ceiling returned in the calendar
4 year. For purposes of this paragraph, the amount of housing credit
5 dollar amount returned in the calendar year equals the housing
6 credit dollar amount previously allocated to any project that does
7 not become a qualified low-income housing project within the
8 period required by this section or to any project with respect to
9 which an allocation is canceled by mutual consent of the California
10 Tax Credit Allocation Committee and the allocation recipient.

11 (4) Five hundred thousand dollars (\$500,000) per calendar year
12 for projects to provide farmworker housing, as defined in
13 subdivision (h) of Section 50199.7 of the Health and Safety Code.

14 (5) The amount of any unallocated or returned credits under
15 former Sections 17053.14, 23608.2, and 23608.3, as those sections
16 read prior to January 1, 2009, until fully exhausted for projects to
17 provide farmworker housing, as defined in subdivision (h) of
18 Section 50199.7 of the Health and Safety Code.

19 (h) The term “compliance period” as defined in Section 42(i)(1)
20 of the Internal Revenue Code is modified to mean, with respect to
21 any building, the period of 30 consecutive taxable years beginning
22 with the first taxable year of the credit period with respect thereto.

23 (i) Section 42(j) of the Internal Revenue Code does not apply
24 and the following requirements of this section shall be set forth in
25 a regulatory agreement between the California Tax Credit
26 Allocation Committee and the housing sponsor, which agreement
27 shall be subordinated, when required, to any lien or encumbrance
28 of any banks or other institutional lenders to the project. The
29 regulatory agreement entered into pursuant to subdivision (f) of
30 Section 50199.14 of the Health and Safety Code shall apply,
31 provided that the agreement includes all of the following
32 provisions:

33 (1) A term not less than the compliance period.

34 (2) A requirement that the agreement be recorded in the official
35 records of the county in which the qualified low-income housing
36 project is located.

37 (3) A provision stating which state and local agencies can
38 enforce the regulatory agreement in the event the housing sponsor
39 fails to satisfy any of the requirements of this section.

1 (4) A provision that the regulatory agreement shall be deemed
2 a contract enforceable by tenants as third-party beneficiaries thereto
3 and that allows individuals, whether prospective, present, or former
4 occupants of the building, who meet the income limitation
5 applicable to the building, the right to enforce the regulatory
6 agreement in any state court.

7 (5) A provision incorporating the requirements of Section 42
8 of the Internal Revenue Code as modified by this section.

9 (6) A requirement that the housing sponsor notify the California
10 Tax Credit Allocation Committee or its designee if there is a
11 determination by the Internal Revenue Service that the project is
12 not in compliance with Section 42(g) of the Internal Revenue Code.

13 (7) A requirement that the housing sponsor, as security for the
14 performance of the housing sponsor's obligations under the
15 regulatory agreement, assign the housing sponsor's interest in rents
16 that it receives from the project, provided that until there is a
17 default under the regulatory agreement, the housing sponsor is
18 entitled to collect and retain the rents.

19 (8) The remedies available in the event of a default under the
20 regulatory agreement that is not cured within a reasonable cure
21 period, include, but are not limited to, allowing any of the parties
22 designated to enforce the regulatory agreement to collect all rents
23 with respect to the project; taking possession of the project and
24 operating the project in accordance with the regulatory agreement
25 until the enforcer determines the housing sponsor is in a position
26 to operate the project in accordance with the regulatory agreement;
27 applying to any court for specific performance; securing the
28 appointment of a receiver to operate the project; or any other relief
29 as may be appropriate.

30 (j) (1) The committee shall allocate the housing credit on a
31 regular basis consisting of two or more periods in each calendar
32 year during which applications may be filed and considered. The
33 committee shall establish application filing deadlines, the maximum
34 percentage of federal and state low-income housing tax credit
35 ceiling that may be allocated by the committee in that period, and
36 the approximate date on which allocations shall be made. If the
37 enactment of federal or state law, the adoption of rules or
38 regulations, or other similar events prevent the use of two allocation
39 periods, the committee may reduce the number of periods and

1 adjust the filing deadlines, maximum percentage of credit allocated,
2 and the allocation dates.

3 (2) The committee shall adopt a qualified allocation plan, as
4 provided in Section 42(m)(1) of the Internal Revenue Code. In
5 adopting this plan, the committee shall comply with the provisions
6 of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue
7 Code.

8 (3) Notwithstanding Section 42(m) of the Internal Revenue
9 Code, the California Tax Credit Allocation Committee shall
10 allocate housing credits in accordance with the qualified allocation
11 plan and regulations, which shall include the following provisions:

12 (A) All housing sponsors, as defined by paragraph (3) of
13 subdivision (a), shall demonstrate at the time the application is
14 filed with the committee that the project meets the following
15 threshold requirements:

16 (i) The housing sponsor shall demonstrate there is a need and
17 demand for low-income housing in the community or region for
18 which it is proposed.

19 (ii) The project's proposed financing, including tax credit
20 proceeds, shall be sufficient to complete the project and that the
21 proposed operating income shall be adequate to operate the project
22 for the extended use period.

23 (iii) The project shall have enforceable financing commitments,
24 either construction or permanent financing, for at least 50 percent
25 of the total estimated financing of the project.

26 (iv) The housing sponsor shall have and maintain control of the
27 site for the project.

28 (v) The housing sponsor shall demonstrate that the project
29 complies with all applicable local land use and zoning ordinances.

30 (vi) The housing sponsor shall demonstrate that the project
31 development team has the experience and the financial capacity
32 to ensure project completion and operation for the extended use
33 period.

34 (vii) The housing sponsor shall demonstrate the amount of tax
35 credit that is necessary for the financial feasibility of the project
36 and its viability as a qualified low-income housing project
37 throughout the extended use period, taking into account operating
38 expenses, a supportable debt service, reserves, funds set aside for
39 rental subsidies and required equity, and a development fee that
40 does not exceed a specified percentage of the eligible basis of the

1 project prior to inclusion of the development fee in the eligible
 2 basis, as determined by the committee.

3 (B) The committee shall give a preference to those projects
 4 satisfying all of the threshold requirements of subparagraph (A)
 5 if both of the following apply:

6 (i) The project serves the lowest income tenants at rents
 7 affordable to those tenants.

8 (ii) The project is obligated to serve qualified tenants for the
 9 longest period.

10 (C) In addition to the provisions of subparagraphs (A) and (B),
 11 the committee shall use the following criteria in allocating housing
 12 credits:

13 (i) Projects serving large families in which a substantial number,
 14 as defined by the committee, of all residential units is comprised
 15 of low-income units with three and more bedrooms.

16 (ii) Projects providing single-room occupancy units serving
 17 very low income tenants.

18 (iii) Existing projects that are “at risk of conversion,” as defined
 19 by paragraph (4) of subdivision (c).

20 (iv) Projects for which a public agency provides direct or indirect
 21 long-term financial support for at least 15 percent of the total
 22 project development costs or projects for which the owner’s equity
 23 constitutes at least 30 percent of the total project development
 24 costs.

25 (v) Projects that provide tenant amenities not generally available
 26 to residents of low-income housing projects.

27 (4) For purposes of allocating credits pursuant to this section,
 28 the committee shall not give preference to any project by virtue
 29 of the date of submission of its application.

30 (k) Section 42(l) of the Internal Revenue Code shall be modified
 31 as follows:

32 The term “secretary” shall be replaced by the term “California
 33 Franchise Tax Board.”

34 (l) In the case in which the credit allowed under this section
 35 exceeds the net tax, the excess credit may be carried over to reduce
 36 the net tax in the following year, and succeeding taxable years, if
 37 necessary, until the credit has been exhausted.

38 (m) A project that received an allocation of a 1989 federal
 39 housing credit dollar amount shall be eligible to receive an

1 allocation of a 1990 state housing credit dollar amount, subject to
2 all of the following conditions:

3 (1) The project was not placed in service prior to 1990.

4 (2) To the extent the amendments made to this section by the
5 Statutes of 1990 conflict with any provisions existing in this section
6 prior to those amendments, the prior provisions of law shall prevail.

7 (3) Notwithstanding paragraph (2), a project applying for an
8 allocation under this subdivision is subject to the requirements of
9 paragraph (3) of subdivision (j).

10 (n) The credit period with respect to an allocation of credit in
11 1989 by the California Tax Credit Allocation Committee of which
12 any amount is attributable to unallocated credit from 1987 or 1988
13 shall not begin until after December 31, 1989.

14 (o) The provisions of Section 11407(a) of Public Law 101-508,
15 relating to the effective date of the extension of the low-income
16 housing credit, apply to calendar years after 1989.

17 (p) The provisions of Section 11407(c) of Public Law 101-508,
18 relating to election to accelerate credit, do not apply.

19 (q) The amendments to this section made by the act adding this
20 subdivision apply only to taxable years beginning on or after
21 January 1, 1994.

22 (r) This section shall remain in effect on and after December 1,
23 1990, for as long as Section 42 of the Internal Revenue Code,
24 relating to low-income housing credits, remains in effect. Any
25 unused credit may continue to be carried forward, as provided in
26 subdivision (l), until the credit has been exhausted.

27 ~~SEC. 459.~~

28 *SEC. 466.* Section 17132.6 of the Revenue and Taxation Code
29 is repealed.

30 ~~SEC. 460.~~

31 *SEC. 467.* Section 17141 of the Revenue and Taxation Code,
32 as added by Section 1 of Chapter 439 of the Statutes of 2013, is
33 amended and renumbered to read:

34 17141.3. (a) Gross income shall not include any amount
35 received by an employee from an employer to compensate for the
36 additional federal income tax liability incurred by the employee
37 because, for federal income tax purposes, the same-sex spouse or
38 domestic partner of the employee is not considered the spouse of
39 the employee under Section 105(a) or Section 106(a) of the Internal

1 Revenue Code, including any compensation for the additional
2 federal income tax liability incurred with respect to those amounts.

3 (b) This section shall remain in effect only until January 1, 2019,
4 and as of that date is repealed.

5 ~~SEC. 461.~~

6 *SEC. 468.* Section 17155 of the Revenue and Taxation Code,
7 as added by Section 2 of Chapter 28 of the Statutes of 1996, is
8 repealed.

9 ~~SEC. 462.~~

10 *SEC. 469.* Section 17207.7 of the Revenue and Taxation Code
11 is amended to read:

12 17207.7. (a) An excess disaster loss, as defined in subdivision
13 (c), shall be carried to other taxable years as provided in
14 subdivision (b), with respect to losses sustained in the County of
15 Mendocino as a result of the tsunami that occurred in March 2011.

16 (b) (1) In the case of any loss allowed under Section 165(c) of
17 the Internal Revenue Code, relating to limitation of losses of
18 individuals, any excess disaster loss shall be carried forward to
19 each of the five taxable years following the taxable year for which
20 the loss is claimed. However, if there is any excess disaster loss
21 remaining after the five-year period, then the applicable percentage,
22 as set forth in paragraph (1) of subdivision (b) of Section 17276,
23 of that excess disaster loss shall be carried forward to each of the
24 next 10 taxable years.

25 (2) The entire amount of any excess disaster loss as defined in
26 subdivision (c) shall be carried to the earliest of the taxable years
27 to which, by reason of subdivision (b), the loss may be carried.
28 The portion of the loss which shall be carried to each of the other
29 taxable years shall be the excess, if any, of the amount of excess
30 disaster loss over the sum of the adjusted taxable income for each
31 of the prior taxable years to which that excess disaster loss is
32 carried.

33 (c) "Excess disaster loss" means a disaster loss computed
34 pursuant to Section 165 of the Internal Revenue Code which
35 exceeds the adjusted taxable income of the year of loss or, if the
36 election under Section 165(i) of the Internal Revenue Code is
37 made, the adjusted taxable income of the year preceding the loss.

38 (d) This section and Section 165(i) of the Internal Revenue Code
39 apply to any of the losses listed in subdivision (a) sustained in any

1 county or city in this state which was proclaimed by the Governor
2 to be in a state of disaster.

3 (e) Losses allowable under this section shall not be taken into
4 account in computing a net operating loss deduction under Section
5 172 of the Internal Revenue Code.

6 (f) For purposes of this section, “adjusted taxable income” shall
7 be defined by Section 1212(b)(2)(B) of the Internal Revenue Code.

8 (g) For losses described in subdivision (a), the election under
9 Section 165(i) of the Internal Revenue Code may be made on a
10 return or amended return filed on or before the due date of the
11 return (determined with regard to extension) for the taxable year
12 in which the disaster occurred.

13 ~~SEC. 463.~~

14 *SEC. 470.* Section 17207.8 of the Revenue and Taxation Code
15 is amended to read:

16 17207.8. (a) An excess disaster loss, as defined in subdivision
17 (c), shall be carried to other taxable years as provided in
18 subdivision (b), with respect to losses sustained in the County of
19 San Mateo as a result of the explosion and fire that occurred in
20 September 2010.

21 (b) (1) In the case of any loss allowed under Section 165(c) of
22 the Internal Revenue Code, relating to limitation of losses of
23 individuals, any excess disaster loss shall be carried forward to
24 each of the five taxable years following the taxable year for which
25 the loss is claimed. However, if there is any excess disaster loss
26 remaining after the five-year period, then the applicable percentage,
27 as set forth in paragraph (1) of subdivision (b) of Section 17276,
28 of that excess disaster loss shall be carried forward to each of the
29 next 10 taxable years.

30 (2) The entire amount of any excess disaster loss as defined in
31 subdivision (c) shall be carried to the earliest of the taxable years
32 to which, by reason of subdivision (b), the loss may be carried.
33 The portion of the loss which shall be carried to each of the other
34 taxable years shall be the excess, if any, of the amount of excess
35 disaster loss over the sum of the adjusted taxable income for each
36 of the prior taxable years to which that excess disaster loss is
37 carried.

38 (c) “Excess disaster loss” means a disaster loss computed
39 pursuant to Section 165 of the Internal Revenue Code which
40 exceeds the adjusted taxable income of the year of loss or, if the

1 election under Section 165(i) of the Internal Revenue Code is
2 made, the adjusted taxable income of the year preceding the loss.

3 (d) This section and Section 165(i) of the Internal Revenue Code
4 apply to any of the losses listed in subdivision (a) sustained in any
5 county or city in this state which was proclaimed by the Governor
6 to be in a state of disaster.

7 (e) Losses allowable under this section shall not be taken into
8 account in computing a net operating loss deduction under Section
9 172 of the Internal Revenue Code.

10 (f) For purposes of this section, “adjusted taxable income” shall
11 be defined by Section 1212(b)(2)(B) of the Internal Revenue Code.

12 (g) For losses described in subdivision (a), the election under
13 Section 165(i) of the Internal Revenue Code may be made on a
14 return or amended return filed on or before the due date of the
15 return (determined with regard to extension) for the taxable year
16 in which the disaster occurred.

17 ~~SEC. 464.~~

18 *SEC. 471.* Section 17276.20 of the Revenue and Taxation Code
19 is amended and renumbered to read:

20 17276. Except as provided in Sections 17276.1, 17276.2,
21 17276.4, 17276.5, 17276.6, and 17276.7, the deduction provided
22 by Section 172 of the Internal Revenue Code, relating to net
23 operating loss deduction, shall be modified as follows:

24 (a) (1) Net operating losses attributable to taxable years
25 beginning before January 1, 1987, shall not be allowed.

26 (2) A net operating loss shall not be carried forward to any
27 taxable year beginning before January 1, 1987.

28 (b) (1) Except as provided in paragraphs (2) and (3), the
29 provisions of Section 172(b)(2) of the Internal Revenue Code,
30 relating to amount of carrybacks and carryovers, shall be modified
31 so that the applicable percentage of the entire amount of the net
32 operating loss for any taxable year shall be eligible for carryover
33 to any subsequent taxable year. For purposes of this subdivision,
34 the applicable percentage shall be:

35 (A) Fifty percent for any taxable year beginning before January
36 1, 2000.

37 (B) Fifty-five percent for any taxable year beginning on or after
38 January 1, 2000, and before January 1, 2002.

39 (C) Sixty percent for any taxable year beginning on or after
40 January 1, 2002, and before January 1, 2004.

1 (D) One hundred percent for any taxable year beginning on or
2 after January 1, 2004.

3 (2) In the case of a taxpayer who has a net operating loss in any
4 taxable year beginning on or after January 1, 1994, and who
5 operates a new business during that taxable year, each of the
6 following shall apply to each loss incurred during the first three
7 taxable years of operating the new business:

8 (A) If the net operating loss is equal to or less than the net loss
9 from the new business, 100 percent of the net operating loss shall
10 be carried forward as provided in subdivision (d).

11 (B) If the net operating loss is greater than the net loss from the
12 new business, the net operating loss shall be carried over as
13 follows:

14 (i) With respect to an amount equal to the net loss from the new
15 business, 100 percent of that amount shall be carried forward as
16 provided in subdivision (d).

17 (ii) With respect to the portion of the net operating loss that
18 exceeds the net loss from the new business, the applicable
19 percentage of that amount shall be carried forward as provided in
20 subdivision (d).

21 (C) For purposes of Section 172(b)(2) of the Internal Revenue
22 Code, the amount described in clause (ii) of subparagraph (B) shall
23 be absorbed before the amount described in clause (i) of
24 subparagraph (B).

25 (3) In the case of a taxpayer who has a net operating loss in any
26 taxable year beginning on or after January 1, 1994, and who
27 operates an eligible small business during that taxable year, each
28 of the following shall apply:

29 (A) If the net operating loss is equal to or less than the net loss
30 from the eligible small business, 100 percent of the net operating
31 loss shall be carried forward to the taxable years specified in
32 subdivision (d).

33 (B) If the net operating loss is greater than the net loss from the
34 eligible small business, the net operating loss shall be carried over
35 as follows:

36 (i) With respect to an amount equal to the net loss from the
37 eligible small business, 100 percent of that amount shall be carried
38 forward as provided in subdivision (d).

39 (ii) With respect to that portion of the net operating loss that
40 exceeds the net loss from the eligible small business, the applicable

1 percentage of that amount shall be carried forward as provided in
2 subdivision (d).

3 (C) For purposes of Section 172(b)(2) of the Internal Revenue
4 Code, the amount described in clause (ii) of subparagraph (B) shall
5 be absorbed before the amount described in clause (i) of
6 subparagraph (B).

7 (4) In the case of a taxpayer who has a net operating loss in a
8 taxable year beginning on or after January 1, 1994, and who
9 operates a business that qualifies as both a new business and an
10 eligible small business under this section, that business shall be
11 treated as a new business for the first three taxable years of the
12 new business.

13 (5) In the case of a taxpayer who has a net operating loss in a
14 taxable year beginning on or after January 1, 1994, and who
15 operates more than one business, and more than one of those
16 businesses qualifies as either a new business or an eligible small
17 business under this section, paragraph (2) shall be applied first,
18 except that if there is any remaining portion of the net operating
19 loss after application of clause (i) of subparagraph (B) of that
20 paragraph, paragraph (3) shall be applied to the remaining portion
21 of the net operating loss as though that remaining portion of the
22 net operating loss constituted the entire net operating loss.

23 (6) For purposes of this section, the term “net loss” means the
24 amount of net loss after application of Sections 465 and 469 of the
25 Internal Revenue Code.

26 (c) Section 172(b)(1) of the Internal Revenue Code, relating to
27 years to which the loss may be carried, is modified as follows:

28 (1) Net operating loss carrybacks shall not be allowed for any
29 net operating losses attributable to taxable years beginning before
30 January 1, 2013.

31 (2) A net operating loss attributable to taxable years beginning
32 on or after January 1, 2013, shall be a net operating loss carryback
33 to each of the two taxable years preceding the taxable year of the
34 loss in lieu of the number of years provided therein.

35 (A) For a net operating loss attributable to a taxable year
36 beginning on or after January 1, 2013, and before January 1, 2014,
37 the amount of carryback to any taxable year shall not exceed 50
38 percent of the net operating loss.

39 (B) For a net operating loss attributable to a taxable year
40 beginning on or after January 1, 2014, and before January 1, 2015,

1 the amount of carryback to any taxable year shall not exceed 75
2 percent of the net operating loss.

3 (C) For a net operating loss attributable to a taxable year
4 beginning on or after January 1, 2015, the amount of carryback to
5 any taxable year shall not exceed 100 percent of the net operating
6 loss.

7 (3) Notwithstanding paragraph (2), Section 172(b)(1)(B) of the
8 Internal Revenue Code, relating to special rules for REITs, and
9 Section 172(b)(1)(E) of the Internal Revenue Code, relating to
10 excess interest loss, and Section 172(h) of the Internal Revenue
11 Code, relating to corporate equity reduction interest losses, shall
12 apply as provided.

13 (4) A net operating loss carryback shall not be carried back to
14 any taxable year beginning before January 1, 2011.

15 (d) (1) (A) For a net operating loss for any taxable year
16 beginning on or after January 1, 1987, and before January 1, 2000,
17 Section 172(b)(1)(A)(ii) of the Internal Revenue Code is modified
18 to substitute “five taxable years” in lieu of “20 taxable years”
19 except as otherwise provided in paragraphs (2) and (3).

20 (B) For a net operating loss for any taxable year beginning on
21 or after January 1, 2000, and before January 1, 2008, Section
22 172(b)(1)(A)(ii) of the Internal Revenue Code is modified to
23 substitute “10 taxable years” in lieu of “20 taxable years.”

24 (2) For any taxable year beginning before January 1, 2000, in
25 the case of a “new business,” the “five taxable years” in paragraph
26 (1) shall be modified to read as follows:

27 (A) “Eight taxable years” for a net operating loss attributable
28 to the first taxable year of that new business.

29 (B) “Seven taxable years” for a net operating loss attributable
30 to the second taxable year of that new business.

31 (C) “Six taxable years” for a net operating loss attributable to
32 the third taxable year of that new business.

33 (3) For any carryover of a net operating loss for which a
34 deduction is denied by Section 17276.3, the carryover period
35 specified in this subdivision shall be extended as follows:

36 (A) By one year for a net operating loss attributable to taxable
37 years beginning in 1991.

38 (B) By two years for a net operating loss attributable to taxable
39 years beginning prior to January 1, 1991.

1 (4) The net operating loss attributable to taxable years beginning
2 on or after January 1, 1987, and before January 1, 1994, shall be
3 a net operating loss carryover to each of the 10 taxable years
4 following the year of the loss if it is incurred by a taxpayer that is
5 under the jurisdiction of the court in a Title 11 or similar case at
6 any time during the income year. The loss carryover provided in
7 the preceding sentence shall not apply to any loss incurred after
8 the date the taxpayer is no longer under the jurisdiction of the court
9 in a Title 11 or similar case.

10 (e) For purposes of this section:

11 (1) “Eligible small business” means any trade or business that
12 has gross receipts, less returns and allowances, of less than one
13 million dollars (\$1,000,000) during the taxable year.

14 (2) Except as provided in subdivision (f), “new business” means
15 any trade or business activity that is first commenced in this state
16 on or after January 1, 1994.

17 (3) “Title 11 or similar case” shall have the same meaning as
18 in Section 368(a)(3) of the Internal Revenue Code.

19 (4) In the case of any trade or business activity conducted by a
20 partnership or “S” corporation paragraphs (1) and (2) shall be
21 applied to the partnership or “S” corporation.

22 (f) For purposes of this section, in determining whether a trade
23 or business activity qualifies as a new business under paragraph
24 (2) of subdivision (e), the following rules apply:

25 (1) In any case where a taxpayer purchases or otherwise acquires
26 all or any portion of the assets of an existing trade or business
27 (irrespective of the form of entity) that is doing business in this
28 state (within the meaning of Section 23101), the trade or business
29 thereafter conducted by the taxpayer (or any related person) shall
30 not be treated as a new business if the aggregate fair market value
31 of the acquired assets (including real, personal, tangible, and
32 intangible property) used by the taxpayer (or any related person)
33 in the conduct of its trade or business exceeds 20 percent of the
34 aggregate fair market value of the total assets of the trade or
35 business being conducted by the taxpayer (or any related person).
36 For purposes of this paragraph only, the following rules apply:

37 (A) The determination of the relative fair market values of the
38 acquired assets and the total assets shall be made as of the last day
39 of the first taxable year in which the taxpayer (or any related

1 person) first uses any of the acquired trade or business assets in
2 its business activity.

3 (B) Acquired assets that constituted property described in
4 Section 1221(a)(1) of the Internal Revenue Code in the hands of
5 the transferor shall not be treated as assets acquired from an
6 existing trade or business, unless those assets also constitute
7 property described in Section 1221(a)(1) of the Internal Revenue
8 Code in the hands of the acquiring taxpayer (or related person).

9 (2) In a case in which a taxpayer (or any related person) is
10 engaged in one or more trade or business activities in this state, or
11 has been engaged in one or more trade or business activities in this
12 state within the preceding 36 months (“prior trade or business
13 activity”), and thereafter commences an additional trade or business
14 activity in this state, the additional trade or business activity shall
15 only be treated as a new business if the additional trade or business
16 activity is classified under a different division of the Standard
17 Industrial Classification (SIC) Manual published by the United
18 States Office of Management and Budget, 1987 edition, than are
19 any of the taxpayer’s (or any related person’s) current or prior
20 trade or business activities.

21 (3) In a case in which a taxpayer, including all related persons,
22 is engaged in trade or business activities wholly outside of this
23 state and the taxpayer first commences doing business in this state
24 (within the meaning of Section 23101) after December 31, 1993
25 (other than by purchase or other acquisition described in paragraph
26 (1)), the trade or business activity shall be treated as a new business
27 under paragraph (2) of subdivision (e).

28 (4) In a case in which the legal form under which a trade or
29 business activity is being conducted is changed, the change in form
30 shall be disregarded and the determination of whether the trade or
31 business activity is a new business shall be made by treating the
32 taxpayer as having purchased or otherwise acquired all or any
33 portion of the assets of an existing trade or business under the rules
34 of paragraph (1).

35 (5) “Related person” shall mean any person that is related to
36 the taxpayer under either Section 267 or 318 of the Internal
37 Revenue Code.

38 (6) “Acquire” shall include any gift, inheritance, transfer incident
39 to divorce, or any other transfer, whether or not for consideration.

1 (7) (A) For taxable years beginning on or after January 1, 1997,
2 the term “new business” shall include any taxpayer that is engaged
3 in biopharmaceutical activities or other biotechnology activities
4 that are described in Codes 2833 to 2836, inclusive, of the Standard
5 Industrial Classification (SIC) Manual published by the United
6 States Office of Management and Budget, 1987 edition, and as
7 further amended, and that has not received regulatory approval for
8 any product from the Food and Drug Administration.

9 (B) For purposes of this paragraph:

10 (i) “Biopharmaceutical activities” means those activities that
11 use organisms or materials derived from organisms, and their
12 cellular, subcellular, or molecular components, in order to provide
13 pharmaceutical products for human or animal therapeutics and
14 diagnostics. Biopharmaceutical activities make use of living
15 organisms to make commercial products, as opposed to
16 pharmaceutical activities that make use of chemical compounds
17 to produce commercial products.

18 (ii) “Other biotechnology activities” means activities consisting
19 of the application of recombinant DNA technology to produce
20 commercial products, as well as activities regarding pharmaceutical
21 delivery systems designed to provide a measure of control over
22 the rate, duration, and site of pharmaceutical delivery.

23 (g) In computing the modifications under Section 172(d)(2) of
24 the Internal Revenue Code, relating to capital gains and losses of
25 taxpayers other than corporations, the exclusion provided by
26 Section 18152.5 shall not be allowed.

27 (h) Notwithstanding any provisions of this section to the
28 contrary, a deduction shall be allowed to a “qualified taxpayer” as
29 provided in Sections 17276.1, 17276.2, 17276.4, 17276.5, 17276.6,
30 and 17276.7.

31 (i) The Franchise Tax Board may prescribe appropriate
32 regulations to carry out the purposes of this section, including any
33 regulations necessary to prevent the avoidance of the purposes of
34 this section through splitups, shell corporations, partnerships, tiered
35 ownership structures, or otherwise.

36 (j) The Franchise Tax Board may reclassify any net operating
37 loss carryover determined under either paragraph (2) or (3) of
38 subdivision (b) as a net operating loss carryover under paragraph
39 (1) of subdivision (b) upon a showing that the reclassification is
40 necessary to prevent evasion of the purposes of this section.

1 (k) Except as otherwise provided, the amendments made by
2 Chapter 107 of the Statutes of 2000 apply to net operating losses
3 for taxable years beginning on or after January 1, 2000.

4 ~~SEC. 465.~~

5 *SEC. 472.* Section 17276.21 of the Revenue and Taxation Code
6 is amended to read:

7 17276.21. (a) Notwithstanding Sections 17276, 17276.1,
8 17276.2, 17276.4, 17276.5, 17276.6, and 17276.7 of this code and
9 Section 172 of the Internal Revenue Code, no net operating loss
10 deduction shall be allowed for any taxable year beginning on or
11 after January 1, 2008, and before January 1, 2012.

12 (b) For any net operating loss or carryover of a net operating
13 loss for which a deduction is denied by subdivision (a), the
14 carryover period under Section 172 of the Internal Revenue Code
15 shall be extended as follows:

16 (1) By one year, for losses incurred in taxable years beginning
17 on or after January 1, 2010, and before January 1, 2011.

18 (2) By two years, for losses incurred in taxable years beginning
19 on or after January 1, 2009, and before January 1, 2010.

20 (3) By three years, for losses incurred in taxable years beginning
21 on or after January 1, 2008, and before January 1, 2009.

22 (4) By four years, for losses incurred in taxable years beginning
23 before January 1, 2008.

24 (c) Notwithstanding subdivision (a), a net operating loss
25 deduction shall be allowed for carryback of a net operating loss
26 attributable to a taxable year beginning on or after January 1, 2013.

27 (d) The provisions of this section do not apply to the following
28 taxpayers:

29 (1) For a taxable year beginning on or after January 1, 2008,
30 and before January 1, 2010, this section does not apply to a
31 taxpayer with net business income of less than five hundred
32 thousand dollars (\$500,000) for the taxable year. For purposes of
33 this paragraph, business income means:

34 (A) Income from a trade or business, whether conducted by the
35 taxpayer or by a passthrough entity owned directly or indirectly
36 by the taxpayer. For purposes of this paragraph, the term
37 “passthrough entity” means a partnership or an “S” corporation.

38 (B) Income from rental activity.

39 (C) Income attributable to a farming business.

1 (2) For a taxable year beginning on or after January 1, 2010,
2 and before January 1, 2012, this section does not apply to a
3 taxpayer with modified adjusted gross income of less than three
4 hundred thousand dollars (\$300,000) for the taxable year. For
5 purposes of this paragraph, “modified adjusted gross income”
6 means the amount described in paragraph (2) of subdivision (h)
7 of Section 17024.5, determined without regard to the deduction
8 allowed under Section 172 of the Internal Revenue Code, relating
9 to net operating loss deduction.

10 ~~SEC. 466.~~

11 *SEC. 473.* Section 17507.6 of the Revenue and Taxation Code
12 is repealed.

13 ~~SEC. 467.~~

14 *SEC. 474.* Section 17565 of the Revenue and Taxation Code,
15 as added by Chapter 362 of the Statutes of 1989, is repealed.

16 ~~SEC. 468.~~

17 *SEC. 475.* The heading of Chapter 10.5 (commencing with
18 Section 17940) of Part 10 of Division 2 of the Revenue and
19 Taxation Code, as added by Section 1 of Chapter 339 of the
20 Statutes of 1987, is repealed.

21 ~~SEC. 469.~~

22 *SEC. 476.* Section 18407 of the Revenue and Taxation Code,
23 as amended by Section 326 of Chapter 183 of the Statutes of 2004,
24 is repealed.

25 ~~SEC. 470.~~

26 *SEC. 477.* Section 18805 of the Revenue and Taxation Code
27 is amended to read:

28 18805. (a) A taxpayer may designate on the tax return that a
29 contribution in excess of the tax liability, if any, be made to the
30 California Peace Officer Memorial Foundation Fund, which is
31 established by Section 18806. That designation is to be used as a
32 voluntary checkoff on the tax return.

33 (b) The contributions shall be in full dollar amounts and may
34 be made individually by each signatory on the joint return.

35 (c) A designation shall be made for any taxable year on the
36 initial return for that taxable year, and once made shall be
37 irrevocable. In the event that payments and credits reported on the
38 return, together with any other credits associated with the
39 taxpayer’s account, do not exceed the taxpayer’s liability, the return
40 shall be treated as though no designation has been made. In the

1 event that no designee is specified, the contribution shall be
2 transferred to the General Fund, after reimbursement of the direct
3 actual costs of the Franchise Tax Board for the collection and the
4 administration of funds under this article.

5 (d) In the event a taxpayer designates a contribution to more
6 than one account or fund listed on the tax return, and the amount
7 available for designation is insufficient to satisfy the total amount
8 designated, the contribution shall be allocated among the designees
9 on a pro rata basis.

10 (e) The Franchise Tax Board shall revise the forms of the return
11 to include a space labeled the “California Peace Officer Memorial
12 Foundation Fund” to allow for the designation permitted. The
13 forms shall also include in the instructions information that the
14 contribution may be in the amount of one dollar (\$1) or more and
15 that the contribution shall be used to build and maintain the
16 California Peace Officers’ Memorial in Sacramento, California,
17 and for activities performed by the California Peace Officers’
18 Memorial Foundation in support of families of slain peace officers.

19 (f) A deduction shall be allowed under Article 6 (commencing
20 with Section 17201) of Chapter 3 for any contribution made
21 pursuant to subdivision (a).

22 ~~SEC. 471.~~

23 *SEC. 478.* Section 18807 of the Revenue and Taxation Code
24 is amended to read:

25 18807. All money transferred to the California Peace Officer
26 Memorial Foundation Fund, upon appropriation by the Legislature,
27 shall be allocated as follows:

28 (a) To the Franchise Tax Board and the Controller for
29 reimbursement of all costs incurred by the Franchise Tax Board
30 and the Controller in connection with their duties under this article.

31 (b) To the Department of the California Highway Patrol for
32 allocation to the California Peace Officers’ Memorial Commission
33 for building and maintaining the California Peace Officers’
34 Memorial in Sacramento, California, and for activities performed
35 by the California Peace Officer Memorial Foundation in support
36 of families of slain peace officers.

37 (c) All money transferred to the California Peace Officer
38 Memorial Foundation Fund prior to the enactment of the act adding
39 this subdivision is hereby appropriated for allocation as described
40 in subdivisions (a) and (b).

1 ~~SEC. 472.~~

2 SEC. 479. Section 18808 of the Revenue and Taxation Code
3 is amended to read:

4 18808. (a) This article shall remain in effect only until January
5 1, 2021, and as of that date is repealed, unless a later enacted
6 statute, which is enacted before January 1, 2021, deletes that date.

7 (b) If the repeal date specified in subdivision (a) has been
8 deleted, all of the following apply:

9 (1) By September 1 of the calendar year beginning after the
10 effective date of the act deleting the repeal date and by September
11 1 of each subsequent calendar year that the California Peace
12 Officers’ Memorial Foundation Fund appears on a tax return, the
13 Franchise Tax Board shall do all of the following:

14 (A) Determine the minimum contribution amount required to
15 be received during the next calendar year for the fund to appear
16 on the tax return for the taxable year that includes that next calendar
17 year.

18 (B) Provide written notification to the California Peace Officer
19 Memorial Commission of the amount determined in subparagraph
20 (A).

21 (C) Determine whether the amount of contributions estimated
22 to be received during the calendar year will equal or exceed the
23 minimum contribution amount determined by the Franchise Tax
24 Board for the calendar year pursuant to subparagraph (A). The
25 Franchise Tax Board shall estimate the amount of contributions
26 to be received by using the actual amounts received and an estimate
27 of the contributions that will be received by the end of that calendar
28 year.

29 (2) If the Franchise Tax Board determines that the amount of
30 contributions estimated to be received during a calendar year will
31 not at least equal the minimum contribution amount for the calendar
32 year, this article is repealed with respect to taxable years beginning
33 on or after January 1 of that calendar year.

34 (3) For purposes of this section, the minimum contribution
35 amount for a calendar year means two hundred fifty thousand
36 dollars (\$250,000) for the first calendar year beginning after the
37 effective date of the act that deleted the repeal date specified in
38 subdivision (a), or the minimum contribution amount adjusted
39 pursuant to subdivision (c).

1 (c) For each calendar year, beginning with calendar year 2005,
2 the Franchise Tax Board shall adjust, on or before September 1 of
3 that calendar year, the minimum contribution amount specified in
4 subdivision (b) as follows:

5 (1) The minimum contribution amount for the calendar year
6 shall be an amount equal to the product of the minimum
7 contribution amount for the prior calendar year multiplied by the
8 inflation factor adjustment as specified in paragraph (2) of
9 subdivision (h) of Section 17041, rounded off to the nearest dollar.

10 (2) The inflation factor adjustment used for the calendar year
11 shall be based on the figures for the percentage change in the
12 California Consumer Price Index received on or before August 1
13 of the calendar year pursuant to paragraph (1) of subdivision (h)
14 of Section 17041.

15 (d) Notwithstanding the repeal of this article, any contribution
16 amounts designated pursuant to this article prior to its repeal shall
17 continue to be transferred and disbursed in accordance with this
18 article as in effect immediately prior to that repeal.

19 ~~SEC. 473.~~

20 *SEC. 480.* Section 19183 of the Revenue and Taxation Code
21 is amended to read:

22 19183. (a) (1) A penalty shall be imposed for failure to file
23 correct information returns, as required by this part, and that
24 penalty shall be determined in accordance with Section 6721 of
25 the Internal Revenue Code.

26 (2) Section 6721(e) of the Internal Revenue Code is modified
27 to the extent that the reference to Section 6041A(b) of the Internal
28 Revenue Code does not apply.

29 (b) (1) A penalty shall be imposed for failure to furnish correct
30 payee statements as required by this part, and that penalty shall be
31 determined in accordance with Section 6722 of the Internal
32 Revenue Code.

33 (2) Section 6722(c) of the Internal Revenue Code is modified
34 to the extent that the references to Sections 6041A(b) and 6041A(e)
35 of the Internal Revenue Code do not apply.

36 (c) A penalty shall be imposed for failure to comply with other
37 information reporting requirements under this part, and that penalty
38 shall be determined in accordance with Section 6723 of the Internal
39 Revenue Code.

1 (d) (1) The provisions of Section 6724 of the Internal Revenue
2 Code relating to waiver, definitions, and special rules, shall apply,
3 except as otherwise provided.

4 (2) Section 6724(d)(1) of the Internal Revenue Code is modified
5 as follows:

6 (A) The following references are substituted:

7 (i) Subdivision (a) of Section 18640, in lieu of Section
8 6044(a)(1) of the Internal Revenue Code.

9 (ii) Subdivision (a) of Section 18644, in lieu of Section 6050A(a)
10 of the Internal Revenue Code.

11 (B) References to Sections 4093(c)(4), 4093(e), 4101(d),
12 6041(b), 6041A(b), 6045(d), 6051(d), and 6053(c)(1) of the Internal
13 Revenue Code do not apply.

14 (C) The term “information return” shall also include both of the
15 following:

16 (i) The return required by paragraph (1) of subdivision (g) of
17 Section 18662.

18 (ii) The return required by subdivision (a) of Section 18631.7.

19 (3) Section 6724(d)(2) of the Internal Revenue Code is modified
20 as follows:

21 (A) The following references are substituted:

22 (i) Subdivision (b) of Section 18640, in lieu of Section 6044(e)
23 of the Internal Revenue Code.

24 (ii) Subdivision (b) of Section 18644, in lieu of Section
25 6050A(b) of the Internal Revenue Code.

26 (B) References to Sections 4093(c)(4)(B), 6031(b), 6037(b),
27 6041A(e), 6045(d), 6051(d), 6053(b), and 6053(c) of the Internal
28 Revenue Code do not apply.

29 (C) The term “payee statement” shall also include the statement
30 required by paragraph (2) of subdivision (g) of Section 18662.

31 (e) In the case of each failure to provide a written explanation
32 as required by Section 402(f) of the Internal Revenue Code, at the
33 time prescribed therefor, unless it is shown that the failure is due
34 to reasonable cause and not to willful neglect, there shall be paid,
35 on notice and demand of the Franchise Tax Board and in the same
36 manner as tax, by the person failing to provide that written
37 explanation, an amount equal to ten dollars (\$10) for each failure,
38 but the total amount imposed on that person for all those failures
39 during a calendar year shall not exceed five thousand dollars
40 (\$5,000).

1 (f) A penalty imposed by this part shall be paid on notice and
2 demand by the Franchise Tax Board and in the same manner as
3 tax.

4 ~~SEC. 474.~~

5 *SEC. 481.* Section 19191 of the Revenue and Taxation Code
6 is amended to read:

7 19191. (a) The Franchise Tax Board may enter into a voluntary
8 disclosure agreement with any qualified entity, qualified
9 shareholder, qualified member, or qualified beneficiary as defined
10 in Section 19192, that is binding on both the Franchise Tax Board
11 and the qualified entity, qualified shareholder, qualified member,
12 or qualified beneficiary.

13 (b) The Franchise Tax Board shall do all of the following:

14 (1) Provide guidelines and establish procedures for qualified
15 entities and their qualified shareholders, qualified members, or
16 qualified beneficiaries to apply for voluntary disclosure agreements.

17 (2) Accept applications on an anonymous basis from qualified
18 entities and their qualified shareholders, qualified members, or
19 qualified beneficiaries for voluntary disclosure agreements.

20 (3) Implement procedures for accepting applications for
21 voluntary disclosure agreements through the National Nexus
22 Program administered by the Multistate Tax Commission.

23 (4) For purposes of considering offers from qualified entities
24 and their qualified shareholders, qualified members, or qualified
25 beneficiaries to enter into voluntary disclosure agreements, take
26 into account the following criteria:

27 (A) The nature and magnitude of the qualified entity's previous
28 presence and activity in this state and the facts and circumstances
29 by which the nexus of the qualified entity or qualified shareholder,
30 qualified member, or qualified beneficiary was established.

31 (B) The extent to which the weight of the factual circumstances
32 demonstrates that a prudent business person exercising reasonable
33 care would conclude that the previous activities and presence in
34 this state were or were not immune from taxation by this state by
35 reason of Public Law 86-272 or otherwise.

36 (C) Reasonable reliance on the advice of a person in a fiduciary
37 position or other competent advice that the qualified entity or
38 qualified shareholder, qualified member, or qualified beneficiary
39 activities were immune from taxation by this state.

1 (D) Lack of evidence of willful disregard or neglect of the tax
2 laws of this state on the part of the qualified entity or qualified
3 shareholder, qualified member, or qualified beneficiary.

4 (E) Demonstrations of good faith on the part of the qualified
5 entity, qualified shareholder, qualified member, or qualified
6 beneficiary.

7 (F) Benefits that will accrue to the state by entering into a
8 voluntary disclosure agreement.

9 (5) Act on any application of a voluntary disclosure agreement
10 within 120 days of receipt.

11 (6) Enter into voluntary disclosure agreements with qualified
12 entities, qualified shareholders, qualified members, or qualified
13 beneficiaries, as authorized in subdivision (a) and based on the
14 criteria set forth in paragraph (4).

15 (c) Before any voluntary disclosure agreement becomes binding,
16 the Franchise Tax Board, itself, shall approve the agreement in the
17 following manner:

18 (1) The Executive Officer and Chief Counsel of the Franchise
19 Tax Board shall recommend and submit the voluntary disclosure
20 agreement to the Franchise Tax Board for approval.

21 (2) Each voluntary disclosure agreement recommendation shall
22 be submitted in a manner as to maintain the anonymity of the
23 taxpayer applying for the voluntary disclosure agreement.

24 (3) A recommendation for approval of a voluntary disclosure
25 agreement shall be approved or disapproved by the Franchise Tax
26 Board, itself, within 45 days of the submission of that
27 recommendation to the board.

28 (4) A recommendation of a voluntary disclosure agreement that
29 is not either approved or disapproved by the board within 45 days
30 of the submission of that recommendation shall be deemed
31 approved.

32 (5) Disapproval of a recommendation of a voluntary disclosure
33 agreement shall be made only by a majority vote of the Franchise
34 Tax Board.

35 (6) The members of the Franchise Tax Board shall not
36 participate in any voluntary disclosure agreement except as
37 provided in this subdivision.

38 (d) The voluntary disclosure agreement entered into by the
39 Franchise Tax Board and the qualified entity, qualified shareholder,

1 qualified member, or qualified beneficiary as provided for in
2 subdivision (a) shall to the extent applicable specify that:

3 (1) The Franchise Tax Board shall with respect to a qualified
4 entity, qualified shareholder, qualified member, or qualified
5 beneficiary, except as provided in paragraph (4), (6), or (9) of
6 subdivision (a) of Section 19192:

7 (A) Waive its authority under this part, Part 10 (commencing
8 with Section 17001), or Part 11 (commencing with Section 23001)
9 to assess or propose to assess taxes, additions to tax, fees, or
10 penalties with respect to each taxable year ending prior to six years
11 from the signing date of the voluntary disclosure agreement.

12 (B) With respect to each of the six taxable years ending
13 immediately preceding the signing date of the voluntary disclosure
14 agreement, based on its discretion, agree to waive any or all of the
15 following:

16 (i) A penalty related to a failure to make and file a return, as
17 provided in Section 19131.

18 (ii) A penalty related to a failure to pay any amount due by the
19 date prescribed for payment, as provided in Section 19132.

20 (iii) An addition to tax related to an underpayment of estimated
21 tax, as provided in Section 19136.

22 (iv) A penalty related to Section 6810 or subdivision (a) of
23 Section 8810 of the Corporations Code, as provided in Section
24 19141 of this code.

25 (v) A penalty related to a failure to furnish information or
26 maintain records, as provided in Section 19141.5.

27 (vi) An addition to tax related to an underpayment of tax
28 imposed under Part 11 (commencing with Section 23001), as
29 provided in Section 19142.

30 (vii) A penalty related to a partnership required to file a return
31 under Section 18633, as provided in Section 19172.

32 (viii) A penalty related to a failure to file information returns,
33 as provided in Section 19183.

34 (ix) A penalty related to relief from contract voidability, as
35 provided in Section 23305.1.

36 (2) The qualified entity, qualified shareholder, qualified member,
37 or qualified beneficiary shall:

38 (A) With respect to each of the six taxable years ending
39 immediately preceding the signing date of the written agreement:

- 1 (i) Voluntarily and fully disclose on the qualified entity's
2 application all material facts pertinent to the qualified entity's,
3 shareholder's, member's, or beneficiary's liability for any taxes
4 imposed under Part 10 (commencing with Section 17001) or Part
5 11 (commencing with Section 23001).
- 6 (ii) Except as provided in paragraph (3), within 30 days from
7 the signing date of the voluntary disclosure agreement:
 - 8 (I) File all returns required under this part, Part 10 (commencing
9 with Section 17001), or Part 11 (commencing with Section 23001).
 - 10 (II) Pay in full any tax, interest, fee, and penalties, other than
11 those penalties specifically waived by the Franchise Tax Board
12 under the terms of the voluntary disclosure agreement, imposed
13 under this part, Part 10 (commencing with Section 17001), or Part
14 11 (commencing with Section 23001) in a manner as may be
15 prescribed by the Franchise Tax Board. Paragraph (1) of
16 subdivision (f) of Section 23153 shall not apply to qualified entities
17 admitted into the voluntary disclosure program.
 - 18 (B) Agree to comply with all franchise and income tax laws of
19 this state in subsequent taxable years by filing all returns required
20 and paying all amounts due under this part, Part 10 (commencing
21 with Section 17001), or Part 11 (commencing with Section 23001).
- 22 (3) The Franchise Tax Board may extend the time for filing
23 returns and paying amounts due to 120 days from the signing date
24 of the voluntary disclosure agreement or to the latest extended due
25 date of the return for a taxable year for which relief is granted,
26 whichever is later.
- 27 (e) An addition to tax under Section 19136 or 19142 shall not
28 be made for any underpayment of estimated tax attributable to the
29 underpayment of an installment of estimated tax due before the
30 signing date of the voluntary disclosure agreement.
- 31 (f) The amendments to this section made by Chapter 954 of the
32 Statutes of 1996 shall apply to taxable years beginning on or after
33 January 1, 1997.
- 34 (g) The amendments to this section made by Chapter 543 of the
35 Statutes of 2001 shall apply to voluntary disclosure agreements
36 entered into on or after January 1, 2002.
- 37 (h) The amendments to this section made by Chapter 543 of the
38 Statutes of 2001 shall apply to voluntary disclosure agreements
39 entered into on or after January 1, 2005.

1 (i) The amendments to this section made by Chapter 296 of the
2 Statutes of 2011 shall apply to voluntary disclosure agreements
3 entered into on or after January 1, 2011.

4 ~~SEC. 475.~~

5 *SEC. 482.* Section 19255 of the Revenue and Taxation Code
6 is amended to read:

7 19255. (a) Except as otherwise provided in subdivisions (b)
8 and (e), after 20 years have lapsed from the date the latest tax
9 liability for a taxable year or the date any other liability that is not
10 associated with a taxable year becomes “due and payable” within
11 the meaning of Section 19221, the Franchise Tax Board may not
12 collect that amount and the taxpayer’s liability to the state for that
13 liability is abated by reason of lapse of time. Any actions taken by
14 the Franchise Tax Board to collect an uncollectible liability shall
15 be released, withdrawn, or otherwise terminated by the Franchise
16 Tax Board, and no subsequent administrative or civil action shall
17 be taken or brought to collect all or part of that uncollectible
18 amount. Any amounts received in contravention of this section
19 shall be considered an overpayment that may be credited and
20 refunded in accordance with Article 1 (commencing with Section
21 19301) of Chapter 6.

22 (b) If a timely civil action filed pursuant to Article 2 of Chapter
23 6 of this part is commenced, or a claim is filed in a probate action,
24 the period for which the liability is collectable shall be extended
25 and shall not expire until that liability, probate claim, or judgment
26 against the taxpayer arising from that liability is satisfied or
27 becomes unenforceable under the laws applicable to the
28 enforcement of civil judgments.

29 (c) For purposes of this section, both of the following apply:

30 (1) “Tax liability” means a liability imposed under Part 10
31 (commencing with Section 17001), Part 11 (commencing with
32 Section 23001), or this part, and includes any additions to tax,
33 interest, penalties, fees and any other amounts relating to the
34 imposed liability.

35 (2) If more than one liability is “due and payable” for a particular
36 taxable year, with the exception of a liability resulting from a
37 penalty imposed under Section 19777.5, the “due and payable”
38 date that is later in time shall be the date upon which the 20-year
39 limitation of subdivision (a) commences.

1 (d) This section shall not apply to amounts subject to collection
2 by the Franchise Tax Board pursuant to Article 5, 5.5, or 6 of this
3 chapter, or any other amount that is not a tax imposed under Part
4 10 or Part 11, but which the Franchise Tax Board is collecting as
5 though it were a final personal income tax delinquency.

6 (e) (1) The expiration of the period of limitation on collection
7 under this section shall be suspended for the following periods:

8 (A) The period that the Franchise Tax Board is prohibited from
9 involuntary collection under subparagraph (B) of paragraph (1) of
10 subdivision (b) of Section 19271 relating to collection of child
11 support delinquencies, plus 60 days thereafter.

12 (B) The period during which the Franchise Tax Board is
13 prohibited by reason of a bankruptcy case from collecting, plus
14 six months thereafter.

15 (C) The period described under subdivision (d) of Section 19008
16 relating to installment payment agreements.

17 (D) The period during which collection is postponed by
18 operation of law under Section 18571, related to postponement by
19 reason of service in a combat zone, or under Section 18572, related
20 to postponement by reason of presidentially declared disaster or
21 terroristic or military action.

22 (E) During any other period during which collection of a tax is
23 suspended, postponed, or extended by operation of law.

24 (2) A suspension of the period of limitation under this
25 subdivision shall apply with respect to both parties of any liability
26 that is joint and several.

27 (f) This section shall be applied on and after July 1, 2006, to
28 any liability “due and payable” before, on, or after that date.

29 ~~SEC. 476.~~

30 *SEC. 483.* Chapter 9.5 (commencing with Section 19778) of
31 Part 10.2 of Division 2 of the Revenue and Taxation Code, as
32 added by Section 13 of Chapter 654 of the Statutes of 2003, is
33 repealed.

34 ~~SEC. 477.~~

35 *SEC. 484.* Section 23151 of the Revenue and Taxation Code
36 is amended to read:

37 23151. (a) With the exception of banks and financial
38 corporations, every corporation doing business within the limits
39 of this state and not expressly exempted from taxation by the
40 provisions of the Constitution of this state or by this part, shall

1 annually pay to the state, for the privilege of exercising its
2 corporate franchises within this state, a tax according to or
3 measured by its net income, to be computed at the rate of 7.6
4 percent upon the basis of its net income for the next preceding
5 income year, or if greater, the minimum tax specified in Section
6 23153.

7 (b) For calendar or fiscal years ending after June 30, 1973, the
8 rate of tax shall be 9 percent instead of 7.6 percent as provided by
9 subdivision (a).

10 (c) For calendar or fiscal years ending in 1980 to 1986, inclusive,
11 the rate of tax shall be 9.6 percent.

12 (d) For calendar or fiscal years ending in 1987 to 1996,
13 inclusive, and for any income year beginning before January 1,
14 1997, the tax rate shall be 9.3 percent.

15 (e) For any income year beginning on or after January 1, 1997,
16 and before the income year identified in subparagraph (A) of
17 paragraph (1) of subdivision (f), the tax rate shall be 8.84 percent.
18 The change in rate provided in this subdivision shall be made
19 without proration otherwise required by Section 24251.

20 (f) (1) For the first taxable year beginning on or after January
21 1, 2000, the tax imposed under this section shall be the sum of
22 both of the following:

23 (A) A tax according to or measured by net income, to be
24 computed at the rate of 8.84 percent upon the basis of the net
25 income for the next preceding income year, but not less than the
26 minimum tax specified in Section 23153.

27 (B) A tax according to or measured by net income, to be
28 computed at the rate of 8.84 percent upon the basis of the net
29 income for the first taxable year beginning on or after January 1,
30 2000, but not less than the minimum tax specified in Section 23153.

31 (2) Except as provided in paragraph (1), for taxable years
32 beginning on or after January 1, 2000, the tax imposed under this
33 section shall be a tax according to or measured by net income, to
34 be computed at the rate of 8.84 percent upon the basis of the net
35 income for that taxable year, but not less than the minimum tax
36 specified in Section 23153.

37 ~~SEC. 478.~~

38 *SEC. 485.* The heading of Article 3 (commencing with Section
39 23571) of Chapter 3 of Part 11 of Division 2 of the Revenue and
40 Taxation Code is repealed.

1 ~~SEC. 479.~~

2 *SEC. 486.* Section 23610.5 of the Revenue and Taxation Code
3 is amended to read:

4 23610.5. (a) (1) There shall be allowed as a credit against the
5 “tax” (as defined by Section 23036) a state low-income housing
6 tax credit in an amount equal to the amount determined in
7 subdivision (c), computed in accordance with Section 42 of the
8 Internal Revenue Code of 1986, except as otherwise provided in
9 this section.

10 (2) “Taxpayer,” for purposes of this section, means the sole
11 owner in the case of a “C” corporation, the partners in the case of
12 a partnership, and the shareholders in the case of an “S”
13 corporation.

14 (3) “Housing sponsor,” for purposes of this section, means the
15 sole owner in the case of a “C” corporation, the partnership in the
16 case of a partnership, and the “S” corporation in the case of an “S”
17 corporation.

18 (b) (1) The amount of the credit allocated to any housing
19 sponsor shall be authorized by the California Tax Credit Allocation
20 Committee, or any successor thereof, based on a project’s need
21 for the credit for economic feasibility in accordance with the
22 requirements of this section.

23 (A) The low-income housing project shall be located in
24 California and shall meet either of the following requirements:

25 (i) Except for projects to provide farmworker housing, as defined
26 in subdivision (h) of Section 50199.7 of the Health and Safety
27 Code, that are allocated credits solely under the set-aside described
28 in subdivision (c) of Section 50199.20 of the Health and Safety
29 Code, the project’s housing sponsor has been allocated by the
30 California Tax Credit Allocation Committee a credit for federal
31 income tax purposes under Section 42 of the Internal Revenue
32 Code.

33 (ii) It qualifies for a credit under Section 42(h)(4)(B) of the
34 Internal Revenue Code.

35 (B) The California Tax Credit Allocation Committee shall not
36 require fees for the credit under this section in addition to those
37 fees required for applications for the tax credit pursuant to Section
38 42 of the Internal Revenue Code. The committee may require a
39 fee if the application for the credit under this section is submitted

1 in a calendar year after the year the application is submitted for
2 the federal tax credit.

3 (C) (i) For a project that receives a preliminary reservation of
4 the state low-income housing tax credit, allowed pursuant to
5 subdivision (a), on or after January 1, 2009, and before January 1,
6 2016, the credit shall be allocated to the partners of a partnership
7 owning the project in accordance with the partnership agreement,
8 regardless of how the federal low-income housing tax credit with
9 respect to the project is allocated to the partners, or whether the
10 allocation of the credit under the terms of the agreement has
11 substantial economic effect, within the meaning of Section 704(b)
12 of the Internal Revenue Code.

13 (ii) To the extent the allocation of the credit to a partner under
14 this section lacks substantial economic effect, any loss or deduction
15 otherwise allowable under this part that is attributable to the sale
16 or other disposition of that partner's partnership interest made prior
17 to the expiration of the federal credit shall not be allowed in the
18 taxable year in which the sale or other disposition occurs, but shall
19 instead be deferred until and treated as if it occurred in the first
20 taxable year immediately following the taxable year in which the
21 federal credit period expires for the project described in clause (i).

22 (iii) This subparagraph does not apply to a project that receives
23 a preliminary reservation of state low-income housing tax credits
24 under the set-aside described in subdivision (c) of Section 50199.20
25 of the Health and Safety Code unless the project also receives a
26 preliminary reservation of federal low-income housing tax credits.

27 (iv) This subparagraph shall cease to be operative with respect
28 to any project that receives a preliminary reservation of a credit
29 on or after January 1, 2016.

30 (2) (A) The California Tax Credit Allocation Committee shall
31 certify to the housing sponsor the amount of tax credit under this
32 section allocated to the housing sponsor for each credit period.

33 (B) In the case of a partnership or an "S" corporation, the
34 housing sponsor shall provide a copy of the California Tax Credit
35 Allocation Committee certification to the taxpayer.

36 (C) The taxpayer shall, upon request, provide a copy of the
37 certification to the Franchise Tax Board.

38 (D) All elections made by the taxpayer pursuant to Section 42
39 of the Internal Revenue Code apply to this section.

1 (E) (i) Except as described in clause (ii), for buildings located
2 in designated difficult development areas (DDAs) or qualified
3 census tracts (QCTs), as defined in Section 42(d)(5)(B) of the
4 Internal Revenue Code, credits may be allocated under this section
5 in the amounts prescribed in subdivision (c), provided that the
6 amount of credit allocated under Section 42 of the Internal Revenue
7 Code is computed on 100 percent of the qualified basis of the
8 building.

9 (ii) Notwithstanding clause (i), the California Tax Credit
10 Allocation Committee may allocate the credit for buildings located
11 in DDAs or QCTs that are restricted to having 50 percent of its
12 occupants be special needs households, as defined in the California
13 Code of Regulations by the California Tax Credit Allocation
14 Committee, even if the taxpayer receives federal credits pursuant
15 to Section 42(d)(5)(B) of the Internal Revenue Code, provided
16 that the credit allowed under this section shall not exceed 30
17 percent of the eligible basis of the building.

18 (F) (i) The California Tax Credit Allocation Committee may
19 allocate a credit under this section in exchange for a credit allocated
20 pursuant to Section 42(d)(5)(B) of the Internal Revenue Code in
21 amounts up to 30 percent of the eligible basis of a building if the
22 credits allowed under Section 42 of the Internal Revenue Code are
23 reduced by an equivalent amount.

24 (ii) An equivalent amount shall be determined by the California
25 Tax Credit Allocation Committee based upon the relative amount
26 required to produce an equivalent state tax credit to the taxpayer.

27 (c) Section 42(b) of the Internal Revenue Code shall be modified
28 as follows:

29 (1) In the case of any qualified low-income building placed in
30 service by the housing sponsor during 1987, the term “applicable
31 percentage” means 9 percent for each of the first three years and
32 3 percent for the fourth year for new buildings (whether or not the
33 building is federally subsidized) and for existing buildings.

34 (2) In the case of any qualified low-income building that receives
35 an allocation after 1989 and is a new building not federally
36 subsidized, the term “applicable percentage” means the following:

37 (A) For each of the first three years, the percentage prescribed
38 by the Secretary of the Treasury for new buildings that are not
39 federally subsidized for the taxable year, determined in accordance
40 with the requirements of Section 42(b)(2) of the Internal Revenue

1 Code, in lieu of the percentage prescribed in Section 42(b)(1)(A)
2 of the Internal Revenue Code.

3 (B) For the fourth year, the difference between 30 percent and
4 the sum of the applicable percentages for the first three years.

5 (3) In the case of any qualified low-income building that receives
6 an allocation after 1989 and that is a new building that is federally
7 subsidized or that is an existing building that is “at risk of
8 conversion,” the term “applicable percentage” means the following:

9 (A) For each of the first three years, the percentage prescribed
10 by the Secretary of the Treasury for new buildings that are federally
11 subsidized for the taxable year.

12 (B) For the fourth year, the difference between 13 percent and
13 the sum of the applicable percentages for the first three years.

14 (4) For purposes of this section, the term “at risk of conversion,”
15 with respect to an existing property means a property that satisfies
16 all of the following criteria:

17 (A) The property is a multifamily rental housing development
18 in which at least 50 percent of the units receive governmental
19 assistance pursuant to any of the following:

20 (i) New construction, substantial rehabilitation, moderate
21 rehabilitation, property disposition, and loan management set-aside
22 programs, or any other program providing project-based assistance
23 pursuant to Section 8 of the United States Housing Act of 1937,
24 Section 1437f of Title 42 of the United States Code, as amended.

25 (ii) The Below-Market-Interest-Rate Program pursuant to
26 Section 221(d)(3) of the National Housing Act, Sections
27 1715l(d)(3) and (5) of Title 12 of the United States Code.

28 (iii) Section 236 of the National Housing Act, Section 1715z-1
29 of Title 12 of the United States Code.

30 (iv) Programs for rent supplement assistance pursuant to Section
31 101 of the Housing and Urban Development Act of 1965, Section
32 1701s of Title 12 of the United States Code, as amended.

33 (v) Programs pursuant to Section 515 of the Housing Act of
34 1949, Section 1485 of Title 42 of the United States Code, as
35 amended.

36 (vi) The low-income housing credit program set forth in Section
37 42 of the Internal Revenue Code.

38 (B) The restrictions on rent and income levels will terminate or
39 the federally insured mortgage on the property is eligible for

1 prepayment any time within five years before or after the date of
2 application to the California Tax Credit Allocation Committee.

3 (C) The entity acquiring the property enters into a regulatory
4 agreement that requires the property to be operated in accordance
5 with the requirements of this section for a period equal to the
6 greater of 55 years or the life of the property.

7 (D) The property satisfies the requirements of Section 42(e) of
8 the Internal Revenue Code regarding rehabilitation expenditures,
9 except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not
10 apply.

11 (d) The term “qualified low-income housing project” as defined
12 in Section 42(c)(2) of the Internal Revenue Code is modified by
13 adding the following requirements:

14 (1) The taxpayer shall be entitled to receive a cash distribution
15 from the operations of the project, after funding required reserves,
16 that at the election of the taxpayer, is equal to:

17 (A) An amount not to exceed 8 percent of the lesser of:

18 (i) The owner equity, that shall include the amount of the capital
19 contributions actually paid to the housing sponsor and shall not
20 include any amounts until they are paid on an investor note.

21 (ii) Twenty percent of the adjusted basis of the building as of
22 the close of the first taxable year of the credit period.

23 (B) The amount of the cashflow from those units in the building
24 that are not low-income units. For purposes of computing cashflow
25 under this subparagraph, operating costs shall be allocated to the
26 low-income units using the “floor space fraction,” as defined in
27 Section 42 of the Internal Revenue Code.

28 (C) Any amount allowed to be distributed under subparagraph
29 (A) that is not available for distribution during the first five years
30 of the compliance period may be accumulated and distributed any
31 time during the first 15 years of the compliance period but not
32 thereafter.

33 (2) The limitation on return applies in the aggregate to the
34 partners if the housing sponsor is a partnership and in the aggregate
35 to the shareholders if the housing sponsor is an “S” corporation.

36 (3) The housing sponsor shall apply any cash available for
37 distribution in excess of the amount eligible to be distributed under
38 paragraph (1) to reduce the rent on rent-restricted units or to
39 increase the number of rent-restricted units subject to the tests of
40 Section 42(g)(1) of the Internal Revenue Code.

1 (e) The provisions of Section 42(f) of the Internal Revenue Code
2 shall be modified as follows:

3 (1) The term “credit period” as defined in Section 42(f)(1) of
4 the Internal Revenue Code is modified by substituting “four taxable
5 years” for “10 taxable years.”

6 (2) The special rule for the first taxable year of the credit period
7 under Section 42(f)(2) of the Internal Revenue Code shall not apply
8 to the tax credit under this section.

9 (3) Section 42(f)(3) of the Internal Revenue Code is modified
10 to read:

11 If, as of the close of any taxable year in the compliance period,
12 after the first year of the credit period, the qualified basis of any
13 building exceeds the qualified basis of that building as of the close
14 of the first year of the credit period, the housing sponsor, to the
15 extent of its tax credit allocation, shall be eligible for a credit on
16 the excess in an amount equal to the applicable percentage
17 determined pursuant to subdivision (c) for the four-year period
18 beginning with the later of the taxable years in which the increase
19 in qualified basis occurs.

20 (f) The provisions of Section 42(h) of the Internal Revenue
21 Code shall be modified as follows:

22 (1) Section 42(h)(2) of the Internal Revenue Code does not
23 apply and instead the following provisions apply:

24 The total amount for the four-year credit period of the housing
25 credit dollars allocated in a calendar year to any building shall
26 reduce the aggregate housing credit dollar amount of the California
27 Tax Credit Allocation Committee for the calendar year in which
28 the allocation is made.

29 (2) Paragraphs (3), (4), (5), (6)(E)(i)(II), (6)(F), (6)(G), (6)(I),
30 (7), and (8) of Section 42(h) of the Internal Revenue Code do not
31 apply.

32 (g) The aggregate housing credit dollar amount that may be
33 allocated annually by the California Tax Credit Allocation
34 Committee pursuant to this section, Section 12206, and Section
35 17058 shall be an amount equal to the sum of all the following:

36 (1) Seventy million dollars (\$70,000,000) for the 2001 calendar
37 year, and, for the 2002 calendar year and each calendar year
38 thereafter, seventy million dollars (\$70,000,000) increased by the
39 percentage, if any, by which the Consumer Price Index for the
40 preceding calendar year exceeds the Consumer Price Index for the

1 2001 calendar year. For the purposes of this paragraph, the term
 2 “Consumer Price Index” means the last Consumer Price Index for
 3 All Urban Consumers published by the federal Department of
 4 Labor.

5 (2) The unused housing credit ceiling, if any, for the preceding
 6 calendar years.

7 (3) The amount of housing credit ceiling returned in the calendar
 8 year. For purposes of this paragraph, the amount of housing credit
 9 dollar amount returned in the calendar year equals the housing
 10 credit dollar amount previously allocated to any project that does
 11 not become a qualified low-income housing project within the
 12 period required by this section or to any project with respect to
 13 which an allocation is canceled by mutual consent of the California
 14 Tax Credit Allocation Committee and the allocation recipient.

15 (4) Five hundred thousand dollars (\$500,000) per calendar year
 16 for projects to provide farmworker housing, as defined in
 17 subdivision (h) of Section 50199.7 of the Health and Safety Code.

18 (5) The amount of any unallocated or returned credits under
 19 former Sections 17053.14, 23608.2, and 23608.3, as those sections
 20 read prior to January 1, 2009, until fully exhausted for projects to
 21 provide farmworker housing, as defined in subdivision (h) of
 22 Section 50199.7 of the Health and Safety Code.

23 (h) The term “compliance period” as defined in Section 42(i)(1)
 24 of the Internal Revenue Code is modified to mean, with respect to
 25 any building, the period of 30 consecutive taxable years beginning
 26 with the first taxable year of the credit period with respect thereto.

27 (i) Section 42(j) of the Internal Revenue Code does not apply
 28 and the following shall be substituted in its place:

29 The requirements of this section shall be set forth in a regulatory
 30 agreement between the California Tax Credit Allocation Committee
 31 and the housing sponsor, and this agreement shall be subordinated,
 32 when required, to any lien or encumbrance of any banks or other
 33 institutional lenders to the project. The regulatory agreement
 34 entered into pursuant to subdivision (f) of Section 50199.14 of the
 35 Health and Safety Code shall apply, provided that the agreement
 36 includes all of the following provisions:

37 (1) A term not less than the compliance period.

38 (2) A requirement that the agreement be recorded in the official
 39 records of the county in which the qualified low-income housing
 40 project is located.

1 (3) A provision stating which state and local agencies can
2 enforce the regulatory agreement in the event the housing sponsor
3 fails to satisfy any of the requirements of this section.

4 (4) A provision that the regulatory agreement shall be deemed
5 a contract enforceable by tenants as third-party beneficiaries
6 thereto, and that allows individuals, whether prospective, present,
7 or former occupants of the building, who meet the income
8 limitation applicable to the building, the right to enforce the
9 regulatory agreement in any state court.

10 (5) A provision incorporating the requirements of Section 42
11 of the Internal Revenue Code as modified by this section.

12 (6) A requirement that the housing sponsor notify the California
13 Tax Credit Allocation Committee or its designee if there is a
14 determination by the Internal Revenue Service that the project is
15 not in compliance with Section 42(g) of the Internal Revenue Code.

16 (7) A requirement that the housing sponsor, as security for the
17 performance of the housing sponsor's obligations under the
18 regulatory agreement, assign the housing sponsor's interest in rents
19 that it receives from the project, provided that until there is a
20 default under the regulatory agreement, the housing sponsor is
21 entitled to collect and retain the rents.

22 (8) A provision that the remedies available in the event of a
23 default under the regulatory agreement that is not cured within a
24 reasonable cure period include, but are not limited to, allowing
25 any of the parties designated to enforce the regulatory agreement
26 to collect all rents with respect to the project; taking possession of
27 the project and operating the project in accordance with the
28 regulatory agreement until the enforcer determines the housing
29 sponsor is in a position to operate the project in accordance with
30 the regulatory agreement; applying to any court for specific
31 performance; securing the appointment of a receiver to operate
32 the project; or any other relief as may be appropriate.

33 (j) (1) The committee shall allocate the housing credit on a
34 regular basis consisting of two or more periods in each calendar
35 year during which applications may be filed and considered. The
36 committee shall establish application filing deadlines, the maximum
37 percentage of federal and state low-income housing tax credit
38 ceiling that may be allocated by the committee in that period, and
39 the approximate date on which allocations shall be made. If the
40 enactment of federal or state law, the adoption of rules or

1 regulations, or other similar events prevent the use of two allocation
2 periods, the committee may reduce the number of periods and
3 adjust the filing deadlines, maximum percentage of credit allocated,
4 and allocation dates.

5 (2) The committee shall adopt a qualified allocation plan, as
6 provided in Section 42(m)(1) of the Internal Revenue Code. In
7 adopting this plan, the committee shall comply with the provisions
8 of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue
9 Code.

10 (3) Notwithstanding Section 42(m) of the Internal Revenue
11 Code, the California Tax Credit Allocation Committee shall
12 allocate housing credits in accordance with the qualified allocation
13 plan and regulations, which shall include the following provisions:

14 (A) All housing sponsors, as defined by paragraph (3) of
15 subdivision (a), shall demonstrate at the time the application is
16 filed with the committee that the project meets the following
17 threshold requirements:

18 (i) The housing sponsor shall demonstrate that there is a need
19 for low-income housing in the community or region for which it
20 is proposed.

21 (ii) The project's proposed financing, including tax credit
22 proceeds, shall be sufficient to complete the project and shall be
23 adequate to operate the project for the extended use period.

24 (iii) The project shall have enforceable financing commitments,
25 either construction or permanent financing, for at least 50 percent
26 of the total estimated financing of the project.

27 (iv) The housing sponsor shall have and maintain control of the
28 site for the project.

29 (v) The housing sponsor shall demonstrate that the project
30 complies with all applicable local land use and zoning ordinances.

31 (vi) The housing sponsor shall demonstrate that the project
32 development team has the experience and the financial capacity
33 to ensure project completion and operation for the extended use
34 period.

35 (vii) The housing sponsor shall demonstrate the amount of tax
36 credit that is necessary for the financial feasibility of the project
37 and its viability as a qualified low-income housing project
38 throughout the extended use period, taking into account operating
39 expenses, a supportable debt service, reserves, funds set aside for
40 rental subsidies and required equity, and a development fee that

1 does not exceed a specified percentage of the eligible basis of the
2 project prior to inclusion of the development fee in the eligible
3 basis, as determined by the committee.

4 (B) The committee shall give a preference to those projects
5 satisfying all of the threshold requirements of subparagraph (A)
6 if both of the following apply:

7 (i) The project serves the lowest income tenants at rents
8 affordable to those tenants.

9 (ii) The project is obligated to serve qualified tenants for the
10 longest period.

11 (C) In addition to the provisions of subparagraphs (A) and (B),
12 the committee shall use the following criteria in allocating housing
13 credits:

14 (i) Projects serving large families in which a substantial number,
15 as defined by the committee, of all residential units are low-income
16 units with three and more bedrooms.

17 (ii) Projects providing single-room occupancy units serving
18 very low income tenants.

19 (iii) Existing projects that are “at risk of conversion,” as defined
20 by paragraph (4) of subdivision (c).

21 (iv) Projects for which a public agency provides direct or indirect
22 long-term financial support for at least 15 percent of the total
23 project development costs or projects for which the owner’s equity
24 constitutes at least 30 percent of the total project development
25 costs.

26 (v) Projects that provide tenant amenities not generally available
27 to residents of low-income housing projects.

28 (4) For purposes of allocating credits pursuant to this section,
29 the committee shall not give preference to any project by virtue
30 of the date of submission of its application except to break a tie
31 when two or more of the projects have an equal rating.

32 (5) Not less than 20 percent of the low-income housing tax
33 credits available annually under this section, Section 12206, and
34 Section 17058 shall be set aside for allocation to rural areas as
35 defined in Section 50199.21 of the Health and Safety Code. Any
36 amount of credit set aside for rural areas remaining on or after
37 October 31 of any calendar year shall be available for allocation
38 to any eligible project. No amount of credit set aside for rural areas
39 shall be considered available for any eligible project so long as
40 there are eligible rural applications pending on October 31.

1 (k) Section 42(l) of the Internal Revenue Code shall be modified
2 as follows:

3 The term “secretary” shall be replaced by the term “California
4 Franchise Tax Board.”

5 (l) In the case in which the state credit allowed under this section
6 exceeds the “tax,” the excess may be carried over to reduce the
7 “tax” in the following year, and succeeding years if necessary,
8 until the credit has been exhausted.

9 (m) A project that received an allocation of a 1989 federal
10 housing credit dollar amount shall be eligible to receive an
11 allocation of a 1990 state housing credit dollar amount, subject to
12 all of the following conditions:

13 (1) The project was not placed in service prior to 1990.

14 (2) To the extent the amendments made to this section by the
15 Statutes of 1990 conflict with any provisions existing in this section
16 prior to those amendments, the prior provisions of law shall prevail.

17 (3) Notwithstanding paragraph (2), a project applying for an
18 allocation under this subdivision shall be subject to the
19 requirements of paragraph (3) of subdivision (j).

20 (n) The credit period with respect to an allocation of credit in
21 1989 by the California Tax Credit Allocation Committee of which
22 any amount is attributable to unallocated credit from 1987 or 1988
23 shall not begin until after December 31, 1989.

24 (o) The provisions of Section 11407(a) of Public Law 101-508,
25 relating to the effective date of the extension of the low-income
26 housing credit, apply to calendar years after 1989.

27 (p) The provisions of Section 11407(c) of Public Law 101-508,
28 relating to election to accelerate credit, do not apply.

29 (q) (1) A corporation may elect to assign any portion of any
30 credit allowed under this section to one or more affiliated
31 corporations for each taxable year in which the credit is allowed.
32 For purposes of this subdivision, “affiliated corporation” has the
33 meaning provided in subdivision (b) of Section 25110, as that
34 section was amended by Chapter 881 of the Statutes of 1993, as
35 of the last day of the taxable year in which the credit is allowed,
36 except that “100 percent” is substituted for “more than 50 percent”
37 wherever it appears in the section, as that section was amended by
38 Chapter 881 of the Statutes of 1993, and “voting common stock”
39 is substituted for “voting stock” wherever it appears in the section,

1 as that section was amended by Chapter 881 of the Statutes of
2 1993.

3 (2) The election provided in paragraph (1):

4 (A) May be based on any method selected by the corporation
5 that originally receives the credit.

6 (B) Shall be irrevocable for the taxable year the credit is allowed,
7 once made.

8 (C) May be changed for any subsequent taxable year if the
9 election to make the assignment is expressly shown on each of the
10 returns of the affiliated corporations that assign and receive the
11 credits.

12 (r) Any unused credit may continue to be carried forward, as
13 provided in subdivision (l), until the credit has been exhausted.

14 This section shall remain in effect on and after December 1,
15 1990, for as long as Section 42 of the Internal Revenue Code,
16 relating to low-income housing credits, remains in effect.

17 (s) The amendments to this section made by the act adding this
18 subdivision shall apply only to taxable years beginning on or after
19 January 1, 1994, except that paragraph (1) of subdivision (q), as
20 amended, shall apply to taxable years beginning on or after January
21 1, 1993.

22 ~~SEC. 480.~~

23 *SEC. 487.* Section 23622.7 of the Revenue and Taxation Code
24 is amended to read:

25 23622.7. (a) There shall be allowed a credit against the “tax”
26 (as defined by Section 23036) to a taxpayer who employs a
27 qualified employee in an enterprise zone during the taxable year.
28 The credit shall be equal to the sum of each of the following:

29 (1) Fifty percent of qualified wages in the first year of
30 employment.

31 (2) Forty percent of qualified wages in the second year of
32 employment.

33 (3) Thirty percent of qualified wages in the third year of
34 employment.

35 (4) Twenty percent of qualified wages in the fourth year of
36 employment.

37 (5) Ten percent of qualified wages in the fifth year of
38 employment.

39 (b) For purposes of this section:

40 (1) “Qualified wages” means:

1 (A) (i) Except as provided in clause (ii), that portion of wages
2 paid or incurred by the taxpayer during the taxable year to qualified
3 employees that does not exceed 150 percent of the minimum wage.

4 (ii) For up to 1,350 qualified employees who are employed by
5 the taxpayer in the Long Beach Enterprise Zone in aircraft
6 manufacturing activities described in Codes 3721 to 3728,
7 inclusive, and Code 3812 of the Standard Industrial Classification
8 (SIC) Manual published by the United States Office of
9 Management and Budget, 1987 edition, “qualified wages” means
10 that portion of hourly wages that does not exceed 202 percent of
11 the minimum wage.

12 (B) Wages received during the 60-month period beginning with
13 the first day the employee commences employment with the
14 taxpayer. Reemployment in connection with any increase, including
15 a regularly occurring seasonal increase, in the trade or business
16 operations of the taxpayer does not constitute commencement of
17 employment for purposes of this section.

18 (C) Qualified wages do not include any wages paid or incurred
19 by the taxpayer on or after the zone expiration date. However,
20 wages paid or incurred with respect to qualified employees who
21 are employed by the taxpayer within the enterprise zone within
22 the 60-month period prior to the zone expiration date shall continue
23 to qualify for the credit under this section after the zone expiration
24 date, in accordance with all provisions of this section applied as
25 if the enterprise zone designation were still in existence and
26 binding.

27 (2) “Minimum wage” means the wage established by the
28 Industrial Welfare Commission as provided for in Chapter 1
29 (commencing with Section 1171) of Part 4 of Division 2 of the
30 Labor Code.

31 (3) “Zone expiration date” means the date the enterprise zone
32 designation expires, is no longer binding, becomes inoperative, or
33 is repealed.

34 (4) (A) “Qualified employee” means an individual who meets
35 all of the following requirements:

36 (i) At least 90 percent of whose services for the taxpayer during
37 the taxable year are directly related to the conduct of the taxpayer’s
38 trade or business located in an enterprise zone.

39 (ii) Performs at least 50 percent of his or her services for the
40 taxpayer during the taxable year in an enterprise zone.

- 1 (iii) Is hired by the taxpayer after the date of original designation
2 of the area in which services were performed as an enterprise zone.
- 3 (iv) Is any of the following:
- 4 (I) Immediately preceding the qualified employee's
5 commencement of employment with the taxpayer, was a person
6 eligible for services under the federal Job Training Partnership
7 Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving,
8 or is eligible to receive, subsidized employment, training, or
9 services funded by the federal Job Training Partnership Act, or its
10 successor.
- 11 (II) Immediately preceding the qualified employee's
12 commencement of employment with the taxpayer, was a person
13 eligible to be a voluntary or mandatory registrant under the Greater
14 Avenues for Independence Act of 1985 (GAIN) provided for
15 pursuant to Article 3.2 (commencing with Section 11320) of
16 Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions
17 Code, or its successor.
- 18 (III) Immediately preceding the qualified employee's
19 commencement of employment with the taxpayer, was an
20 economically disadvantaged individual 14 years of age or older.
- 21 (IV) Immediately preceding the qualified employee's
22 commencement of employment with the taxpayer, was a dislocated
23 worker who meets any of the following:
- 24 (ia) Has been terminated or laid off or who has received a notice
25 of termination or layoff from employment, is eligible for or has
26 exhausted entitlement to unemployment insurance benefits, and
27 is unlikely to return to his or her previous industry or occupation.
- 28 (ib) Has been terminated or has received a notice of termination
29 of employment as a result of any permanent closure or any
30 substantial layoff at a plant, facility, or enterprise, including an
31 individual who has not received written notification but whose
32 employer has made a public announcement of the closure or layoff.
- 33 (ic) Is long-term unemployed and has limited opportunities for
34 employment or reemployment in the same or a similar occupation
35 in the area in which the individual resides, including an individual
36 55 years of age or older who may have substantial barriers to
37 employment by reason of age.
- 38 (id) Was self-employed (including farmers and ranchers) and
39 is unemployed as a result of general economic conditions in the

1 community in which he or she resides or because of natural
 2 disasters.

3 (ie) Was a civilian employee of the Department of Defense
 4 employed at a military installation being closed or realigned under
 5 the Defense Base Closure and Realignment Act of 1990.

6 (if) Was an active member of the armed forces or National
 7 Guard as of September 30, 1990, and was either involuntarily
 8 separated or separated pursuant to a special benefits program.

9 (ig) Is a seasonal or migrant worker who experiences chronic
 10 seasonal unemployment and underemployment in the agriculture
 11 industry, aggravated by continual advancements in technology and
 12 mechanization.

13 (ih) Has been terminated or laid off, or has received a notice of
 14 termination or layoff, as a consequence of compliance with the
 15 Clean Air Act.

16 (V) Immediately preceding the qualified employee’s
 17 commencement of employment with the taxpayer, was a disabled
 18 individual who is eligible for or enrolled in, or has completed a
 19 state rehabilitation plan or is a service-connected disabled veteran,
 20 veteran of the Vietnam era, or veteran who is recently separated
 21 from military service.

22 (VI) Immediately preceding the qualified employee’s
 23 commencement of employment with the taxpayer, was an
 24 ex-offender. An individual shall be treated as convicted if he or
 25 she was placed on probation by a state court without a finding of
 26 guilt.

27 (VII) Immediately preceding the qualified employee’s
 28 commencement of employment with the taxpayer, was a person
 29 eligible for or a recipient of any of the following:

- 30 (ia) Federal Supplemental Security Income benefits.
- 31 (ib) Aid to Families with Dependent Children.
- 32 (ic) CalFresh benefits.
- 33 (id) State and local general assistance.

34 (VIII) Immediately preceding the qualified employee’s
 35 commencement of employment with the taxpayer, was a member
 36 of a federally recognized Indian tribe, band, or other group of
 37 Native American descent.

38 (IX) Immediately preceding the qualified employee’s
 39 commencement of employment with the taxpayer, was a resident

1 of a targeted employment area (as defined in Section 7072 of the
2 Government Code).

3 (X) An employee who qualified the taxpayer for the enterprise
4 zone hiring credit under former Section 23622 or the program area
5 hiring credit under former Section 23623.

6 (XI) Immediately preceding the qualified employee's
7 commencement of employment with the taxpayer, was a member
8 of a targeted group, as defined in Section 51(d) of the Internal
9 Revenue Code, or its successor.

10 (B) Priority for employment shall be provided to an individual
11 who is enrolled in a qualified program under the federal Job
12 Training Partnership Act or the Greater Avenues for Independence
13 Act of 1985 or who is eligible as a member of a targeted group
14 under the Work Opportunity Tax Credit (Section 51 of the Internal
15 Revenue Code), or its successor.

16 (5) "Taxpayer" means a corporation engaged in a trade or
17 business within an enterprise zone designated pursuant to Chapter
18 12.8 (commencing with Section 7070) of Division 7 of Title 1 of
19 the Government Code.

20 (6) "Seasonal employment" means employment by a taxpayer
21 that has regular and predictable substantial reductions in trade or
22 business operations.

23 (c) The taxpayer shall do both of the following:

24 (1) Obtain from the Employment Development Department, as
25 permitted by federal law, the local county or city Job Training
26 Partnership Act administrative entity, the local county GAIN office
27 or social services agency, or the local government administering
28 the enterprise zone, a certification that provides that a qualified
29 employee meets the eligibility requirements specified in clause
30 (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The
31 Employment Development Department may provide preliminary
32 screening and referral to a certifying agency. The Employment
33 Development Department shall develop a form for this purpose.
34 The Department of Housing and Community Development shall
35 develop regulations governing the issuance of certificates by local
36 governments pursuant to subdivision (a) of Section 7086 of the
37 Government Code.

38 (2) Retain a copy of the certification and provide it upon request
39 to the Franchise Tax Board.

40 (d) (1) For purposes of this section:

1 (A) All employees of all corporations which are members of
2 the same controlled group of corporations shall be treated as
3 employed by a single taxpayer.

4 (B) The credit, if any, allowable by this section to each member
5 shall be determined by reference to its proportionate share of the
6 expense of the qualified wages giving rise to the credit, and shall
7 be allocated in that manner.

8 (C) For purposes of this subdivision, “controlled group of
9 corporations” means “controlled group of corporations” as defined
10 in Section 1563(a) of the Internal Revenue Code, except that:

11 (i) “More than 50 percent” shall be substituted for “at least 80
12 percent” each place it appears in Section 1563(a)(1) of the Internal
13 Revenue Code.

14 (ii) The determination shall be made without regard to
15 subsections (a)(4) and (e)(3)(C) of Section 1563 of the Internal
16 Revenue Code.

17 (2) If an employer acquires the major portion of a trade or
18 business of another employer (hereinafter in this paragraph referred
19 to as the “predecessor”) or the major portion of a separate unit of
20 a trade or business of a predecessor, then, for purposes of applying
21 this section (other than subdivision (e)) for any calendar year
22 ending after that acquisition, the employment relationship between
23 a qualified employee and an employer shall not be treated as
24 terminated if the employee continues to be employed in that trade
25 or business.

26 (e) (1) (A) If the employment, other than seasonal employment,
27 of any qualified employee with respect to whom qualified wages
28 are taken into account under subdivision (a) is terminated by the
29 taxpayer at any time during the first 270 days of that employment,
30 whether or not consecutive, or before the close of the 270th
31 calendar day after the day in which that employee completes 90
32 days of employment with the taxpayer, the tax imposed by this
33 part for the taxable year in which that employment is terminated
34 shall be increased by an amount equal to the credit allowed under
35 subdivision (a) for that taxable year and all prior taxable years
36 attributable to qualified wages paid or incurred with respect to that
37 employee.

38 (B) If the seasonal employment of any qualified employee, with
39 respect to whom qualified wages are taken into account under
40 subdivision (a) is not continued by the taxpayer for a period of

1 270 days of employment during the 60-month period beginning
2 with the day the qualified employee commences seasonal
3 employment with the taxpayer, the tax imposed by this part, for
4 the taxable year that includes the 60th month following the month
5 in which the qualified employee commences seasonal employment
6 with the taxpayer, shall be increased by an amount equal to the
7 credit allowed under subdivision (a) for that taxable year and all
8 prior taxable years attributable to qualified wages paid or incurred
9 with respect to that qualified employee.

10 (2) (A) Subparagraph (A) of paragraph (1) does not apply to
11 any of the following:

12 (i) A termination of employment of a qualified employee who
13 voluntarily leaves the employment of the taxpayer.

14 (ii) A termination of employment of a qualified employee who,
15 before the close of the period referred to in subparagraph (A) of
16 paragraph (1), becomes disabled and unable to perform the services
17 of that employment, unless that disability is removed before the
18 close of that period and the taxpayer fails to offer reemployment
19 to that employee.

20 (iii) A termination of employment of a qualified employee, if
21 it is determined that the termination was due to the misconduct (as
22 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
23 the California Code of Regulations) of that employee.

24 (iv) A termination of employment of a qualified employee due
25 to a substantial reduction in the trade or business operations of the
26 taxpayer.

27 (v) A termination of employment of a qualified employee, if
28 that employee is replaced by other qualified employees so as to
29 create a net increase in both the number of employees and the
30 hours of employment.

31 (B) Subparagraph (B) of paragraph (1) does not apply to any
32 of the following:

33 (i) A failure to continue the seasonal employment of a qualified
34 employee who voluntarily fails to return to the seasonal
35 employment of the taxpayer.

36 (ii) A failure to continue the seasonal employment of a qualified
37 employee who, before the close of the period referred to in
38 subparagraph (B) of paragraph (1), becomes disabled and unable
39 to perform the services of that seasonal employment, unless that
40 disability is removed before the close of that period and the

1 taxpayer fails to offer seasonal employment to that qualified
 2 employee.

3 (iii) A failure to continue the seasonal employment of a qualified
 4 employee, if it is determined that the failure to continue the
 5 seasonal employment was due to the misconduct (as defined in
 6 Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California
 7 Code of Regulations) of that qualified employee.

8 (iv) A failure to continue seasonal employment of a qualified
 9 employee due to a substantial reduction in the regular seasonal
 10 trade or business operations of the taxpayer.

11 (v) A failure to continue the seasonal employment of a qualified
 12 employee, if that qualified employee is replaced by other qualified
 13 employees so as to create a net increase in both the number of
 14 seasonal employees and the hours of seasonal employment.

15 (C) For purposes of paragraph (1), the employment relationship
 16 between the taxpayer and a qualified employee shall not be treated
 17 as terminated by either of the following:

18 (i) By a transaction to which Section 381(a) of the Internal
 19 Revenue Code applies, if the qualified employee continues to be
 20 employed by the acquiring corporation.

21 (ii) By reason of a mere change in the form of conducting the
 22 trade or business of the taxpayer, if the qualified employee
 23 continues to be employed in that trade or business and the taxpayer
 24 retains a substantial interest in that trade or business.

25 (3) Any increase in tax under paragraph (1) shall not be treated
 26 as tax imposed by this part for purposes of determining the amount
 27 of any credit allowable under this part.

28 (f) Rules similar to the rules provided in Section 46(e) and (h)
 29 of the Internal Revenue Code shall apply to both of the following:

30 (1) An organization to which Section 593 of the Internal
 31 Revenue Code applies.

32 (2) A regulated investment company or a real estate investment
 33 trust subject to taxation under this part.

34 (g) For purposes of this section, “enterprise zone” means an
 35 area designated as an enterprise zone pursuant to Chapter 12.8
 36 (commencing with Section 7070) of Division 7 of Title 1 of the
 37 Government Code.

38 (h) The credit allowable under this section shall be reduced by
 39 the credit allowed under Sections 23623.5, 23625, and 23646
 40 claimed for the same employee. The credit shall also be reduced

1 by the federal credit allowed under Section 51 of the Internal
2 Revenue Code.

3 In addition, any deduction otherwise allowed under this part for
4 the wages or salaries paid or incurred by the taxpayer upon which
5 the credit is based shall be reduced by the amount of the credit,
6 prior to any reduction required by subdivision (i) or (j).

7 (i) In the case where the credit otherwise allowed under this
8 section exceeds the “tax” for the taxable year, that portion of the
9 credit that exceeds the “tax” may be carried over and added to the
10 credit, if any, in the succeeding 10 taxable years, if necessary, until
11 the credit is exhausted. The credit shall be applied first to the
12 earliest taxable years possible.

13 (j) (1) The amount of the credit otherwise allowed under this
14 section and Section 23612.2, including any credit carryover from
15 prior years, that may reduce the “tax” for the taxable year shall
16 not exceed the amount of tax which would be imposed on the
17 taxpayer’s business income attributable to the enterprise zone
18 determined as if that attributable income represented all of the
19 income of the taxpayer subject to tax under this part.

20 (2) Attributable income shall be that portion of the taxpayer’s
21 California source business income that is apportioned to the
22 enterprise zone. For that purpose, the taxpayer’s business
23 attributable to sources in this state first shall be determined in
24 accordance with Chapter 17 (commencing with Section 25101).
25 That business income shall be further apportioned to the enterprise
26 zone in accordance with Article 2 (commencing with Section
27 25120) of Chapter 17, modified for purposes of this section in
28 accordance with paragraph (3).

29 (3) Business income shall be apportioned to the enterprise zone
30 by multiplying the total California business income of the taxpayer
31 by a fraction, the numerator of which is the property factor plus
32 the payroll factor, and the denominator of which is two. For
33 purposes of this paragraph:

34 (A) The property factor is a fraction, the numerator of which is
35 the average value of the taxpayer’s real and tangible personal
36 property owned or rented and used in the enterprise zone during
37 the income year, and the denominator of which is the average value
38 of all the taxpayer’s real and tangible personal property owned or
39 rented and used in this state during the income year.

1 (B) The payroll factor is a fraction, the numerator of which is
2 the total amount paid by the taxpayer in the enterprise zone during
3 the income year for compensation, and the denominator of which
4 is the total compensation paid by the taxpayer in this state during
5 the income year.

6 (4) The portion of any credit remaining, if any, after application
7 of this subdivision, shall be carried over to succeeding taxable
8 years, if necessary, until the credit is exhausted, as if it were an
9 amount exceeding the “tax” for the taxable year, as provided in
10 subdivision (i). However, the portion of any credit remaining for
11 carryover to taxable years beginning on or after January 1, 2014,
12 if any, after application of this subdivision, shall be carried over
13 only to the succeeding 10 taxable years if necessary, until the credit
14 is exhausted, as if it were an amount exceeding the “tax” for the
15 taxable year, as provided in subdivision (i).

16 (k) The changes made to this section by the act adding this
17 subdivision apply to taxable years on or after January 1, 1997.

18 (l) (1) Except as provided in paragraph (2), this section shall
19 cease to be operative on January 1, 2014, and shall be repealed on
20 December 1, 2019. A credit shall not be allowed under this section
21 with respect to an employee who first commences employment
22 with a taxpayer on or after January 1, 2014.

23 (2) This section shall continue to apply with respect to qualified
24 employees who are employed by the taxpayer within the enterprise
25 zone within the 60-month period immediately preceding January
26 1, 2014, and qualified wages paid or incurred with respect to those
27 qualified employees shall continue to qualify for the credit under
28 this section for taxable years beginning on or after January 1, 2014,
29 in accordance with this section, as amended by the act adding this
30 subdivision.

31 ~~SEC. 481.~~

32 *SEC. 488.* Section 23626 of the Revenue and Taxation Code
33 is amended to read:

34 23626. (a) (1) For each taxable year beginning on or after
35 January 1, 2014, and before January 1, 2021, there shall be allowed
36 to a qualified taxpayer that hires a qualified full-time employee
37 and pays or incurs qualified wages attributable to work performed
38 by the qualified full-time employee in a designated census tract
39 or economic development area, and that receives a tentative credit
40 reservation for that qualified full-time employee, a credit against

1 the “tax,” as defined by Section 23036, in an amount calculated
2 under this section.

3 (2) The amount of the credit allowable under this section for a
4 taxable year shall be equal to the product of the tentative credit
5 amount for the taxable year and the applicable percentage for the
6 taxable year.

7 (3) (A) If a qualified taxpayer relocates to a designated census
8 tract or economic development area, the qualified taxpayer shall
9 be allowed a credit with respect to qualified wages for each
10 qualified full-time employee who is employed within the new
11 location only if the qualified taxpayer provides each employee at
12 the previous location or locations a written offer of employment
13 at the new location in the designated census tract or economic
14 development area with comparable compensation.

15 (B) For purposes of this paragraph, “relocates to a designated
16 census tract or economic development area” means an increase in
17 the number of qualified full-time employees, employed by a
18 qualified taxpayer, within a designated census tract or tracts or
19 economic development areas within a 12-month period in which
20 there is a decrease in the number of full-time employees, employed
21 by the qualified taxpayer in this state, but outside of designated
22 census tracts or economic development areas.

23 (C) This paragraph does not apply to a small business.

24 (4) The credit allowed by this section may only be claimed on
25 a timely filed original return of the qualified taxpayer and only
26 with respect to a qualified full-time employee for whom the
27 qualified taxpayer has received a tentative credit reservation.

28 (b) For purposes of this section:

29 (1) The “tentative credit amount” for a taxable year shall be
30 equal to the product of the applicable credit percentage for each
31 qualified full-time employee and the qualified wages paid by the
32 qualified taxpayer during the taxable year to that qualified full-time
33 employee.

34 (2) The “applicable percentage” for a taxable year shall be equal
35 to a fraction, the numerator of which is the net increase in the total
36 number of full-time employees employed in this state during the
37 taxable year, determined on an annual full-time equivalent basis,
38 as compared with the total number of full-time employees
39 employed in this state during the base year, determined on the
40 same basis, and the denominator of which shall be the total number

1 of qualified full-time employees employed in this state during the
2 taxable year. The applicable percentage shall not exceed 100
3 percent.

4 (3) The “applicable credit percentage” means the credit
5 percentage for the calendar year during which a qualified full-time
6 employee was first employed by the qualified taxpayer. The
7 applicable credit percentage for all calendar years shall be 35
8 percent.

9 (4) “Base year” means the 2013 taxable year, or in the case of
10 a qualified taxpayer who first hires a qualified full-time employee
11 in a taxable year beginning on or after January 2015, the taxable
12 year immediately preceding the taxable year in which the qualified
13 full-time employee was hired.

14 (5) “Acquired” includes any gift, inheritance, transfer incident
15 to divorce, or any other transfer, whether or not for consideration.

16 (6) “Annual full-time equivalent” means either of the following:

17 (A) In the case of a full-time employee paid hourly qualified
18 wages, “annual full-time equivalent” means the total number of
19 hours worked for the qualified taxpayer by the employee (not to
20 exceed 2,000 hours per employee) divided by 2,000.

21 (B) In the case of a salaried full-time employee, “annual
22 full-time equivalent” means the total number of weeks worked for
23 the qualified taxpayer by the employee divided by 52.

24 (7) “Designated census tract” means a census tract within the
25 state that is determined by the Department of Finance to have a
26 civilian unemployment rate that is within the top 25 percent of all
27 census tracts within the state and has a poverty rate within the top
28 25 percent of all census tracts within the state, as prescribed in
29 Section 13073.5 of the Government Code.

30 (8) “Economic development area” means either of the following:

31 (A) A former enterprise zone. For purposes of this section,
32 “former enterprise zone” means an enterprise zone designated and
33 in effect as of December 31, 2011, any enterprise zone designated
34 during 2012, and any revision of an enterprise zone prior to June
35 30, 2013, under former Chapter 12.8 (commencing with Section
36 7070) of Division 7 of Title 1 of the Government Code, as in effect
37 on December 31, 2012, excluding any census tract within an
38 enterprise zone that is identified by the Department of Finance
39 pursuant to Section 13073.5 of the Government Code as a census

1 tract within the lowest quartile of census tracts with the lowest
2 civilian unemployment and poverty.

3 (B) A local agency military base recovery area designated as
4 of the effective date of the act adding this subparagraph, in
5 accordance with Section 7114 of the Government Code.

6 (9) “Minimum wage” means the wage established pursuant to
7 Chapter 1 (commencing with Section 1171) of Part 4 of Division
8 2 of the Labor Code.

9 (10) (A) “Qualified full-time employee” means an individual
10 who meets all of the following requirements:

11 (i) Performs at least 50 percent of his or her services for the
12 qualified taxpayer during the taxable year in a designated census
13 tract or economic development area.

14 (ii) Receives starting wages that are at least 150 percent of the
15 minimum wage.

16 (iii) Is hired by the qualified taxpayer on or after January 1,
17 2014.

18 (iv) Is hired by the qualified taxpayer after the date the
19 Department of Finance determines that the census tract referred
20 to in clause (i) is a designated census tract or that the census tracts
21 within a former enterprise zone are not census tracts with the lowest
22 civilian unemployment and poverty.

23 (v) Satisfies either of the following conditions:

24 (I) Is paid qualified wages by the qualified taxpayer for services
25 not less than an average of 35 hours per week.

26 (II) Is a salaried employee and was paid compensation during
27 the taxable year for full-time employment, within the meaning of
28 Section 515 of the Labor Code, by the qualified taxpayer.

29 (vi) Upon commencement of employment with the qualified
30 taxpayer, satisfies any of the following conditions:

31 (I) Was unemployed for the six months immediately preceding
32 employment with the qualified taxpayer. In the case of an
33 individual who completed a program of study at a college,
34 university, or other postsecondary educational institution, received
35 a baccalaureate, postgraduate, or professional degree, and was
36 unemployed for the six months immediately preceding employment
37 with the qualified taxpayer, that individual must have completed
38 that program of study at least 12 months prior to the individual’s
39 commencement of employment with the qualified taxpayer.

1 (II) Is a veteran who separated from service in the Armed Forces
2 of the United States within the 12 months preceding
3 commencement of employment with the qualified taxpayer.

4 (III) Was a recipient of the credit allowed under Section 32 of
5 the Internal Revenue Code, relating to earned income, as applicable
6 for federal purposes, for the previous taxable year.

7 (IV) Is an ex-offender previously convicted of a felony.

8 (V) Is a recipient of either CalWORKs, in accordance with
9 Article 2 (commencing with Section 11250) of Chapter 2 of Part
10 3 of Division 9 of the Welfare and Institutions Code, or general
11 assistance, in accordance with Section 17000.5 of the Welfare and
12 Institutions Code.

13 (B) An individual may only be considered a qualified full-time
14 employee for the period of time commencing with the date the
15 individual is first employed by the qualified taxpayer and ending
16 60 months thereafter.

17 (11) (A) “Qualified taxpayer” means a corporation engaged in
18 a trade or business within designated census tract or economic
19 development area that, during the taxable year, pays or incurs
20 qualified wages.

21 (B) In the case of any pass-thru entity, the determination of
22 whether a taxpayer is a qualified taxpayer under this section shall
23 be made at the entity level and any credit under this section or
24 Section 17053.73 shall be allowed to the pass-thru entity and
25 passed through to the partners and shareholders in accordance with
26 applicable provisions of this part or Part 10 (commencing with
27 Section 17001). For purposes of this subdivision, the term
28 “pass-thru entity” means any partnership or “S” corporation.

29 (C) “Qualified taxpayer” shall not include any of the following:

30 (i) Employers that provide temporary help services, as described
31 in Code 561320 of the North American Industry Classification
32 System (NAICS) published by the United States Office of
33 Management and Budget, 2012 edition.

34 (ii) Employers that provide retail trade services, as described
35 in Sector 44-45 of the North American Industry Classification
36 System (NAICS) published by the United States Office of
37 Management and Budget, 2012 edition.

38 (iii) Employers that are primarily engaged in providing food
39 services, as described in Code 711110, 722511, 722513, 722514,
40 or 722515 of the North American Industry Classification System

1 (NAICS) published by the United States Office of Management
2 and Budget, 2012 edition.

3 (iv) Employers that are primarily engaged in services as
4 described in Code 713210, 721120, or 722410 of the North
5 American Industry Classification System (NAICS) published by
6 the United States Office of Management and Budget, 2012 edition.

7 (v) (I) An employer that is a sexually oriented business.

8 (II) For purposes of this clause:

9 (ia) “Sexually oriented business” means a nightclub, bar,
10 restaurant, or similar commercial enterprise that provides for an
11 audience of two or more individuals live nude entertainment or
12 live nude performances where the nudity is a function of everyday
13 business operations and where nudity is a planned and intentional
14 part of the entertainment or performance.

15 (ib) “Nude” means clothed in a manner that leaves uncovered
16 or visible, through less than fully opaque clothing, any portion of
17 the genitals or, in the case of a female, any portion of the breasts
18 below the top of the areola of the breasts.

19 (D) Subparagraph (C) shall not apply to a taxpayer that is a
20 “small business.”

21 (12) “Qualified wages” means those wages that meet all of the
22 following requirements:

23 (A) (i) Except as provided in clause (ii), that portion of wages
24 paid or incurred by the qualified taxpayer during the taxable year
25 to each qualified full-time employee that exceeds 150 percent of
26 minimum wage, but does not exceed 350 percent of the minimum
27 wage.

28 (ii) (I) In the case of a qualified full-time employee employed
29 in a designated pilot area, that portion of wages paid or incurred
30 by the qualified taxpayer during the taxable year to each qualified
31 full-time employee that exceeds ten dollars (\$10) per hour or an
32 equivalent amount for salaried employees, but does not exceed
33 350 percent of the minimum wage. For qualified full-time
34 employees described in the preceding sentence, clause (ii) of
35 subparagraph (A) of paragraph (10) is modified by substituting
36 “ten dollars (\$10) per hour or an equivalent amount for salaried
37 employees” for “150 percent of the minimum wage.”

38 (II) For purposes of this clause:

1 (ia) “Designated pilot area” means an area designated as a
2 designated pilot area by the Governor’s Office of Business and
3 Economic Development.

4 (ib) Areas that may be designated as a designated pilot area are
5 limited to areas within a designated census tract or an economic
6 development area with average wages less than the statewide
7 average wages, based on information from the Labor Market
8 Division of the Employment Development Department, and areas
9 within a designated census tract or an economic development area
10 based on high poverty or high unemployment.

11 (ic) The total number of designated pilot areas that may be
12 designated is limited to five, one or more of which must be an area
13 within five or fewer designated census tracts within a single county
14 based on high poverty or high unemployment or an area within an
15 economic development area based on high poverty or high
16 unemployment.

17 (id) The designation of a designated pilot area shall be applicable
18 for a period of four calendar years, commencing with the first
19 calendar year for which the designation of a designated pilot area
20 is effective. The applicable period of a designated pilot area may
21 be extended, in the sole discretion of the Governor’s Office of
22 Business and Economic Development, for an additional period of
23 up to three calendar years. The applicable period, and any extended
24 period, shall not extend beyond December 31, 2020.

25 (III) The designation of an area as a designated pilot area and
26 the extension of the applicable period of a designated pilot area
27 shall be at the sole discretion of the Governor’s Office of Business
28 and Economic Development and shall not be subject to
29 administrative appeal or judicial review.

30 (B) Wages paid or incurred during the 60-month period
31 beginning with the first day the qualified full-time employee
32 commences employment with the qualified taxpayer. In the case
33 of any employee who is reemployed, including regularly occurring
34 seasonal increase, in the trade or business operations of the
35 qualified taxpayer, this reemployment shall not be treated as
36 constituting commencement of employment for purposes of this
37 section.

38 (C) Except as provided in paragraph (3) of subdivision (m),
39 qualified wages shall not include any wages paid or incurred by
40 the qualified taxpayer on or after the date that the Department of

1 Finance’s redesignation of designated census tracts is effective,
2 as provided in paragraph (2) of subdivision (g), so that a census
3 tract is no longer determined to be a designated census tract.

4 (13) “Seasonal employment” means employment by a qualified
5 taxpayer that has regular and predictable substantial reductions in
6 trade or business operations.

7 (14) (A) “Small business” means a trade or business that has
8 aggregate gross receipts, less returns and allowances reportable to
9 this state, of less than two million dollars (\$2,000,000) during the
10 previous taxable year.

11 (B) (i) For purposes of this paragraph, “gross receipts, less
12 returns and allowances reportable to this state,” means the sum of
13 the gross receipts from the production of business income, as
14 defined in subdivision (a) of Section 25120, and the gross receipts
15 from the production of nonbusiness income, as defined in
16 subdivision (d) of Section 25120.

17 (ii) In the case of any trade or business activity conducted by a
18 partnership or an “S” corporation, the limitations set forth in
19 subparagraph (A) shall be applied to the partnership or “S”
20 corporation and to each partner or shareholder.

21 (iii) For taxpayers that are required to be included in a combined
22 report under Section 25101 or authorized to be included in a
23 combined report under Section 25101.15, the dollar amount
24 specified in subparagraph (A) shall apply to the aggregate gross
25 receipts of all taxpayers that are required to be or authorized to be
26 included in a combined report.

27 (C) (i) “Small business” shall not include a sexually oriented
28 business.

29 (ii) For purposes of this subparagraph:

30 (I) “Sexually oriented business” means a nightclub, bar,
31 restaurant, or similar commercial enterprise that provides for an
32 audience of two or more individuals live nude entertainment or
33 live nude performances where the nudity is a function of everyday
34 business operations and where nudity is a planned and intentional
35 part of the entertainment or performance.

36 (II) “Nude” means clothed in a manner that leaves uncovered
37 or visible, through less than fully opaque clothing, any portion of
38 the genitals or, in the case of a female, any portion of the breasts
39 below the top of the areola of the breasts.

1 (15) An individual is “unemployed” for any period for which
2 the individual is all of the following:

3 (A) Not in receipt of wages subject to withholding under Section
4 13020 of the Unemployment Insurance Code for that period.

5 (B) Not a self-employed individual (within the meaning of
6 Section 401(c)(1)(B) of the Internal Revenue Code, relating to
7 self-employed individual) for that period.

8 (C) Not a registered full-time student at a high school, college,
9 university, or other postsecondary educational institution for that
10 period.

11 (c) The net increase in full-time employees of a qualified
12 taxpayer shall be determined as provided by this subdivision:

13 (1) (A) The net increase in full-time employees shall be
14 determined on an annual full-time equivalent basis by subtracting
15 from the amount determined in subparagraph (C) the amount
16 determined in subparagraph (B).

17 (B) The total number of full-time employees employed in the
18 base year by the taxpayer and by any trade or business acquired
19 by the taxpayer during the current taxable year.

20 (C) The total number of full-time employees employed in the
21 current taxable year by the taxpayer and by any trade or business
22 acquired during the current taxable year.

23 (2) For taxpayers who first commence doing business in this
24 state during the taxable year, the number of full-time employees
25 for the base year shall be zero.

26 (d) For purposes of this section:

27 (1) All employees of the trades or businesses that are treated as
28 related under Section 267, 318, or 707 of the Internal Revenue
29 Code shall be treated as employed by a single taxpayer.

30 (2) In determining whether the taxpayer has first commenced
31 doing business in this state during the taxable year, the provisions
32 of subdivision (g) of Section 24416, without application of
33 paragraph (7) of that subdivision, apply.

34 (e) (1) To be eligible for the credit allowed by this section, a
35 qualified taxpayer shall, upon hiring a qualified full-time employee,
36 request a tentative credit reservation from the Franchise Tax Board
37 within 30 days of complying with the Employment Development
38 Department’s new hire reporting requirement as provided in
39 Section 1088.5 of the Unemployment Insurance Code, in the form
40 and manner prescribed by the Franchise Tax Board.

1 (2) To obtain a tentative credit reservation with respect to a
2 qualified full-time employee, the qualified taxpayer shall provide
3 necessary information, as determined by the Franchise Tax Board,
4 including the name, the social security number, the start date of
5 employment, the rate of pay of the qualified full-time employee,
6 the qualified taxpayer's gross receipts, less returns and allowances,
7 for the previous taxable year, and whether the qualified full-time
8 employee is a resident of a targeted employment area, as defined
9 in former Section 7072 of the Government Code, as in effect on
10 December 31, 2013.

11 (3) The qualified taxpayer shall provide the Franchise Tax Board
12 an annual certification of employment with respect to each
13 qualified full-time employee hire in a previous taxable year, on or
14 before the 15th day of the third month of the taxable year. The
15 certification shall include necessary information, as determined
16 by the Franchise Tax Board, including the name, social security
17 number, start date of employment, and rate of pay for each qualified
18 full-time employee employed by the qualified taxpayer.

19 (4) A tentative credit reservation provided to a taxpayer with
20 respect to an employee of that taxpayer shall not constitute a
21 determination by the Franchise Tax Board with respect to any of
22 the requirements of this section regarding a taxpayer's eligibility
23 for the credit authorized by this section.

24 (f) The Franchise Tax Board shall do all of the following:

25 (1) Approve a tentative credit reservation with respect to a
26 qualified full-time employee hired during a calendar year.

27 (2) Determine the aggregate tentative reservation amount and
28 the aggregate small business tentative reservation amount for a
29 calendar year.

30 (3) A tentative credit reservation request from a qualified
31 taxpayer with respect to a qualified full-time employee who is a
32 resident of a targeted employment area, as defined in former
33 Section 7072 of the Government Code, as in effect on December
34 31, 2013, shall be expeditiously processed by the Franchise Tax
35 Board. The residence of a qualified full-time employee in a targeted
36 employment area shall have no other effect on the eligibility of an
37 individual as a qualified full-time employee or the eligibility of a
38 qualified taxpayer for the credit authorized by this section.

39 (4) Notwithstanding Section 19542, provide as a searchable
40 database on its Internet Web site, for each taxable year beginning

1 on or after January 1, 2014, and before January 1, 2021, the
2 employer names, amounts of tax credit claimed, and number of
3 new jobs created for each taxable year pursuant to this section and
4 Section 17053.73.

5 (g) (1) The Department of Finance shall, by January 1, 2014,
6 and by January 1 of every fifth year thereafter, provide the
7 Franchise Tax Board with a list of the designated census tracts and
8 a list of census tracts with the lowest civilian unemployment rate.

9 (2) The redesignation of designated census tracts and lowest
10 civilian unemployment census tracts by the Department of Finance
11 as provided in Section 13073.5 of the Government Code shall be
12 effective, for purposes of this credit, one year after the date that
13 the Department of Finance redesignates the designated census
14 tracts.

15 (h) (1) For purposes of this section:

16 (A) All employees of the trades or businesses that are treated
17 as related under Section 267, 318, or 707 of the Internal Revenue
18 Code shall be treated as employed by a single qualified taxpayer.

19 (B) All employees of all corporations that are members of the
20 same controlled group of corporations shall be treated as employed
21 by a single qualified taxpayer.

22 (C) The credit, if any, allowable by this section to each member
23 shall be determined by reference to its proportionate share of the
24 expense of the qualified wages giving rise to the credit, and shall
25 be allocated in that manner.

26 (D) If a qualified taxpayer acquires the major portion of a trade
27 or business of another taxpayer, hereinafter in this paragraph
28 referred to as the predecessor, or the major portion of a separate
29 unit of a trade or business of a predecessor, then, for purposes of
30 applying this section for any taxable year ending after that
31 acquisition, the employment relationship between a qualified
32 full-time employee and a qualified taxpayer shall not be treated
33 as terminated if the employee continues to be employed in that
34 trade or business.

35 (2) For purposes of this subdivision, “controlled group of
36 corporations” means a controlled group of corporations as defined
37 in Section 1563(a) of the Internal Revenue Code, except that:

38 (A) “More than 50 percent” shall be substituted for “at least 80
39 percent” each place it appears in Section 1563(a)(1) of the Internal
40 Revenue Code.

1 (B) The determination shall be made without regard to
2 subsections (a)(4) and (e)(3)(C) of Section 1563 of the Internal
3 Revenue Code.

4 (3) Rules similar to the rules provided in Sections 46(e) and
5 46(h) of the Internal Revenue Code, as in effect on November 4,
6 1990, shall apply to both of the following:

7 (A) An organization to which Section 593 of the Internal
8 Revenue Code applies.

9 (B) A regulated investment company or a real estate investment
10 trust subject to taxation under this part.

11 (i) (1) If the employment of any qualified full-time employee,
12 with respect to whom qualified wages are taken into account under
13 subdivision (a), is terminated by the qualified taxpayer at any time
14 during the first 36 months after commencing employment with
15 the qualified taxpayer, whether or not consecutive, the tax imposed
16 by this part for the taxable year in which that employment is
17 terminated shall be increased by an amount equal to the credit
18 allowed under subdivision (a) for that taxable year and all prior
19 taxable years attributable to qualified wages paid or incurred with
20 respect to that employee.

21 (2) Paragraph (1) does not apply to any of the following:

22 (A) A termination of employment of a qualified full-time
23 employee who voluntarily leaves the employment of the qualified
24 taxpayer.

25 (B) A termination of employment of a qualified full-time
26 employee who, before the close of the period referred to in
27 paragraph (1), becomes disabled and unable to perform the services
28 of that employment, unless that disability is removed before the
29 close of that period and the qualified taxpayer fails to offer
30 reemployment to that employee.

31 (C) A termination of employment of a qualified full-time
32 employee, if it is determined that the termination was due to the
33 misconduct, as defined in Sections 1256-30 to 1256-43, inclusive,
34 of Title 22 of the California Code of Regulations, of that employee.

35 (D) A termination of employment of a qualified full-time
36 employee due to a substantial reduction in the trade or business
37 operations of the qualified taxpayer, including reductions due to
38 seasonal employment.

39 (E) A termination of employment of a qualified full-time
40 employee, if that employee is replaced by other qualified full-time

1 employees so as to create a net increase in both the number of
2 employees and the hours of employment.

3 (F) A termination of employment of a qualified full-time
4 employee, when that employment is considered seasonal
5 employment and the qualified employee is rehired on a seasonal
6 basis.

7 (3) For purposes of paragraph (1), the employment relationship
8 between the qualified taxpayer and a qualified full-time employee
9 shall not be treated as terminated by reason of a mere change in
10 the form of conducting the trade or business of the qualified
11 taxpayer, if the qualified full-time employee continues to be
12 employed in that trade or business and the qualified taxpayer retains
13 a substantial interest in that trade or business.

14 (4) An increase in tax under paragraph (1) shall not be treated
15 as tax imposed by this part for purposes of determining the amount
16 of any credit allowable under this part.

17 (j) In the case where the credit allowed by this section exceeds
18 the “tax,” the excess may be carried over to reduce the “tax” in
19 the following year, and the succeeding four years if necessary,
20 until exhausted.

21 (k) The Franchise Tax Board may prescribe rules, guidelines,
22 or procedures necessary or appropriate to carry out the purposes
23 of this section, including any guidelines regarding the allocation
24 of the credit allowed under this section. Chapter 3.5 (commencing
25 with Section 11340) of Part 1 of Division 3 of Title 2 of the
26 Government Code shall not apply to any rule, guideline, or
27 procedure prescribed by the Franchise Tax Board pursuant to this
28 section.

29 (l) (1) Upon the effective date of this section, the Department
30 of Finance shall estimate the total dollar amount of credits that
31 will be claimed under this section with respect to each fiscal year
32 from the 2013–14 fiscal year to the 2020–21 fiscal year, inclusive.

33 (2) The Franchise Tax Board shall annually provide to the Joint
34 Legislative Budget Committee, by no later than March 1, a report
35 of the total dollar amount of the credits claimed under this section
36 with respect to the relevant fiscal year. The report shall compare
37 the total dollar amount of credits claimed under this section with
38 respect to that fiscal year with the department’s estimate with
39 respect to that same fiscal year. If the total dollar amount of credits
40 claimed for the fiscal year is less than the estimate for that fiscal

1 year, the report shall identify options for increasing annual claims
2 of the credit so as to meet estimated amounts.

3 (m) (1) This section shall remain in effect only until December
4 1, 2024, and as of that date is repealed.

5 (2) Notwithstanding paragraph (1) of subdivision (a), this section
6 shall continue to be operative for taxable years beginning on or
7 after January 1, 2021, but only with respect to qualified full-time
8 employees who commenced employment with a qualified taxpayer
9 in a designated census tract or economic development area in a
10 taxable year beginning before January 1, 2021.

11 (3) This section shall remain operative for any qualified taxpayer
12 with respect to any qualified full-time employee after the
13 designated census tract is no longer designated or an economic
14 development area ceases to be an economic development area, as
15 defined in this section, for the remaining period, if any, of the
16 60-month period after the original date of hiring of an otherwise
17 qualified full-time employee and any wages paid or incurred with
18 respect to those qualified full-time employees after the designated
19 census tract is no longer designated or an economic development
20 area ceases to be an economic development area, as defined in this
21 section, shall be treated as qualified wages under this section,
22 provided the employee satisfies any other requirements of
23 paragraphs (10) and (12) of subdivision (b), as if the designated
24 census tract was still designated and binding or the economic
25 development area was still in existence.

26 ~~SEC. 482.~~

27 *SEC. 489.* Section 23634 of the Revenue and Taxation Code
28 is amended to read:

29 23634. (a) For each taxable year beginning on or after January
30 1, 1998, there shall be allowed a credit against the “tax” (as defined
31 by Section 23036) to a qualified taxpayer who employs a qualified
32 employee in a targeted tax area during the taxable year. The credit
33 shall be equal to the sum of each of the following:

34 (1) Fifty percent of qualified wages in the first year of
35 employment.

36 (2) Forty percent of qualified wages in the second year of
37 employment.

38 (3) Thirty percent of qualified wages in the third year of
39 employment.

1 (4) Twenty percent of qualified wages in the fourth year of
2 employment.

3 (5) Ten percent of qualified wages in the fifth year of
4 employment.

5 (b) For purposes of this section:

6 (1) “Qualified wages” means:

7 (A) That portion of wages paid or incurred by the qualified
8 taxpayer during the taxable year to qualified employees that does
9 not exceed 150 percent of the minimum wage.

10 (B) Wages received during the 60-month period beginning with
11 the first day the employee commences employment with the
12 qualified taxpayer. Reemployment in connection with any increase,
13 including a regularly occurring seasonal increase, in the trade or
14 business operations of the qualified taxpayer does not constitute
15 commencement of employment for purposes of this section.

16 (C) Qualified wages do not include any wages paid or incurred
17 by the qualified taxpayer on or after the targeted tax area expiration
18 date. However, wages paid or incurred with respect to qualified
19 employees who are employed by the qualified taxpayer within the
20 targeted tax area within the 60-month period prior to the targeted
21 tax area expiration date shall continue to qualify for the credit
22 under this section after the targeted tax area expiration date, in
23 accordance with all provisions of this section applied as if the
24 targeted tax area designation were still in existence and binding.

25 (2) “Minimum wage” means the wage established by the
26 Industrial Welfare Commission as provided for in Chapter 1
27 (commencing with Section 1171) of Part 4 of Division 2 of the
28 Labor Code.

29 (3) “Targeted tax area expiration date” means the date the
30 targeted tax area designation expires, is revoked, is no longer
31 binding, becomes inoperative, or is repealed.

32 (4) (A) “Qualified employee” means an individual who meets
33 all of the following requirements:

34 (i) At least 90 percent of his or her services for the qualified
35 taxpayer during the taxable year are directly related to the conduct
36 of the qualified taxpayer’s trade or business located in a targeted
37 tax area.

38 (ii) Performs at least 50 percent of his or her services for the
39 qualified taxpayer during the taxable year in a targeted tax area.

1 (iii) Is hired by the qualified taxpayer after the date of original
2 designation of the area in which services were performed as a
3 targeted tax area.

4 (iv) Is any of the following:

5 (I) Immediately preceding the qualified employee's
6 commencement of employment with the qualified taxpayer, was
7 a person eligible for services under the federal Job Training
8 Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor,
9 who is receiving, or is eligible to receive, subsidized employment,
10 training, or services funded by the federal Job Training Partnership
11 Act, or its successor.

12 (II) Immediately preceding the qualified employee's
13 commencement of employment with the qualified taxpayer, was
14 a person eligible to be a voluntary or mandatory registrant under
15 the Greater Avenues for Independence Act of 1985 (GAIN)
16 provided for pursuant to Article 3.2 (commencing with Section
17 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and
18 Institutions Code, or its successor.

19 (III) Immediately preceding the qualified employee's
20 commencement of employment with the qualified taxpayer, was
21 an economically disadvantaged individual 14 years of age or older.

22 (IV) Immediately preceding the qualified employee's
23 commencement of employment with the qualified taxpayer, was
24 a dislocated worker who meets any of the following:

25 (ia) Has been terminated or laid off or who has received a notice
26 of termination or layoff from employment, is eligible for or has
27 exhausted entitlement to unemployment insurance benefits, and
28 is unlikely to return to his or her previous industry or occupation.

29 (ib) Has been terminated or has received a notice of termination
30 of employment as a result of any permanent closure or any
31 substantial layoff at a plant, facility, or enterprise, including an
32 individual who has not received written notification but whose
33 employer has made a public announcement of the closure or layoff.

34 (ic) Is long-term unemployed and has limited opportunities for
35 employment or reemployment in the same or a similar occupation
36 in the area in which the individual resides, including an individual
37 55 years of age or older who may have substantial barriers to
38 employment by reason of age.

39 (id) Was self-employed (including farmers and ranchers) and
40 is unemployed as a result of general economic conditions in the

1 community in which he or she resides or because of natural
2 disasters.

3 (ie) Was a civilian employee of the Department of Defense
4 employed at a military installation being closed or realigned under
5 the Defense Base Closure and Realignment Act of 1990.

6 (if) Was an active member of the Armed Forces or National
7 Guard as of September 30, 1990, and was either involuntarily
8 separated or separated pursuant to a special benefits program.

9 (ig) Is a seasonal or migrant worker who experiences chronic
10 seasonal unemployment and underemployment in the agriculture
11 industry, aggravated by continual advancements in technology and
12 mechanization.

13 (ih) Has been terminated or laid off, or has received a notice of
14 termination or layoff, as a consequence of compliance with the
15 Clean Air Act.

16 (V) Immediately preceding the qualified employee's
17 commencement of employment with the qualified taxpayer, was
18 a disabled individual who is eligible for or enrolled in, or has
19 completed a state rehabilitation plan or is a service-connected
20 disabled veteran, veteran of the Vietnam era, or veteran who is
21 recently separated from military service.

22 (VI) Immediately preceding the qualified employee's
23 commencement of employment with the qualified taxpayer, was
24 an ex-offender. An individual shall be treated as convicted if he
25 or she was placed on probation by a state court without a finding
26 of guilt.

27 (VII) Immediately preceding the qualified employee's
28 commencement of employment with the qualified taxpayer, was
29 a person eligible for or a recipient of any of the following:

30 (ia) Federal Supplemental Security Income benefits.

31 (ib) Aid to Families with Dependent Children.

32 (ic) CalFresh benefits.

33 (id) State and local general assistance.

34 (VIII) Immediately preceding the qualified employee's
35 commencement of employment with the qualified taxpayer, was
36 a member of a federally recognized Indian tribe, band, or other
37 group of Native American descent.

38 (IX) Immediately preceding the qualified employee's
39 commencement of employment with the qualified taxpayer, was
40 a resident of a targeted tax area.

1 (X) Immediately preceding the qualified employee's
2 commencement of employment with the taxpayer, was a member
3 of a targeted group, as defined in Section 51(d) of the Internal
4 Revenue Code, or its successor.

5 (B) Priority for employment shall be provided to an individual
6 who is enrolled in a qualified program under the federal Job
7 Training Partnership Act or the Greater Avenues for Independence
8 Act of 1985 or who is eligible as a member of a targeted group
9 under the Work Opportunity Tax Credit (Section 51 of the Internal
10 Revenue Code), or its successor.

11 (5) (A) "Qualified taxpayer" means a person or entity that meets
12 both of the following:

13 (i) Is engaged in a trade or business within a targeted tax area
14 designated pursuant to Chapter 12.93 (commencing with Section
15 7097) of Division 7 of Title 1 of the Government Code.

16 (ii) Is engaged in those lines of business described in Codes
17 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
18 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,
19 of the Standard Industrial Classification (SIC) Manual published
20 by the United States Office of Management and Budget, 1987
21 edition.

22 (B) In the case of any passthrough entity, the determination of
23 whether a taxpayer is a qualified taxpayer under this section shall
24 be made at the entity level and any credit under this section or
25 Section 17053.34 shall be allowed to the passthrough entity and
26 passed through to the partners or shareholders in accordance with
27 applicable provisions of this part or Part 10 (commencing with
28 Section 17001). For purposes of this subparagraph, the term
29 "passthrough entity" means any partnership or S corporation.

30 (6) "Seasonal employment" means employment by a qualified
31 taxpayer that has regular and predictable substantial reductions in
32 trade or business operations.

33 (c) If the qualified taxpayer is allowed a credit for qualified
34 wages pursuant to this section, only one credit shall be allowed to
35 the taxpayer under this part with respect to those qualified wages.

36 (d) The qualified taxpayer shall do both of the following:

37 (1) Obtain from the Employment Development Department, as
38 permitted by federal law, the local county or city Job Training
39 Partnership Act administrative entity, the local county GAIN office
40 or social services agency, or the local government administering

1 the targeted tax area, a certification that provides that a qualified
2 employee meets the eligibility requirements specified in clause
3 (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The
4 Employment Development Department may provide preliminary
5 screening and referral to a certifying agency. The Department of
6 Housing and Community Development shall develop regulations
7 for the issuance of certificates pursuant to subdivision (g) of
8 Section 7097 of the Government Code, and shall develop forms
9 for this purpose.

10 (2) Retain a copy of the certification and provide it upon request
11 to the Franchise Tax Board.

12 (e) (1) For purposes of this section:

13 (A) All employees of all corporations that are members of the
14 same controlled group of corporations shall be treated as employed
15 by a single taxpayer.

16 (B) The credit, if any, allowable by this section to each member
17 shall be determined by reference to its proportionate share of the
18 expense of the qualified wages giving rise to the credit, and shall
19 be allocated in that manner.

20 (C) For purposes of this subdivision, “controlled group of
21 corporations” means “controlled group of corporations” as defined
22 in Section 1563(a) of the Internal Revenue Code, except that:

23 (i) “More than 50 percent” shall be substituted for “at least 80
24 percent” each place it appears in Section 1563(a)(1) of the Internal
25 Revenue Code.

26 (ii) The determination shall be made without regard to
27 subsections (a)(4) and (e)(3)(C) of Section 1563 of the Internal
28 Revenue Code.

29 (2) If an employer acquires the major portion of a trade or
30 business of another employer (hereinafter in this paragraph referred
31 to as the “predecessor”) or the major portion of a separate unit of
32 a trade or business of a predecessor, then, for purposes of applying
33 this section (other than subdivision (f)) for any calendar year ending
34 after that acquisition, the employment relationship between a
35 qualified employee and an employer shall not be treated as
36 terminated if the employee continues to be employed in that trade
37 or business.

38 (f) (1) (A) If the employment, other than seasonal employment,
39 of any qualified employee with respect to whom qualified wages
40 are taken into account under subdivision (a) is terminated by the

1 qualified taxpayer at any time during the first 270 days of that
2 employment (whether or not consecutive) or before the close of
3 the 270th calendar day after the day in which that employee
4 completes 90 days of employment with the qualified taxpayer, the
5 tax imposed by this part for the taxable year in which that
6 employment is terminated shall be increased by an amount equal
7 to the credit allowed under subdivision (a) for that taxable year
8 and all prior taxable years attributable to qualified wages paid or
9 incurred with respect to that employee.

10 (B) If the seasonal employment of any qualified employee, with
11 respect to whom qualified wages are taken into account under
12 subdivision (a) is not continued by the qualified taxpayer for a
13 period of 270 days of employment during the 60-month period
14 beginning with the day the qualified employee commences seasonal
15 employment with the qualified taxpayer, the tax imposed by this
16 part, for the taxable year that includes the 60th month following
17 the month in which the qualified employee commences seasonal
18 employment with the qualified taxpayer, shall be increased by an
19 amount equal to the credit allowed under subdivision (a) for that
20 taxable year and all prior taxable years attributable to qualified
21 wages paid or incurred with respect to that qualified employee.

22 (2) (A) Subparagraph (A) of paragraph (1) does not apply to
23 any of the following:

24 (i) A termination of employment of a qualified employee who
25 voluntarily leaves the employment of the qualified taxpayer.

26 (ii) A termination of employment of a qualified employee who,
27 before the close of the period referred to in subparagraph (A) of
28 paragraph (1), becomes disabled and unable to perform the services
29 of that employment, unless that disability is removed before the
30 close of that period and the qualified taxpayer fails to offer
31 reemployment to that employee.

32 (iii) A termination of employment of a qualified employee, if
33 it is determined that the termination was due to the misconduct (as
34 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
35 the California Code of Regulations) of that employee.

36 (iv) A termination of employment of a qualified employee due
37 to a substantial reduction in the trade or business operations of the
38 taxpayer.

39 (v) A termination of employment of a qualified employee, if
40 that employee is replaced by other qualified employees so as to

1 create a net increase in both the number of employees and the
2 hours of employment.

3 (B) Subparagraph (B) of paragraph (1) does not apply to any
4 of the following:

5 (i) A failure to continue the seasonal employment of a qualified
6 employee who voluntarily fails to return to the seasonal
7 employment of the qualified taxpayer.

8 (ii) A failure to continue the seasonal employment of a qualified
9 employee who, before the close of the period referred to in
10 subparagraph (B) of paragraph (1), becomes disabled and unable
11 to perform the services of that seasonal employment, unless that
12 disability is removed before the close of that period and the
13 qualified taxpayer fails to offer seasonal employment to that
14 qualified employee.

15 (iii) A failure to continue the seasonal employment of a qualified
16 employee, if it is determined that the failure to continue the
17 seasonal employment was due to the misconduct (as defined in
18 Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California
19 Code of Regulations) of that qualified employee.

20 (iv) A failure to continue seasonal employment of a qualified
21 employee due to a substantial reduction in the regular seasonal
22 trade or business operations of the qualified taxpayer.

23 (v) A failure to continue the seasonal employment of a qualified
24 employee, if that qualified employee is replaced by other qualified
25 employees so as to create a net increase in both the number of
26 seasonal employees and the hours of seasonal employment.

27 (C) For purposes of paragraph (1), the employment relationship
28 between the qualified taxpayer and a qualified employee shall not
29 be treated as terminated by either of the following:

30 (i) By a transaction to which Section 381(a) of the Internal
31 Revenue Code applies, if the qualified employee continues to be
32 employed by the acquiring corporation.

33 (ii) By reason of a mere change in the form of conducting the
34 trade or business of the qualified taxpayer, if the qualified
35 employee continues to be employed in that trade or business and
36 the qualified taxpayer retains a substantial interest in that trade or
37 business.

38 (3) An increase in tax under paragraph (1) shall not be treated
39 as tax imposed by this part for purposes of determining the amount
40 of any credit allowable under this part.

1 (g) Rules similar to the rules provided in Sections 46(e) and (h)
2 of the Internal Revenue Code apply to both of the following:

3 (1) An organization to which Section 593 of the Internal
4 Revenue Code applies.

5 (2) A regulated investment company or a real estate investment
6 trust subject to taxation under this part.

7 (h) For purposes of this section, “targeted tax area” means an
8 area designated pursuant to Chapter 12.93 (commencing with
9 Section 7097) of Division 7 of Title 1 of the Government Code.

10 (i) In the case in which the credit otherwise allowed under this
11 section exceeds the “tax” for the taxable year, that portion of the
12 credit that exceeds the “tax” may be carried over and added to the
13 credit, if any, in the succeeding 10 taxable years, if necessary, until
14 the credit is exhausted. The credit shall be applied first to the
15 earliest taxable years possible.

16 (j) (1) The amount of the credit otherwise allowed under this
17 section and Section 23633, including any credit carryover from
18 prior years, that may reduce the “tax” for the taxable year shall
19 not exceed the amount of tax that would be imposed on the
20 qualified taxpayer’s business income attributable to the targeted
21 tax area determined as if that attributable income represented all
22 of the income of the qualified taxpayer subject to tax under this
23 part.

24 (2) Attributable income shall be that portion of the taxpayer’s
25 California source business income that is apportioned to the
26 targeted tax area. For that purpose, the taxpayer’s business income
27 attributable to sources in this state first shall be determined in
28 accordance with Chapter 17 (commencing with Section 25101).
29 That business income shall be further apportioned to the targeted
30 tax area in accordance with Article 2 (commencing with Section
31 25120) of Chapter 17, modified for purposes of this section in
32 accordance with paragraph (3).

33 (3) Business income shall be apportioned to the targeted tax
34 area by multiplying the total California business income of the
35 taxpayer by a fraction, the numerator of which is the property
36 factor plus the payroll factor, and the denominator of which is two.
37 For purposes of this paragraph:

38 (A) The property factor is a fraction, the numerator of which is
39 the average value of the taxpayer’s real and tangible personal
40 property owned or rented and used in the targeted tax area during

1 the taxable year, and the denominator of which is the average value
2 of all the taxpayer's real and tangible personal property owned or
3 rented and used in this state during the taxable year.

4 (B) The payroll factor is a fraction, the numerator of which is
5 the total amount paid by the taxpayer in the targeted tax area during
6 the taxable year for compensation, and the denominator of which
7 is the total compensation paid by the taxpayer in this state during
8 the taxable year.

9 (4) The portion of any credit remaining, if any, after application
10 of this subdivision, shall be carried over to succeeding taxable
11 years, if necessary, until the credit is exhausted, as if it were an
12 amount exceeding the "tax" for the taxable year, as provided in
13 subdivision (i). However, the portion of any credit remaining for
14 carryover to taxable years beginning on or after January 1, 2014,
15 if any, after application of this subdivision, shall be carried over
16 only to the succeeding 10 taxable years if necessary, until the credit
17 is exhausted, as if it were an amount exceeding the "tax" for the
18 taxable year, as provided in subdivision (i).

19 (5) In the event that a credit carryover is allowable under
20 subdivision (h) for any taxable year after the targeted tax area
21 designation has expired or been revoked, the targeted tax area shall
22 be deemed to remain in existence for purposes of computing the
23 limitation specified in this subdivision.

24 (k) (1) Except as provided in paragraph (2), this section shall
25 cease to be operative for taxable years beginning on or after January
26 1, 2014, and shall be repealed on December 1, 2019.

27 (2) The section shall continue to apply with respect to qualified
28 employees who are employed by the qualified taxpayer within the
29 targeted tax area within the 60-month period immediately preceding
30 January 1, 2014, and qualified wages paid or incurred with respect
31 to those qualified employees shall continue to qualify for the credit
32 under this section for taxable years beginning on or after January
33 1, 2014, in accordance with this section, as amended by the act
34 adding this subdivision.

35 ~~SEC. 483.~~

36 *SEC. 490.* Section 23732 of the Revenue and Taxation Code
37 is amended to read:

38 23732. Section 512 of the Internal Revenue Code, relating to
39 unrelated business taxable income, applies, except as otherwise
40 provided.

1 (a) Section 512(a)(2) of the Internal Revenue Code, relating to
2 special rule for foreign organizations, does not apply.

3 (b) Section 512(a)(3) of the Internal Revenue Code, relating to
4 special rules applicable to organizations described in paragraph
5 (7), (9), (17), or (20) of Section 501(c), shall be modified as
6 follows:

7 (1) The reference to Section 501(c)(7) of the Internal Revenue
8 Code shall be modified to refer to Section 23701g.

9 (2) The reference to Section 501(c)(9) of the Internal Revenue
10 Code shall be modified to refer to Section 23701i.

11 (3) The reference to Section 501(c)(17) of the Internal Revenue
12 Code shall be modified to refer to Section 23701n.

13 (4) The reference to Section 501(c)(20) of the Internal Revenue
14 Code shall be modified to refer to Section 23701q.

15 (c) Section 512(d) of the Internal Revenue Code, relating to
16 treatment of dues of agricultural or horticultural organizations,
17 shall be modified by substituting “Section 23701a” for “Section
18 501(c)(5)” of the Internal Revenue Code.

19 ~~SEC. 484.~~

20 *SEC. 491.* Section 24347.6 of the Revenue and Taxation Code
21 is amended to read:

22 24347.6. (a) An excess disaster loss, as defined in subdivision
23 (c), shall be carried to other taxable years as provided in
24 subdivision (b), with respect to losses sustained in the County of
25 Mendocino as a result of the tsunami that occurred in March 2011.

26 (b) (1) In the case of any loss allowed under Section 165 of the
27 Internal Revenue Code, relating to losses, any excess disaster loss
28 shall be carried forward to each of the five taxable years following
29 the taxable year for which the loss is claimed. However, if there
30 is any excess disaster loss remaining after the five-year period,
31 then the applicable percentage, as set forth in paragraph (1) of
32 subdivision (b) of Section 24416, of that excess disaster loss shall
33 be carried forward to each of the next 10 taxable years.

34 (2) The entire amount of any excess disaster loss as defined in
35 subdivision (c) shall be carried to the earliest of the taxable years
36 to which, by reason of subdivision (b), the loss may be carried.
37 The portion of the loss which shall be carried to each of the other
38 taxable years shall be the excess, if any, of the amount of excess
39 disaster loss over the sum of the net income for each of the prior
40 taxable years to which that excess disaster loss is carried.

1 (c) “Excess disaster loss” means a disaster loss computed
2 pursuant to Section 165 of the Internal Revenue Code, which
3 exceeds the net income of the year of loss or, if the election under
4 Section 165(i) of the Internal Revenue Code is made, the net
5 income of the year preceding the loss.

6 (d) This section and Section 165(i) of the Internal Revenue Code
7 apply to any of the losses listed in subdivision (a) sustained in any
8 county or city in this state which was proclaimed by the Governor
9 to be in a state of disaster.

10 (e) A corporation subject to Section 25101 or 25101.15 that has
11 disaster losses pursuant to this section shall determine the excess
12 disaster loss to be carried to other taxable years under the principles
13 specified in Section 25108 relating to net operating losses.

14 (f) Losses allowable under this section shall not be taken into
15 account in computing a net operating loss deduction under Section
16 172 of the Internal Revenue Code.

17 (g) For losses described in subdivision (a), the election under
18 Section 165(i) of the Internal Revenue Code may be made on a
19 return or amended return filed on or before the due date of the
20 return (determined with regard to extension) for the taxable year
21 in which the disaster occurred.

22 ~~SEC. 485.~~

23 *SEC. 492.* Section 24347.10 of the Revenue and Taxation Code
24 is amended to read:

25 24347.10. (a) An excess disaster loss, as defined in subdivision
26 (c), shall be carried to other taxable years as provided in
27 subdivision (b), with respect to losses sustained in the County of
28 San Mateo as a result of the explosion and fire that occurred in
29 September 2010.

30 (b) (1) In the case of any loss allowed under Section 165 of the
31 Internal Revenue Code, relating to losses, any excess disaster loss
32 shall be carried forward to each of the five taxable years following
33 the taxable year for which the loss is claimed. However, if there
34 is any excess disaster loss remaining after the five-year period,
35 then the applicable percentage, as set forth in paragraph (1) of
36 subdivision (b) of Section 24416, of that excess disaster loss shall
37 be carried forward to each of the next 10 taxable years.

38 (2) The entire amount of any excess disaster loss as defined in
39 subdivision (c) shall be carried to the earliest of the taxable years
40 to which, by reason of subdivision (b), the loss may be carried.

1 The portion of the loss which shall be carried to each of the other
2 taxable years shall be the excess, if any, of the amount of excess
3 disaster loss over the sum of the net income for each of the prior
4 taxable years to which that excess disaster loss is carried.

5 (c) “Excess disaster loss” means a disaster loss computed
6 pursuant to Section 165 of the Internal Revenue Code, which
7 exceeds the net income of the year of loss or, if the election under
8 Section 165(i) of the Internal Revenue Code is made, the net
9 income of the year preceding the loss.

10 (d) This section and Section 165(i) of the Internal Revenue Code
11 apply to any of the losses listed in subdivision (a) sustained in any
12 county or city in this state which was proclaimed by the Governor
13 to be in a state of disaster.

14 (e) A corporation subject to Section 25101 or 25101.15 that has
15 disaster losses pursuant to this section shall determine the excess
16 disaster loss to be carried to other taxable years under the principles
17 specified in Section 25108 relating to net operating losses.

18 (f) Losses allowable under this section shall not be taken into
19 account in computing a net operating loss deduction under Section
20 172 of the Internal Revenue Code.

21 (g) For losses described in subdivision (a), the election under
22 Section 165(i) of the Internal Revenue Code may be made on a
23 return or amended return filed on or before the due date of the
24 return (determined with regard to extension) for the taxable year
25 in which the disaster occurred.

26 ~~SEC. 486.~~

27 *SEC. 493.* Section 24355.4 of the Revenue and Taxation Code,
28 as added by Chapter 691 of the Statutes of 2005, is amended and
29 renumbered to read:

30 24355.5. For purposes of computing the depreciation deduction
31 pursuant to Section 24349, the useful life of any Alaska natural
32 gas pipeline, as defined in Section 168(i)(16) of the Internal
33 Revenue Code, shall be seven years.

34 ~~SEC. 487.~~

35 *SEC. 494.* Section 24416.20 of the Revenue and Taxation Code
36 is amended and renumbered to read:

37 24416. Except as provided in Sections 24416.1, 24416.2,
38 24416.4, 24416.5, 24416.6, and 24416.7, a net operating loss
39 deduction shall be allowed in computing net income under Section

1 24341 and shall be determined in accordance with Section 172 of
2 the Internal Revenue Code, except as otherwise provided.

3 (a) (1) Net operating losses attributable to taxable years
4 beginning before January 1, 1987, shall not be allowed.

5 (2) A net operating loss shall not be carried forward to any
6 taxable year beginning before January 1, 1987.

7 (b) (1) Except as provided in paragraphs (2) and (3), the
8 provisions of Section 172(b)(2) of the Internal Revenue Code,
9 relating to amount of carrybacks and carryovers, shall be modified
10 so that the applicable percentage of the entire amount of the net
11 operating loss for any taxable year shall be eligible for carryover
12 to any subsequent taxable year. For purposes of this subdivision,
13 the applicable percentage shall be:

14 (A) Fifty percent for any taxable year beginning before January
15 1, 2000.

16 (B) Fifty-five percent for any taxable year beginning on or after
17 January 1, 2000, and before January 1, 2002.

18 (C) Sixty percent for any taxable year beginning on or after
19 January 1, 2002, and before January 1, 2004.

20 (D) One hundred percent for any taxable year beginning on or
21 after January 1, 2004.

22 (2) In the case of a taxpayer who has a net operating loss in any
23 taxable year beginning on or after January 1, 1994, and who
24 operates a new business during that taxable year, each of the
25 following shall apply to each loss incurred during the first three
26 taxable years of operating the new business:

27 (A) If the net operating loss is equal to or less than the net loss
28 from the new business, 100 percent of the net operating loss shall
29 be carried forward as provided in subdivision (e).

30 (B) If the net operating loss is greater than the net loss from the
31 new business, the net operating loss shall be carried over as
32 follows:

33 (i) With respect to an amount equal to the net loss from the new
34 business, 100 percent of that amount shall be carried forward as
35 provided in subdivision (e).

36 (ii) With respect to the portion of the net operating loss that
37 exceeds the net loss from the new business, the applicable
38 percentage of that amount shall be carried forward as provided in
39 subdivision (d).

1 (C) For purposes of Section 172(b)(2) of the Internal Revenue
2 Code, the amount described in clause (ii) of subparagraph (B) shall
3 be absorbed before the amount described in clause (i) of
4 subparagraph (B).

5 (3) In the case of a taxpayer who has a net operating loss in any
6 taxable year beginning on or after January 1, 1994, and who
7 operates an eligible small business during that taxable year, each
8 of the following apply:

9 (A) If the net operating loss is equal to or less than the net loss
10 from the eligible small business, 100 percent of the net operating
11 loss shall be carried forward to the taxable years specified in
12 paragraph (1) of subdivision (e).

13 (B) If the net operating loss is greater than the net loss from the
14 eligible small business, the net operating loss shall be carried over
15 as follows:

16 (i) With respect to an amount equal to the net loss from the
17 eligible small business, 100 percent of that amount shall be carried
18 forward as provided in subdivision (e).

19 (ii) With respect to that portion of the net operating loss that
20 exceeds the net loss from the eligible small business, the applicable
21 percentage of that amount shall be carried forward as provided in
22 subdivision (e).

23 (C) For purposes of Section 172(b)(2) of the Internal Revenue
24 Code, the amount described in clause (ii) of subparagraph (B) shall
25 be absorbed before the amount described in clause (i) of
26 subparagraph (B).

27 (4) In the case of a taxpayer who has a net operating loss in a
28 taxable year beginning on or after January 1, 1994, and who
29 operates a business that qualifies as both a new business and an
30 eligible small business under this section, that business shall be
31 treated as a new business for the first three taxable years of the
32 new business.

33 (5) In the case of a taxpayer who has a net operating loss in a
34 taxable year beginning on or after January 1, 1994, and who
35 operates more than one business, and more than one of those
36 businesses qualifies as either a new business or an eligible small
37 business under this section, paragraph (2) shall be applied first,
38 except that if there is any remaining portion of the net operating
39 loss after application of clause (i) of subparagraph (B) of paragraph
40 (2), paragraph (3) shall be applied to the remaining portion of the

1 net operating loss as though that remaining portion of the net
2 operating loss constituted the entire net operating loss.

3 (6) For purposes of this section, “net loss” means the amount
4 of net loss after application of Sections 465 and 469 of the Internal
5 Revenue Code.

6 (c) For any taxable year in which the taxpayer has in effect a
7 water’s-edge election under Section 25110, the deduction of a net
8 operating loss carryover shall be denied to the extent that the net
9 operating loss carryover was determined by taking into account
10 the income and factors of an affiliated corporation in a combined
11 report whose income and apportionment factors would not have
12 been taken into account if a water’s-edge election under Section
13 25110 had been in effect for the taxable year in which the loss was
14 incurred.

15 (d) Section 172(b)(1) of the Internal Revenue Code, relating to
16 years to which the loss may be carried, is modified as follows:

17 (1) Net operating loss carrybacks shall not be allowed for any
18 net operating losses attributable to taxable years beginning before
19 January 1, 2013.

20 (2) A net operating loss attributable to taxable years beginning
21 on or after January 1, 2013, shall be a net operating loss carryback
22 to each of the two taxable years preceding the taxable year of the
23 loss in lieu of the number of years provided therein.

24 (A) For a net operating loss attributable to a taxable year
25 beginning on or after January 1, 2013, and before January 1, 2014,
26 the amount of carryback to any taxable year shall not exceed 50
27 percent of the net operating loss.

28 (B) For a net operating loss attributable to a taxable year
29 beginning on or after January 1, 2014, and before January 1, 2015,
30 the amount of carryback to any taxable year shall not exceed 75
31 percent of the net operating loss.

32 (C) For a net operating loss attributable to a taxable year
33 beginning on or after January 1, 2015, the amount of carryback to
34 any taxable year shall not exceed 100 percent of the net operating
35 loss.

36 (3) Notwithstanding paragraph (2), Section 172(b)(1)(B) of the
37 Internal Revenue Code, relating to special rules for REITs, and
38 Section 172(b)(1)(E) of the Internal Revenue Code, relating to
39 excess interest loss, and Section 172(h) of the Internal Revenue

1 Code, relating to corporate equity reduction interest losses, shall
2 apply as provided.

3 (4) A net operating loss carryback shall not be carried back to
4 any taxable year beginning before January 1, 2011.

5 (e) (1) (A) For a net operating loss for any taxable year
6 beginning on or after January 1, 1987, and before January 1, 2000,
7 Section 172(b)(1)(A)(ii) of the Internal Revenue Code is modified
8 to substitute “five taxable years” in lieu of “20 years” except as
9 otherwise provided in paragraphs (2), (3), and (4).

10 (B) For a net operating loss for any income year beginning on
11 or after January 1, 2000, and before January 1, 2008, Section
12 172(b)(1)(A)(ii) of the Internal Revenue Code is modified to
13 substitute “10 taxable years” in lieu of “20 taxable years.”

14 (2) For any income year beginning before January 1, 2000, in
15 the case of a “new business,” the “five taxable years” referred to
16 in paragraph (1) shall be modified to read as follows:

17 (A) “Eight taxable years” for a net operating loss attributable
18 to the first taxable year of that new business.

19 (B) “Seven taxable years” for a net operating loss attributable
20 to the second taxable year of that new business.

21 (C) “Six taxable years” for a net operating loss attributable to
22 the third taxable year of that new business.

23 (3) For any carryover of a net operating loss for which a
24 deduction is denied by Section 24416.3, the carryover period
25 specified in this subdivision shall be extended as follows:

26 (A) By one year for a net operating loss attributable to taxable
27 years beginning in 1991.

28 (B) By two years for a net operating loss attributable to taxable
29 years beginning prior to January 1, 1991.

30 (4) The net operating loss attributable to taxable years beginning
31 on or after January 1, 1987, and before January 1, 1994, shall be
32 a net operating loss carryover to each of the 10 taxable years
33 following the year of the loss if it is incurred by a corporation that
34 was either of the following:

35 (A) Under the jurisdiction of the court in a Title 11 or similar
36 case at any time prior to January 1, 1994. The loss carryover
37 provided in the preceding sentence shall not apply to any loss
38 incurred in an income year after the taxable year during which the
39 corporation is no longer under the jurisdiction of the court in a
40 Title 11 or similar case.

1 (B) In receipt of assets acquired in a transaction that qualifies
2 as a tax-free reorganization under Section 368(a)(1)(G) of the
3 Internal Revenue Code.

4 (f) For purposes of this section:

5 (1) “Eligible small business” means any trade or business that
6 has gross receipts, less returns and allowances, of less than one
7 million dollars (\$1,000,000) during the income year.

8 (2) Except as provided in subdivision (g), “new business” means
9 any trade or business activity that is first commenced in this state
10 on or after January 1, 1994.

11 (3) “Title 11 or similar case” shall have the same meaning as
12 in Section 368(a)(3) of the Internal Revenue Code.

13 (4) In the case of any trade or business activity conducted by a
14 partnership or an “S” corporation, paragraphs (1) and (2) shall be
15 applied to the partnership or “S” corporation.

16 (g) For purposes of this section, in determining whether a trade
17 or business activity qualifies as a new business under paragraph
18 (2) of subdivision (e), the following rules shall apply:

19 (1) In any case where a taxpayer purchases or otherwise acquires
20 all or any portion of the assets of an existing trade or business
21 (irrespective of the form of entity) that is doing business in this
22 state (within the meaning of Section 23101), the trade or business
23 thereafter conducted by the taxpayer (or any related person) shall
24 not be treated as a new business if the aggregate fair market value
25 of the acquired assets (including real, personal, tangible, and
26 intangible property) used by the taxpayer (or any related person)
27 in the conduct of its trade or business exceeds 20 percent of the
28 aggregate fair market value of the total assets of the trade or
29 business being conducted by the taxpayer (or any related person).
30 For purposes of this paragraph only, the following rules shall apply:

31 (A) The determination of the relative fair market values of the
32 acquired assets and the total assets shall be made as of the last day
33 of the first taxable year in which the taxpayer (or any related
34 person) first uses any of the acquired trade or business assets in
35 its business activity.

36 (B) Any acquired assets that constituted property described in
37 Section 1221(a)(1) of the Internal Revenue Code in the hands of
38 the transferor shall not be treated as assets acquired from an
39 existing trade or business, unless those assets also constitute

1 property described in Section 1221(a)(1) of the Internal Revenue
2 Code in the hands of the acquiring taxpayer (or related person).

3 (2) In any case where a taxpayer (or any related person) is
4 engaged in one or more trade or business activities in this state, or
5 has been engaged in one or more trade or business activities in this
6 state within the preceding 36 months (“prior trade or business
7 activity”), and thereafter commences an additional trade or business
8 activity in this state, the additional trade or business activity shall
9 only be treated as a new business if the additional trade or business
10 activity is classified under a different division of the Standard
11 Industrial Classification (SIC) Manual published by the United
12 States Office of Management and Budget, 1987 edition, than are
13 any of the taxpayer’s (or any related person’s) current or prior
14 trade or business activities.

15 (3) In a case in which a taxpayer, including all related persons,
16 is engaged in trade or business activities wholly outside of this
17 state and the taxpayer first commences doing business in this state
18 (within the meaning of Section 23101) after December 31, 1993
19 (other than by purchase or other acquisition described in paragraph
20 (1)), the trade or business activity shall be treated as a new business
21 under paragraph (2) of subdivision (e).

22 (4) In a case in which the legal form under which a trade or
23 business activity is being conducted is changed, the change in form
24 shall be disregarded and the determination of whether the trade or
25 business activity is a new business shall be made by treating the
26 taxpayer as having purchased or otherwise acquired all or any
27 portion of the assets of an existing trade or business under the rules
28 of paragraph (1).

29 (5) “Related person” shall mean any person that is related to
30 the taxpayer under either Section 267 or 318 of the Internal
31 Revenue Code.

32 (6) “Acquire” shall include any transfer, whether or not for
33 consideration.

34 (7) (A) For taxable years beginning on or after January 1, 1997,
35 the term “new business” shall include any taxpayer that is engaged
36 in biopharmaceutical activities or other biotechnology activities
37 that are described in Codes 2833 to 2836, inclusive, of the Standard
38 Industrial Classification (SIC) Manual published by the United
39 States Office of Management and Budget, 1987 edition, and as

1 further amended, and that has not received regulatory approval for
2 any product from the Food and Drug Administration.

3 (B) For purposes of this paragraph:

4 (i) “Biopharmaceutical activities” means those activities that
5 use organisms or materials derived from organisms, and their
6 cellular, subcellular, or molecular components, in order to provide
7 pharmaceutical products for human or animal therapeutics and
8 diagnostics. Biopharmaceutical activities make use of living
9 organisms to make commercial products, as opposed to
10 pharmaceutical activities that make use of chemical compounds
11 to produce commercial products.

12 (ii) “Other biotechnology activities” means activities consisting
13 of the application of recombinant DNA technology to produce
14 commercial products, as well as activities regarding pharmaceutical
15 delivery systems designed to provide a measure of control over
16 the rate, duration, and site of pharmaceutical delivery.

17 (h) For purposes of corporations whose net income is determined
18 under Chapter 17 (commencing with Section 25101), Section
19 25108 applies to each of the following:

20 (1) The amount of net operating loss incurred in any taxable
21 year that may be carried forward to another taxable year.

22 (2) The amount of any loss carry forward that may be deducted
23 in any taxable year.

24 (i) The provisions of Section 172(b)(1)(D) of the Internal
25 Revenue Code, relating to bad debt losses of commercial banks,
26 do not apply.

27 (j) The Franchise Tax Board may prescribe appropriate
28 regulations to carry out the purposes of this section, including any
29 regulations necessary to prevent the avoidance of the purposes of
30 this section through splitups, shell corporations, partnerships, tiered
31 ownership structures, or otherwise.

32 (k) The Franchise Tax Board may reclassify any net operating
33 loss carryover determined under either paragraph (2) or (3) of
34 subdivision (b) as a net operating loss carryover under paragraph
35 (1) of subdivision (b) upon a showing that the reclassification is
36 necessary to prevent evasion of the purposes of this section.

37 (l) Except as otherwise provided, the amendments made by
38 Chapter 107 of the Statutes of 2000 apply to net operating losses
39 for taxable years beginning on or after January 1, 2000.

1 ~~SEC. 488.~~

2 *SEC. 495.* Section 24416.21 of the Revenue and Taxation Code
3 is amended to read:

4 24416.21. (a) Notwithstanding Sections 24416, 24416.1,
5 24416.2, 24416.4, 24416.5, 24416.6, and 24416.7 of this code and
6 Section 172 of the Internal Revenue Code, no net operating loss
7 deduction shall be allowed for any taxable year beginning on or
8 after January 1, 2008, and before January 1, 2012.

9 (b) For any net operating loss or carryover of a net operating
10 loss for which a deduction is denied by subdivision (a), the
11 carryover period under Section 172 of the Internal Revenue Code
12 shall be extended as follows:

13 (1) By one year, for losses incurred in taxable years beginning
14 on or after January 1, 2010, and before January 1, 2011.

15 (2) By two years, for losses incurred in taxable years beginning
16 on or after January 1, 2009, and before January 1, 2010.

17 (3) By three years, for losses incurred in taxable years beginning
18 on or after January 1, 2008, and before January 1, 2009.

19 (4) By four years, for losses incurred in taxable years beginning
20 before January 1, 2008.

21 (c) Notwithstanding subdivision (a), a net operating loss
22 deduction shall be allowed for carryback of a net operating loss
23 attributable to a taxable year beginning on or after January 1, 2013.

24 (d) The disallowance of any net operating loss deduction for
25 any taxable year beginning on or after January 1, 2008, and before
26 January 1, 2010, pursuant to subdivision (a) shall not apply to a
27 taxpayer with income subject to tax under this part of less than
28 five hundred thousand dollars (\$500,000) for the taxable year.

29 (e) (1) The disallowance of any net operating loss deduction
30 for any taxable year beginning on or after January 1, 2010, and
31 before January 1, 2012, pursuant to subdivision (a) shall not apply
32 to a taxpayer with preapportioned income of less than three hundred
33 thousand dollars (\$300,000) for the taxable year.

34 (2) For purposes of this subdivision, “preapportioned income”
35 means net income after state adjustments, before the application
36 of the apportionment and allocation provisions of this part.

37 (3) For taxpayers that are required to be included in a combined
38 report under Section 25101 or authorized to be included in a
39 combined report under Section 25101.15, the amount prescribed
40 in paragraph (1) shall apply to the aggregate amount of

1 preapportioned income for all members included in a combined
2 report.

3 (f) Notwithstanding subdivision (a), this section shall not apply
4 to a taxpayer that ceased to do business or has a final taxable year
5 ending prior to August 28, 2008, that sold or transferred
6 substantially all of its assets resulting in a gain on sale during a
7 taxable year ending prior to August 28, 2008, for which the gain
8 could be offset with existing net operating loss deductions and the
9 sale or transfer occurred pursuant to a plan of reorganization under
10 Chapter 11 of Title 11 of the United States Code. An amended tax
11 return claiming net operating loss deductions allowed pursuant to
12 this subdivision shall be treated as a timely filed original return.

13 (g) The Legislature finds and declares that the addition of
14 subdivision (f) to this section by the act adding this subdivision
15 fulfills a statewide public purpose by providing necessary tax relief
16 for a taxpayer that ceased to do business or has a final taxable year
17 ending prior to August 28, 2008, that sold or transferred
18 substantially all of its assets resulting in a gain or sale during a
19 taxable year prior to August 28, 2008, for which the gain could be
20 offset with existing net operating loss deductions and the sale or
21 transfer occurred pursuant to a plan of reorganization under Chapter
22 11 of Title 11 of the United States Code, in order to ensure that
23 these taxpayers are not permanently denied the net operating loss
24 deduction.

25 ~~SEC. 489.~~

26 *SEC. 496.* Section 24661.3 of the Revenue and Taxation Code,
27 as added by Section 54 of Chapter 34 of the Statutes of 2002, is
28 repealed.

29 ~~SEC. 490.~~

30 *SEC. 497.* Section 24685.5 of the Revenue and Taxation Code,
31 as added by Section 56 of Chapter 34 of the Statutes of 2002, is
32 repealed.

33 ~~SEC. 491.~~

34 *SEC. 498.* Section 24989 of the Revenue and Taxation Code
35 is repealed.

36 ~~SEC. 492.~~

37 *SEC. 499.* Section 32432 of the Revenue and Taxation Code,
38 as added by Section 24 of Chapter 929 of the Statutes of 1999, is
39 amended and renumbered to read:

1 32432.5. (a) Notwithstanding any other provision of this part,
2 if the board finds that neither the person liable for payment of tax
3 nor any party related to that person has in any way caused an
4 erroneous refund for which an action for recovery is provided
5 under Section 32431, no interest shall be imposed on the amount
6 of that erroneous refund until 30 days after the date on which the
7 board mails a notice of determination for repayment of the
8 erroneous refund to the person. The act of filing a claim for refund
9 shall not be considered as causing the erroneous refund.

10 (b) This section shall be operative for any action for recovery
11 under Section 32431 on or after January 1, 2000.

12 ~~SEC. 493.~~

13 *SEC. 500.* Section 40069 of the Revenue and Taxation Code,
14 as added by Section 18 of Chapter 459 of the Statutes of 2002, is
15 amended and renumbered to read:

16 40069.5. (a) Any return, declaration, statement, or other
17 document required to be made under this part that is filed using
18 electronic media shall be filed and authenticated pursuant to any
19 method or form the board may prescribe.

20 (b) Notwithstanding any other law, any return, declaration,
21 statement, or other document otherwise required to be signed that
22 is filed by the taxpayer using electronic media in a form as required
23 by the board shall be deemed to be a signed, valid original
24 document, including upon reproduction to paper form by the board.

25 (c) Electronic media includes, but is not limited to, computer
26 modem, magnetic media, optical disk, facsimile machine, or
27 telephone.

28 ~~SEC. 494.~~

29 *SEC. 501.* Section 45752 of the Revenue and Taxation Code,
30 as added by Section 41 of Chapter 609 of the Statutes of 1998, is
31 amended and renumbered to read:

32 45754. In any action brought pursuant to subdivision (a) of
33 Section 45751, the court may, with the consent of the Attorney
34 General, order a change in the place of trial.

35 ~~SEC. 495.~~

36 *SEC. 502.* Section 55262 of the Revenue and Taxation Code,
37 as added by Section 76 of Chapter 929 of the Statutes of 1999, is
38 amended and renumbered to read:

39 55262.5. (a) Notwithstanding any other provision of this part,
40 if the board finds that neither the person liable for payment of fees

1 nor any party related to that person has in any way caused an
2 erroneous refund for which an action for recovery is provided
3 under Section 55261, no interest shall be imposed on the amount
4 of that erroneous refund until 30 days after the date on which the
5 board mails a notice of determination for repayment of the
6 erroneous refund to the person. The act of filing a claim for refund
7 shall not be considered as causing the erroneous refund.

8 (b) This section shall be operative for any action for recovery
9 under Section 55261 on or after January 1, 2000.

10 ~~SEC. 496.~~

11 *SEC. 503.* The heading of Article 6.5 (commencing with
12 Section 217) of Chapter 1 of Division 1 of the Streets and
13 Highways Code is repealed.

14 ~~SEC. 497.~~

15 *SEC. 504.* Section 2192 of the Streets and Highways Code is
16 amended to read:

17 2192. (a) The Trade Corridors Improvement Fund, created
18 pursuant to subdivision (c) of Section 8879.23 of the Government
19 Code, is hereby continued in existence to receive revenues from
20 sources other than the Highway Safety, Traffic Reduction, Air
21 Quality, and Port Security Bond Act of 2006. This chapter shall
22 govern expenditure of those other revenues.

23 (b) The moneys in the fund from those other sources shall be
24 available upon appropriation for allocation by the California
25 Transportation Commission for infrastructure improvements in
26 this state on federally designated Trade Corridors of National and
27 Regional Significance, on the Primary Freight Network, and along
28 other corridors that have a high volume of freight movement, as
29 determined by the commission. In determining the projects eligible
30 for funding, the commission shall consult the Transportation
31 Agency's state freight plan as described in Section 13978.8 of the
32 Government Code, the State Air Resources Board's Sustainable
33 Freight Strategy adopted by Resolution 14-2, and the trade
34 infrastructure and goods movement plan submitted to the
35 commission by the Secretary of Transportation and the Secretary
36 for Environmental Protection. The commission shall also consult
37 trade infrastructure and goods movement plans adopted by regional
38 transportation planning agencies, adopted regional transportation
39 plans required by state and federal law, and the statewide port
40 master plan prepared by the California Marine and Intermodal

1 Transportation System Advisory Council (Cal-MITSAC) pursuant
2 to Section 1730 of the Harbors and Navigation Code, when
3 determining eligible projects for funding. Eligible projects for
4 these funds include, but are not limited to, all of the following:

5 (1) Highway capacity improvements and operational
6 improvements to more efficiently accommodate the movement of
7 freight, particularly for ingress and egress to and from the state's
8 land ports of entry and seaports, including navigable inland
9 waterways used to transport freight between seaports, land ports
10 of entry, and airports, and to relieve traffic congestion along major
11 trade or goods movement corridors.

12 (2) Freight rail system improvements to enhance the ability to
13 move goods from seaports, land ports of entry, and airports to
14 warehousing and distribution centers throughout California,
15 including projects that separate rail lines from highway or local
16 road traffic, improve freight rail mobility through mountainous
17 regions, relocate rail switching yards, and other projects that
18 improve the efficiency and capacity of the rail freight system.

19 (3) Projects to enhance the capacity and efficiency of ports.

20 (4) Truck corridor improvements, including dedicated truck
21 facilities or truck toll facilities.

22 (5) Border access improvements that enhance goods movement
23 between California and Mexico and that maximize the state's
24 ability to access coordinated border infrastructure funds made
25 available to the state by federal law.

26 (6) Surface transportation and connector road improvements to
27 effectively facilitate the movement of goods, particularly for
28 ingress and egress to and from the state's land ports of entry,
29 airports, and seaports, to relieve traffic congestion along major
30 trade or goods movement corridors.

31 (c) (1) The commission shall allocate funds for trade
32 infrastructure improvements from the fund consistent with Section
33 8879.52 of the Government Code and the Trade Corridors
34 Improvement Fund (TCIF) Guidelines adopted by the commission
35 on November 27, 2007, or as amended by the commission, and in
36 a manner that (A) addresses the state's most urgent needs, (B)
37 balances the demands of various land ports of entry, seaports, and
38 airports, (C) provides reasonable geographic balance between the
39 state's regions, and (D) places emphasis on projects that improve

1 trade corridor mobility while reducing emissions of diesel
2 particulate and other pollutant emissions.

3 (2) In addition, the commission shall also consider the following
4 factors when allocating these funds:

5 (A) "Velocity," which means the speed by which large cargo
6 would travel from the land port of entry or seaport through the
7 distribution system.

8 (B) "Throughput," which means the volume of cargo that would
9 move from the land port of entry or seaport through the distribution
10 system.

11 (C) "Reliability," which means a reasonably consistent and
12 predictable amount of time for cargo to travel from one point to
13 another on any given day or at any given time in California.

14 (D) "Congestion reduction," which means the reduction in
15 recurrent daily hours of delay to be achieved.

16 ~~SEC. 498.~~

17 *SEC. 505.* The heading of Division 6 (commencing with
18 Section 4000) of the Streets and Highways Code is repealed.

19 ~~SEC. 499.~~

20 *SEC. 506.* Section 5132.1 of the Streets and Highways Code,
21 as amended by Chapter 416 of the Statutes of 1963, is amended
22 and renumbered to read:

23 5132.05. (a) If the proceedings include any acquisition and
24 the actual cost of the acquisition as finally determined is less than
25 the amount included in the assessment as the cost of the acquisition,
26 the excess may be spent as the legislative body may thereafter
27 determine, either for the maintenance or repair of the work or
28 improvement, or the excess shall be refunded or credited in
29 proportion to the amount of the assessments that were levied for
30 the acquisition cost, as follows:

31 (1) If the assessment and all installments thereof and all interest
32 and penalties due thereon have been paid, the refund shall be
33 returned in cash to the person who paid the corresponding
34 assessment or installment, upon furnishing satisfactory evidence
35 of the payment.

36 (2) If the assessment or any installment thereof is unpaid, the
37 credit shall be applied upon the assessment or upon the earliest
38 unpaid installment of principal and interest.

1 (b) If the legislative body determines that the excess shall be
2 used for maintenance or repair, the legislative body shall establish
3 a separate fund of the excess and shall use it solely for that purpose.

4 ~~SEC. 500.~~

5 *SEC. 507.* Section 125.4 of the Unemployment Insurance Code
6 is amended to read:

7 125.4. “American employer” means any of the following:

8 (a) An individual who is a resident of the United States.

9 (b) A partnership, if two-thirds or more of the partners are
10 residents of the United States.

11 (c) A trust, if all of the trustees are residents of the United States.

12 (d) A corporation organized under the laws of the United States
13 or of any state.

14 (e) A limited liability company organized under the laws of the
15 United States or of any state.

16 (f) An Indian tribe as described by Section 3306(u) of Title 26
17 of the United States Code.

18 ~~SEC. 501.~~

19 *SEC. 508.* Section 135 of the Unemployment Insurance Code
20 is amended to read:

21 135. (a) “Employing unit” means an individual or type of
22 organization that has in its employ one or more individuals
23 performing services for it within this state, and includes but is not
24 limited to, the following individuals and organizations:

25 (1) An individual or type of organization or public entity that
26 elects coverage pursuant to any provision of this division.

27 (2) A joint venture, partnership, association, trust, estate, joint
28 stock company, insurance company, corporation whether domestic
29 or foreign, limited liability company, whether domestic or foreign,
30 community chest, fund, or foundation.

31 (3) A public entity. As used in this section, “public entity” means
32 the State of California (including the Trustees of the California
33 State University), an instrumentality of this state (including the
34 Regents of the University of California), a political subdivision of
35 this state or any of its instrumentalities, a county, city, district
36 (including the governing board of a school district or community
37 college district, a county board of education, a county
38 superintendent of schools, or a personnel commission of a school
39 district or community college district that has a merit system
40 pursuant to the Education Code), entities receiving state money to

1 conduct county fairs and agricultural fairs pursuant to Sections
 2 25905 and 25906 of the Government Code and that perform no
 3 other functions, a public authority, public agency, or public
 4 corporation of this state, an instrumentality of more than one of
 5 the foregoing, and an instrumentality of any of the foregoing and
 6 one or more other states or political subdivisions.

7 (4) An instrumentality of the United States required to make
 8 payments under this division.

9 (5) The receiver, trustee in bankruptcy, trustee or successor
 10 thereof, and the legal representative of a deceased person.

11 (6) An Indian tribe as described by Section 3306(u) of Title 26
 12 of the United States Code.

13 (b) All individuals performing services within this state for an
 14 employing unit that maintains two or more separate establishments
 15 within this state shall be deemed to be employed by a single
 16 employing unit for all the purposes of this division. This
 17 subdivision does not apply to an Indian tribe (as described by
 18 Section 3306(u) of Title 26 of the United States Code) and the
 19 subdivisions, subsidiaries, or other business enterprises wholly
 20 owned by the Indian tribe if the tribe chooses to treat those
 21 subdivisions, subsidiaries, or other business enterprises as separate
 22 business entities for the purposes of Section 803.

23 ~~SEC. 502.~~

24 *SEC. 509.* Section 605 of the Unemployment Insurance Code
 25 is amended to read:

26 605. (a) Except as provided by Section 634.5, “employment”
 27 for the purposes of this part and Parts 3 (commencing with Section
 28 3501) and 4 (commencing with Section 4001) includes all service
 29 performed by an individual (including blind and otherwise disabled
 30 individuals) for any public entity or Indian tribe, if the service is
 31 excluded from “employment” under the Federal Unemployment
 32 Tax Act solely by reason of Section 3306(c)(7) of Title 26 of the
 33 United States Code.

34 (b) For purposes of this section:

35 (1) “Public entity” means the State of California (including the
 36 Trustees of the California State University and Colleges, and the
 37 California Industries for the Blind), an instrumentality of this state
 38 (including the Regents of the University of California), a political
 39 subdivision of this state or any of its instrumentalities, a county,
 40 city, district (including the governing board of a school district or

1 community college district, a county board of education, a county
2 superintendent of schools, or a personnel commission of a school
3 district or community college district that has a merit system
4 pursuant to the Education Code), entities conducting fairs as
5 identified in Sections 19418 to 19418.3, inclusive, of the Business
6 and Professions Code, a public authority, public agency, or public
7 corporation of this state, an instrumentality of more than one of
8 the foregoing, and an instrumentality of any of the foregoing and
9 one or more other states or political subdivisions.

10 (2) “Indian tribe” means an Indian tribe described by Section
11 3306(u) of Title 26 of the United States Code.

12 ~~SEC. 503.~~

13 *SEC. 510.* Section 634.5 of the Unemployment Insurance Code
14 is amended to read:

15 634.5. Notwithstanding any other provision of law, a provision
16 excluding service from “employment” does not apply to an entity
17 defined by Section 605 or to a nonprofit organization described
18 by Section 608, except as provided by this section. With respect
19 to an entity defined by Section 605 or a nonprofit organization
20 described by Section 608, “employment” does not include service
21 excluded under Sections 629, 631, 635, and 639 to 648, inclusive,
22 or service performed in any of the following:

23 (a) In the employ of either of the following:

24 (1) A church or convention or association of churches.

25 (2) An organization that is operated primarily for religious
26 purposes and which is operated, supervised, controlled, or
27 principally supported by a church or convention or association of
28 churches.

29 (b) By a duly ordained, commissioned, or licensed minister of
30 a church in the exercise of his or her ministry or by a member of
31 a religious order in the exercise of duties required by the order.

32 (c) In the employ of an entity defined by Section 605, if the
33 service is performed by an individual in the exercise of his or her
34 duties as any of the following:

35 (1) An elected official.

36 (2) A member of a legislative body or a member of the judiciary
37 of a state or a political subdivision of a state.

38 (3) A member of the tribal council of an Indian tribe as described
39 by Section 3306(u) of Title 26 of the United States Code.

40 (4) A member of a State National Guard or Air National Guard.

1 (5) An employee serving on a temporary basis in case of fire,
2 storm, snow, earthquake, flood, or other similar emergency.

3 (6) An employee in a position that, under or pursuant to state
4 or tribal law, is designated as either of the following:

5 (A) A major nontenured policymaking or advisory position.
6 (B) A policymaking or advisory position, the performance of
7 the duties of which ordinarily does not require more than eight
8 hours per week.

9 (7) (A) Except as otherwise provided in subparagraph (B), an
10 election official or election worker if the amount of remuneration
11 reasonably expected to be received by the individual during the
12 calendar year for services as an election official or election worker
13 is less than one thousand dollars (\$1,000).

14 (B) This paragraph shall not take effect unless and until the
15 service is excluded from service to which Section 3309(a)(1) of
16 Title 26 of the United States Code applies by reason of exemption
17 under Section 3309(b) of that act.

18 (d) By an individual receiving rehabilitation or remunerative
19 work in a facility conducted for the purpose of carrying out a
20 program of either:

21 (1) Rehabilitation for individuals whose earning capacity is
22 impaired by age or physical or mental deficiency or injury.

23 (2) Providing remunerative work for individuals who because
24 of their impaired physical or mental capacity cannot be readily
25 absorbed in the competitive labor market.

26 (e) By an individual receiving work relief or work training as
27 part of an unemployment work relief or work training program
28 assisted or financed in whole or in part by any of the following:

29 (1) A federal agency.
30 (2) An agency of a state or a political subdivision thereof.
31 (3) An Indian tribe, as described by Section 3306(u) of Title 26
32 of the United States Code.

33 (f) By a ward or an inmate of a custodial or penal institution
34 pursuant to Article 1 (commencing with Section 2700), Article 4
35 (commencing with Section 2760), and Article 5 (commencing with
36 Section 2780) of Chapter 5 of, and Article 1 (commencing with
37 Section 2800) of Chapter 6 of, Title 1 of Part 3 of the Penal Code,
38 Section 4649 and Chapter 1 (commencing with Section 4951) of
39 Part 4 of Division 4 of the Public Resources Code, and Sections
40 883, 884, and 1768 of the Welfare and Institutions Code.

1 (g) By an individual under the age of 18 years in the delivery
2 or distribution of newspapers or shopping news, not including
3 delivery or distribution to any point for subsequent delivery or
4 distribution.

5 (h) By an individual in the sale of newspapers or magazines to
6 ultimate consumers, under an arrangement that includes the
7 following conditions:

8 (1) The newspapers or magazines are to be sold by the individual
9 at a fixed price.

10 (2) The individual's compensation is based on retention of the
11 excess of the price over the amount at which the newspapers or
12 magazines are charged to the individual, whether or not he or she
13 is guaranteed a minimum amount of compensation for the service
14 or is entitled to be credited with the unsold newspapers or
15 magazines that he or she returns.

16 (i) (1) Except as otherwise provided in paragraph (2), as a
17 substitute employee whose employment does not increase the size
18 of the employer's normal workforce, whose employment is
19 required by law, and whose employment as a substitute employee
20 does not occur on more than 60 days during the base period.

21 (2) This subdivision shall not take effect unless and until the
22 United States Secretary of Labor, or his or her designee, finds that
23 this subdivision is in conformity with federal requirements.

24 (j) As a participant in a national service program carried out
25 using assistance provided under Section 12571 of Title 42 of the
26 United States Code.

27 ~~SEC. 504.~~

28 *SEC. 511.* Section 710.6 of the Unemployment Insurance Code
29 is amended to read:

30 710.6. (a) Notwithstanding Section 709, an Indian tribe as
31 described by Section 3306(u) of Title 26 of the United States Code,
32 including tribes not covered by the Tribal-State Gaming Compact,
33 may elect to become an employer subject to Part 2 (commencing
34 with Section 2601) with respect to all employees who meet either
35 of the following conditions:

36 (1) Are employed in one or more distinct establishments or
37 places of business.

38 (2) Are a part of an employee bargaining unit provided the
39 election is the result of a negotiated agreement between the Indian
40 tribe and the recognized employee organization. The Indian tribe

1 also may elect to provide coverage to its management and
2 confidential employees and to its employees who are not a part of
3 an employee bargaining unit, but the election by the bargaining
4 unit shall not be contingent upon coverage of other employees of
5 the Indian tribe.

6 (b) Upon filing of an election, the filing entity shall, upon
7 approval by the director, become an employer subject to Part 2
8 (commencing with Section 2601) to the same extent as other
9 employers, and services performed by its employees who are
10 subject to an election under this section shall constitute
11 employment subject to that part. Sections 986 and 2903 apply to
12 an employer making an election pursuant to this section.

13 (c) This section does not affect the requirement that Indian tribes
14 covered by the Tribal-State Gaming Compact be subject to Part 2
15 (commencing with Section 2601).

16 ~~SEC. 505.~~

17 *SEC. 512.* Section 802 of the Unemployment Insurance Code
18 is amended to read:

19 802. (a) The State of California, any other public entity (as
20 defined by Section 605), or any Indian tribe as described by Section
21 3306(u) of Title 26 of the United States Code, or any subdivision,
22 subsidiary, or business enterprise wholly owned by that Indian
23 tribe, for which services are performed that do constitute
24 employment under Section 605 may, in lieu of the contributions
25 required of employers, elect to finance its liability for
26 unemployment compensation benefits, extended duration benefits,
27 and federal-state extended benefits with respect to those services
28 by any method of financing coverage that is permitted under
29 Section 803.

30 (b) An election under Section 803 for financing coverage under
31 this section shall take effect with respect to services performed
32 from and after the first day of the calendar quarter in which the
33 election is filed with the director, and shall continue in effect for
34 not less than two full calendar years, unless the election is canceled
35 by the director pursuant to paragraph (2) of subdivision (g) of
36 Section 803. Thereafter the election under Section 803 may be
37 terminated as of January 1 of any calendar year only if the state
38 or other public entity or Indian tribe, on or before the 31st day of
39 January of that year, has filed with the director a written application
40 for termination. The director may for good cause waive the

1 requirement that a written application for termination shall be filed
2 on or before the 31st day of January. Financing coverage by an
3 election under Section 803 is not valid if it would establish any
4 different method of financing coverage for any calendar quarter
5 where an election for coverage has also been made by the state or
6 other public entity or Indian tribe under any provision of Article
7 4 (commencing with Section 701) of this chapter.

8 (c) The director may require from the state and other public
9 entity and Indian tribe, including an agent thereof, employment,
10 financial, statistical, or other information and reports, properly
11 verified, as may be deemed necessary by the director to carry out
12 his or her duties under this division, which shall be filed with the
13 director at the time and in the manner prescribed by him or her.

14 (d) The director may tabulate and publish information obtained
15 pursuant to this section in statistical form and may divulge the
16 name of the state or other public entity or Indian tribe.

17 (e) The state and other public entity and Indian tribe, including
18 an agent thereof, shall keep any work records as may be prescribed
19 by the director for the proper administration of this division.

20 (f) Except as inconsistent with the provisions of this section,
21 the provisions of this division and authorized regulations apply to
22 any matter arising pursuant to this section.

23 ~~SEC. 506.~~

24 *SEC. 513.* Section 803 of the Unemployment Insurance Code
25 is amended to read:

26 803. (a) As used in this section, “entity” means an employing
27 unit that is authorized by Article 4 (commencing with Section 701)
28 or by Section 801 or 802 to elect a method of financing coverage
29 permitted by this section.

30 (b) In lieu of the contributions required of employers, an entity
31 may elect any one of the following:

32 (1) To pay into the Unemployment Fund the cost of benefits,
33 including extended duration benefits and federal-state extended
34 benefits, paid based on base period wages with respect to
35 employment for the entity and charged to its account in the manner
36 provided by Section 1026, pursuant to authorized regulations that
37 shall prescribe the rate or amount, time, manner, and method of
38 payment or advance payment or providing a good and sufficient
39 bond to guarantee payment of contributions.

1 (2) Two or more entities may, pursuant to authorized regulations,
2 file an application with the director for the establishment of a joint
3 account for the purpose of determining the rate of contributions
4 they shall pay into the Unemployment Fund to reimburse the fund
5 for benefits paid with respect to employment for those entities.
6 The members of the joint account may share the cost of benefits,
7 including extended duration benefits and federal-state extended
8 benefits, paid based on the base period wages with respect to
9 employment for those members and charged to the joint account
10 in the manner provided by Section 1026. The director shall
11 prescribe authorized regulations for the establishment, maintenance,
12 and dissolution of joint accounts, and for the rate or amount, time,
13 manner, and method of payment or advance payment or providing
14 a good and sufficient bond to guarantee payment of contributions
15 by the members of joint accounts, on the cost of benefits charged
16 in the manner provided by Section 1026.

17 (c) Sections 1030, 1031, 1032, and 1032.5, and any provision
18 of this division for the noncharging of benefits to the account of
19 an employer, do not apply to an election under subdivision (b).
20 The cost of benefits charged to an entity under this section shall
21 include, but not be limited to, benefits or payments improperly
22 paid in excess of a weekly benefit amount, or in excess of a
23 maximum benefit amount, or otherwise in excess of the amount
24 that should have been paid, due to any computational or other error
25 of any type by the Employment Development Department or the
26 Department of Benefit Payments, whether or not the error could
27 be anticipated.

28 (d) The cost of benefits charged to an entity under this section
29 shall include credits of benefit overpayments actually collected by
30 the department, unless the department determines that the payment
31 was made because the entity, or an agent of the entity, was at fault
32 for failing to respond timely or adequately to requests of the
33 department for information relating to the individual claim for
34 unemployment compensation benefits. The department shall make
35 this determination when the entity or agent fails to respond timely
36 or adequately in two instances relating to the individual claim for
37 unemployment compensation benefits. This subdivision shall apply
38 to benefit overpayments established on or after October 22, 2013.

39 (e) In making the payments prescribed by subdivision (b), there
40 shall be paid or credited to the Unemployment Fund, either in

1 advance or by way of reimbursement, as may be determined by
2 the director, any sums he or she estimates the Unemployment Fund
3 will be entitled to receive from each entity for each calendar
4 quarter, reduced or increased by any sum by which he or she finds
5 that his or her estimates for any prior calendar quarter were greater
6 or less than the amounts which should have been paid to the fund.
7 The estimates may be made upon the basis of statistical sampling,
8 or any other method as may be determined by the director.

9 Upon making that determination, the director shall give notice
10 of the determination, pursuant to Section 1206, to the entity. The
11 director may cancel any contributions or portion thereof that he
12 or she finds has been erroneously determined.

13 The director shall charge to any special fund, that is responsible
14 for the salary of any employee of an entity, the amount determined
15 by the director for which the fund is liable pursuant to this section.
16 The contributions due from the entity shall be paid from the liable
17 special fund, the General Fund, or other liable fund to the
18 Unemployment Fund by the Controller or other officer or person
19 responsible for disbursements on behalf of the entity within 30
20 days of the date of mailing of the director's notice of determination
21 to the entity. The director for good cause may extend for not to
22 exceed 60 days the time for paying without penalty the amount
23 determined and required to be paid. Contributions are due upon
24 the date of mailing of the notice of determination and are
25 delinquent if not paid on or before the 30th day following the date
26 of mailing of the notice.

27 (f) An entity that fails to pay the contributions required within
28 the time required shall be liable for interest on the contributions
29 at the adjusted annual rate and by the method established pursuant
30 to Section 19521 of the Revenue and Taxation Code from and after
31 the date of delinquency until paid, and an entity that without good
32 cause fails to pay contributions required within the time required
33 shall pay a penalty of 10 percent of the amount of the contributions.
34 If the entity fails to pay the contributions required on or before the
35 delinquency date, the director may assess the entity for the amount
36 required by the notice of determination. This subdivision does not
37 apply to employers electing financing under Section 821, for
38 amounts due after December 31, 1992.

39 (g) Article 8 (commencing with Section 1126) of Chapter 4 of
40 Part 1, with respect to the assessment of contributions, and Chapter

1 7 (commencing with Section 1701) of Part 1, with respect to the
2 collection of contributions, apply to the assessments provided by
3 this section. Sections 1177 to 1184, inclusive, relating to refunds
4 and overpayments, apply to amounts paid to the Unemployment
5 Fund pursuant to this section. Sections 1222, 1223, 1224, 1241,
6 and 1242 apply to matters arising under this section.

7 (h) (1) The director may terminate the election of an entity for
8 financing under this section if the entity is delinquent in the
9 payment of advances or reimbursements required by the director
10 under this section. After a termination, the entity may again make
11 an election pursuant to this section, but only if it is not delinquent
12 in the payment of contributions and not delinquent in the payment
13 of advances or reimbursements required by the director under this
14 section.

15 (2) In the case of an Indian tribe (as described by Section
16 3306(u) of Title 26 of the United States Code), the director shall
17 terminate all elections for the tribe and all subdivisions,
18 subsidiaries, and business enterprises wholly owned by that tribe
19 if the tribe or any subdivision, subsidiary, or business enterprise
20 wholly owned by that tribe is more than 90 days delinquent in the
21 payment of contributions, bonds, advances, reimbursements, or
22 applicable penalties or interest required under this code, after notice
23 to the tribe. After a termination, the Indian tribe may again make
24 an election pursuant to this section, but only if it is not delinquent
25 in the payment of contributions, bonds, advances, reimbursements,
26 or applicable penalties or interest required under this code.

27 (i) Notwithstanding any other provision of this section, an entity
28 shall not be liable for that portion of any extended duration benefits
29 or federal-state extended benefits that is reimbursed or reimbursable
30 by the federal government to the State of California.

31 (j) After the termination of an election under this section, the
32 entity shall remain liable for its proportionate share of the cost of
33 benefits paid and charged to its account in the manner provided
34 by Section 1026, which are based on wages paid for services during
35 the period of the election. That liability may be charged against
36 any remaining balance of a prior reserve account used by the entity
37 pursuant to Section 712 or 713. Any portion of the remaining
38 balance shall be included in the reserve account of the entity
39 following a termination of an election under this section which
40 occurs prior to the expiration of a period of three consecutive years

1 commencing with the effective date of the election. For purposes
2 of Section 982, the period of an election under Section 803 shall,
3 to the extent permitted by federal law, be included as a period
4 during which a reserve account has been subject to benefit charges.

5 ~~SEC. 507.~~

6 *SEC. 514.* Section 804 of the Unemployment Insurance Code
7 is amended to read:

8 804. The director shall notify the United States Internal
9 Revenue Service and the United States Department of Labor of
10 the failure of any Indian tribe (as described by Section 3306(u) of
11 Title 26 of the United States Code) to make a payment or post a
12 bond as required under subdivision (b) of Section 803 within 90
13 days of the delinquency date of a notice to the tribe specifying the
14 amount due under that subdivision. If the amount due is
15 subsequently paid by the Indian tribe, the director shall notify the
16 United States Internal Revenue Service and the United States
17 Department of Labor of the satisfaction of the liability.

18 ~~SEC. 508.~~

19 *SEC. 515.* Section 1086 of the Unemployment Insurance Code
20 is amended to read:

21 1086. (a) Each employing unit within 15 days after becoming
22 an employer as defined in this part shall register with the
23 department on a form prescribed by the department.

24 (b) (1) Notwithstanding subdivision (a), an Indian tribe (as
25 described by Section 3306(u) of Title 26 of the United States Code)
26 that employed one or more workers on or after December 21, 2000,
27 and prior to the operative date of the statute adding this subdivision
28 at the 2001 portion of the 2001–02 Regular Session of the
29 Legislature that has not registered with the department by the
30 operative date of the statute, shall register with the department
31 within 15 days of that operative date.

32 (2) The subject date for employers who register with the
33 department under the provisions of paragraph (1) shall be
34 December 21, 2000, or the date that employer first hired an
35 employee, whichever is later.

36 ~~SEC. 509.~~

37 *SEC. 516.* Section 1119 of the Unemployment Insurance Code
38 is amended to read:

39 1119. The director shall notify the United States Internal
40 Revenue Service and the United States Department of Labor of

1 the failure of an Indian tribe (as described by Section 3306(u) of
2 Title 26 of the United States Code) to make a payment of an
3 amount required to be paid under this article within 90 days of the
4 date of a notice specifying the amount due. If the amount due is
5 subsequently paid by the Indian tribe, the director shall notify the
6 United States Internal Revenue Service and the United States
7 Department of Labor of the satisfaction of the liability.

8 ~~SEC. 510.~~

9 *SEC. 517.* Section 1128.1 of the Unemployment Insurance
10 Code is amended to read:

11 1128.1. (a) If the director finds that an individual or business
12 entity has exchanged money on behalf of an employer and the
13 employer used the cash proceeds from the exchange to conceal
14 the payment of wages with an intent to evade a provision of this
15 code, the director shall assess a penalty against the individual or
16 business entity in an amount equal to 100 percent of any assessed
17 contributions that were based on the concealed wages. An
18 employing unit subject to a penalty under Section 1128 shall not
19 be assessed a penalty under this section for the same violation.

20 (b) For purposes of this section, “business entity” means a
21 partnership, corporation, association, limited liability company,
22 or Indian tribe (as described by Section 3306(u) of Title 26 of the
23 United States Code).

24 (c) The penalty applies only when there is evidence that the
25 individual or business entity who exchanged money knew that the
26 employer intended to use the cash proceeds from the exchange to
27 conceal the payment of wages and thereby avoid the payment of
28 contributions or taxes required by this code.

29 ~~SEC. 511.~~

30 *SEC. 518.* Section 1141.1 of the Unemployment Insurance
31 Code is amended to read:

32 1141.1. The director shall notify the United States Internal
33 Revenue Service and the United States Department of Labor of
34 the failure of an Indian tribe (as described by Section 3306(u) of
35 Title 26 of the United States Code) to pay within 90 days of the
36 final date of an assessment any amounts assessed pursuant to the
37 provisions of this article. If the assessment is subsequently paid
38 by the Indian tribe, the director shall notify the United States
39 Internal Revenue Service and the United States Department of
40 Labor of the satisfaction of the liability.

1 ~~SEC. 512.~~

2 *SEC. 519.* Section 1145 of the Unemployment Insurance Code
3 is amended to read:

4 1145. (a) If the director finds that a person or business entity
5 knowingly advises another person or business entity to violate any
6 provision of this chapter, the director may assess the greater of:

7 (1) A penalty of five thousand dollars (\$5,000).

8 (2) Ten percent of the combined amount of any resulting
9 underreporting of contribution, penalties, or interest required by
10 law.

11 (b) For purposes of this section, “business entity” means a
12 partnership, corporation, association, limited liability company,
13 or Indian tribe, as described in Section 3306(u) of Title 26 of the
14 United States Code, or any other legal entity.

15 ~~SEC. 513.~~

16 *SEC. 520.* Section 1253.92 of the Unemployment Insurance
17 Code is amended to read:

18 1253.92. (a) An unemployed individual who meets all of the
19 requirements under this division, including Section 1253.9, and
20 certifies for continued unemployment compensation benefits shall
21 not be scheduled for a determination of eligibility for a week in
22 which the individual commenced or is participating in a training
23 or education program and has notified the department of the
24 training or education program.

25 (b) If the department determines that the commencement of, or
26 the ongoing participation in, a training or education program
27 conflicts with the eligibility requirements for unemployment
28 compensation under this division, the department may schedule
29 and conduct a determination of eligibility.

30 ~~SEC. 514.~~

31 *SEC. 521.* Section 1326.5 of the Unemployment Insurance
32 Code is amended to read:

33 1326.5. An individual shall, to maintain his or her eligibility
34 to file continued claims during a continuous period of
35 unemployment, submit a continued claim not more than 14 days
36 from the end of the last week’s ending date shown on the continued
37 claim, or not more than 14 days from the date the department issued
38 that continued claim, whichever is later, unless the department
39 finds good cause for the individual’s delay in submitting the
40 continued claim. An unemployed individual may not be

1 disqualified for unemployment compensation benefits solely on
 2 the basis that the continued claim was submitted 15 to 21 days,
 3 inclusive, from the end of the last week’s ending date shown on
 4 the continued claim, or 15 to 21 days inclusive, from the date the
 5 department issued that continued claim, whichever is later.

6 ~~SEC. 515.~~

7 *SEC. 522.* Section 1735.1 of the Unemployment Insurance
 8 Code is amended to read:

9 1735.1. (a) An individual who has been assessed under the
 10 provisions of Section 1128.1, or an officer, major stockholder, or
 11 other person having charge of the affairs of a business entity that
 12 has been assessed under the provisions of that section, shall be
 13 personally liable for the amount of contributions, withholdings,
 14 penalties, and interest due and unpaid by the employer, other than
 15 those under subdivisions (a) and (b) of Section 1128, for whom
 16 money was exchanged as described in Section 1128.1. The director
 17 may assess that person for the amount of contributions,
 18 withholdings, all penalties other than those under Section 1128,
 19 and interest. The provisions of Article 8 (commencing with Section
 20 1126) and Article 9 (commencing with Section 1176) of Chapter
 21 4 apply to assessments made pursuant to this section. Sections
 22 1221, 1222, 1223, and 1224 apply to assessments made pursuant
 23 to this section. With respect to that person, the director shall have
 24 all the collection remedies set forth in this chapter.

25 (b) For purposes of this section, “business entity” means a
 26 partnership, corporation, association, limited liability company,
 27 or Indian tribe (as described by Section 3306(u) of Title 26 of the
 28 United States Code).

29 ~~SEC. 516.~~

30 *SEC. 523.* Section 3655 of the Unemployment Insurance Code,
 31 as amended by Section 17 of Chapter 399 of the Statutes of 2014,
 32 is amended to read:

33 3655. (a) The Employment Development Department shall
 34 consider the facts submitted by an employer pursuant to Section
 35 3654 and, if benefits are claimed subsequent to the filing of the
 36 extended duration benefits claim, make a determination as to the
 37 exhaustee’s eligibility for the extended duration benefits. The
 38 Employment Development Department shall promptly notify the
 39 exhaustee and any employer who prior to the determination has
 40 submitted any facts pursuant to Section 3654 of the determination

1 and the reasons therefor. The exhaustee and the employer may
2 appeal therefrom to an administrative law judge within 20 days
3 from mailing or personal service of notice of the determination.
4 The 20-day period may be extended for good cause. The Director
5 of Employment Development shall be an interested party to any
6 appeal.

7 (b) “Good cause,” as used in this section, shall include, but not
8 be limited to, mistake, inadvertence, surprise, or excusable neglect.

9 (c) This section shall become inoperative on July 1, 2015, and,
10 as of January 1, 2016, is repealed.

11 ~~SEC. 517.~~

12 *SEC. 524.* Section 3655 of the Unemployment Insurance Code,
13 as added by Section 18 of Chapter 399 of the Statutes of 2014, is
14 amended to read:

15 3655. (a) The Employment Development Department shall
16 consider the facts submitted by an employer pursuant to Section
17 3654 and, if benefits are claimed subsequent to the filing of the
18 extended duration benefits claim, make a determination as to the
19 exhaustee’s eligibility for the extended duration benefits. The
20 Employment Development Department shall promptly notify the
21 exhaustee and any employer who prior to the determination has
22 submitted any facts pursuant to Section 3654 of the determination
23 and the reasons therefor. The exhaustee and the employer may
24 appeal therefrom to an administrative law judge within 30 days
25 from mailing or personal service of notice of the determination.
26 The 30-day period may be extended for good cause. The Director
27 of Employment Development shall be an interested party to any
28 appeal.

29 (b) “Good cause,” as used in this section, shall include, but not
30 be limited to, mistake, inadvertence, surprise, or excusable neglect.

31 (c) This section shall take effect on July 1, 2015.

32 ~~SEC. 518.~~

33 *SEC. 525.* Section 14013 of the Unemployment Insurance Code
34 is amended to read:

35 14013. The board shall assist the Governor in the following:

36 (a) Promoting the development of a well-educated and highly
37 skilled 21st century workforce.

38 (b) Developing the State Workforce Investment Plan.

39 (c) Developing guidelines for the continuous improvement and
40 operation of the workforce investment system, including:

- 1 (1) Developing policies to guide the one-stop system.
- 2 (2) Providing technical assistance for the continuous
3 improvement of the one-stop system.
- 4 (3) Recommending state investments in the one-stop system.
- 5 (4) Targeting resources to competitive and emerging industry
6 sectors and industry clusters that provide economic security and
7 are either high-growth sectors or critical to California’s economy,
8 or both. These industry sectors and clusters shall have significant
9 economic impacts on the state and its regional and workforce
10 development needs and have documented career opportunities.
- 11 (5) To the extent permissible under state and federal laws,
12 recommending youth policies and strategies that support linkages
13 between kindergarten and grades 1 to 12, inclusive, and community
14 college educational systems and youth training opportunities in
15 order to help youth secure educational and career advancement.
16 These policies and strategies may be implemented using a sector
17 strategies framework and should ultimately lead to placement in
18 a job providing economic security or job placement in an
19 entry-level job that has a well-articulated career pathway or career
20 ladder to a job providing economic security.
- 21 (6) To the extent permissible under state and federal law,
22 recommending adult and dislocated worker training policies and
23 investments that offer a variety of career opportunities while
24 upgrading the skills of California’s workforce. These may include
25 training policies and investments pertaining to any of the following:
26 (A) Occupational skills training, including training for
27 nontraditional employment.
28 (B) On-the-job training.
29 (C) Programs that combine workplace training with related
30 instruction, which may include cooperative education programs.
31 (D) Training programs operated by the private sector.
32 (E) Skill upgrading and retraining.
33 (F) Entrepreneurial training.
34 (G) Job readiness training.
35 (H) Adult education and literacy activities provided in
36 combination with any of the services described in this paragraph.
37 (I) Customized training conducted with a commitment by an
38 employer or group of employers to employ an individual upon
39 successful completion of the training.

- 1 (d) Developing and continuously improving the statewide
2 workforce investment system as delivered via the one-stop delivery
3 system and via other programs and services supported by funding
4 from the federal Workforce Investment Act of 1998, including:
- 5 (1) Developing linkages in order to ensure coordination and
6 nonduplication among workforce programs and activities.
 - 7 (2) Reviewing local workforce investment plans.
 - 8 (3) Leveraging state and federal funds to ensure that resources
9 are invested in activities that meet the needs of the state's
10 competitive and emerging industry sectors and advance the
11 education and employment needs of students and workers so they
12 can keep pace with the education and skill needs of the state, its
13 regional economies, and leading industry sectors.
- 14 (e) Commenting, at least once annually, on the measures taken
15 pursuant to the Carl D. Perkins Vocational and Applied Technology
16 Education Act Amendments of 1990 (Public Law 101-392; 20
17 U.S.C. Sec. 2301 et seq.).
- 18 (f) Designating local workforce investment areas within the
19 state based on information derived from all of the following:
- 20 (1) Consultations with the Governor.
 - 21 (2) Consultations with the chief local elected officials.
 - 22 (3) Consideration of comments received through the public
23 comment process, as described in Section 112(b)(9) of the federal
24 Workforce Investment Act of 1998 (Public Law 105-220).
- 25 (g) Developing and modifying allocation formulas, as necessary,
26 for the distribution of funds for adult employment and training
27 activities, for youth activities to local workforce investment areas,
28 and dislocated worker employment and training activities, as
29 permitted by federal law.
- 30 (h) Coordinating the development and continuous improvement
31 of comprehensive state performance measures, including state
32 adjusted levels of performance, to assess the effectiveness of the
33 workforce investment activities in the state.
- 34 (i) Preparing the annual report to the United States Secretary of
35 Labor.
- 36 (j) Recommending policy for the development of the statewide
37 employment statistics system, including workforce and economic
38 data, as described in Section 491-2 of Title 29 of the United States
39 Code, and using, to the fullest extent possible, the Employment

1 Development Department's existing labor market information
2 systems.

3 (k) Recommending strategies to the Governor for strategic
4 training investments of the Governor's 15-percent discretionary
5 funds.

6 (l) Developing and recommending waivers, in conjunction with
7 local workforce investment boards, to the Governor as provided
8 for in the federal Workforce Investment Act of 1998.

9 (m) Recommending policy to the Governor for the use of the
10 25-percent rapid response funds, as authorized under the federal
11 Workforce Investment Act of 1998.

12 (n) Developing an application to the United States Department
13 of Labor for an incentive grant under Section 9273 of Title 20 of
14 the United States Code.

15 (o) (1) Developing a workforce metrics dashboard, to be
16 updated annually, that measures the state's human capital
17 investments in workforce development to better understand the
18 collective impact of these investments on the labor market. The
19 workforce metrics dashboard shall be produced using existing
20 available data and resources that are currently collected and
21 accessible to state agencies. The board shall convene workforce
22 program partners to develop a standardized set of inputs and
23 outputs for the workforce metrics dashboard. The workforce
24 metrics dashboard shall do all of the following:

25 (A) Provide a status report on credential attainment, training
26 completion, degree attainment, and participant earnings from
27 workforce education and training programs. The board shall publish
28 and distribute the final report.

29 (B) Provide demographic breakdowns, including, to the extent
30 possible, race, ethnicity, age, gender, veteran status, wage and
31 credential or degree outcomes, and information on workforce
32 outcomes in different industry sectors.

33 (C) Measure, at a minimum and to the extent feasible with
34 existing resources, the performance of the following workforce
35 programs: community college career technical education, the
36 Employment Training Panel, Title I and Title II of the federal
37 Workforce Investment Act of 1998, Trade Adjustment Assistance,
38 and state apprenticeship programs.

39 (D) Measure participant earnings in California, and to the extent
40 feasible, in other states. The Employment Development Department

1 shall assist the board by calculating aggregated participant earnings
2 using unemployment insurance wage records, without violating
3 any applicable confidentiality requirements.

4 (2) The State Department of Education is hereby authorized to
5 collect the social security numbers of adults participating in adult
6 education programs so that accurate participation in those programs
7 can be represented in the report card. However, an individual shall
8 not be denied program participation if he or she refuses to provide
9 a social security number. The State Department of Education shall
10 keep this information confidential and shall only use this
11 information for tracking purposes, in compliance with all applicable
12 state and federal law.

13 (3) (A) Participating workforce programs, as specified in
14 subparagraph (C) of paragraph (1), shall provide participant data
15 in a standardized format to the Employment Development
16 Department.

17 (B) The Employment Development Department shall aggregate
18 data provided by participating workforce programs and shall report
19 the data, organized by demographics, earnings, and industry of
20 employment, to the board to assist the board in producing the
21 annual workforce metrics dashboard.

22 ~~SEC. 519.~~

23 *SEC. 526.* Section 241 of the Vehicle Code, as added by Section
24 4 of Chapter 740 of the Statutes of 2012, is repealed.

25 ~~SEC. 520.~~

26 *SEC. 527.* Section 241.1 of the Vehicle Code, as added by
27 Section 5 of Chapter 740 of the Statutes of 2012, is repealed.

28 ~~SEC. 521.~~

29 *SEC. 528.* Section 612 of the Vehicle Code, as added by
30 Chapter 1305 of the Statutes of 1986, is repealed.

31 ~~SEC. 522.~~

32 *SEC. 529.* Section 612 of the Vehicle Code, as amended by
33 Section 8 of Chapter 1216 of the Statutes of 1989, is amended to
34 read:

35 612. "Tour bus" means a bus, which is operated by or for a
36 charter-party carrier of passengers, as defined in Section 5360 of
37 the Public Utilities Code, or a passenger stage corporation, as
38 defined in Section 226 of the Public Utilities Code.

1 ~~SEC. 523.~~

2 *SEC. 530.* Section 1803.5 of the Vehicle Code, as added by
3 Chapter 216 of the Statutes of 2010, is repealed.

4 ~~SEC. 524.~~

5 *SEC. 531.* Section 1808.7 of the Vehicle Code, as added by
6 Chapter 216 of the Statutes of 2010, is repealed.

7 ~~SEC. 525.~~

8 *SEC. 532.* Section 2480 of the Vehicle Code is amended to
9 read:

10 2480. (a) A peace officer may remove a vehicle, within the
11 territorial limits in which the officer may act, if the vehicle is
12 involved in the theft or movement of stolen inedible kitchen grease.
13 If a peace officer removes a vehicle pursuant to this subdivision,
14 the officer may, after citing or arresting the responsible person,
15 seize the vehicle, which may be impounded for up to 15 days.

16 (b) The registered and legal owner of a vehicle removed and
17 seized pursuant to subdivision (a) or their agents shall be provided
18 the opportunity for a storage hearing to determine the validity of
19 the storage in accordance with Section 22852.

20 (c) (1) Notwithstanding Chapter 10 (commencing with Section
21 22650) of Division 11 or any other law, an impounding agency
22 shall release a motor vehicle to the registered owner or his or her
23 agent prior to the conclusion of the impoundment period described
24 in subdivision (a) under any of the following circumstances:

25 (A) If the vehicle is a stolen vehicle and reported as stolen in
26 accordance with then existing state and local law.

27 (B) If the legal owner or registered owner of the vehicle is a
28 rental car agency.

29 (C) If, prior to the conclusion of the impoundment period, a
30 citation or notice is dismissed under Section 40500, criminal
31 charges are not filed by the district attorney because of a lack of
32 evidence, or the charges are otherwise dismissed by the court.

33 (2) A vehicle shall be released pursuant to this subdivision only
34 if the registered owner or his or her agent presents a currently valid
35 driver's license to operate the vehicle and proof of current vehicle
36 registration, or if ordered by a court.

37 (d) A vehicle seized and removed pursuant to subdivision (a)
38 shall be released to the legal owner of the vehicle, or the legal
39 owner's agent, on or before the 15th day of impoundment if all of
40 the following conditions are met:

1 (1) The legal owner is a motor vehicle dealer, bank, credit union,
2 acceptance corporation, or other licensed financial institution
3 legally operating in this state, or is another person, not the
4 registered owner, holding a security interest in the vehicle.

5 (2) The legal owner or the legal owner's agent pays all towing
6 and storage fees related to the impoundment of the vehicle. No
7 lien sale processing fees shall be charged to a legal owner who
8 redeems the vehicle on or before the seventh day of impoundment.

9 (3) The legal owner or the legal owner's agent presents
10 foreclosure documents or an affidavit of repossession for the
11 vehicle.

12 (e) (1) The registered owner or his or her agent is responsible
13 for all towing and storage charges related to the impoundment,
14 and any administrative charges authorized under Section 22850.5.

15 (2) If the vehicle is a rental vehicle, the rental car agency may
16 require the person to whom the vehicle was rented to pay all towing
17 and storage charges related to the impoundment and any
18 administrative charges authorized under Section 22850.5 incurred
19 by the rental car agency in connection with obtaining possession
20 of the vehicle.

21 (3) The owner is not liable for any towing and storage charges
22 related to the impoundment if acquittal or dismissal occurs.

23 (4) The vehicle shall not be sold prior to the defendant's
24 conviction.

25 ~~SEC. 526.~~

26 *SEC. 533.* Section 2501 of the Vehicle Code, as added by
27 Section 6 of Chapter 860 of the Statutes of 1981, is repealed.

28 ~~SEC. 527.~~

29 *SEC. 534.* Section 2501 of the Vehicle Code, as amended by
30 Section 2 of Chapter 294 of the Statutes of 1982, is amended to
31 read:

32 2501. The Commissioner of the California Highway Patrol
33 may issue licenses for the operation of privately owned or operated
34 ambulances used to respond to emergency calls, armored cars,
35 fleet owner inspection and maintenance stations, and for the
36 transportation of hazardous material, including the transportation
37 of explosives. The licenses shall be issued in accordance with the
38 provisions of this chapter and regulations adopted by the
39 commissioner pursuant thereto. All licenses issued by the
40 commissioner shall expire one year from the date of issue. Licenses

1 may be renewed upon application and payment of the renewal fees
2 if the application for renewal is made within the 30-day period
3 prior to the date of expiration. Persons whose licenses have expired
4 shall immediately cease the activity requiring a license, but the
5 commissioner shall accept applications for renewal during the
6 30-day period following the date of expiration if they are
7 accompanied by the new license fee. A license shall not be renewed
8 when the application is received more than 30 days after the date
9 of expiration.

10 ~~SEC. 528.~~

11 *SEC. 535.* Section 5156.7 of the Vehicle Code is amended to
12 read:

13 5156.7. (a) The State Department of Health Care Services
14 shall apply to the department, pursuant to Section 5156, to sponsor
15 a breast cancer awareness license plate program. The department
16 shall issue specialized license plates for that program if the State
17 Department of Health Care Services complies with the
18 requirements of Section 5156.

19 (b) The State Department of Health Care Services may accept
20 and use donated artwork from California artists for the license
21 plate.

22 (c) Notwithstanding subdivision (c) of Section 5157, the
23 additional fees prescribed by Section 5157 for the issuance,
24 renewal, or transfer of the specialized license plates shall be
25 deposited, after the department deducts its administrative costs, in
26 the Breast Cancer Control Account in the Breast Cancer Fund
27 established pursuant to Section 30461.6 of the Revenue and
28 Taxation Code.

29 (d) It is the intent of the Legislature that the department, in
30 consultation with the State Department of Health Care Services,
31 will design and make available for issuance pursuant to this article
32 special breast cancer awareness license plates. Specifically, it is
33 the intent of the Legislature that the license plates issued pursuant
34 to this section consist of a pink breast cancer awareness ribbon to
35 the left of the numerical series and a breast cancer awareness
36 message, such as, "Early Detection Saves Lives," below the
37 numerical series.

1 ~~SEC. 529.~~

2 ~~SEC. 536.~~ Chapter 5 (commencing with Section 10900) of
3 Division 4 of the Vehicle Code, as added by Section 7 of Chapter
4 1247 of the Statutes of 1994, is repealed.

5 ~~SEC. 530.~~

6 ~~SEC. 537.~~ Section 12801 of the Vehicle Code, as amended by
7 Section 6 of Chapter 27 of the Statutes of 2014, is amended to
8 read:

9 12801. (a) Except as provided in subdivisions (b) and (c) and
10 Section 12801.9, the department shall require an application for a
11 driver's license to contain the applicant's social security account
12 number and any other number or identifier determined to be
13 appropriate by the department.

14 (b) An applicant who provides satisfactory proof that his or her
15 presence in the United States is authorized under federal law, but
16 who is not eligible for a social security account number, is eligible
17 to receive an original driver's license if he or she meets all other
18 qualifications for licensure.

19 (c) (1) An applicant applying for a driver's license under
20 Section 12801.9, who has never been issued a social security
21 account number and is not presently eligible for a social security
22 account number, shall satisfy the requirements of this section if
23 he or she indicates in the application described in Section 12800,
24 in the manner prescribed by the department, that he or she has
25 never been issued a social security account number and is not
26 presently eligible for a social security account number.

27 (2) This subdivision does not apply to applications for a
28 commercial driver's license. The department shall require all
29 applications for a commercial driver's license to include the
30 applicant's social security account number.

31 (3) This section shall not be used to consider an individual's
32 citizenship or immigration status as a basis for a criminal
33 investigation, arrest, or detention.

34 (d) The department shall not complete an application for a
35 driver's license unless the applicant is in compliance with the
36 requirements of subdivision (a), (b), or (c).

37 (e) Notwithstanding any other law, the social security account
38 number collected on a driver's license application shall not be
39 displayed on the driver's license, including, but not limited to,

1 inclusion on a magnetic tape or strip used to store data on the
2 license.

3 (f) This section shall become operative on January 1, 2015, or
4 on the date that the director executes a declaration pursuant to
5 Section 12801.11, whichever is sooner.

6 (g) This section shall become inoperative on the effective date
7 of a final judicial determination made by any court of appellate
8 jurisdiction that any provision of the act that added this section,
9 or its application, either in whole or in part, is enjoined, found
10 unconstitutional, or held invalid for any reason. The department
11 shall post this information on its Internet Web site.

12 ~~SEC. 531.~~

13 *SEC. 538.* Section 12801.9 of the Vehicle Code is amended to
14 read:

15 12801.9. (a) Notwithstanding Section 12801.5, the department
16 shall issue an original driver's license to a person who is unable
17 to submit satisfactory proof that the applicant's presence in the
18 United States is authorized under federal law if he or she meets
19 all other qualifications for licensure and provides satisfactory proof
20 to the department of his or her identity and California residency.

21 (b) The department shall adopt emergency regulations to carry
22 out the purposes of this section, including, but not limited to,
23 procedures for (1) identifying documents acceptable for the
24 purposes of proving identity and California residency, (2)
25 procedures for verifying the authenticity of the documents, (3)
26 issuance of a temporary license pending verification of any
27 document's authenticity, and (4) hearings to appeal a denial of a
28 license or temporary license.

29 (c) Emergency regulations adopted for purposes of establishing
30 the documents acceptable to prove identity and residency pursuant
31 to subdivision (b) shall be promulgated by the department in
32 consultation with appropriate interested parties, in accordance with
33 the Administrative Procedure Act (Chapter 3.5 (commencing with
34 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
35 Code), including law enforcement representatives, immigrant rights
36 representatives, labor representatives, and other stakeholders,
37 which may include, but are not limited to, the Department of the
38 California Highway Patrol, the California State Sheriffs'
39 Association, and the California Police Chiefs Association. The

1 department shall accept various types of documentation for this
2 purpose, including, but not limited to, the following documents:

3 (1) A valid, unexpired consular identification document issued
4 by a consulate from the applicant's country of citizenship, or a
5 valid, unexpired passport from the applicant's country of
6 citizenship.

7 (2) An original birth certificate, or other proof of age, as
8 designated by the department.

9 (3) A home utility bill, lease or rental agreement, or other proof
10 of California residence, as designated by the department.

11 (4) The following documents, which, if in a language other than
12 English, shall be accompanied by a certified translation or an
13 affidavit of translation into English:

14 (A) A marriage license or divorce certificate.

15 (B) A foreign federal electoral photo card issued on or after
16 January 1, 1991.

17 (C) A foreign driver's license.

18 (5) A United States Department of Homeland Security Form
19 I-589, Application for Asylum and for Withholding of Removal.

20 (6) An official school or college transcript that includes the
21 applicant's date of birth, or a foreign school record that is sealed
22 and includes a photograph of the applicant at the age the record
23 was issued.

24 (7) A United States Department of Homeland Security Form
25 I-20 or Form DS-2019.

26 (8) A deed or title to real property.

27 (9) A property tax bill or statement issued within the previous
28 12 months.

29 (10) An income tax return.

30 (d) (1) A license issued pursuant to this section, including a
31 temporary license issued pursuant to Section 12506, shall include
32 a recognizable feature on the front of the card, such as the letters
33 "DP" instead of, and in the same font size as, the letters "DL,"
34 with no other distinguishable feature.

35 (2) The license shall bear the following notice: "This card is
36 not acceptable for official federal purposes. This license is issued
37 only as a license to drive a motor vehicle. It does not establish
38 eligibility for employment, voter registration, or public benefits."

39 (3) The notice described in paragraph (2) shall be in lieu of the
40 notice provided in Section 12800.5.

1 (e) If the United States Department of Homeland Security
2 determines a license issued pursuant to this section does not satisfy
3 the requirements of Section 37.71 of Title 6 of the Code of Federal
4 Regulations, adopted pursuant to paragraph (11) of subdivision
5 (d) of Section 202 of the Real ID Act of 2005 (Public Law 109-13),
6 the department shall modify the license only to the extent necessary
7 to satisfy the requirements of that section.

8 (f) Notwithstanding Section 40300 or any other law, a peace
9 officer shall not detain or arrest a person solely on the belief that
10 the person is an unlicensed driver, unless the officer has reasonable
11 cause to believe the person driving is under 16 years of age.

12 (g) The inability to obtain a driver's license pursuant to this
13 section does not abrogate or diminish in any respect the legal
14 requirement of every driver in this state to obey the motor vehicle
15 laws of this state, including laws with respect to licensing, motor
16 vehicle registration, and financial responsibility.

17 (h) It is a violation of law to discriminate against a person
18 because he or she holds or presents a license issued under this
19 section, including, but not limited to, the following:

20 (1) It is a violation of the Unruh Civil Rights Act (Section 51
21 of the Civil Code), for a business establishment to discriminate
22 against a person because he or she holds or presents a license issued
23 under this section.

24 (2) (A) It is a violation of the California Fair Employment and
25 Housing Act (Part 2.8 (commencing with Section 12900) of
26 Division 3 of Title 2 of the Government Code) for an employer or
27 other covered person or entity, pursuant to Section 12940 of the
28 Government Code and subdivision (v) of Section 12926 of the
29 Government Code, to discriminate against a person because the
30 person holds or presents a driver's license issued pursuant to this
31 section, or for an employer or other covered entity to require a
32 person to present a driver's license, unless possessing a driver's
33 license is required by law or is required by the employer and the
34 employer's requirement is otherwise permitted by law. This section
35 shall not be construed to limit or expand an employer's authority
36 to require a person to possess a driver's license.

37 (B) Notwithstanding subparagraph (A), this section shall not
38 be construed to alter an employer's rights or obligations under
39 Section 1324a of Title 8 of the United States Code regarding
40 obtaining documentation evidencing identity and authorization for

1 employment. An action taken by an employer that is required by
2 the federal Immigration and Nationality Act (8 U.S.C. Sec. 1324a)
3 is not a violation of law.

4 (3) It is a violation of Section 11135 of the Government Code
5 for a state or local governmental authority, agent, or person acting
6 on behalf of a state or local governmental authority, or a program
7 or activity that is funded directly or receives financial assistance
8 from the state, to discriminate against an individual because he or
9 she holds or presents a license issued pursuant to this section.

10 (i) Driver's license information obtained by an employer shall
11 be treated as private and confidential, is exempt from disclosure
12 under the California Public Records Act (Chapter 3.5 (commencing
13 with Section 6250) of Division 7 of Title 1 of the Government
14 Code), and shall not be disclosed to any unauthorized person or
15 used for any purpose other than to establish identity and
16 authorization to drive.

17 (j) Information collected pursuant to this section is not a public
18 record and shall not be disclosed by the department, except as
19 required by law.

20 (k) A license issued pursuant to this section shall not be used
21 to consider an individual's citizenship or immigration status as a
22 basis for an investigation, arrest, citation, or detention.

23 (l) On or before January 1, 2018, the California Research Bureau
24 shall compile and submit to the Legislature and the Governor a
25 report of any violations of subdivisions (h) and (k). Information
26 pertaining to any specific individual shall not be provided in the
27 report.

28 (m) In addition to the fees required by Section 14900, a person
29 applying for an original license pursuant to this section may be
30 required to pay an additional fee determined by the department
31 that is sufficient to offset the reasonable administrative costs of
32 implementing the provisions of the act that added this section. If
33 this additional fee is assessed, it shall only apply until June 30,
34 2017.

35 (n) This section shall become operative on January 1, 2015, or
36 on the date that the director executes a declaration pursuant to
37 Section 12801.11, whichever is sooner.

38 (o) This section shall become inoperative on the effective date
39 of a final judicial determination made by any court of appellate
40 jurisdiction that any provision of the act that added this section,

1 or its application, either in whole or in part, is enjoined, found
2 unconstitutional, or held invalid for any reason. The department
3 shall post this information on its Internet Web site.

4 ~~SEC. 532.~~

5 *SEC. 539.* The heading of Article 1.7 (commencing with
6 Section 23145) of Chapter 12 of Division 11 of the Vehicle Code
7 is repealed.

8 ~~SEC. 533.~~

9 *SEC. 540.* Section 15210 of the Vehicle Code is amended to
10 read:

11 15210. Notwithstanding any other provision of this code, as
12 used in this chapter, the following terms have the following
13 meanings:

14 (a) “Commercial driver’s license” means a driver’s license
15 issued by a state or other jurisdiction, in accordance with the
16 standards contained in Part 383 of Title 49 of the Code of Federal
17 Regulations, which authorizes the licenseholder to operate a class
18 or type of commercial motor vehicle.

19 (b) (1) “Commercial motor vehicle” means any vehicle or
20 combination of vehicles that requires a class A or class B license,
21 or a class C license with an endorsement issued pursuant to
22 paragraph (2), (3), (4), or (5) of subdivision (a) of Section 15278.

23 (2) “Commercial motor vehicle” does not include any of the
24 following:

25 (A) A recreational vehicle, as defined in Section 18010 of the
26 Health and Safety Code.

27 (B) An implement of husbandry operated by a person who is
28 not required to obtain a driver’s license under this code.

29 (C) Vehicles operated by persons exempted pursuant to Section
30 25163 of the Health and Safety Code or a vehicle operated in an
31 emergency situation at the direction of a peace officer pursuant to
32 Section 2800.

33 (c) “Controlled substance” has the same meaning as defined by
34 the federal Controlled Substances Act (21 U.S.C. Sec. 802).

35 (d) “Conviction” means an unvacated adjudication of guilt, or
36 a determination that a person has violated or failed to comply with
37 the law in a court of original jurisdiction or by an authorized
38 administrative tribunal, an unvacated forfeiture of bail or collateral
39 deposited to secure the person’s appearance in court, a plea of
40 guilty or nolo contendere accepted by the court, the payment of a

1 fine or court costs, or violation of a condition of release without
2 bail, regardless of whether or not the penalty is rebated, suspended,
3 or probated.

4 (e) “Disqualification” means a prohibition against driving a
5 commercial motor vehicle.

6 (f) “Driving a commercial vehicle under the influence” means
7 committing any one or more of the following unlawful acts in a
8 commercial motor vehicle:

9 (1) Driving a commercial motor vehicle while the operator’s
10 blood-alcohol concentration level is 0.04 percent or more, by
11 weight in violation of subdivision (d) of Section 23152.

12 (2) Driving under the influence of alcohol, as prescribed in
13 subdivision (a) or (b) of Section 23152.

14 (3) Refusal to undergo testing as required under this code in the
15 enforcement of Subpart D of Part 383 or Subpart A of Part 392 of
16 Title 49 of the Code of Federal Regulations.

17 (g) “Employer” means any person, including the United States,
18 a state, or political subdivision of a state, who owns or leases a
19 commercial motor vehicle or assigns drivers to operate that vehicle.
20 A person who employs himself or herself as a commercial vehicle
21 driver is considered to be both an employer and a driver for
22 purposes of this chapter.

23 (h) “Fatality” means the death of a person as a result of a motor
24 vehicle accident.

25 (i) “Felony” means an offense under state or federal law that is
26 punishable by death or imprisonment for a term exceeding one
27 year.

28 (j) “Gross combination weight rating” means the value specified
29 by the manufacturer as the maximum loaded weight of a
30 combination or articulated vehicle. In the absence of a value
31 specified by the manufacturer, gross vehicle weight rating shall
32 be determined by adding the gross vehicle weight rating of the
33 power unit and the total weight of the towed units and any load
34 thereon.

35 (k) “Gross vehicle weight rating” means the value specified by
36 the manufacturer as the maximum loaded weight of a single
37 vehicle, as defined in Section 350.

38 (l) “Imminent hazard” means the existence of a condition that
39 presents a substantial likelihood that death, serious illness, severe
40 personal injury, or substantial endangerment to health, property,

1 or the environment may occur before the reasonably foreseeable
2 completion date of a formal proceeding has begun to lessen the
3 risk of death, illness, injury, or endangerment.

4 (m) “Noncommercial motor vehicle” means a motor vehicle or
5 combination of motor vehicles that is not included within the
6 definition in subdivision (b).

7 (n) “Nonresident commercial driver’s license” means a
8 commercial driver’s license issued to an individual by a state under
9 one of the following provisions:

10 (1) The individual is domiciled in a foreign country.

11 (2) The individual is domiciled in another state.

12 (o) “Schoolbus” is a commercial motor vehicle, as defined in
13 Section 545.

14 (p) “Serious traffic violation” includes any of the following:

15 (1) Excessive speeding, as defined pursuant to the federal
16 Commercial Motor Vehicle Safety Act (P.L. 99-570) involving
17 any single offense for any speed of 15 miles an hour or more above
18 the posted speed limit.

19 (2) Reckless driving, as defined pursuant to the federal
20 Commercial Motor Vehicle Safety Act (P.L. 99-570), and driving
21 in the manner described under Section 2800.1, 2800.2, or 2800.3,
22 including, but not limited to, the offense of driving a commercial
23 motor vehicle in willful or wanton disregard for the safety of
24 persons or property.

25 (3) A violation of a state or local law involving the safe
26 operation of a motor vehicle, arising in connection with a fatal
27 traffic accident.

28 (4) A similar violation of a state or local law involving the safe
29 operation of a motor vehicle, as defined pursuant to the
30 Commercial Motor Vehicle Safety Act (Title XII of P.L. 99-570).

31 (5) Driving a commercial motor vehicle without a commercial
32 driver’s license.

33 (6) Driving a commercial motor vehicle without the driver
34 having in his or her possession a commercial driver’s license,
35 unless the driver provides proof at the subsequent court appearance
36 that he or she held a valid commercial driver’s license on the date
37 of the violation.

38 (7) Driving a commercial motor vehicle when the driver has
39 not met the minimum testing standards for that vehicle as to the
40 class or type of cargo the vehicle is carrying.

1 (8) Driving a commercial motor vehicle while using an
2 electronic wireless communication device to write, send, or read
3 a text-based communication, as defined in Section 23123.5.

4 In the absence of a federal definition, existing definitions under
5 this code apply.

6 (q) “State” means a state of the United States or the District of
7 Columbia.

8 (r) “Tank vehicle” means a commercial motor vehicle that is
9 designed to transport any liquid or gaseous material within a tank
10 or tanks having an individual rated capacity of more than 119
11 gallons and an aggregate rated capacity of at least 1,000 gallons
12 that is permanently or temporarily attached to the vehicle or the
13 chassis, including, but not limited to, cargo tanks and portable
14 tanks, as defined in Part 171 of Title 49 of the Code of Federal
15 Regulations. A commercial motor vehicle transporting an empty
16 storage container tank not designed for transportation, with a rated
17 capacity of at least 1,000 gallons that is temporarily attached to a
18 flatbed trailer, is not a tank vehicle.

19 ~~SEC. 534.~~

20 *SEC. 541.* Section 34500 of the Vehicle Code is amended to
21 read:

22 34500. The department shall regulate the safe operation of the
23 following vehicles:

24 (a) Motortrucks of three or more axles that are more than 10,000
25 pounds gross vehicle weight rating.

26 (b) Truck tractors.

27 (c) Buses, schoolbuses, school pupil activity buses, youth buses,
28 farm labor vehicles, modified limousines, and general public
29 paratransit vehicles.

30 (d) Trailers and semitrailers designed or used for the
31 transportation of more than 10 persons, and the towing motor
32 vehicle.

33 (e) Trailers and semitrailers, pole or pipe dollies, auxiliary
34 dollies, and logging dollies used in combination with vehicles
35 listed in subdivision (a), (b), (c), or (d). This subdivision does not
36 include camp trailers, trailer coaches, and utility trailers.

37 (f) A combination of a motortruck and a vehicle or vehicles set
38 forth in subdivision (e) that exceeds 40 feet in length when coupled
39 together.

1 (g) A vehicle, or a combination of vehicles, transporting
2 hazardous materials.

3 (h) Manufactured homes that, when moved upon the highway,
4 are required to be moved pursuant to a permit as specified in
5 Section 35780 or 35790.

6 (i) A park trailer, as described in Section 18009.3 of the Health
7 and Safety Code, that, when moved upon a highway, is required
8 to be moved pursuant to a permit pursuant to Section 35780.

9 (j) Any other motortruck not specified in subdivisions (a) to
10 (h), inclusive, or subdivision (k), that is regulated by the
11 Department of Motor Vehicles, Public Utilities Commission, or
12 United States Secretary of Transportation, but only for matters
13 relating to hours of service and logbooks of drivers.

14 (k) A commercial motor vehicle with a gross vehicle weight
15 rating of 26,001 or more pounds or a commercial motor vehicle
16 of any gross vehicle weight rating towing a vehicle described in
17 subdivision (e) with a gross vehicle weight rating of more than
18 10,000 pounds, except combinations including camp trailers, trailer
19 coaches, or utility trailers. For purposes of this subdivision, the
20 term “commercial motor vehicle” has the meaning defined in
21 subdivision (b) of Section 15210.

22 ~~SEC. 535.~~

23 *SEC. 542.* Section 35401.7 of the Vehicle Code is amended to
24 read:

25 35401.7. (a) The limitations of access specified in subdivision
26 (d) of Section 35401.5 do not apply to licensed carriers of livestock
27 when those carriers are directly en route to or from a point of
28 loading or unloading of livestock on those portions of State
29 Highway Route 101 located in the Counties of Del Norte,
30 Humboldt, and Mendocino from its junction with State Highway
31 Route 1 near Leggett north to the Oregon border, if the travel is
32 necessary and incidental to the shipment of the livestock.

33 (b) The exemption allowed under this section does not apply
34 unless all of the following conditions are met:

35 (1) The length of the truck tractor, in combination with the
36 semitrailer used to transport the livestock, does not exceed a total
37 of 70 feet.

38 (2) The distance from the kingpin to the rearmost axle of the
39 semitrailer does not exceed 43 feet.

1 (3) The length of the semitrailer does not exceed a total of 48
2 feet.

3 (c) The exemption allowed under this section does not apply to
4 travel conducted on the day prior to, or on the day of, any federally
5 recognized holiday.

6 (d) (1) Because route improvements in Richardson Grove that
7 will allow the combination of vehicles described in Section 35401.5
8 to fully operate on all portions of State Highway Route 101 located
9 in the Counties of Del Norte, Humboldt, and Mendocino are
10 ongoing and not yet completed, this section shall remain in effect
11 only until both of the following conditions are satisfied:

12 (A) All route improvements in Richardson Grove are completed
13 without restraint, including, but not limited to, judicial or injunctive
14 restraints.

15 (B) The Director of Transportation determines that the
16 combination of vehicles described in Section 35401.5 is authorized
17 to operate on all portions of State Highway Route 101 located in
18 the Counties of Del Norte, Humboldt, and Mendocino. When the
19 director makes the determination described in this subparagraph,
20 the director shall post a declaration on the Internet Web site of the
21 Department of Transportation.

22 (2) This section is repealed as of the date that the declaration
23 described in subparagraph (B) of paragraph (1) is posted on the
24 Department of Transportation's Internet Web site.

25 (3) The declaration described in subparagraph (B) of paragraph
26 (1) shall state that it is being made pursuant to this section.

27 (e) (1) If, prior to the completion of the route improvements in
28 Richardson Grove as described in paragraph (1) of subdivision
29 (d), the Director of Transportation determines that the only
30 adjustment to State Highway Route 101 possible to accommodate
31 the truck sizes allowed to travel on portions of State Highway
32 Route 101, pursuant to subdivisions (a) and (b), is the removal of
33 any tree that has a diameter of 42 inches or greater, measured
34 outside the bark, at 12 inches above ground on the side adjacent
35 to the highest ground level, the director shall notify the Secretary
36 of State of that determination.

37 (2) If, prior to the completion of the route improvements in
38 Richardson Grove as described in paragraph (1) of subdivision
39 (d), the Director of Transportation determines that safety
40 improvements to the portion of State Highway Route 101 described

1 in subdivision (a) have resulted in the reclassification of the entire
2 segment as a terminal access route pursuant to subdivision (d) of
3 Section 35401.5, the director shall notify the Secretary of State of
4 that determination.

5 (3) The notice required under paragraph (1) or (2) shall state
6 that it is being made pursuant to this section.

7 (4) This section is repealed on the date the Secretary of State
8 receives either of the notices described in this subdivision.

9 ~~SEC. 536.~~

10 *SEC. 543.* Section 40303.5 of the Vehicle Code is amended to
11 read:

12 40303.5. Whenever a person is arrested for any of the following
13 offenses, the arresting officer shall permit the arrested person to
14 execute a notice containing a promise to correct the violation in
15 accordance with the provisions of Section 40610 unless the
16 arresting officer finds that any of the disqualifying conditions
17 specified in subdivision (b) of Section 40610 exist:

18 (a) A registration infraction set forth in Division 3 (commencing
19 with Section 4000).

20 (b) A driver's license infraction set forth in Division 6
21 (commencing with Section 12500), and subdivision (a) of Section
22 12951, relating to possession of a driver's license.

23 (c) Section 21201, relating to bicycle equipment.

24 (d) An infraction involving equipment set forth in Division 12
25 (commencing with Section 24000), Division 13 (commencing with
26 Section 29000), Division 14.8 (commencing with Section 34500),
27 Division 16 (commencing with Section 36000), Division 16.5
28 (commencing with Section 38000), and Division 16.7 (commencing
29 with Section 39000).

30 (e) Section 2482, relating to registration decals for vehicles
31 transporting inedible kitchen grease.

32 ~~SEC. 537.~~

33 *SEC. 544.* Section 42002.1 of the Vehicle Code, as added by
34 Section 4 of Chapter 899 of the Statutes of 2006, is repealed.

35 ~~SEC. 538.~~

36 *SEC. 545.* Section 42002.1 of the Vehicle Code, as added by
37 Section 4 of Chapter 900 of the Statutes of 2006, is repealed.

1 ~~SEC. 539.~~

2 *SEC. 546.* Article 2 (commencing with Section 8580) of
3 Chapter 2 of Part 4 of Division 5 of the Water Code, as added by
4 Section 15 of Chapter 365 of the Statutes of 2007, is repealed.

5 ~~SEC. 540.~~

6 *SEC. 547.* Section 8612 of the Water Code, as added by Section
7 22 of Chapter 366 of the Statutes of 2007, is repealed.

8 ~~SEC. 541.~~

9 *SEC. 548.* Section 8613 of the Water Code, as added by Section
10 23 of Chapter 366 of the Statutes of 2007, is repealed.

11 ~~SEC. 542.~~

12 *SEC. 549.* Part 8 (commencing with Section 9650) of Division
13 5 of the Water Code, as added by Section 27 of Chapter 366 of
14 the Statutes of 2007, is repealed.

15 ~~SEC. 543.~~

16 *SEC. 550.* Section 9650 of the Water Code, as added by Section
17 8 of Chapter 368 of the Statutes of 2007, is amended to read:

18 9650. (a) (1) Commencing July 1, 2008, the allocation or
19 expenditure of funds by the state for the upgrade of a project levee,
20 if that upgrade is authorized on or after July 1, 2008, that protects
21 an area in which more than 1,000 people reside shall be subject to
22 a requirement that the local agency responsible for the operation
23 and maintenance of the project levee and any city or county
24 protected by the project levee, including a charter city or charter
25 county, enter into an agreement to adopt a safety plan within two
26 years. If a city or county is responsible for the operation and
27 maintenance of the project levee, the governing body shall approve
28 a resolution committing to the preparation of a safety plan within
29 two years.

30 (2) The local entity responsible for the operation and
31 maintenance of the project levee shall submit a copy of the safety
32 plan to the department and the Central Valley Flood Protection
33 Board.

34 (b) The safety plan, at a minimum, shall include all of the
35 following elements:

36 (1) A flood preparedness plan that includes storage of materials
37 that can be used to reinforce or protect a levee when a risk of failure
38 exists.

39 (2) A levee patrol plan for high water situations.

- 1 (3) A flood-fight plan for the period before state or federal
- 2 agencies assume control over the flood fight.
- 3 (4) An evacuation plan that includes a system for adequately
- 4 warning the general public in the event of a levee failure, and a
- 5 plan for the evacuation of every affected school, residential care
- 6 facility for the elderly, and long-term health care facility.
- 7 (5) A floodwater removal plan.
- 8 (6) A requirement, to the extent reasonable, that either of the
- 9 following applies to a new building in which the inhabitants are
- 10 expected to be essential service providers:
- 11 (A) The building is located outside an area that may be flooded.
- 12 (B) The building is designed to be operable shortly after the
- 13 floodwater is removed.
- 14 (c) The safety plan shall be integrated into any other local
- 15 agency emergency plan and shall be coordinated with the state
- 16 emergency plan.
- 17 (d) This section does not require the adoption of an element of
- 18 the safety plan that was adopted previously and remains in effect.
- 19 ~~SEC. 544.~~
- 20 *SEC. 551.* Section 10725.8 of the Water Code is amended to
- 21 read:
- 22 10725.8. (a) A groundwater sustainability agency may require
- 23 through its groundwater sustainability plan that the use of every
- 24 groundwater extraction facility within the management area of the
- 25 groundwater sustainability agency be measured by a
- 26 water-measuring device satisfactory to the groundwater
- 27 sustainability agency.
- 28 (b) All costs associated with the purchase and installation of
- 29 the water-measuring device shall be borne by the owner or operator
- 30 of each groundwater extraction facility. The water-measuring
- 31 devices shall be installed by the groundwater sustainability agency
- 32 or, at the groundwater sustainability agency’s option, by the owner
- 33 or operator of the groundwater extraction facility. Water-measuring
- 34 devices shall be calibrated on a reasonable schedule as may be
- 35 determined by the groundwater sustainability agency.
- 36 (c) A groundwater sustainability agency may require, through
- 37 its groundwater sustainability plan, that the owner or operator of
- 38 a groundwater extraction facility within the groundwater
- 39 sustainability agency file an annual statement with the groundwater

1 sustainability agency setting forth the total extraction in acre-feet
2 of groundwater from the facility during the previous water year.

3 (d) In addition to the measurement of groundwater extractions
4 pursuant to subdivision (a), a groundwater sustainability agency
5 may use any other reasonable method to determine groundwater
6 extraction.

7 (e) This section does not apply to de minimis extractors.

8 ~~SEC. 545.~~

9 *SEC. 552.* Section 10735.2 of the Water Code is amended to
10 read:

11 10735.2. (a) The board, after notice and a public hearing, may
12 designate a basin as a probationary basin, if the board finds one
13 or more of the following applies to the basin:

14 (1) After June 30, 2017, none of the following have occurred:

15 (A) A local agency has elected to be a groundwater
16 sustainability agency that intends to develop a groundwater
17 sustainability plan for the entire basin.

18 (B) A collection of local agencies has formed a groundwater
19 sustainability agency or prepared agreements to develop one or
20 more groundwater sustainability plans that will collectively serve
21 as a groundwater sustainability plan for the entire basin.

22 (C) A local agency has submitted an alternative that has been
23 approved or is pending approval pursuant to Section 10733.6. If
24 the department disapproves an alternative pursuant to Section
25 10733.6, the board shall not act under this paragraph until at least
26 180 days after the department disapproved the alternative.

27 (2) The basin is subject to paragraph (1) of subdivision (a) of
28 Section 10720.7, and after January 31, 2020, none of the following
29 have occurred:

30 (A) A groundwater sustainability agency has adopted a
31 groundwater sustainability plan for the entire basin.

32 (B) A collection of local agencies has adopted groundwater
33 sustainability plans that collectively serve as a groundwater
34 sustainability plan for the entire basin.

35 (C) The department has approved an alternative pursuant to
36 Section 10733.6.

37 (3) The basin is subject to paragraph (1) of subdivision (a) of
38 Section 10720.7 and after January 31, 2020, the department, in
39 consultation with the board, determines that a groundwater
40 sustainability plan is inadequate or that the groundwater

1 sustainability program is not being implemented in a manner that
2 will likely achieve the sustainability goal.

3 (4) The basin is subject to paragraph (2) of subdivision (a) of
4 Section 10720.7, and after January 31, 2022, none of the following
5 have occurred:

6 (A) A groundwater sustainability agency has adopted a
7 groundwater sustainability plan for the entire basin.

8 (B) A collection of local agencies has adopted groundwater
9 sustainability plans that collectively serve as a groundwater
10 sustainability plan for the entire basin.

11 (C) The department has approved an alternative pursuant to
12 Section 10733.6.

13 (5) The basin is subject to paragraph (2) of subdivision (a) of
14 Section 10720.7, and either of the following have occurred:

15 (A) After January 31, 2022, both of the following have occurred:

16 (i) The department, in consultation with the board, determines
17 that a groundwater sustainability plan is inadequate or that the
18 groundwater sustainability plan is not being implemented in a
19 manner that will likely achieve the sustainability goal.

20 (ii) The board determines that the basin is in a condition of
21 long-term overdraft.

22 (B) After January 31, 2025, both of the following have occurred:

23 (i) The department, in consultation with the board, determines
24 that a groundwater sustainability plan is inadequate or that the
25 groundwater sustainability plan is not being implemented in a
26 manner that will likely achieve the sustainability goal.

27 (ii) The board determines that the basin is in a condition where
28 groundwater extractions result in significant depletions of
29 interconnected surface waters.

30 (b) In making the findings associated with paragraph (3) or (5)
31 of subdivision (a), the department and board may rely on periodic
32 assessments the department has prepared pursuant to Chapter 10
33 (commencing with Section 10733). The board may request that
34 the department conduct additional assessments utilizing the
35 regulations developed pursuant to Chapter 10 (commencing with
36 Section 10733) and make determinations pursuant to this section.
37 The board shall post on its Internet Web site and provide at least
38 30 days for the public to comment on any determinations provided
39 by the department pursuant to this subdivision.

1 (c) (1) ? The determination may exclude a class or category of
2 extractions from the requirement for reporting pursuant to Part 5.2
3 (commencing with Section 5200) of Division 2 if those extractions
4 are subject to a local plan or program that adequately manages
5 groundwater within the portion of the basin to which that plan or
6 program applies, or if those extractions are likely to have a minimal
7 impact on basin withdrawals.

8 (2) The determination may require reporting of a class or
9 category of extractions that would otherwise be exempt from
10 reporting pursuant to paragraph (1) of subdivision (c) of Section
11 5202 if those extractions are likely to have a substantial impact on
12 basin withdrawals or requiring reporting of those extractions is
13 reasonably necessary to obtain information for purposes of this
14 chapter.

15 (3) The determination may establish requirements for
16 information required to be included in reports of groundwater
17 extraction, for installation of measuring devices, or for use of a
18 methodology, measuring device, or both, pursuant to Part 5.2
19 (commencing with Section 5200) of Division 2.

20 (4) The determination may modify the water year or reporting
21 date for a report of groundwater extraction pursuant to Section
22 5202.

23 (d) If the board finds that litigation challenging the formation
24 of a groundwater sustainability agency prevented its formation
25 before July 1, 2017, pursuant to paragraph (1) of subdivision (a),
26 or prevented a groundwater sustainability program from being
27 implemented in a manner likely to achieve the sustainability goal
28 pursuant to paragraph (3), (4), or (5) of subdivision (a), the board
29 shall not designate a basin as a probationary basin for a period of
30 time equal to the delay caused by the litigation.

31 (e) The board shall exclude from probationary status any portion
32 of a basin for which a groundwater sustainability agency
33 demonstrates compliance with the sustainability goal.

34 ~~SEC. 546.~~

35 *SEC. 553.* Section 12585.12 of the Water Code, as added by
36 Section 28 of Chapter 366 of the Statutes of 2007, is repealed.

37 ~~SEC. 547.~~

38 *SEC. 554.* Section 12938.2 of the Water Code, as added by
39 Section 29 of Chapter 652 of the Statutes of 1991, is amended and
40 renumbered to read:

1 12938.3. Notwithstanding any other provision of this bond act,
2 or of the State General Obligation Bond Law (Chapter 4
3 (commencing with Section 16720) of Part 3 of Division 4 of Title
4 2 of the Government Code), if the Treasurer sells bonds pursuant
5 to this bond act that include a bond counsel opinion to the effect
6 that the interest on the bonds is excluded from gross income for
7 federal tax purposes under designated conditions, the Treasurer
8 may maintain separate accounts for the bond proceeds invested
9 and the investment earnings on those proceeds, and may use or
10 direct the use of those proceeds or earnings to pay any rebate,
11 penalty, or other payment required under federal law, or take any
12 other action with respect to the investment and use of those bond
13 proceeds, as may be required or desirable under federal law in
14 order to maintain the tax-exempt status of those bonds and to obtain
15 any other advantage under federal law on behalf of the funds of
16 this state.

17 ~~SEC. 548.~~

18 *SEC. 555.* Section 13272.1 of the Water Code, as added by
19 Section 12 of Chapter 814 of the Statutes of 1997, is repealed.

20 ~~SEC. 549.~~

21 *SEC. 556.* Section 20560.2 of the Water Code is amended to
22 read:

23 20560.2. In the case of any district that owns and operates
24 facilities for the generation, transmission, distribution, and retail
25 sale of electric power, the district shall give notice to the California
26 Debt and Investment Advisory Commission, at least 30 days prior
27 to the proposed sale date, of the proposed sale of any evidence of
28 indebtedness issued to provide financing of any works of the
29 district. The notice shall include the information required by
30 subdivision (i) of Section 8855 of the Government Code. Failure
31 to give this notice shall render the sale invalid. The California Debt
32 and Investment Advisory Commission may waive the 30-day notice
33 period upon application by the district.

34 In carrying out the purpose of this section, the California Debt
35 and Investment Advisory Commission may charge fees payable
36 solely from the proceeds of the sale of the debt issue in an amount
37 equal to one-fortieth of 1 percent of the principal amount of the
38 issue, but not to exceed five thousand dollars (\$5,000) for any one
39 issue.

1 The bonds shall be legal investments for all trust funds, for the
2 funds of all insurance companies, commercial banks, savings
3 banks, trust companies, the state school funds, and for any funds
4 which may be invested in bonds of cities, cities and counties,
5 counties, school districts, or municipalities in the state.

6 ~~SEC. 550.~~

7 *SEC. 557.* Section 21065 of the Water Code is amended and
8 renumbered to read:

9 21605. (a) Notwithstanding any other provision of law,
10 subdivision (b) applies to districts in which directors are elected
11 by divisions.

12 (b) The board of directors shall, by resolution, adjust the
13 boundaries of any divisions pursuant to Chapter 8 (commencing
14 with Section 22000) of Division 21 of the Elections Code.

15 ~~SEC. 551.~~

16 *SEC. 558.* Section 21562.5 of the Water Code, as added by
17 Section 3 of Chapter 1134 of the Statutes of 1994, is repealed.

18 ~~SEC. 552.~~

19 *SEC. 559.* The heading of Article 5 (commencing with Section
20 36459) of Chapter 6 of Part 6 of Division 13 of the Water Code is
21 repealed.

22 ~~SEC. 553.~~

23 *SEC. 560.* Section 37921 of the Water Code is amended to
24 read:

25 37921. The board may adopt ordinances for the purpose of
26 regulating, conserving, managing, and controlling the use and
27 extraction of groundwater within the territory of the district. All
28 ordinances shall be adopted, after noticed public hearings, by a
29 majority vote of the board. Notice of the adoption of all ordinances
30 shall be given. The ordinances of the district shall become effective
31 on the 31st day after adoption except that the board may, by the
32 vote of at least four members of the board, dispense with notice
33 of public hearing and adopt an emergency ordinance that shall
34 become effective immediately upon adoption, if the board
35 determines that the public health, safety, or welfare so requires.

36 ~~SEC. 554.~~

37 *SEC. 561.* Section 37954 of the Water Code is amended to
38 read:

39 37954. The district may, by ordinance, require the operator of
40 each extraction facility to file semiannually, or more frequently,

1 with the district, a groundwater extraction statement that contains,
2 but is not limited to, the following information:

3 (a) Total extraction in acre-feet of water from the extraction
4 facility for the preceding groundwater extraction statement period.

5 (b) The static groundwater level for the extraction facility.

6 (c) A description of the location of the extraction facility.

7 (d) The crop types or other uses and the acreage served by the
8 extraction facility.

9 (e) The method of measuring or computing groundwater
10 extraction.

11 (f) Other information deemed reasonable and necessary by the
12 board to meet the purposes of this act.

13 ~~SEC. 555.~~

14 *SEC. 562.* The heading of Article 1 (commencing with Section
15 42500) of Chapter 3 of Part 5 of Division 14 of the Water Code is
16 repealed.

17 ~~SEC. 556.~~

18 *SEC. 563.* Section 73502 of the Water Code is amended to
19 read:

20 73502. (a) The city, on or before February 1, 2003, shall adopt
21 the program of capital improvement projects designed to restore
22 and improve the bay area regional water system that are described
23 in the capital improvement program report prepared by the San
24 Francisco Public Utilities Commission dated February 25, 2002.
25 A copy of the program shall be submitted, on or before March 1,
26 2003, to the State Water Resources Control Board. The program
27 shall include a schedule for the completion of design and award
28 of contract, and commencement and completion of construction
29 of each described project. The schedule shall require that projects
30 representing 50 percent of the total program cost be completed on
31 or before 2010 and that projects representing 100 percent of the
32 total program cost be completed on or before 2015. The program
33 shall also contain a financing plan. The city shall review and update
34 the program, as necessary, based on changes in the schedule set
35 forth in the plan adopted pursuant to subdivision (d).

36 (b) The plan shall require completion of the following projects:

			Project Identification Number
40	Project	Location	

1			
2	1. Irvington Tunnel Alternative	Alameda/Santa	9970
3		Clara Counties	
4	2. Crystal Springs Pump Station	San Mateo County	201671
5	& Pipeline		
6	3. BDPL 1 & 2-Repair of	Alameda/San	99
7	Caissons/Pipe Bridge	Mateo Counties	
8	4. BDPL Pipeline Upgrades at	Alameda County	128
9	Hayward Fault		
10	5. Calaveras Fault Crossing	Alameda County	9897
11	Upgrade		
12	6. Crystal Springs Bypass	San Mateo County	9891
13	Pipeline		
14	7. BDPL Cross Connections 3 &	Alameda/Santa	202339
15	4	Clara Counties	
16	8. Conveyance Capacity West of	Alameda/Santa	201441
17	Irvington Tunnel	Clara/San Mateo	
18		Counties	
19	9. Calaveras Dam Seismic	Alameda County	202135
20	Improvements		
21			
22			

23 (c) The city shall submit a report to the Joint Legislative Audit
 24 Committee, the Alfred E. Alquist Seismic Safety Commission,
 25 and the State Water Resources Control Board, on or before
 26 September 1 of each year, describing the progress made on the
 27 implementation of the capital improvement program for the bay
 28 area regional water system during the previous fiscal year. The
 29 city shall identify in the report any project that is behind schedule,
 30 and, for each project so identified, shall describe the city’s plan
 31 and timeline for either making up the delay or adopting a revised
 32 schedule pursuant to subdivision (d).

33 (d) (1) The city may determine that completion dates for
 34 projects contained in the capital improvement program adopted
 35 pursuant to subdivision (a), including those projects described in
 36 subdivision (b), should be delayed or that different projects should
 37 be constructed.

38 (2) The city shall provide written notice, not less than 30 days
 39 before the date of a meeting of the city agency responsible for
 40 management of the bay area regional water system, that a change

1 in the program is to be considered. The notice shall include
2 information about the reason for the proposed change and the
3 availability of materials related to the proposed change. All bay
4 area wholesale customers shall be permitted to testify or otherwise
5 submit comments at the meeting.

6 (3) If the city adopts a change in the program that deletes one
7 or more projects from the program, or postpones the scheduled
8 completion dates, the city shall promptly furnish a copy of that
9 change and the reasons for that change to the State Water Resources
10 Control Board and the Alfred E. Alquist Seismic Safety
11 Commission. The State Water Resources Control Board and the
12 Alfred E. Alquist Seismic Safety Commission shall each submit
13 written comments with regard to the significance of that change
14 with respect to public health and safety to the city and the Joint
15 Legislative Audit Committee not later than 120 days after the date
16 on which those entities received notice of that change.

17 ~~SEC. 557.~~

18 *SEC. 564.* Section 213.5 of the Welfare and Institutions Code
19 is amended to read:

20 213.5. (a) After a petition has been filed pursuant to Section
21 311 to declare a child a dependent child of the juvenile court, and
22 until the time that the petition is dismissed or dependency is
23 terminated, upon application in the manner provided by Section
24 527 of the Code of Civil Procedure or in the manner provided by
25 Section 6300 of the Family Code, if related to domestic violence,
26 the juvenile court has exclusive jurisdiction to issue ex parte orders
27 (1) enjoining a person from molesting, attacking, striking, stalking,
28 threatening, sexually assaulting, battering, harassing, telephoning,
29 including, but not limited to, making annoying telephone calls as
30 described in Section 653m of the Penal Code, destroying the
31 personal property, contacting, either directly or indirectly, by mail
32 or otherwise, coming within a specified distance of, or disturbing
33 the peace of the child or any other child in the household; and (2)
34 excluding a person from the dwelling of the person who has care,
35 custody, and control of the child. A court may also issue an ex
36 parte order enjoining a person from molesting, attacking, striking,
37 stalking, threatening, sexually assaulting, battering, harassing,
38 telephoning, including, but not limited to, making annoying
39 telephone calls as described in Section 653m of the Penal Code,
40 destroying the personal property, contacting, either directly or

1 indirectly, by mail or otherwise, coming within a specified distance
2 of, or disturbing the peace of any parent, legal guardian, or current
3 caretaker of the child, regardless of whether the child resides with
4 that parent, legal guardian, or current caretaker, upon application
5 in the manner provided by Section 527 of the Code of Civil
6 Procedure or, if related to domestic violence, in the manner
7 provided by Section 6300 of the Family Code. A court may also
8 issue an ex parte order enjoining a person from molesting,
9 attacking, striking, stalking, threatening, sexually assaulting,
10 battering, harassing, telephoning, including, but not limited to,
11 making annoying telephone calls as described in Section 653m of
12 the Penal Code, destroying the personal property, contacting, either
13 directly or indirectly, by mail or otherwise, coming within a
14 specified distance of, or disturbing the peace of the child's current
15 or former social worker or court appointed special advocate, upon
16 application in the manner provided by Section 527 of the Code of
17 Civil Procedure.

18 (b) After a petition has been filed pursuant to Section 601 or
19 602 to declare a child a ward of the juvenile court, and until the
20 time that the petition is dismissed or wardship is terminated, upon
21 application in the manner provided by Section 527 of the Code of
22 Civil Procedure or, if related to domestic violence, in the manner
23 provided by Section 6300 of the Family Code, the juvenile court
24 may issue ex parte orders (1) enjoining a person from molesting,
25 attacking, striking, stalking, threatening, sexually assaulting,
26 battering, harassing, telephoning, including, but not limited to,
27 making annoying telephone calls as described in Section 653m of
28 the Penal Code, destroying the personal property, contacting, either
29 directly or indirectly, by mail or otherwise, coming within a
30 specified distance of, or disturbing the peace of the child or any
31 other child in the household; (2) excluding a person from the
32 dwelling of the person who has care, custody, and control of the
33 child; or (3) enjoining the child from contacting, threatening,
34 stalking, or disturbing the peace of any person the court finds to
35 be at risk from the conduct of the child, or with whom association
36 would be detrimental to the child. A court may also issue an ex
37 parte order enjoining a person from molesting, attacking, striking,
38 stalking, threatening, sexually assaulting, battering, harassing,
39 telephoning, including, but not limited to, making annoying
40 telephone calls as described in Section 653m of the Penal Code,

1 destroying the personal property, contacting, either directly or
2 indirectly, by mail or otherwise, coming within a specified distance
3 of, or disturbing the peace of a parent, legal guardian, or current
4 caretaker of the child, regardless of whether the child resides with
5 that parent, legal guardian, or current caretaker, upon application
6 in the manner provided by Section 527 of the Code of Civil
7 Procedure or, if related to domestic violence, in the manner
8 provided by Section 6300 of the Family Code. A court may also
9 issue an ex parte order enjoining a person from molesting,
10 attacking, striking, stalking, threatening, sexually assaulting,
11 battering, harassing, telephoning, including, but not limited to,
12 making annoying telephone calls as described in Section 653m of
13 the Penal Code, destroying the personal property, contacting, either
14 directly or indirectly, by mail or otherwise, coming within a
15 specified distance of, or disturbing the peace of the child's current
16 or former probation officer or court appointed special advocate,
17 upon application in the manner provided by Section 527 of the
18 Code of Civil Procedure.

19 (c) If a temporary restraining order is granted without notice,
20 the matter shall be made returnable on an order requiring cause to
21 be shown why the order should not be granted, on the earliest day
22 that the business of the court will permit, but not later than 21 days
23 or, if good cause appears to the court, 25 days from the date the
24 temporary restraining order is granted. The court may, on the
25 motion of the person seeking the restraining order, or on its own
26 motion, shorten the time for service of the order to show cause on
27 the person to be restrained. The court may, upon its own motion
28 or the filing of a declaration by the person seeking the restraining
29 order, find that the person to be restrained could not be served
30 within the time required by law and reissue an order previously
31 issued and dissolved by the court for failure to serve the person to
32 be restrained. The reissued order shall remain in effect until the
33 date set for the hearing. The reissued order shall state on its face
34 the date of expiration of the order. Any hearing pursuant to this
35 section may be held simultaneously with any regularly scheduled
36 hearings held in proceedings to declare a child a dependent child
37 or ward of the juvenile court pursuant to Section 300, 601, or 602,
38 or subsequent hearings regarding the dependent child or ward.

39 (d) (1) The juvenile court may issue, upon notice and a hearing,
40 any of the orders set forth in subdivisions (a), (b), and (c). A

1 restraining order granted pursuant to this subdivision shall remain
2 in effect, in the discretion of the court, no more than three years,
3 unless otherwise terminated by the court, extended by mutual
4 consent of all parties to the restraining order, or extended by further
5 order of the court on the motion of a party to the restraining order.

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

24 (e) (1) The juvenile court may issue an order made pursuant to
25 subdivision (a), (b), or (d) excluding a person from a residence or
26 dwelling. This order may be issued for the time and on the
27 conditions that the court determines, regardless of which party
28 holds legal or equitable title or is the lessee of the residence or
29 dwelling.

30 (2) The court may issue an order under paragraph (1) only on
31 a showing of all of the following:

32 (A) Facts sufficient for the court to ascertain that the party who
33 will stay in the dwelling has a right under color of law to possession
34 of the premises.

35 (B) That the party to be excluded has assaulted or threatens to
36 assault the other party or any other person under the care, custody,
37 and control of the other party, or a minor child of the parties or of
38 the other party.

39 (C) That physical or emotional harm would otherwise result to
40 the other party, to a person under the care, custody, and control of

1 the other party, or to a minor child of the parties or of the other
2 party.

3 (f) An order issued pursuant to subdivision (a), (b), (c), or (d)
4 shall state on its face the date of expiration of the order.

5 (g) All data with respect to a juvenile court protective order, or
6 extension, modification, or termination thereof, granted pursuant
7 to subdivision (a), (b), (c), or (d), shall be transmitted by the court
8 or its designee, within one business day, to law enforcement
9 personnel by either one of the following methods:

10 (1) Transmitting a physical copy of the order to a local law
11 enforcement agency authorized by the Department of Justice to
12 enter orders into the California Law Enforcement
13 Telecommunications System (CLETS).

14 (2) With the approval of the Department of Justice, entering the
15 order into CLETS directly.

16 (h) A willful and knowing violation of an order granted pursuant
17 to subdivision (a), (b), (c), or (d) is a misdemeanor punishable
18 under Section 273.65 of the Penal Code.

19 (i) A juvenile court restraining order related to domestic violence
20 issued by a court pursuant to this section shall be issued on forms
21 adopted by the Judicial Council and that have been approved by
22 the Department of Justice pursuant to subdivision (i) of Section
23 6380 of the Family Code. However, the fact that an order issued
24 by a court pursuant to this section was not issued on forms adopted
25 by the Judicial Council and approved by the Department of Justice
26 shall not, in and of itself, make the order unenforceable.

27 (j) (1) Prior to a hearing on the issuance or denial of an order
28 under this part, a search shall be conducted as described in
29 subdivision (a) of Section 6306 of the Family Code.

30 (2) Prior to deciding whether to issue an order under this part,
31 the court shall consider the following information obtained pursuant
32 to a search conducted under paragraph (1): a conviction for a
33 violent felony specified in Section 667.5 of the Penal Code or a
34 serious felony specified in Section 1192.7 of the Penal Code; a
35 misdemeanor conviction involving domestic violence, weapons,
36 or other violence; an outstanding warrant; parole or probation
37 status; a prior restraining order; and a violation of a prior
38 restraining order.

39 (3) (A) If the results of the search conducted pursuant to
40 paragraph (1) indicate that an outstanding warrant exists against

1 the subject of the search, the court shall order the clerk of the court
2 to immediately notify, by the most effective means available,
3 appropriate law enforcement officials of information obtained
4 through the search that the court determines is appropriate. The
5 law enforcement officials notified shall take all actions necessary
6 to execute outstanding warrants or any other actions, as appropriate
7 and as soon as practicable.

8 (B) If the results of the search conducted pursuant to paragraph
9 (1) indicate that the subject of the search is currently on parole or
10 probation, the court shall order the clerk of the court to immediately
11 notify, by the most effective means available, the appropriate parole
12 or probation officer of information obtained through the search
13 that the court determines is appropriate. The parole or probation
14 officer notified shall take all actions necessary to revoke any parole
15 or probation, or any other actions, with respect to the subject
16 person, as appropriate and as soon as practicable.

17 (k) Upon making an order for custody or visitation pursuant to
18 this section, the court shall follow the procedures specified in
19 subdivisions (c) and (d) of Section 6323 of the Family Code.

20 ~~SEC. 558:~~

21 *SEC. 565.* Section 258 of the Welfare and Institutions Code is
22 amended to read:

23 258. (a) Upon a hearing conducted in accordance with Section
24 257, and upon either an admission by the minor of the commission
25 of a violation charged, or a finding that the minor did in fact
26 commit the violation, the judge, referee, or juvenile hearing officer
27 may do any of the following:

28 (1) Reprimand the minor and take no further action.

29 (2) Direct that the probation officer undertake a program of
30 supervision of the minor for a period not to exceed six months, in
31 addition to or in place of the following orders.

32 (3) Order that the minor pay a fine up to the amount that an
33 adult would pay for the same violation, unless the violation is
34 otherwise specified within this section, in which case the fine shall
35 not exceed two hundred fifty dollars (\$250). This fine may be
36 levied in addition to or in place of the following orders and the
37 court may waive any or all of this fine, if the minor is unable to
38 pay. In determining the minor's ability to pay, the court shall not
39 consider the ability of the minor's family to pay.

1 (4) Subject to the minor's right to a restitution hearing, order
2 that the minor pay restitution to the victim, in lieu of all or a portion
3 of the fine specified in paragraph (3). The total dollar amount of
4 the fine, restitution, and any program fees ordered pursuant to
5 paragraph (9) shall not exceed the maximum amount which may
6 be ordered pursuant to paragraph (3). This paragraph shall not be
7 construed to limit the right to recover damages, less any amount
8 actually paid in restitution, in a civil action.

9 (5) Order that the driving privileges of the minor be suspended
10 or restricted as provided in the Vehicle Code or, notwithstanding
11 Section 13203 of the Vehicle Code or any other provision of law,
12 when the Vehicle Code does not provide for the suspension or
13 restriction of driving privileges, that, in addition to any other order,
14 the driving privileges of the minor be suspended or restricted for
15 a period of not to exceed 30 days.

16 (6) In the case of a traffic related offense, order the minor to
17 attend a licensed traffic school, or other court approved program
18 of traffic school instruction pursuant to Chapter 1.5 (commencing
19 with Section 11200) of Division 5 of the Vehicle Code, to be
20 completed by the juvenile within 60 days of the court order.

21 (7) Order that the minor produce satisfactory evidence that the
22 vehicle or its equipment has been made to conform with the
23 requirements of the Vehicle Code pursuant to Section 40150 of
24 the Vehicle Code if the violation involved an equipment violation.

25 (8) Order that the minor perform community service work in a
26 public entity or any private nonprofit entity, for not more than 50
27 hours over a period of 60 days, during times other than his or her
28 hours of school attendance or employment. Work performed
29 pursuant to this paragraph shall not exceed 30 hours during any
30 30-day period. The timeframes established by this paragraph shall
31 not be modified except in unusual cases where the interests of
32 justice would best be served. When the order to work is made by
33 a referee or a juvenile hearing officer, it shall be approved by a
34 judge of the juvenile court.

35 For purposes of this paragraph, a judge, referee, or juvenile
36 hearing officer shall not, without the consent of the minor, order
37 the minor to perform work with a private nonprofit entity that is
38 affiliated with any religion.

39 (9) In the case of a misdemeanor, order that the minor participate
40 in and complete a counseling or educational program, or, if the

1 offense involved a violation of a controlled substance law, a drug
2 treatment program, if those programs are available. Fees for
3 participation shall be subject to the right to a hearing as the minor's
4 ability to pay and shall not, together with any fine or restitution
5 order, exceed the maximum amount that may be ordered pursuant
6 to paragraph (3).

7 (10) Require that the minor attend a school program without
8 unexcused absence.

9 (11) If the offense is a misdemeanor committed between 10
10 p.m. and 6 a.m., require that the minor be at his or her legal
11 residence at hours to be specified by the juvenile hearing officer
12 between the hours of 10 p.m. and 6 a.m., except for a medical or
13 other emergency, unless the minor is accompanied by his or her
14 parent, guardian, or other person in charge of the minor. The
15 maximum length of an order made pursuant to this paragraph shall
16 be six months from the effective date of the order.

17 (12) Make any or all of the following orders with respect to a
18 violation of the Fish and Game Code which is not charged as a
19 felony:

20 (A) That the fishing or hunting license involved be suspended
21 or restricted.

22 (B) That the minor work in a park or conservation area for a
23 total of not to exceed 20 hours over a period not to exceed 30 days,
24 during times other than his or her hours of school attendance or
25 employment.

26 (C) That the minor forfeit, pursuant to Section 12157 of the Fish
27 and Game Code, any device or apparatus designed to be, and
28 capable of being, used to take birds, mammals, fish, reptiles, or
29 amphibia and that was used in committing the violation charged.
30 The judge, referee, or juvenile hearing officer shall, if the minor
31 committed an offense that is punishable under Section 12008 of
32 the Fish and Game Code, order the device or apparatus forfeited
33 pursuant to Section 12157 of the Fish and Game Code.

34 (13) If the violation charged is of an ordinance of a city, county,
35 or local agency relating to loitering, curfew, or fare evasion on a
36 public transportation system, as defined by Section 99211 of the
37 Public Utilities Code, or is a violation of Section 640 or 640a of
38 the Penal Code, make the order that the minor shall perform
39 community service for a total time not to exceed 20 hours over a

1 period not to exceed 30 days, during times other than his or her
2 hours of school attendance or employment.

3 (b) If the minor is before the court on the basis of truancy, as
4 described in subdivision (b) of Section 601, all of the following
5 procedures and limitations shall apply:

6 (1) The judge, referee, or juvenile hearing officer shall not
7 proceed with a hearing unless both of the following have been
8 provided to the court:

9 (A) Evidence that the minor’s school has undertaken the actions
10 specified in subdivisions (a), (b), and (c) of Section 48264.5 of the
11 Education Code. If the school district does not have an attendance
12 review board, as described in Section 48321 of the Education Code,
13 the minor’s school is not required to provide evidence to the court
14 of any actions the school has undertaken that demonstrate the
15 intervention of a school attendance review board.

16 (B) The available record of previous attempts to address the
17 minor’s truancy.

18 (2) The court is encouraged to set the hearing outside of school
19 hours, so as to avoid causing the minor to miss additional school
20 time.

21 (3) Pursuant to paragraph (1) of subdivision (a) of Section 257,
22 the minor and his or her parents shall be advised of the minor’s
23 right to refuse consent to a hearing conducted upon a written notice
24 to appear.

25 (4) The minor’s parents shall be permitted to participate in the
26 hearing.

27 (5) The judge, referee, or juvenile hearing officer may continue
28 the hearing to allow the minor the opportunity to demonstrate
29 improved attendance before imposing any of the orders specified
30 in paragraph (6). Upon demonstration of improved attendance, the
31 court may dismiss the case.

32 (6) Upon a finding that the minor violated subdivision (b) of
33 Section 601, the judge, referee, or juvenile hearing officer shall
34 direct his or her orders at improving the minor’s school attendance.
35 The judge, referee, or juvenile hearing officer may do any of the
36 following:

37 (A) Order the minor to perform community service work, as
38 described in Section 48264.5 of the Education Code, which may
39 be performed at the minor’s school.

1 (B) Order the payment of a fine by the minor of not more than
2 fifty dollars (\$50), for which a parent or legal guardian of the minor
3 may be jointly liable. The fine described in this subparagraph shall
4 not be subject to Section 1464 of the Penal Code or additional
5 penalty pursuant to any other law. The minor, at his or her
6 discretion, may perform community service, as described in
7 subparagraph (A), in lieu of any fine imposed under this
8 subparagraph.

9 (C) Order a combination of community service work described
10 in subparagraph (A) and payment of a portion of the fine described
11 in subparagraph (B).

12 (D) Restrict driving privileges in the manner set forth in
13 paragraph (5) of subdivision (a). The minor may request removal
14 of the driving restrictions if he or she provides proof of school
15 attendance, high school graduation, GED completion, or enrollment
16 in adult education, a community college, or a trade program. Any
17 driving restriction shall be removed at the time the minor attains
18 18 years of age.

19 (c) (1) The judge, referee, or juvenile hearing officer shall retain
20 jurisdiction of the case until all orders made under this section
21 have been fully complied with.

22 (2) If a minor is before the judge, referee, or juvenile hearing
23 officer on the basis of truancy, jurisdiction shall be terminated
24 upon the minor attaining 18 years of age.

25 ~~SEC. 559.~~

26 *SEC. 566.* Section 300 of the Welfare and Institutions Code is
27 amended to read:

28 300. A child who comes within any of the following
29 descriptions is within the jurisdiction of the juvenile court which
30 may adjudge that person to be a dependent child of the court:

31 (a) The child has suffered, or there is a substantial risk that the
32 child will suffer, serious physical harm inflicted nonaccidentally
33 upon the child by the child's parent or guardian. For purposes of
34 this subdivision, a court may find there is a substantial risk of
35 serious future injury based on the manner in which a less serious
36 injury was inflicted, a history of repeated inflictions of injuries on
37 the child or the child's siblings, or a combination of these and other
38 actions by the parent or guardian that indicate the child is at risk
39 of serious physical harm. For purposes of this subdivision, "serious
40 physical harm" does not include reasonable and age-appropriate

1 spanking to the buttocks if there is no evidence of serious physical
2 injury.

3 (b) (1) The child has suffered, or there is a substantial risk
4 that the child will suffer, serious physical harm or illness, as a
5 result of the failure or inability of his or her parent or guardian to
6 adequately supervise or protect the child, or the willful or negligent
7 failure of the child's parent or guardian to adequately supervise
8 or protect the child from the conduct of the custodian with whom
9 the child has been left, or by the willful or negligent failure of the
10 parent or guardian to provide the child with adequate food,
11 clothing, shelter, or medical treatment, or by the inability of the
12 parent or guardian to provide regular care for the child due to the
13 parent's or guardian's mental illness, developmental disability, or
14 substance abuse. A child shall not be found to be a person described
15 by this subdivision solely due to the lack of an emergency shelter
16 for the family. Whenever it is alleged that a child comes within
17 the jurisdiction of the court on the basis of the parent's or
18 guardian's willful failure to provide adequate medical treatment
19 or specific decision to provide spiritual treatment through prayer,
20 the court shall give deference to the parent's or guardian's medical
21 treatment, nontreatment, or spiritual treatment through prayer alone
22 in accordance with the tenets and practices of a recognized church
23 or religious denomination, by an accredited practitioner thereof,
24 and shall not assume jurisdiction unless necessary to protect the
25 child from suffering serious physical harm or illness. In making
26 its determination, the court shall consider (1) the nature of the
27 treatment proposed by the parent or guardian, (2) the risks to the
28 child posed by the course of treatment or nontreatment proposed
29 by the parent or guardian, (3) the risk, if any, of the course of
30 treatment being proposed by the petitioning agency, and (4) the
31 likely success of the courses of treatment or nontreatment proposed
32 by the parent or guardian and agency. The child shall continue to
33 be a dependent child pursuant to this subdivision only so long as
34 is necessary to protect the child from risk of suffering serious
35 physical harm or illness.

36 (2) The Legislature finds and declares that a child who is
37 sexually trafficked, as described in Section 236.1 of the Penal
38 Code, or who receives food or shelter in exchange for, or who is
39 paid to perform, sexual acts described in Section 236.1 or 11165.1
40 of the Penal Code, and whose parent or guardian failed to, or was

1 unable to, protect the child, is within the description of this
2 subdivision, and that this finding is declaratory of existing law.
3 These children shall be known as commercially sexually exploited
4 children.

5 (c) The child is suffering serious emotional damage, or is at
6 substantial risk of suffering serious emotional damage, evidenced
7 by severe anxiety, depression, withdrawal, or untoward aggressive
8 behavior toward self or others, as a result of the conduct of the
9 parent or guardian or who has no parent or guardian capable of
10 providing appropriate care. A child shall not be found to be a
11 person described by this subdivision if the willful failure of the
12 parent or guardian to provide adequate mental health treatment is
13 based on a sincerely held religious belief and if a less intrusive
14 judicial intervention is available.

15 (d) The child has been sexually abused, or there is a substantial
16 risk that the child will be sexually abused, as defined in Section
17 11165.1 of the Penal Code, by his or her parent or guardian or a
18 member of his or her household, or the parent or guardian has
19 failed to adequately protect the child from sexual abuse when the
20 parent or guardian knew or reasonably should have known that
21 the child was in danger of sexual abuse.

22 (e) The child is under the age of five years and has suffered
23 severe physical abuse by a parent, or by any person known by the
24 parent, if the parent knew or reasonably should have known that
25 the person was physically abusing the child. For the purposes of
26 this subdivision, “severe physical abuse” means any of the
27 following: any single act of abuse which causes physical trauma
28 of sufficient severity that, if left untreated, would cause permanent
29 physical disfigurement, permanent physical disability, or death;
30 any single act of sexual abuse which causes significant bleeding,
31 deep bruising, or significant external or internal swelling; or more
32 than one act of physical abuse, each of which causes bleeding,
33 deep bruising, significant external or internal swelling, bone
34 fracture, or unconsciousness; or the willful, prolonged failure to
35 provide adequate food. A child shall not be removed from the
36 physical custody of his or her parent or guardian on the basis of a
37 finding of severe physical abuse unless the social worker has made
38 an allegation of severe physical abuse pursuant to Section 332.

39 (f) The child’s parent or guardian caused the death of another
40 child through abuse or neglect.

1 (g) The child has been left without any provision for support;
2 physical custody of the child has been voluntarily surrendered
3 pursuant to Section 1255.7 of the Health and Safety Code and the
4 child has not been reclaimed within the 14-day period specified
5 in subdivision (g) of that section; the child's parent has been
6 incarcerated or institutionalized and cannot arrange for the care of
7 the child; or a relative or other adult custodian with whom the child
8 resides or has been left is unwilling or unable to provide care or
9 support for the child, the whereabouts of the parent are unknown,
10 and reasonable efforts to locate the parent have been unsuccessful.

11 (h) The child has been freed for adoption by one or both parents
12 for 12 months by either relinquishment or termination of parental
13 rights or an adoption petition has not been granted.

14 (i) The child has been subjected to an act or acts of cruelty by
15 the parent or guardian or a member of his or her household, or the
16 parent or guardian has failed to adequately protect the child from
17 an act or acts of cruelty when the parent or guardian knew or
18 reasonably should have known that the child was in danger of
19 being subjected to an act or acts of cruelty.

20 (j) The child's sibling has been abused or neglected, as defined
21 in subdivision (a), (b), (d), (e), or (i), and there is a substantial risk
22 that the child will be abused or neglected, as defined in those
23 subdivisions. The court shall consider the circumstances
24 surrounding the abuse or neglect of the sibling, the age and gender
25 of each child, the nature of the abuse or neglect of the sibling, the
26 mental condition of the parent or guardian, and any other factors
27 the court considers probative in determining whether there is a
28 substantial risk to the child.

29 It is the intent of the Legislature that this section not disrupt the
30 family unnecessarily or intrude inappropriately into family life,
31 prohibit the use of reasonable methods of parental discipline, or
32 prescribe a particular method of parenting. Further, this section is
33 not intended to limit the offering of voluntary services to those
34 families in need of assistance but who do not come within the
35 descriptions of this section. To the extent that savings accrue to
36 the state from child welfare services funding obtained as a result
37 of the enactment of the act that enacted this section, those savings
38 shall be used to promote services which support family
39 maintenance and family reunification plans, such as client
40 transportation, out-of-home respite care, parenting training, and

1 the provision of temporary or emergency in-home caretakers and
2 persons teaching and demonstrating homemaking skills. The
3 Legislature further declares that a physical disability, such as
4 blindness or deafness, is no bar to the raising of happy and
5 well-adjusted children and that a court's determination pursuant
6 to this section shall center upon whether a parent's disability
7 prevents him or her from exercising care and control. The
8 Legislature further declares that a child whose parent has been
9 adjudged a dependent child of the court pursuant to this section
10 shall not be considered to be at risk of abuse or neglect solely
11 because of the age, dependent status, or foster care status of the
12 parent.

13 As used in this section, "guardian" means the legal guardian of
14 the child.

15 ~~SEC. 560.~~

16 *SEC. 567.* Section 319 of the Welfare and Institutions Code is
17 amended to read:

18 319. (a) At the initial petition hearing, the court shall examine
19 the child's parents, guardians, or other persons having relevant
20 knowledge and hear the relevant evidence as the child, the child's
21 parents or guardians, the petitioner, or their counsel desires to
22 present. The court may examine the child, as provided in Section
23 350.

24 (b) The social worker shall report to the court on the reasons
25 why the child has been removed from the parent's physical custody,
26 the need, if any, for continued detention, the available services
27 and the referral methods to those services that could facilitate the
28 return of the child to the custody of the child's parents or guardians,
29 and whether there are any relatives who are able and willing to
30 take temporary physical custody of the child. The court shall order
31 the release of the child from custody unless a prima facie showing
32 has been made that the child comes within Section 300, the court
33 finds that continuance in the parent's or guardian's home is
34 contrary to the child's welfare, and any of the following
35 circumstances exist:

36 (1) There is a substantial danger to the physical health of the
37 child or the child is suffering severe emotional damage, and there
38 are no reasonable means by which the child's physical or emotional
39 health may be protected without removing the child from the
40 parent's or guardian's physical custody.

1 (2) There is substantial evidence that a parent, guardian, or
2 custodian of the child is likely to flee the jurisdiction of the court.

3 (3) The child has left a placement in which he or she was placed
4 by the juvenile court.

5 (4) The child indicates an unwillingness to return home, if the
6 child has been physically or sexually abused by a person residing
7 in the home.

8 (c) If the matter is continued pursuant to Section 322 or for any
9 other reason, the court shall find that the continuance of the child
10 in the parent's or guardian's home is contrary to the child's welfare
11 at the initial petition hearing or order the release of the child from
12 custody.

13 (d) (1) The court shall also make a determination on the record,
14 referencing the social worker's report or other evidence relied
15 upon, as to whether reasonable efforts were made to prevent or
16 eliminate the need for removal of the child from his or her home,
17 pursuant to subdivision (b) of Section 306, and whether there are
18 available services that would prevent the need for further detention.
19 Services to be considered for purposes of making this determination
20 are case management, counseling, emergency shelter care,
21 emergency in-home caretakers, out-of-home respite care, teaching
22 and demonstrating homemakers, parenting training, transportation,
23 and any other child welfare services authorized by the State
24 Department of Social Services pursuant to Chapter 5 (commencing
25 with Section 16500) of Part 4 of Division 9. The court shall also
26 review whether the social worker has considered whether a referral
27 to public assistance services pursuant to Chapter 2 (commencing
28 with Section 11200) and Chapter 7 (commencing with Section
29 14000) of Part 3, Chapter 1 (commencing with Section 17000) of
30 Part 5, and Chapter 10 (commencing with Section 18900) of Part
31 6 of Division 9 would have eliminated the need to take temporary
32 custody of the child or would prevent the need for further detention.

33 (2) If the child can be returned to the custody of his or her parent
34 or guardian through the provision of those services, the court shall
35 place the child with his or her parent or guardian and order that
36 the services shall be provided. If the child cannot be returned to
37 the physical custody of his or her parent or guardian, the court
38 shall determine if there is a relative who is able and willing to care
39 for the child, and has been assessed pursuant to paragraph (1) of
40 subdivision (d) of Section 309.

1 (3) In order to preserve the bond between the child and the
2 parent and to facilitate family reunification, the court shall consider
3 whether the child can be returned to the custody of his or her parent
4 who is enrolled in a certified substance abuse treatment facility
5 that allows a dependent child to reside with his or her parent. The
6 fact that the parent is enrolled in a certified substance abuse
7 treatment facility that allows a dependent child to reside with his
8 or her parent shall not be, for that reason alone, prima facie
9 evidence of substantial danger. The court shall specify the factual
10 basis for its conclusion that the return of the child to the custody
11 of his or her parent would pose a substantial danger or would not
12 pose a substantial danger to the physical health, safety, protection,
13 or physical or emotional well-being of the child.

14 (e) If a court orders a child detained, the court shall state the
15 facts on which the decision is based, specify why the initial removal
16 was necessary, reference the social worker's report or other
17 evidence relied upon to make its determination whether
18 continuance in the home of the parent or legal guardian is contrary
19 to the child's welfare, order temporary placement and care of the
20 child to be vested with the county child welfare department pending
21 the hearing held pursuant to Section 355 or further order of the
22 court, and order services to be provided as soon as possible to
23 reunify the child and his or her family if appropriate.

24 (f) (1) If the child is not released from custody, the court may
25 order that the child shall be placed in the assessed home of a
26 relative, in an emergency shelter or other suitable licensed place,
27 in a place exempt from licensure designated by the juvenile court,
28 or in the assessed home of a nonrelative extended family member
29 as defined in Section 362.7 for a period not to exceed 15 judicial
30 days. A runaway and homeless youth shelter licensed by the State
31 Department of Social Services pursuant to Section 1502.35 of the
32 Health and Safety Code shall not be a placement option pursuant
33 to this section.

34 (2) As used in this section, "relative" means an adult who is
35 related to the child by blood, adoption, or affinity within the fifth
36 degree of kinship, including stepparents, stepsiblings, and all
37 relatives whose status is preceded by the words "great,"
38 "great-great," or "grand," or the spouse of any of these persons,
39 even if the marriage was terminated by death or dissolution.
40 However, only the following relatives shall be given preferential

1 consideration for placement of the child: an adult who is a
2 grandparent, aunt, uncle, or sibling of the child.

3 (3) The court shall consider the recommendations of the social
4 worker based on the assessment pursuant to paragraph (1) of
5 subdivision (d) of Section 309 of the relative's home, including
6 the results of a criminal records check and prior child abuse
7 allegations, if any, prior to ordering that the child be placed with
8 a relative. The court shall order the parent to disclose to the social
9 worker the names, residences, and any known identifying
10 information of any maternal or paternal relatives of the child. The
11 social worker shall initiate the assessment pursuant to Section
12 361.3 of any relative to be considered for continuing placement.

13 (g) (1) At the initial hearing upon the petition filed in
14 accordance with subdivision (c) of Rule 5.520 of the California
15 Rules of Court or anytime thereafter up until the time that the
16 minor is adjudged a dependent child of the court or a finding is
17 made dismissing the petition, the court may temporarily limit the
18 right of the parent or guardian to make educational or
19 developmental services decisions for the child and temporarily
20 appoint a responsible adult to make educational or developmental
21 services decisions for the child if all of the following conditions
22 are found:

23 (A) The parent or guardian is unavailable, unable, or unwilling
24 to exercise educational or developmental services rights for the
25 child.

26 (B) The county placing agency has made diligent efforts to
27 locate and secure the participation of the parent or guardian in
28 educational or developmental services decisionmaking.

29 (C) The child's educational and developmental services needs
30 cannot be met without the temporary appointment of a responsible
31 adult.

32 (2) If the court limits the parent's educational rights under this
33 subdivision, the court shall determine whether there is a responsible
34 adult who is a relative, nonrelative extended family member, or
35 other adult known to the child and who is available and willing to
36 serve as the child's educational representative before appointing
37 an educational representative or surrogate who is not known to the
38 child.

39 (3) If the court cannot identify a responsible adult to make
40 educational decisions for the child and the appointment of a

1 surrogate parent, as defined in subdivision (a) of Section 56050
2 of the Education Code, is not warranted, the court may, with the
3 input of any interested person, make educational decisions for the
4 child. If the child is receiving services from a regional center, the
5 provision of any developmental services related to the court's
6 decision shall be consistent with the child's individual program
7 plan and pursuant to the provisions of the Lanterman
8 Developmental Disabilities Services Act (Division 4.5
9 (commencing with Section 4500)). If the court cannot identify a
10 responsible adult to make developmental services decisions for
11 the child, the court may, with the input of any interested person,
12 make developmental services decisions for the child. If the court
13 makes educational or developmental services decisions for the
14 child, the court shall also issue appropriate orders to ensure that
15 every effort is made to identify a responsible adult to make future
16 educational or developmental services decisions for the child.

17 (4) A temporary appointment of a responsible adult and
18 temporary limitation on the right of the parent or guardian to make
19 educational or developmental services decisions for the child shall
20 be specifically addressed in the court order. An order made under
21 this section shall expire at the conclusion of the hearing held
22 pursuant to Section 361 or upon dismissal of the petition. Upon
23 the entering of disposition orders, additional needed limitation on
24 the parent's or guardian's educational or developmental services
25 rights shall be addressed pursuant to Section 361.

26 (5) This section does not remove the obligation to appoint
27 surrogate parents for students with disabilities who are without
28 parental representation in special education procedures as required
29 by state and federal law, including Section 1415(b)(2) of Title 20
30 of the United States Code, Section 56050 of the Education Code,
31 Section 7579.5 of the Government Code, and Rule 5.650 of the
32 California Rules of Court.

33 (6) If the court appoints a developmental services decisionmaker
34 pursuant to this section, he or she shall have the authority to access
35 the child's information and records pursuant to subdivision (u) of
36 Section 4514 and subdivision (y) of Section 5328, and to act on
37 the child's behalf for the purposes of the individual program plan
38 process pursuant to Sections 4646, 4646.5, and 4648 and the fair
39 hearing process pursuant to Chapter 7 (commencing with Section
40 4700), and as set forth in the court order.

1 ~~SEC. 561.~~

2 *SEC. 568.* Section 361.2 of the Welfare and Institutions Code
3 is amended to read:

4 361.2. (a) When a court orders removal of a child pursuant to
5 Section 361, the court shall first determine whether there is a parent
6 of the child, with whom the child was not residing at the time that
7 the events or conditions arose that brought the child within the
8 provisions of Section 300, who desires to assume custody of the
9 child. If that parent requests custody, the court shall place the child
10 with the parent unless it finds that placement with that parent would
11 be detrimental to the safety, protection, or physical or emotional
12 well-being of the child. The fact that the parent is enrolled in a
13 certified substance abuse treatment facility that allows a dependent
14 child to reside with his or her parent shall not be, for that reason
15 alone, prima facie evidence that placement with that parent would
16 be detrimental.

17 (b) If the court places the child with that parent it may do any
18 of the following:

19 (1) Order that the parent become legal and physical custodian
20 of the child. The court may also provide reasonable visitation by
21 the noncustodial parent. The court shall then terminate its
22 jurisdiction over the child. The custody order shall continue unless
23 modified by a subsequent order of the superior court. The order
24 of the juvenile court shall be filed in any domestic relation
25 proceeding between the parents.

26 (2) Order that the parent assume custody subject to the
27 jurisdiction of the juvenile court and require that a home visit be
28 conducted within three months. In determining whether to take
29 the action described in this paragraph, the court shall consider any
30 concerns that have been raised by the child's current caregiver
31 regarding the parent. After the social worker conducts the home
32 visit and files his or her report with the court, the court may then
33 take the action described in paragraph (1), paragraph (3), or this
34 paragraph. However, this paragraph shall not be interpreted to
35 imply that the court is required to take the action described in this
36 paragraph as a prerequisite to the court taking the action described
37 in either paragraph (1) or (3).

38 (3) Order that the parent assume custody subject to the
39 supervision of the juvenile court. In that case the court may order
40 that reunification services be provided to the parent or guardian

1 from whom the child is being removed, or the court may order that
2 services be provided solely to the parent who is assuming physical
3 custody in order to allow that parent to retain later custody without
4 court supervision, or that services be provided to both parents, in
5 which case the court shall determine, at review hearings held
6 pursuant to Section 366, which parent, if either, shall have custody
7 of the child.

8 (c) The court shall make a finding either in writing or on the
9 record of the basis for its determination under subdivisions (a) and
10 (b).

11 (d) Part 6 (commencing with Section 7950) of Division 12 of
12 the Family Code applies to the placement of a child pursuant to
13 paragraphs (1) and (2) of subdivision (e).

14 (e) When the court orders removal pursuant to Section 361, the
15 court shall order the care, custody, control, and conduct of the
16 child to be under the supervision of the social worker who may
17 place the child in any of the following:

18 (1) The home of a noncustodial parent as described in
19 subdivision (a), regardless of the parent's immigration status.

20 (2) The approved home of a relative, regardless of the relative's
21 immigration status.

22 (3) The approved home of a nonrelative extended family
23 member as defined in Section 362.7.

24 (4) The approved home of a resource family as defined in
25 Section 16519.5.

26 (5) A foster home in which the child has been placed before an
27 interruption in foster care, if that placement is in the best interest
28 of the child and space is available.

29 (6) A suitable licensed community care facility, except a
30 runaway and homeless youth shelter licensed by the State
31 Department of Social Services pursuant to Section 1502.35 of the
32 Health and Safety Code.

33 (7) With a foster family agency to be placed in a suitable
34 licensed foster family home or certified family home that has been
35 certified by the agency as meeting licensing standards.

36 (8) A home or facility in accordance with the federal Indian
37 Child Welfare Act (25 U.S.C. Sec. 1901 et seq.).

38 (9) A child under six years of age may be placed in a community
39 care facility licensed as a group home for children, or a temporary

1 shelter care facility as defined in Section 1530.8 of the Health and
2 Safety Code, only under any of the following circumstances:

3 (A) (i) When a case plan indicates that placement is for purposes
4 of providing short term, specialized, and intensive treatment to the
5 child, the case plan specifies the need for, nature of, and anticipated
6 duration of this treatment, pursuant to paragraph (2) of subdivision
7 (c) of Section 16501.1, the facility meets the applicable regulations
8 adopted under Section 1530.8 of the Health and Safety Code and
9 standards developed pursuant to Section 11467.1 of this code, and
10 the deputy director or director of the county child welfare
11 department or an assistant chief probation officer or chief probation
12 officer of the county probation department has approved the case
13 plan.

14 (ii) The short term, specialized, and intensive treatment period
15 shall not exceed 120 days, unless the county has made progress
16 toward or is actively working toward implementing the case plan
17 that identifies the services or supports necessary to transition the
18 child to a family setting, circumstances beyond the county’s control
19 have prevented the county from obtaining those services or
20 supports within the timeline documented in the case plan, and the
21 need for additional time pursuant to the case plan is documented
22 by the caseworker and approved by a deputy director or director
23 of the county child welfare department or an assistant chief
24 probation officer or chief probation officer of the county probation
25 department.

26 (iii) To the extent that placements pursuant to this paragraph
27 are extended beyond an initial 120 days, the requirements of
28 clauses (i) and (ii) apply to each extension. In addition, the deputy
29 director or director of the county child welfare department or an
30 assistant chief probation officer or chief probation officer of the
31 county probation department shall approve the continued placement
32 no less frequently than every 60 days.

33 (B) When a case plan indicates that placement is for purposes
34 of providing family reunification services. In addition, the facility
35 offers family reunification services that meet the needs of the
36 individual child and his or her family, permits parents to have
37 reasonable access to their children 24 hours a day, encourages
38 extensive parental involvement in meeting the daily needs of their
39 children, and employs staff trained to provide family reunification
40 services. In addition, one of the following conditions exists:

1 (i) The child’s parent is also a ward of the court and resides in
2 the facility.

3 (ii) The child’s parent is participating in a treatment program
4 affiliated with the facility and the child’s placement in the facility
5 facilitates the coordination and provision of reunification services.

6 (iii) Placement in the facility is the only alternative that permits
7 the parent to have daily 24-hour access to the child in accordance
8 with the case plan, to participate fully in meeting all of the daily
9 needs of the child, including feeding and personal hygiene, and to
10 have access to necessary reunification services.

11 (10) (A) A child who is 6 to 12 years of age, inclusive, may be
12 placed in a community care facility licensed as a group home for
13 children only when a case plan indicates that placement is for
14 purposes of providing short term, specialized, and intensive
15 treatment for the child, the case plan specifies the need for, nature
16 of, and anticipated duration of this treatment, pursuant to paragraph
17 (2) of subdivision (c) of Section 16501.1, and is approved by the
18 deputy director or director of the county child welfare department
19 or an assistant chief probation officer or chief probation officer of
20 the county probation department.

21 (B) The short term, specialized, and intensive treatment period
22 shall not exceed six months, unless the county has made progress
23 or is actively working toward implementing the case plan that
24 identifies the services or supports necessary to transition the child
25 to a family setting, circumstances beyond the county’s control
26 have prevented the county from obtaining those services or
27 supports within the timeline documented in the case plan, and the
28 need for additional time pursuant to the case plan is documented
29 by the caseworker and approved by a deputy director or director
30 of the county child welfare department or an assistant chief
31 probation officer or chief probation officer of the county probation
32 department.

33 (C) To the extent that placements pursuant to this paragraph are
34 extended beyond an initial six months, the requirements of
35 subparagraphs (A) and (B) apply to each extension. In addition,
36 the deputy director or director of the county child welfare
37 department or an assistant chief probation officer or chief probation
38 officer of the county probation department shall approve the
39 continued placement no less frequently than every 60 days.

1 (11) This subdivision shall not be construed to allow a social
2 worker to place any dependent child outside the United States,
3 except as specified in subdivision (f).

4 (f) (1) A child under the supervision of a social worker pursuant
5 to subdivision (e) shall not be placed outside the United States
6 prior to a judicial finding that the placement is in the best interest
7 of the child, except as required by federal law or treaty.

8 (2) The party or agency requesting placement of the child outside
9 the United States shall carry the burden of proof and shall show,
10 by clear and convincing evidence, that placement outside the
11 United States is in the best interest of the child.

12 (3) In determining the best interest of the child, the court shall
13 consider, but not be limited to, the following factors:

14 (A) Placement with a relative.

15 (B) Placement of siblings in the same home.

16 (C) Amount and nature of any contact between the child and
17 the potential guardian or caretaker.

18 (D) Physical and medical needs of the dependent child.

19 (E) Psychological and emotional needs of the dependent child.

20 (F) Social, cultural, and educational needs of the dependent
21 child.

22 (G) Specific desires of any dependent child who is 12 years of
23 age or older.

24 (4) If the court finds that a placement outside the United States
25 is, by clear and convincing evidence, in the best interest of the
26 child, the court may issue an order authorizing the social worker
27 to make a placement outside the United States. A child subject to
28 this subdivision shall not leave the United States prior to the
29 issuance of the order described in this paragraph.

30 (5) For purposes of this subdivision, “outside the United States”
31 does not include the lands of any federally recognized American
32 Indian tribe or Alaskan Natives.

33 (6) This subdivision does not apply to the placement of a
34 dependent child with a parent pursuant to subdivision (a).

35 (g) (1) If the child is taken from the physical custody of the
36 child’s parent or guardian and unless the child is placed with
37 relatives, the child shall be placed in foster care in the county of
38 residence of the child’s parent or guardian in order to facilitate
39 reunification of the family.

1 (2) In the event that there are no appropriate placements
2 available in the parent's or guardian's county of residence, a
3 placement may be made in an appropriate place in another county,
4 preferably a county located adjacent to the parent's or guardian's
5 community of residence.

6 (3) This section shall not be interpreted as requiring multiple
7 disruptions of the child's placement corresponding to frequent
8 changes of residence by the parent or guardian. In determining
9 whether the child should be moved, the social worker shall take
10 into consideration the potential harmful effects of disrupting the
11 placement of the child and the parent's or guardian's reason for
12 the move.

13 (4) When it has been determined that it is necessary for a child
14 to be placed in a county other than the child's parent's or guardian's
15 county of residence, the specific reason the out-of-county
16 placement is necessary shall be documented in the child's case
17 plan. If the reason the out-of-county placement is necessary is the
18 lack of resources in the sending county to meet the specific needs
19 of the child, those specific resource needs shall be documented in
20 the case plan.

21 (5) When it has been determined that a child is to be placed out
22 of county either in a group home or with a foster family agency
23 for subsequent placement in a certified foster family home, and
24 the sending county is to maintain responsibility for supervision
25 and visitation of the child, the sending county shall develop a plan
26 of supervision and visitation that specifies the supervision and
27 visitation activities to be performed and specifies that the sending
28 county is responsible for performing those activities. In addition
29 to the plan of supervision and visitation, the sending county shall
30 document information regarding any known or suspected dangerous
31 behavior of the child that indicates the child may pose a safety
32 concern in the receiving county. Upon implementation of the Child
33 Welfare Services Case Management System, the plan of
34 supervision and visitation, as well as information regarding any
35 known or suspected dangerous behavior of the child, shall be made
36 available to the receiving county upon placement of the child in
37 the receiving county. If placement occurs on a weekend or holiday,
38 the information shall be made available to the receiving county on
39 or before the end of the next business day.

1 (6) When it has been determined that a child is to be placed out
2 of county and the sending county plans that the receiving county
3 shall be responsible for the supervision and visitation of the child,
4 the sending county shall develop a formal agreement between the
5 sending and receiving counties. The formal agreement shall specify
6 the supervision and visitation to be provided the child, and shall
7 specify that the receiving county is responsible for providing the
8 supervision and visitation. The formal agreement shall be approved
9 and signed by the sending and receiving counties prior to placement
10 of the child in the receiving county. In addition, upon completion
11 of the case plan, the sending county shall provide a copy of the
12 completed case plan to the receiving county. The case plan shall
13 include information regarding any known or suspected dangerous
14 behavior of the child that indicates the child may pose a safety
15 concern to the receiving county.

16 (h) Whenever the social worker must change the placement of
17 the child and is unable to find a suitable placement within the
18 county and must place the child outside the county, the placement
19 shall not be made until he or she has served written notice on the
20 parent or guardian at least 14 days prior to the placement, unless
21 the child's health or well-being is endangered by delaying the
22 action or would be endangered if prior notice were given. The
23 notice shall state the reasons that require placement outside the
24 county. The parent or guardian may object to the placement not
25 later than seven days after receipt of the notice and, upon objection,
26 the court shall hold a hearing not later than five days after the
27 objection and prior to the placement. The court shall order
28 out-of-county placement if it finds that the child's particular needs
29 require placement outside the county.

30 (i) If the court has ordered removal of the child from the physical
31 custody of his or her parents pursuant to Section 361, the court
32 shall consider whether the family ties and best interest of the child
33 will be served by granting visitation rights to the child's
34 grandparents. The court shall clearly specify those rights to the
35 social worker.

36 (j) If the court has ordered removal of the child from the physical
37 custody of his or her parents pursuant to Section 361, the court
38 shall consider whether there are any siblings under the court's
39 jurisdiction, or any nondependent siblings in the physical custody
40 of a parent subject to the court's jurisdiction, the nature of the

1 relationship between the child and his or her siblings, the
2 appropriateness of developing or maintaining the sibling
3 relationships pursuant to Section 16002, and the impact of the
4 sibling relationships on the child's placement and planning for
5 legal permanence.

6 (k) (1) An agency shall ensure placement of a child in a home
7 that, to the fullest extent possible, best meets the day-to-day needs
8 of the child. A home that best meets the day-to-day needs of the
9 child shall satisfy all of the following criteria:

10 (A) The child's caregiver is able to meet the day-to-day health,
11 safety, and well-being needs of the child.

12 (B) The child's caregiver is permitted to maintain the least
13 restrictive and most family-like environment that serves the
14 day-to-day needs of the child.

15 (C) The child is permitted to engage in reasonable,
16 age-appropriate day-to-day activities that promote the most
17 family-like environment for the foster child.

18 (2) The foster child's caregiver shall use a reasonable and
19 prudent parent standard, as defined in paragraph (2) of subdivision
20 (a) of Section 362.04, to determine day-to-day activities that are
21 age appropriate to meet the needs of the child. Nothing in this
22 section shall be construed to permit a child's caregiver to permit
23 the child to engage in day-to-day activities that carry an
24 unreasonable risk of harm, or subject the child to abuse or neglect.

25 ~~SEC. 562.~~

26 *SEC. 569.* Section 391 of the Welfare and Institutions Code is
27 amended to read:

28 391. (a) The dependency court shall not terminate jurisdiction
29 over a nonminor unless a hearing is conducted pursuant to this
30 section.

31 (b) At any hearing for a nonminor at which the court is
32 considering termination of the jurisdiction of the juvenile court,
33 the county welfare department shall do all of the following:

34 (1) Ensure that the dependent nonminor is present in court,
35 unless the nonminor does not wish to appear in court, and elects
36 a telephonic appearance, or document reasonable efforts made by
37 the county welfare department to locate the nonminor when the
38 nonminor is not available.

39 (2) Submit a report describing whether it is in the nonminor's
40 best interests to remain under the court's dependency jurisdiction,

1 which includes a recommended transitional independent living
2 case plan for the nonminor when the report describes continuing
3 dependency jurisdiction as being in the nonminor's best interest.

4 (3) If the county welfare department recommends termination
5 of the court's dependency jurisdiction, submit documentation of
6 the reasonable efforts made by the department to provide the
7 nonminor with the assistance needed to meet or maintain eligibility
8 as a nonminor dependent, as defined in paragraphs (1) to (5),
9 inclusive, of subdivision (b) of Section 11403.

10 (4) If the nonminor has indicated that he or she does not want
11 dependency jurisdiction to continue, the report shall address the
12 manner in which the nonminor was advised of his or her options,
13 including the benefits of remaining in foster care, and of his or her
14 right to reenter foster care and to file a petition pursuant to
15 subdivision (e) of Section 388 to resume dependency jurisdiction
16 prior to attaining 21 years of age.

17 (c) (1) The court shall continue dependency jurisdiction over
18 a nonminor who meets the definition of a nonminor dependent as
19 described in subdivision (v) of Section 11400 unless the court finds
20 either of the following:

21 (A) That the nonminor does not wish to remain subject to
22 dependency jurisdiction.

23 (B) That the nonminor is not participating in a reasonable and
24 appropriate transitional independent living case plan.

25 (2) In making the findings pursuant to paragraph (1), the court
26 must also find that the nonminor has been informed of his or her
27 options including the benefits of remaining in foster care and the
28 right to reenter foster care by filing a petition pursuant to
29 subdivision (e) of Section 388 to resume dependency jurisdiction
30 and by completing a voluntary reentry agreement pursuant to
31 subdivision (z) of Section 11400, and has had an opportunity to
32 confer with his or her counsel if counsel has been appointed
33 pursuant to Section 317.

34 (d) (1) The court may terminate its jurisdiction over a nonminor
35 if the court finds after reasonable and documented efforts the
36 nonminor cannot be located.

37 (2) When terminating dependency jurisdiction, the court shall
38 maintain general jurisdiction over the nonminor to allow for the
39 filing of a petition to resume dependency jurisdiction under
40 subdivision (e) of Section 388 until the nonminor attains 21 years

1 of age, although no review proceedings shall be required. A
2 nonminor may petition the court pursuant to subdivision (e) of
3 Section 388 to resume dependency jurisdiction at any time before
4 attaining 21 years of age.

5 (e) The court shall not terminate dependency jurisdiction over
6 a nonminor who has attained 18 years of age until a hearing is
7 conducted pursuant to this section and the department has
8 submitted a report verifying that the following information,
9 documents, and services have been provided to the nonminor, or
10 in the case of a nonminor who, after reasonable efforts by the
11 county welfare department, cannot be located, verifying the efforts
12 made to make the following available to the nonminor:

13 (1) Written information concerning the nonminor's case,
14 including any known information regarding the nonminor's Indian
15 heritage or tribal connections, if applicable, his or her family
16 history and placement history, any photographs of the nonminor
17 or his or her family in the possession of the county welfare
18 department, other than forensic photographs, the whereabouts of
19 any siblings under the jurisdiction of the juvenile court, unless the
20 court determines that sibling contact would jeopardize the safety
21 or welfare of the sibling, directions on how to access the documents
22 the nonminor is entitled to inspect under Section 827, and the date
23 on which the jurisdiction of the juvenile court would be terminated.

24 (2) The following documents:

25 (A) Social security card.

26 (B) Certified copy of his or her birth certificate.

27 (C) Health and education summary, as described in subdivision
28 (a) of Section 16010.

29 (D) Driver's license, as described in Section 12500 of the
30 Vehicle Code, or identification card, as described in Section 13000
31 of the Vehicle Code.

32 (E) A letter prepared by the county welfare department that
33 includes the following information:

34 (i) The nonminor's name and date of birth.

35 (ii) The dates during which the nonminor was within the
36 jurisdiction of the juvenile court.

37 (iii) A statement that the nonminor was a foster youth in
38 compliance with state and federal financial aid documentation
39 requirements.

40 (F) If applicable, the death certificate of the parent or parents.

- 1 (G) If applicable, proof of the nonminor’s citizenship or legal
2 residence.
- 3 (H) An advance health care directive form.
- 4 (I) The Judicial Council form that the nonminor would use to
5 file a petition pursuant to subdivision (e) of Section 388 to resume
6 dependency jurisdiction.
- 7 (J) The written 90-day transition plan prepared pursuant to
8 Section 16501.1.
- 9 (3) Assistance in completing an application for Medi-Cal or
10 assistance in obtaining other health insurance.
- 11 (4) Referrals to transitional housing, if available, or assistance
12 in securing other housing.
- 13 (5) Assistance in obtaining employment or other financial
14 support.
- 15 (6) Assistance in applying for admission to college or to a
16 vocational training program or other educational institution and
17 in obtaining financial aid, where appropriate.
- 18 (7) Assistance in maintaining relationships with individuals
19 who are important to a nonminor who has been in out-of-home
20 placement for six months or longer from the date the nonminor
21 entered foster care, based on the nonminor’s best interests.
- 22 (8) For nonminors between 18 and 21 years of age, assistance
23 in accessing the Independent Living Aftercare Program in the
24 nonminor’s county of residence, and, upon the nonminor’s request,
25 assistance in completing a voluntary reentry agreement for care
26 and placement pursuant to subdivision (z) of Section 11400 and
27 in filing a petition pursuant to subdivision (e) of Section 388 to
28 resume dependency jurisdiction.
- 29 (9) Written information notifying the child that current or former
30 dependent children who are or have been in foster care are granted
31 a preference for student assistant or internship positions with state
32 agencies pursuant to Section 18220 of the Government Code. The
33 preference shall be granted to applicants up to 26 years of age.
- 34 (f) At the hearing closest to and before a dependent minor’s
35 18th birthday and every review hearing thereafter for nonminors,
36 the department shall submit a report describing efforts toward
37 completing the items described in paragraph (2) of subdivision
38 (e).

1 (g) The Judicial Council shall develop and implement standards,
2 and develop and adopt appropriate forms necessary to implement
3 this provision.

4 (h) This section shall become operative on January 1, 2012.

5 ~~SEC. 563.~~

6 *SEC. 570.* Section 1767 of the Welfare and Institutions Code
7 is amended to read:

8 1767. (a) Upon request, written notice of any hearing to
9 consider the release on parole of any person under the control of
10 the Youth Authority for the commission of a crime or committed
11 to the authority as a person described in Section 602 shall be sent
12 by the Department of the Youth Authority at least 30 days before
13 the hearing to any victim of a crime committed by the person, or
14 to the next of kin of the victim if the victim has died or is a minor.
15 The requesting party shall keep the board apprised of his or her
16 current mailing address.

17 (b) Any one of the following persons may appear, personally
18 or by counsel, at the hearing:

19 (1) The victim of the offense and one support person of his or
20 her choosing.

21 (2) In the event that the victim is unable to attend the proceeding,
22 two support persons designated by the victim may attend to provide
23 information about the impact of the crime on the victim.

24 (3) If the victim is no longer living, two members of the victim's
25 immediate family may attend.

26 (4) If none of those persons appear personally at the hearing,
27 any one of them may submit a statement recorded on videotape
28 for the board's consideration at the hearing. Those persons shall
29 also have the right to submit a written statement to the board at
30 least 10 days prior to the scheduled hearing for the board's
31 consideration at the hearing.

32 (c) The board, in deciding whether to release the person on
33 parole, shall consider the statements of victims, next of kin, or
34 statements made on their behalf pursuant to this section and shall
35 include in its report a statement of whether the person would pose
36 a threat to public safety if released on parole.

37 (d) A representative designated by the victim or the victim's
38 next of kin shall be either that person's legal counsel or a family
39 or household member of the victim, for the purposes of this section.

1 (e) Support persons may only provide information about the
2 impact of the crime on the victim and provide physical and
3 emotional support to the victim or the victim's family.

4 (f) This section does not prevent the board from excluding a
5 victim or his or her support person or persons from a hearing. The
6 board may allow the presence of other support persons under
7 particular circumstances surrounding the proceeding.

8 (g) The provisions of this section shall not be amended by the
9 Legislature except by statute passed in each house by rollcall vote
10 entered in the journal, two-thirds of the membership concurring,
11 or by a statute that becomes effective only when approved by the
12 electors.

13 ~~SEC. 564.~~

14 *SEC. 571.* Section 1984 of the Welfare and Institutions Code
15 is amended to read:

16 1984. (a) The amount allocated to each county probation
17 department from the Juvenile Reentry Grant shall be distributed
18 in two equal payments to be paid on October 30 and May 30 of
19 each fiscal year, until June 30, 2013. Commencing with the
20 2013–14 fiscal year, the amount allocated to each county probation
21 department from the Juvenile Reentry Grant Special Account
22 established in paragraph (2) of subdivision (c) of Section 30025
23 of the Government Code shall be allocated in monthly installments.
24 In each fiscal year the amount allocated to each county probation
25 department from the Juvenile Reentry Grant Special Account shall
26 be distributed pursuant to the criteria set forth in subdivisions (b)
27 to (h), inclusive, of this section.

28 (b) Consistent with Section 1766, funds shall be allocated in
29 the amount of fifteen thousand dollars (\$15,000) on an average
30 daily population basis per ward discharged to the jurisdiction of
31 the court and ordered by the court to be supervised by local county
32 probation for monitoring and services during the previous fiscal
33 year based on the actual number of discharged wards supervised
34 at the local level. For each discharged ward, this funding shall be
35 provided for 24 months.

36 (c) Consistent with Sections 208.5 and 1767.35, funds shall be
37 allocated in the amount of one hundred fifteen thousand dollars
38 (\$115,000) on an average daily population basis per discharged
39 ward transferred to a local juvenile facility for violating a condition
40 of court-ordered supervision during the previous fiscal year based

1 on the actual number of discharged wards housed in a local juvenile
2 detention facility or court-ordered placement facility where the
3 costs of the housing are not reimbursable to the county through
4 Title IV-E of the federal Social Security Act, or Medi-Cal. For
5 each discharged ward, this funding shall be provided for the actual
6 number of months the ward is housed in a facility up to 12 months.
7 This funding shall not be provided for wards housed in a jail under
8 any circumstances.

9 (d) Consistent with Section 731.1, funds shall be allocated in
10 the amount of fifteen thousand dollars (\$15,000) on an average
11 daily population basis per parolee recalled by the county of
12 commitment for monitoring and services during the previous fiscal
13 year based on the actual number of parolees recalled. For each
14 recalled parolee, this funding shall be provided for the remaining
15 duration of the term of state supervision, not to exceed 24 months.

16 (e) Consistent with Section 1766, funds shall be allocated in the
17 amount of fifteen thousand dollars (\$15,000) on an average daily
18 population basis per discharged ward transferred to the county of
19 commitment for monitoring and services during the previous fiscal
20 year based on the actual number of wards transferred. For each
21 ward transferred on and after July 1, 2014, this funding shall be
22 provided for the remaining duration of the term of juvenile court
23 jurisdiction, not to exceed 24 months.

24 (f) Consistent with Sections 208.5 and 1767.35, no additional
25 funding, beyond the initial fifteen thousand dollars (\$15,000)
26 provided pursuant to subdivision (b) shall be allocated to counties
27 for discharged wards who are housed in county jail or in any other
28 county correctional facility for violating a condition of
29 court-ordered supervision during the previous fiscal year.

30 (g) Consistent with Sections 208.5 and 1767.35, additional
31 funding, beyond the initial fifteen thousand dollars (\$15,000)
32 provided pursuant to subdivision (b), shall not be allocated to
33 counties for discharged wards who are housed in a state juvenile
34 facility for violating a condition of court-ordered supervision during
35 the previous fiscal year.

36 (h) In each fiscal year, consistent with subdivision (b) of Section
37 30029.11 of the Government Code, the Department of Finance
38 shall use the criteria outlined in subdivisions (b) to (g), inclusive,
39 to determine each county's allocation as a percentage of the funds
40 deposited in the Juvenile Reentry Grant Special Account. Actual

1 allocations provided to counties pursuant to subdivisions (b) to
2 (g), inclusive, shall vary based on the amount of funds deposited
3 in the Juvenile Reentry Grant Special Account pursuant to
4 subdivision (b) of Section 30028.1 of the Government Code.

5 ~~SEC. 565.~~

6 *SEC. 572.* Section 4142 of the Welfare and Institutions Code
7 is amended to read:

8 4142. (a) Notwithstanding any other law, whenever a patient
9 is committed to the State Department of State Hospitals, a director
10 of a state hospital or a clinician, as defined in subdivision (f), shall
11 obtain the state summary criminal history information for the
12 patient. The information shall be used to assess the violence risk
13 of a patient, to assess the appropriate placement of a patient, to
14 treat a patient, to prepare periodic reports as required by statute,
15 or to determine the patient's progress or fitness for release. The
16 state summary criminal history information shall be placed in the
17 patient's confidential file for the duration of his or her commitment.

18 (b) The information may be obtained through use of the
19 California Law Enforcement Telecommunications System
20 (CLETS). Law enforcement personnel shall cooperate with requests
21 for state summary criminal history information authorized pursuant
22 to this section and shall provide the information to the requesting
23 entity in a timely manner.

24 (c) A law enforcement officer or person authorized by this
25 section to receive the information who obtains the information in
26 the record and knowingly provides the information to a person not
27 authorized by law to receive the information is guilty of a
28 misdemeanor as specified in Section 11142 of the Penal Code.

29 (d) Information obtained pursuant to this section shall not be
30 used for any purposes other than those described in subdivision
31 (a).

32 (e) For purposes of this section, the State Department of State
33 Hospitals law enforcement personnel, pursuant to Section 830.38
34 of the Penal Code, may act as the law enforcement personnel
35 described in subdivision (b).

36 (f) For purposes of this section, "clinician" means a state
37 licensed mental health professional working within the State
38 Department of State Hospitals who has received, and is current in,
39 CLETS training that is appropriate for a person who has ongoing
40 access to information from the CLETS and is not a CLETS

1 operator, following the policies on training, compliance, and
2 inspection required by the Department of Justice.

3 (g) State summary criminal history information secured pursuant
4 to this section shall remain confidential and access shall be limited
5 to the director of the state hospital and the clinician. Within 30
6 days of discharge from the state hospital, the state summary
7 criminal history information shall be removed from the patient's
8 file and destroyed.

9 ~~SEC. 566.~~

10 *SEC. 573.* Section 4144 of the Welfare and Institutions Code
11 is amended to read:

12 4144. (a) A state hospital psychiatrist or psychologist may
13 refer a patient to a pilot enhanced treatment program (ETP), as
14 defined in Section 1265.9 of the Health and Safety Code, for
15 temporary placement and risk assessment upon determining that
16 the patient may be at high risk of most dangerous behavior and
17 when safe treatment is not possible in a standard treatment
18 environment. The referral may occur after admission to the State
19 Department of State Hospitals, and after sufficient and documented
20 evaluation of violence risk of the patient, with notice to the
21 patients' rights advocate at the time of the referral. A patient shall
22 not be placed into an ETP as a means of punishment, coercion,
23 convenience, or retaliation.

24 (b) Within three business days of placement in an ETP, a
25 dedicated forensic evaluator, who is not on the patient's treatment
26 team, shall complete an initial evaluation of the patient that shall
27 include an interview of the patient's treatment team, an analysis
28 of diagnosis, past violence, current level of risk, and the need for
29 enhanced treatment.

30 (c) (1) Within seven business days of placement in an ETP and
31 with 72-hour notice to the patient and patients' rights advocate,
32 the forensic needs assessment panel (FNAP) shall conduct a
33 placement evaluation meeting with the referring psychiatrist or
34 psychologist, the patient and patients' rights advocate, and the
35 dedicated forensic evaluator who performed the initial evaluation.
36 A determination shall be made as to whether the patient clinically
37 requires ETP treatment.

38 (2) (A) The threshold standard for treatment in an ETP is met
39 if a psychiatrist or psychologist, utilizing standard forensic
40 methodologies for clinically assessing violence risk, determines

1 that a patient meets the definition of a patient at high risk of most
2 dangerous behavior and ETP treatment meets the identified needs
3 of the patient and safe treatment is not possible in a standard
4 treatment environment.

5 (B) Factors used to determine a patient's high risk of most
6 dangerous behavior may include, but are not limited to, an analysis
7 of past violence, delineation of static and dynamic violence risk
8 factors, and utilization of valid and reliable violence risk
9 assessment testing.

10 (3) If a patient has shown improvement during his or her
11 placement in an ETP, the FNAP may delay its certification decision
12 for another seven business days. The FNAP's determination of
13 whether the patient will benefit from continued or longer term ETP
14 placement and treatment shall be based on the threshold standard
15 for treatment in an ETP specified in subparagraph (A) of paragraph
16 (2).

17 (d) (1) The FNAP shall review all material presented at the
18 FNAP placement evaluation meeting conducted under subdivision
19 (c), and the FNAP shall either certify the patient for 90 days of
20 treatment in an ETP or direct that the patient be returned to a
21 standard treatment environment in the hospital.

22 (2) After the FNAP makes a decision to provide ETP treatment
23 and if ETP treatment will be provided at a facility other than the
24 current hospital, the transfer may take place as soon as
25 transportation may reasonably be arranged, but no later than 30
26 days after the decision is made.

27 (3) The FNAP determination shall be in writing and provided
28 to the patient and patients' rights advocate as soon as possible, but
29 no later than three business days after the decision is made.

30 (e) (1) Upon admission to an ETP, a forensic needs assessment
31 team (FNAT) psychologist who is not on the patient's
32 multidisciplinary treatment team shall perform an in-depth violence
33 risk assessment and make an individual treatment plan for the
34 patient based on the assessment. The individual treatment plan
35 shall:

36 (A) Be in writing and developed in collaboration with the
37 patient, when possible. The initial treatment plan shall be developed
38 as soon as possible, but no later than 72 hours following the
39 patient's admission. The comprehensive treatment plan shall be
40 developed following a complete violence risk assessment.

- 1 (B) Be based on a comprehensive assessment of the patient's
2 physical, mental, emotional, and social needs, and focused on
3 mitigation of violence risk factors.
- 4 (C) Be reviewed and updated no less than every 10 days.
- 5 (2) The individual treatment plan shall include, but is not limited
6 to, all of the following:
- 7 (A) A statement of the patient's physical and mental condition,
8 including all mental health and medical diagnoses.
- 9 (B) Prescribed medication, dosage, and frequency of
10 administration.
- 11 (C) Specific goals of treatment with intervention and actions
12 that identify steps toward reduction of violence risk and observable,
13 measurable objectives.
- 14 (D) Identification of methods to be utilized, the frequency for
15 conducting each treatment method, and the person, or persons, or
16 discipline, or disciplines, responsible for each treatment method.
- 17 (E) Documentation of the success or failure in achieving stated
18 objectives.
- 19 (F) Evaluation of the factors contributing to the patient's
20 progress or lack of progress toward reduction of violence risk and
21 a statement of the multidisciplinary treatment decision for followup
22 action.
- 23 (G) An activity plan.
- 24 (H) A plan for other services needed by the patient, such as care
25 for medical and physical ailments, which are not provided by the
26 multidisciplinary treatment team.
- 27 (I) Discharge criteria and goals for an aftercare plan in a standard
28 treatment environment and a plan for post-ETP discharge follow
29 up.
- 30 (3) An ETP patient shall receive treatment from a
31 multidisciplinary team consisting of a psychologist, a psychiatrist,
32 a nurse, a psychiatric technician, a clinical social worker, a
33 rehabilitation therapist, and any other necessary staff who shall
34 meet as often as necessary, but no less than once a week, to assess
35 the patient's response to treatment.
- 36 (4) The staff shall observe and note any changes in the patient's
37 condition and the treatment plan shall be modified in response to
38 the observed changes.
- 39 (5) Social work services shall be organized, directed, and
40 supervised by a licensed clinical social worker.

1 (6) (A) Mental health treatment programs shall provide and
2 conduct organized therapeutic social, recreational, and vocational
3 activities in accordance with the interests, abilities, and needs of
4 the patients, including the opportunity for exercise.

5 (B) Mental health rehabilitation therapy services shall be
6 designed by and provided under the direction of a licensed mental
7 health professional, a recreational therapist, or an occupational
8 therapist.

9 (7) An aftercare plan for a standard treatment environment shall
10 be developed.

11 (A) A written aftercare plan shall describe those services that
12 should be provided to a patient following discharge, transfer, or
13 release from an ETP for the purpose of enabling the patient to
14 maintain stabilization or achieve an optimum level of functioning.

15 (B) Prior to or at the time of discharge, transfer, or release from
16 an ETP, each patient shall be evaluated concerning the patient's
17 need for aftercare services. This evaluation shall consider the
18 patient's potential housing, probable need for continued treatment
19 and social services, and need for continued medical and mental
20 health care.

21 (C) Aftercare plans shall include, but shall not be limited to,
22 arrangements for medication administration and follow-up care.

23 (D) A member of the multidisciplinary treatment team
24 designated by the clinical director shall be responsible for ensuring
25 that the aftercare plan has been completed and documented in the
26 patient's health record.

27 (E) The patient shall receive a copy of the aftercare plan when
28 referred to a standard treatment environment.

29 (f) Prior to the expiration of 90 days from the date of placement
30 in an ETP and with 72-hour notice provided to the patient and the
31 patients' rights advocate, the FNAP shall convene a treatment
32 placement meeting with a psychologist from the treatment team,
33 a patients' rights advocate, the patient, and the FNAT psychologist
34 who performed the in-depth violence risk assessment. The FNAP
35 shall determine whether the patient may return to a standard
36 treatment environment or whether the patient clinically requires
37 continued treatment in an ETP. If the FNAP determines that the
38 patient clinically requires continued ETP placement, the patient
39 shall be certified for further ETP placement for one year. The
40 FNAP determination shall be in writing and provided to the patient

1 and the patients' rights advocate within 24 hours of the meeting.
2 If the FNAP determines that the patient is ready to be transferred
3 to a standard treatment environment, the FNAP shall identify
4 appropriate placement within a standard treatment environment
5 in a state hospital, and transfer the patient within 30 days of the
6 determination.

7 (g) If a patient has been certified for ETP treatment for one year
8 pursuant to subdivision (f), the FNAP shall review the patient's
9 treatment summary at least every 90 days to determine if the patient
10 no longer clinically requires treatment in the ETP. This FNAP
11 determination shall be in writing and provided to the patient and
12 the patients' rights advocate within three business days of the
13 meeting. If the FNAP determines that the patient no longer
14 clinically requires treatment in the ETP, the FNAP shall identify
15 appropriate placement, and transfer the patient within 30 days of
16 the determination.

17 (h) Prior to the expiration of the one-year certification of ETP
18 placement under subdivision (f), and with 72-hour notice provided
19 to the patient and the patients' rights advocate, the FNAP shall
20 convene a treatment placement meeting with the treatment team,
21 the patients' rights advocate, the patient, and the FNAT
22 psychologist who performed the in-depth violence risk assessment.
23 The FNAP shall determine whether the patient clinically requires
24 continued ETP treatment. The FNAP determination shall be in
25 writing and provided to the patient and the patients' rights advocate
26 within 24 hours of the meeting.

27 (i) If after the treatment placement meeting described in
28 subdivision (h), and after discussion with the patient, the patients'
29 rights advocate, patient's ETP team members, and review of
30 documents and records, the FNAP determines that the patient
31 clinically requires continued ETP placement, the patient's case
32 shall be referred outside of the State Department of State Hospitals
33 to a forensic psychiatrist or psychologist for an independent
34 medical review for the purpose of assessing the patient's overall
35 treatment plan and the need for ongoing ETP treatment. Notice of
36 the referral shall be provided to the patient and the patients' rights
37 advocate within 24 hours of the FNAP meeting as part of the FNAP
38 determination. The notice shall include instructions for the patient
39 to submit information to the forensic psychiatrist or psychologist
40 conducting the independent medical review.

1 (1) The forensic psychiatrist or psychologist conducting the
2 independent medical review shall be provided with the patient's
3 medical and psychiatric documents and records, along with any
4 additional information submitted by the patient, within five
5 business days from the date of the FNAP's determination that the
6 patient requires continued ETP placement.

7 (2) After reviewing the patient's medical and psychiatric
8 documents and records, along with any additional information
9 submitted by the patient, but no later than 14 days after the receipt
10 of the patient's medical and psychiatric documents and records,
11 the forensic psychiatrist or psychologist conducting the independent
12 medical review shall provide the State Department of State
13 Hospitals, the patient, and the patients' rights advocate with a
14 written notice of the date and time for a hearing. At least one FNAP
15 member is required to attend the hearing. The notice shall be
16 provided at least 72 hours in advance of the hearing, shall include
17 a statement that at least one FNAP member is required to attend
18 the hearing, and advise the patient of his or her right to a hearing
19 or to waive his or her right to a hearing. The notice shall also
20 include a statement that the patient may have assistance of a
21 patients' rights advocate or staff member at the hearing.
22 Seventy-two-hour notice shall also be provided to any individuals
23 whose presence is requested by the forensic psychiatrist or
24 psychologist conducting the independent medical review in order
25 to help assess the patient's overall treatment plan and the need for
26 ongoing ETP treatment.

27 (3) If the patient waives his or her right to a hearing, the forensic
28 psychiatrist or psychologist conducting the independent medical
29 review shall make recommendations to the FNAP on whether or
30 not the patient should be certified for ongoing ETP treatment.

31 (4) If the patient does not waive the right to a hearing, both of
32 the following shall be provided:

33 (A) If the patient elects to have the assistance of a patients'
34 rights advocate or a staff person, the requested person shall provide
35 assistance relating to the hearing, whether or not the patient is
36 present at the hearing, unless the forensic psychiatrist or
37 psychologist conducting the hearing finds good cause why the
38 requested person should not participate. Good cause includes a
39 reasonable concern for the safety of a staff member requested to
40 be present at the hearing.

1 (B) An opportunity for the patient to present information,
2 statements, or arguments, either orally or in writing, to show either
3 that the information relied on for the FNAP's determination for
4 ongoing treatment is erroneous, or any other relevant information.

5 (5) The conclusion reached by the forensic psychiatrist or
6 psychologist who conducts the independent medical review shall
7 be in writing and provided to the State Department of State
8 Hospitals, the patient, and the patients' rights advocate within three
9 business days of the conclusion of the hearing.

10 (6) If the forensic psychiatrist or psychologist who conducts the
11 independent medical review concludes that the patient requires
12 ongoing ETP treatment, the patient shall be certified for further
13 treatment for an additional year.

14 (7) If the forensic psychiatrist or psychologist who conducts the
15 independent medical review determines that the patient no longer
16 requires ongoing ETP treatment, the FNAP shall identify
17 appropriate placement and transfer the patient within 30 days of
18 determination.

19 (j) At any point during the ETP placement, if a patient's
20 treatment team determines that the patient no longer clinically
21 requires ETP treatment, a recommendation to transfer the patient
22 out of the ETP shall be made to the FNAT or FNAP.

23 (k) The process described in this section may continue until the
24 patient no longer clinically requires ETP treatment or until the
25 patient is discharged from the State Department of State Hospitals.

26 (l) As used in this section, the following terms have the
27 following meanings:

28 (1) "Enhanced treatment program" or "ETP" means a
29 supplemental treatment unit as defined in Section 1265.9 of the
30 Health and Safety Code.

31 (2) "Forensic needs assessment panel" or "FNAP" means a
32 panel that consists of a psychiatrist, a psychologist, and the medical
33 director of the hospital or facility, none of whom are involved in
34 the patient's treatment or diagnosis at the time of the hearing or
35 placement meetings.

36 (3) "Forensic needs assessment team" or "FNAT" means a panel
37 of psychologists with expertise in forensic assessment or violence
38 risk assessment, each of whom are assigned an ETP case or group
39 of cases.

1 (4) “In-depth violence risk assessment” means the utilization
2 of standard forensic methodologies for clinically assessing the risk
3 of a patient posing a substantial risk of inpatient aggression.

4 (5) “Patients’ rights advocate” means the advocate contracted
5 under Sections 5370.2 and 5510.

6 (6) “Patient at high risk of most dangerous behavior” means the
7 individual has a history of physical violence and currently poses
8 a demonstrated danger of inflicting substantial physical harm upon
9 others in an inpatient setting, as determined by an evidence-based,
10 in-depth violence risk assessment conducted by the State
11 Department of State Hospitals.

12 (m) The State Department of State Hospitals may adopt
13 emergency regulations in accordance with the Administrative
14 Procedures Act (Chapter 3.5 (commencing with Section 11340)
15 of Part 1 of Division 3 of Title 2 of the Government Code) to
16 implement the treatment components of this section. The adoption
17 of an emergency regulation under this paragraph is deemed to
18 address an emergency, for purposes of Sections 11346.1 and
19 11349.6 of the Government Code, and the State Department of
20 State Hospitals is hereby exempted for this purpose from the
21 requirements of subdivision (b) of Section 11346.1 of the
22 Government Code.

23 ~~SEC. 567.~~

24 *SEC. 574.* Section 4512 of the Welfare and Institutions Code
25 is amended to read:

26 4512. As used in this division:

27 (a) “Developmental disability” means a disability that originates
28 before an individual attains 18 years of age; continues, or can be
29 expected to continue, indefinitely; and constitutes a substantial
30 disability for that individual. As defined by the Director of
31 Developmental Services, in consultation with the Superintendent
32 of Public Instruction, this term shall include intellectual disability,
33 cerebral palsy, epilepsy, and autism. This term shall also include
34 disabling conditions found to be closely related to intellectual
35 disability or to require treatment similar to that required for
36 individuals with an intellectual disability, but shall not include
37 other handicapping conditions that are solely physical in nature.

38 (b) “Services and supports for persons with developmental
39 disabilities” means specialized services and supports or special
40 adaptations of generic services and supports directed toward the

1 alleviation of a developmental disability or toward the social,
2 personal, physical, or economic habilitation or rehabilitation of an
3 individual with a developmental disability, or toward the
4 achievement and maintenance of independent, productive, and
5 normal lives. The determination of which services and supports
6 are necessary for each consumer shall be made through the
7 individual program plan process. The determination shall be made
8 on the basis of the needs and preferences of the consumer or, when
9 appropriate, the consumer's family, and shall include consideration
10 of a range of service options proposed by individual program plan
11 participants, the effectiveness of each option in meeting the goals
12 stated in the individual program plan, and the cost-effectiveness
13 of each option. Services and supports listed in the individual
14 program plan may include, but are not limited to, diagnosis,
15 evaluation, treatment, personal care, day care, domiciliary care,
16 special living arrangements, physical, occupational, and speech
17 therapy, training, education, supported and sheltered employment,
18 mental health services, recreation, counseling of the individual
19 with a developmental disability and of his or her family, protective
20 and other social and sociolegal services, information and referral
21 services, follow-along services, adaptive equipment and supplies,
22 advocacy assistance, including self-advocacy training, facilitation
23 and peer advocates, assessment, assistance in locating a home,
24 child care, behavior training and behavior modification programs,
25 camping, community integration services, community support,
26 daily living skills training, emergency and crisis intervention,
27 facilitating circles of support, habilitation, homemaker services,
28 infant stimulation programs, paid roommates, paid neighbors,
29 respite, short-term out-of-home care, social skills training,
30 specialized medical and dental care, telehealth services and
31 supports, as defined in Section 2290.5 of the Business and
32 Professions Code, supported living arrangements, technical and
33 financial assistance, travel training, training for parents of children
34 with developmental disabilities, training for parents with
35 developmental disabilities, vouchers, and transportation services
36 necessary to ensure delivery of services to persons with
37 developmental disabilities. Nothing in this subdivision is intended
38 to expand or authorize a new or different service or support for
39 any consumer unless that service or support is contained in his or
40 her individual program plan.

1 (c) Notwithstanding subdivisions (a) and (b), for any
2 organization or agency receiving federal financial participation
3 under the federal Developmental Disabilities Assistance and Bill
4 of Rights Act of 2000, Chapter 144 (commencing with Section
5 15001) of Title 42 of the United States Code, as amended,
6 “developmental disability” and “services for persons with
7 developmental disabilities” mean the terms as defined in the federal
8 act to the extent required by federal law.

9 (d) “Consumer” means a person who has a disability that meets
10 the definition of developmental disability set forth in subdivision
11 (a).

12 (e) “Natural supports” means personal associations and
13 relationships typically developed in the community that enhance
14 the quality and security of life for people, including, but not limited
15 to, family relationships, friendships reflecting the diversity of the
16 neighborhood and the community, associations with fellow students
17 or employees in regular classrooms and workplaces, and
18 associations developed through participation in clubs,
19 organizations, and other civic activities.

20 (f) “Circle of support” means a committed group of community
21 members, who may include family members, meeting regularly
22 with an individual with developmental disabilities in order to share
23 experiences, promote autonomy and community involvement, and
24 assist the individual in establishing and maintaining natural
25 supports. A circle of support generally includes a plurality of
26 members who neither provide nor receive services or supports for
27 persons with developmental disabilities and who do not receive
28 payment for participation in the circle of support.

29 (g) “Facilitation” means the use of modified or adapted
30 materials, special instructions, equipment, or personal assistance
31 by an individual, such as assistance with communications, that
32 will enable a consumer to understand and participate to the
33 maximum extent possible in the decisions and choices that affect
34 his or her life.

35 (h) “Family support services” means services and supports that
36 are provided to a child with developmental disabilities or his or
37 her family and that contribute to the ability of the family to reside
38 together.

39 (i) “Voucher” means any authorized alternative form of service
40 delivery in which the consumer or family member is provided with

1 a payment, coupon, chit, or other form of authorization that enables
2 the consumer or family member to choose his or her own service
3 provider.

4 (j) “Planning team” means the individual with developmental
5 disabilities, the parents or legally appointed guardian of a minor
6 consumer or the legally appointed conservator of an adult
7 consumer, the authorized representative, including those appointed
8 pursuant to subdivision (d) of Section 4548 and subdivision (e) of
9 Section 4705, one or more regional center representatives,
10 including the designated regional center service coordinator
11 pursuant to subdivision (b) of Section 4640.7, any individual,
12 including a service provider, invited by the consumer, the parents
13 or legally appointed guardian of a minor consumer or the legally
14 appointed conservator of an adult consumer, or the authorized
15 representative, including those appointed pursuant to subdivision
16 (d) of Section 4548 and subdivision (e) of Section 4705, and
17 including a minor’s, dependent’s, or ward’s court-appointed
18 developmental services decisionmaker appointed pursuant to
19 Section 319, 361, or 726.

20 (k) “Stakeholder organizations” means statewide organizations
21 representing the interests of consumers, family members, service
22 providers, and statewide advocacy organizations.

23 (l) (1) “Substantial disability” means the existence of significant
24 functional limitations in three or more of the following areas of
25 major life activity, as determined by a regional center, and as
26 appropriate to the age of the person:

- 27 (A) Self-care.
- 28 (B) Receptive and expressive language.
- 29 (C) Learning.
- 30 (D) Mobility.
- 31 (E) Self-direction.
- 32 (F) Capacity for independent living.
- 33 (G) Economic self-sufficiency.

34 (2) A reassessment of substantial disability for purposes of
35 continuing eligibility shall utilize the same criteria under which
36 the individual was originally made eligible.

37 (m) “Native language” means the language normally used or
38 the preferred language identified by the individual and, when
39 appropriate, his or her parent, legal guardian or conservator, or
40 authorized representative.

1 ~~SEC. 568.~~

2 *SEC. 575.* Section 4520 of the Welfare and Institutions Code
3 is amended to read:

4 4520. (a) A State Council on Developmental Disabilities with
5 authority independent of any single state service agency is hereby
6 created.

7 (b) The Legislature finds that in each of the 56 states and
8 territories, the federal Developmental Disabilities Assistance and
9 Bill of Rights Act of 2000 (Public Law 106-402 (42 U.S.C. Sec.
10 15001 et seq.)) establishes State Councils on Developmental
11 Disabilities that work to promote the core values of the act,
12 including self-determination, independence, productivity,
13 integration, and inclusion in all aspects of community life.

14 (c) The Legislature finds that California's State Council on
15 Developmental Disabilities was established pursuant to the federal
16 Developmental Disabilities Assistance and Bill of Rights Act of
17 2000 to engage in advocacy, capacity building, and systemic
18 change activities that are consistent with the policy contained in
19 federal law and contribute to a coordinated, consumer- and
20 family-centered, consumer- and family-directed, comprehensive
21 system that includes the provision of needed community services,
22 individualized supports, and other forms of assistance that promote
23 self-determination for individuals with developmental disabilities
24 and their families. It is the intent of the Legislature that the state
25 council independently exercise its authority and responsibilities
26 under federal law, expend its federal funding allocation, and
27 exercise all powers and duties that may be necessary to carry out
28 the purposes contained in applicable federal law.

29 (d) The Legislature finds that the federal Developmental
30 Disabilities Assistance and Bill of Rights Act of 2000 requires the
31 council to promote certain principles that include all of the
32 following:

33 (1) Individuals with developmental disabilities, including those
34 with the most severe developmental disabilities, are capable of
35 self-determination, independence, productivity, and integration
36 and inclusion in all facets of community life, but often require the
37 provision of community services, individualized supports, and
38 other forms of assistance.

39 (2) Individuals with developmental disabilities and their families
40 have competencies, capabilities, and personal goals that should be

1 recognized, supported, and encouraged, and any assistance to these
2 individuals should be provided in an individualized manner,
3 consistent with the unique strengths, resources, priorities, concerns,
4 abilities, and capabilities of these individuals.

5 (3) Individuals with developmental disabilities and their families
6 are the primary decisionmakers regarding the services and supports
7 these individuals and their families receive, including choosing
8 where an individual lives from available options, and have
9 decisionmaking roles in policies and programs that affect the lives
10 of these individuals and their families.

11 (e) (1) The Legislature finds that the state council faces unique
12 challenges in ensuring access and furthering these principles due
13 to the state's size, diversity, and a service delivery system that
14 promotes significant local control.

15 (2) Therefore, it is the intent of the Legislature that the state
16 council, consistent with its authority and responsibilities under
17 federal law, ensure that the council is accessible and responsive
18 to the diverse geographic, racial, ethnic, and language needs of
19 individuals with developmental disabilities and their families
20 throughout California, which in part may, as determined by the
21 state council, be achieved through the establishment of regional
22 offices, the number and location of which may be determined by
23 the state council.

24 (f) This chapter, Chapter 3 (commencing with Section 4561),
25 and Division 4.7 (commencing with Section 4900), are intended
26 by the Legislature to secure full compliance with the requirements
27 of the federal Developmental Disabilities Assistance and Bill of
28 Rights Act of 2000 as amended and extended, which provides
29 federal funds to assist the state in planning, coordinating,
30 monitoring, and evaluating services for persons with developmental
31 disabilities and in establishing a system to protect and advocate
32 the legal and civil rights of persons with developmental disabilities.

33 (g) The state council may use funds and other moneys allocated
34 to the state council in accordance with the purposes of the federal
35 Developmental Disabilities Assistance and Bill of Rights Act of
36 2000. This section does not preclude the state council from using
37 moneys other than moneys provided through the federal
38 Developmental Disabilities Assistance and Bill of Rights Act of
39 2000 in any manner consistent with applicable federal and state
40 law.

1 ~~SEC. 569.~~

2 *SEC. 576.* Section 4520.5 of the Welfare and Institutions Code
3 is amended to read:

4 4520.5. Notwithstanding any other law, the state council shall
5 determine the structure of its organization, as required by the
6 federal Developmental Disabilities Assistance and Bill of Rights
7 Act of 2000 (Public Law 106-402 (42 U.S.C. Sec. 15001 et seq.)).

8 ~~SEC. 570.~~

9 *SEC. 577.* Section 4521 of the Welfare and Institutions Code
10 is amended to read:

11 4521. (a) (1) All references to “council” or “state council” in
12 this division shall be a reference to the State Council on
13 Developmental Disabilities.

14 (2) “Developmental disability,” as used in this chapter, means
15 a developmental disability as defined in Section 15002(8) of Title
16 42 of the United States Code.

17 (b) There shall be 31 voting members on the state council
18 appointed by the Governor from among the residents of the state,
19 as follows:

20 (1) (A) Twenty members of the council shall be nonagency
21 members who reflect the socioeconomic, geographic, disability,
22 racial, ethnic, and language diversity of the state, and who shall
23 be persons with a developmental disability or their parents,
24 immediate relatives, guardians, or conservators residing in
25 California. Of the 20 members:

26 (i) At least seven members shall be persons with developmental
27 disabilities.

28 (ii) At least seven members shall be a person who is a parent,
29 immediate relative, guardian, or conservator of a person with a
30 developmental disability.

31 (iii) At least one of the members shall be a person with a
32 developmental disability who is a current or former resident of an
33 institution or his or her immediate relative, guardian, or
34 conservator.

35 (B) To ensure that state council membership is geographically
36 representative, as required by federal law, the Governor shall
37 appoint the members described in clauses (i) and (ii) of
38 subparagraph (A) from the geographical area of each regional
39 office, if regional offices have been established by the council.
40 Each member described in clauses (i) and (ii) of subparagraph (A)

1 may, in the discretion of the state council, serve as a liaison from
2 the state council to consumers and family members in the
3 geographical area that he or she is from.

4 (2) Eleven members of the council shall include the following:

5 (A) The Secretary of California Health and Human Services,
6 or his or her designee, who shall represent the agency and the state
7 agency that administers funds under Title XIX of the Social
8 Security Act for people with developmental disabilities.

9 (B) The Director of Developmental Services or his or her
10 designee.

11 (C) The Director of Rehabilitation or his or her designee.

12 (D) The Superintendent of Public Instruction or his or her
13 designee.

14 (E) A representative from a nongovernmental agency or group
15 concerned with the provision of services to persons with
16 developmental disabilities.

17 (F) One representative from each of the three university centers
18 for excellence in the state, pursuant to Section 15061 et seq. of
19 Title 42 of the United States Code, providing training in the field
20 of developmental services, or his or her designee. These individuals
21 shall have expertise in the field of developmental disabilities.

22 (G) The Director of Health Care Services or his or her designee.

23 (H) The executive director of the agency established in
24 California to fulfill the requirements and assurance of Title I,
25 Subtitle C, of the federal Developmental Disabilities Assistance
26 and Bill of Rights Act of 2000 for a system to protect and advocate
27 the rights of persons with developmental disabilities, or his or her
28 designee.

29 (I) The Director of the California Department of Aging or his
30 or her designee.

31 (c) Prior to appointing the members described in paragraph (1)
32 of, and subparagraph (E) of paragraph (2) of, subdivision (b), the
33 Governor shall consult with the current members of the council,
34 including nonagency members of the council, and consider
35 recommendations from organizations representing persons with a
36 broad range of developmental disabilities, or persons interested
37 in, or providing services to, or both, persons with developmental
38 disabilities.

39 (d) The term of each member described in paragraph (1) of, and
40 subparagraph (E) of paragraph (2) of, subdivision (b) shall be for

1 three years. The term of these members shall begin on the date of
2 appointment by the Governor and these members shall serve no
3 more than two terms.

4 (e) A member may continue to serve following the expiration
5 of his or her term until the Governor appoints that member's
6 successor. The state council shall notify the Governor regarding
7 membership requirements of the council and shall notify the
8 Governor, in writing, immediately when a vacancy occurs prior
9 to the expiration of a member's term, at least six months before a
10 member's term expires, and when a vacancy on the council remains
11 unfilled for more than 60 days.

12 ~~SEC. 571.~~

13 *SEC. 578.* Section 4540 of the Welfare and Institutions Code
14 is amended to read:

15 4540. The state council, established pursuant to the federal
16 Developmental Disabilities Assistance and Bill of Rights Act of
17 2000 (Public Law 106-402 (42 U.S.C. Sec. 15001 et seq.)), shall
18 do all of the following:

19 (a) Serve as an advocate for individuals with developmental
20 disabilities and, through council members, staff, consultants, and
21 contractors and grantees, conduct advocacy, capacity building,
22 and systemic change activities.

23 (b) Develop and implement the state plan in accordance with
24 requirements issued by the United States Secretary of Health and
25 Human Services, monitor and evaluate the implementation of this
26 plan, and submit reports as the United States Secretary of Health
27 and Human Services may reasonably request. The state council
28 may review and comment on other plans and programs in the state
29 affecting individuals with developmental disabilities.

30 (c) Serve as the official agency responsible for planning the
31 provision of the federal funds allotted to the state under Public
32 Law 106-402 (42 U.S.C. Sec. 15001 et seq.), by conducting and
33 supporting advocacy, capacity building, and systemic change
34 activities. The council may itself conduct these activities and may
35 provide grant funding to local agencies in compliance with
36 applicable state and federal law, for those same purposes.

37 (d) Prepare and approve a budget, for the use of amounts paid
38 to the state to hire any staff and to obtain the services of any
39 professional, technical, or clerical personnel consistent with state

1 and federal law, as the council determines to be necessary to carry
2 out its functions.

3 (e) To the extent that resources are available, implement the
4 state plan by conducting activities including, but not limited to,
5 all of the activities specified in paragraphs (1) to (11), inclusive.

6 (1) Encouraging and assisting in the establishment or
7 strengthening of self-advocacy organizations led by individuals
8 with developmental disabilities.

9 (2) Supporting and conducting geographically based outreach
10 activities to identify individuals with developmental disabilities
11 and their families who otherwise might not come to the attention
12 of the council and assist and enable the individuals and families
13 to obtain services, individualized supports, and other forms of
14 assistance, including access to special adaptation of generic
15 community services or specialized services.

16 (3) Supporting and conducting training for persons who are
17 individuals with developmental disabilities, their families, and
18 personnel, including professionals, paraprofessionals, students,
19 volunteers, and other community members, to enable those persons
20 to obtain access to, or to provide, community services,
21 individualized supports, and other forms of assistance, including
22 special adaptation of generic community services or specialized
23 services for individuals with developmental disabilities and their
24 families.

25 (4) Supporting and conducting technical assistance activities to
26 assist public and private entities to contribute to the objectives of
27 the state plan.

28 (5) Supporting and conducting activities to assist neighborhoods
29 and communities to respond positively to individuals with
30 developmental disabilities and their families.

31 (6) Supporting and conducting activities to promote interagency
32 collaboration and coordination at the state and local levels to better
33 serve, support, assist, or advocate for individuals with
34 developmental disabilities and their families.

35 (7) Coordinating with related councils, committees, and
36 programs to enhance coordination of services.

37 (8) Supporting and conducting activities to eliminate barriers
38 to access and use of community services by individuals with
39 disabilities, enhance systems design and redesign, and enhance
40 citizen participation to address issues identified in the state plan.

1 (9) Supporting and conducting activities to educate the public
2 about the capabilities, preferences, and needs of individuals with
3 developmental disabilities and their families, and to develop and
4 support coalitions that support the policy agenda of the council,
5 including training in self-advocacy, education of policymakers,
6 and citizen leadership roles.

7 (10) Supporting and conducting activities to provide information
8 to policymakers by supporting and conducting studies and analyses,
9 gathering information, and developing and disseminating model
10 policies and procedures, information, approaches, strategies,
11 findings, conclusions, and recommendations. The council may
12 provide the information directly to federal, state, and local
13 policymakers, including the Congress of the United States, the
14 federal executive branch, the Governor, the Legislature, and state
15 agencies in order to increase the abilities of those policymakers to
16 offer opportunities and enhance or adapt generic services to meet
17 the needs of, or provide specialized services to, individuals with
18 developmental disabilities and their families.

19 (11) Supporting, on a time-limited basis, activities to
20 demonstrate new approaches to serving individuals with
21 developmental disabilities that are a part of an overall strategy for
22 systemic change.

23 (f) Prepare an annual written report of its activities, its
24 recommendations, and an evaluation of the efficiency of the
25 administration of this division to the Governor and the Legislature.
26 This report shall include both the statewide and regional activities
27 of the state council. This report shall be submitted to the Legislature
28 in accordance with Section 9795 of the Government Code.

29 (g) Except as otherwise provided in this division, the state
30 council shall not engage in the administration of the day-to-day
31 operation of service programs identified in the state plan, nor in
32 the financial management and accounting of funds.

33 ~~SEC. 572.~~

34 *SEC. 579.* Section 4541 of the Welfare and Institutions Code
35 is amended to read:

36 4541. The state council may, in its discretion, and in addition
37 to the activities specified in subdivision (e) of Section 4540,
38 implement the state plan by conducting activities that may include,
39 but are not limited to, the following:

1 (a) Appointing an authorized representative for persons with
2 developmental disabilities according to all of the following:

3 (1) To ensure the protection of civil and service rights of persons
4 with developmental disabilities, the state council may appoint a
5 representative to assist the person in expressing his or her desires
6 and in making decisions and advocating his or her needs,
7 preferences, and choices, when the person with developmental
8 disabilities has no parent, guardian, or conservator legally
9 authorized to represent him or her and the person has either
10 requested the appointment of a representative or the rights or
11 interests of the person, as determined by the state council, will not
12 be properly protected or advocated without the appointment of a
13 representative.

14 (2) When there is no guardian or conservator, the individual's
15 choice, if expressed, including the right to reject the assistance of
16 a representative, shall be honored. If the person does not express
17 a preference, the order of preference for selection of the
18 representative shall be the person's parent, involved family
19 members, or a volunteer selected by the state council. In
20 establishing these preferences, it is the intent of the Legislature
21 that parents or involved family members shall not be required to
22 be appointed guardian or conservator in order to be selected. Unless
23 the person with developmental disabilities expresses otherwise,
24 or good cause otherwise exists, the request of the parents or
25 involved family members to be appointed the representative shall
26 be honored.

27 (3) Pursuant to this section, the state council shall appoint a
28 representative to advocate the rights and protect the interest of a
29 person residing in a developmental center for whom community
30 placement is proposed pursuant to Section 4803. The representative
31 may obtain the advocacy assistance of the regional center clients'
32 rights advocate.

33 (b) Conducting public hearings and forums and the evaluation
34 and issuance of public reports on the programs identified in the
35 state plan, as may be necessary to carry out the duties of the state
36 council.

37 (c) Identifying the denial of rights of persons with disabilities
38 and informing the appropriate local, state, or federal officials of
39 their findings, and assisting these officials in eliminating all forms
40 of discrimination against persons with developmental disabilities

1 in housing, recreation, education, health and mental health care,
2 employment, and other service programs available to the general
3 population.

4 (d) Reviewing and commenting on pertinent portions of the
5 proposed plans and budgets of all state agencies serving persons
6 with developmental disabilities including, but not limited to, the
7 State Department of Education, the Department of Rehabilitation,
8 and the State Department of Developmental Services, and local
9 agencies to the extent resources allow.

10 (e) (1) Promoting systems change and implementation by
11 reviewing the policies and practices of publicly funded agencies
12 that serve or may serve persons with developmental disabilities to
13 determine if the programs are meeting their obligations, under
14 local, state, and federal laws. If the state council finds that the
15 agency is not meeting its obligations, the state council may inform
16 the director and the governing board of the noncomplying agency,
17 in writing, of its findings.

18 (2) Within 15 days, the agency shall respond, in writing, to the
19 state council's findings. Following receipt of the agency's response,
20 if the state council continues to find that the agency is not meeting
21 its obligations, the state council may pursue informal efforts to
22 resolve the issue.

23 (3) If, within 30 days of implementing informal efforts to resolve
24 the issue, the state council continues to find that the agency is not
25 meeting its obligations under local, state, or federal statutes, the
26 state council may conduct a public hearing to receive testimony
27 on its findings.

28 (4) The state council may take any action it deems necessary to
29 resolve the problem.

30 (f) Reviewing and publicly commenting on significant
31 regulations proposed to be promulgated by any state agency in the
32 implementation of this division.

33 (g) Monitoring and evaluating the effectiveness of appeals
34 procedures established in this division.

35 (h) Providing testimony to legislative committees reviewing
36 fiscal or policy matters pertaining to persons with developmental
37 disabilities.

38 (i) Conducting, or causing to be conducted, investigations or
39 public hearings to resolve disagreements between state agencies,
40 or between state and regional or local agencies, or between persons

1 with developmental disabilities and agencies receiving state funds.
2 These investigations or public hearings shall be conducted at the
3 discretion of the state council only after all other appropriate
4 administrative procedures for appeal, as established in state and
5 federal law, have been fully utilized.

6 (j) Any other activities prescribed in statute that are consistent
7 with the purposes of the federal Developmental Disabilities
8 Assistance and Bill of Rights Act of 2000 (Public Law 106-402
9 (42 U.S.C. Sec. 15001 et seq.)) and the state plan developed
10 pursuant to subdivision (b) of Section 4540.

11 ~~SEC. 573.~~

12 *SEC. 580.* Section 4648 of the Welfare and Institutions Code
13 is amended to read:

14 4648. To achieve the stated objectives of a consumer's
15 individual program plan, the regional center shall conduct activities,
16 including, but not limited to, all of the following:

17 (a) Securing needed services and supports.

18 (1) It is the intent of the Legislature that services and supports
19 assist individuals with developmental disabilities in achieving the
20 greatest self-sufficiency possible and in exercising personal
21 choices. The regional center shall secure services and supports
22 that meet the needs of the consumer, as determined in the
23 consumer's individual program plan, and within the context of the
24 individual program plan, the planning team shall give highest
25 preference to those services and supports that would allow minors
26 with developmental disabilities to live with their families, adult
27 persons with developmental disabilities to live as independently
28 as possible in the community, and that allow all consumers to
29 interact with persons without disabilities in positive, meaningful
30 ways.

31 (2) In implementing individual program plans, regional centers,
32 through the planning team, shall first consider services and supports
33 in natural community, home, work, and recreational settings.
34 Services and supports shall be flexible and individually tailored
35 to the consumer and, where appropriate, his or her family.

36 (3) A regional center may, pursuant to vendorization or a
37 contract, purchase services or supports for a consumer from any
38 individual or agency that the regional center and consumer or,
39 when appropriate, his or her parents, legal guardian, or conservator,

1 or authorized representatives, determines will best accomplish all
2 or any part of that consumer's program plan.

3 (A) Vendorization or contracting is the process for identification,
4 selection, and utilization of service vendors or contractors, based
5 on the qualifications and other requirements necessary in order to
6 provide the service.

7 (B) A regional center may reimburse an individual or agency
8 for services or supports provided to a regional center consumer if
9 the individual or agency has a rate of payment for vendored or
10 contracted services established by the department, pursuant to this
11 division, and is providing services pursuant to an emergency
12 vendorization or has completed the vendorization procedures or
13 has entered into a contract with the regional center and continues
14 to comply with the vendorization or contracting requirements. The
15 director shall adopt regulations governing the vendorization process
16 to be utilized by the department, regional centers, vendors, and
17 the individual or agency requesting vendorization.

18 (C) Regulations shall include, but not be limited to: the vendor
19 application process, and the basis for accepting or denying an
20 application; the qualification and requirements for each category
21 of services that may be provided to a regional center consumer
22 through a vendor; requirements for emergency vendorization;
23 procedures for termination of vendorization; the procedure for an
24 individual or an agency to appeal any vendorization decision made
25 by the department or regional center.

26 (D) A regional center may vendorize a licensed facility for
27 exclusive services to persons with developmental disabilities at a
28 capacity equal to or less than the facility's licensed capacity. A
29 facility already licensed on January 1, 1999, shall continue to be
30 vendorized at their full licensed capacity until the facility agrees
31 to vendorization at a reduced capacity.

32 (E) Effective July 1, 2009, notwithstanding any other law or
33 regulation, a regional center shall not newly vendor a State
34 Department of Social Services licensed 24-hour residential care
35 facility with a licensed capacity of 16 or more beds, unless the
36 facility qualifies for receipt of federal funds under the Medicaid
37 Program.

38 (4) Notwithstanding subparagraph (B) of paragraph (3), a
39 regional center may contract or issue a voucher for services and
40 supports provided to a consumer or family at a cost not to exceed

1 the maximum rate of payment for that service or support
2 established by the department. If a rate has not been established
3 by the department, the regional center may, for an interim period,
4 contract for a specified service or support with, and establish a
5 rate of payment for, any provider of the service or support
6 necessary to implement a consumer's individual program plan.
7 Contracts may be negotiated for a period of up to three years, with
8 annual review and subject to the availability of funds.

9 (5) In order to ensure the maximum flexibility and availability
10 of appropriate services and supports for persons with
11 developmental disabilities, the department shall establish and
12 maintain an equitable system of payment to providers of services
13 and supports identified as necessary to the implementation of a
14 consumer's individual program plan. The system of payment shall
15 include a provision for a rate to ensure that the provider can meet
16 the special needs of consumers and provide quality services and
17 supports in the least restrictive setting as required by law.

18 (6) The regional center and the consumer, or when appropriate,
19 his or her parents, legal guardian, conservator, or authorized
20 representative, including those appointed pursuant to subdivision
21 (a) of Section 4541, subdivision (b) of Section 4701.6, or
22 subdivision (e) of Section 4705, shall, pursuant to the individual
23 program plan, consider all of the following when selecting a
24 provider of consumer services and supports:

25 (A) A provider's ability to deliver quality services or supports
26 that can accomplish all or part of the consumer's individual
27 program plan.

28 (B) A provider's success in achieving the objectives set forth
29 in the individual program plan.

30 (C) If appropriate, the existence of licensing, accreditation, or
31 professional certification.

32 (D) The cost of providing services or supports of comparable
33 quality by different providers, if available, shall be reviewed, and
34 the least costly available provider of comparable service, including
35 the cost of transportation, who is able to accomplish all or part of
36 the consumer's individual program plan, consistent with the
37 particular needs of the consumer and family as identified in the
38 individual program plan, shall be selected. In determining the least
39 costly provider, the availability of federal financial participation
40 shall be considered. The consumer shall not be required to use the

1 least costly provider if it will result in the consumer moving from
2 an existing provider of services or supports to more restrictive or
3 less integrated services or supports.

4 (E) The consumer's choice of providers, or, when appropriate,
5 the consumer's parent's, legal guardian's, authorized
6 representative's, or conservator's choice of providers.

7 (7) A service or support provided by an agency or individual
8 shall not be continued unless the consumer or, when appropriate,
9 his or her parents, legal guardian, or conservator, or authorized
10 representative, including those appointed pursuant to subdivision
11 (a) of Section 4541, subdivision (b) of Section 4701.6, or
12 subdivision (e) of Section 4705, is satisfied and the regional center
13 and the consumer or, when appropriate, the person's parents or
14 legal guardian or conservator agree that planned services and
15 supports have been provided, and reasonable progress toward
16 objectives have been made.

17 (8) Regional center funds shall not be used to supplant the
18 budget of any agency that has a legal responsibility to serve all
19 members of the general public and is receiving public funds for
20 providing those services.

21 (9) (A) A regional center may, directly or through an agency
22 acting on behalf of the center, provide placement in, purchase of,
23 or follow-along services to persons with developmental disabilities
24 in, appropriate community living arrangements, including, but not
25 limited to, support service for consumers in homes they own or
26 lease, foster family placements, health care facilities, and licensed
27 community care facilities. In considering appropriate placement
28 alternatives for children with developmental disabilities, approval
29 by the child's parent or guardian shall be obtained before placement
30 is made.

31 (B) Effective July 1, 2012, notwithstanding any other law or
32 regulation, a regional center shall not purchase residential services
33 from a State Department of Social Services licensed 24-hour
34 residential care facility with a licensed capacity of 16 or more
35 beds. This prohibition on regional center purchase of residential
36 services does not apply to any of the following:

37 (i) A residential facility with a licensed capacity of 16 or more
38 beds that has been approved to participate in the department's
39 Home and Community Based Services Waiver or another existing
40 waiver program or certified to participate in the Medi-Cal program.

1 (ii) A residential facility service provider that has a written
2 agreement and specific plan prior to July 1, 2012, with the
3 vendoring regional center to downsize the existing facility by
4 transitioning its residential services to living arrangements of 15
5 beds or less or restructure the large facility to meet federal
6 Medicaid eligibility requirements on or before June 30, 2013.

7 (iii) A residential facility licensed as a mental health
8 rehabilitation center by the State Department of Mental Health or
9 successor agency under any of the following circumstances:

10 (I) The facility is eligible for Medicaid reimbursement.

11 (II) The facility has a department-approved plan in place by
12 June 30, 2013, to transition to a program structure eligible for
13 federal Medicaid funding, and this transition will be completed by
14 June 30, 2014. The department may grant an extension for the date
15 by which the transition will be completed if the facility
16 demonstrates that it has made significant progress toward transition,
17 and states with specificity the timeframe by which the transition
18 will be completed and the specified steps that will be taken to
19 accomplish the transition. A regional center may pay for the costs
20 of care and treatment of a consumer residing in the facility on June
21 30, 2012, until June 30, 2013, inclusive, and, if the facility has a
22 department-approved plan in place by June 30, 2013, may continue
23 to pay the costs under this subparagraph until June 30, 2014, or
24 until the end of any period during which the department has granted
25 an extension.

26 (III) There is an emergency circumstance in which the regional
27 center determines that it cannot locate alternate federally eligible
28 services to meet the consumer's needs. Under such an emergency
29 circumstance, an assessment shall be completed by the regional
30 center as soon as possible and within 30 days of admission. An
31 individual program plan meeting shall be convened immediately
32 following the assessment to determine the services and supports
33 needed for stabilization and to develop a plan to transition the
34 consumer from the facility into the community. If transition is not
35 expected within 90 days of admission, an individual program plan
36 meeting shall be held to discuss the status of transition and to
37 determine if the consumer is still in need of placement in the
38 facility. Commencing October 1, 2012, this determination shall
39 be made after also considering resource options identified by the
40 statewide specialized resource service. If it is determined that

1 emergency services continue to be necessary, the regional center
2 shall submit an updated transition plan that can cover a period of
3 up to 90 days. In no event shall placements under these emergency
4 circumstances exceed 180 days.

5 (C) (i) Effective July 1, 2012, notwithstanding any other law
6 or regulation, a regional center shall not purchase new residential
7 services from, or place a consumer in, institutions for mental
8 disease, as described in Part 5 (commencing with Section 5900)
9 of Division 5, for which federal Medicaid funding is not available.
10 Effective July 1, 2013, this prohibition applies regardless of the
11 availability of federal funding.

12 (ii) The prohibition described in clause (i) does not apply to
13 emergencies, as determined by the regional center, when a regional
14 center cannot locate alternate services to meet the consumer's
15 needs. As soon as possible within 30 days of admission due to an
16 emergency, an assessment shall be completed by the regional
17 center. An individual program plan meeting shall be convened
18 immediately following the assessment, to determine the services
19 and supports needed for stabilization and to develop a plan to
20 transition the consumer from the facility to the community. If
21 transition is not expected within 90 days of admission, an
22 emergency program plan meeting shall be held to discuss the status
23 of the transition and to determine if the consumer is still in need
24 of placement in the facility. If emergency services continue to be
25 necessary, the regional center shall submit an updated transition
26 plan to the department for an extension of up to 90 days. Placement
27 shall not exceed 180 days.

28 (iii) To the extent feasible, prior to any admission, the regional
29 center shall consider resource options identified by the statewide
30 specialized resource service established pursuant to subdivision
31 (b) of Section 4418.25.

32 (iv) The clients' rights advocate shall be notified of each
33 admission and individual program planning meeting pursuant to
34 this subparagraph and may participate in all individual program
35 planning meetings unless the consumer objects on his or her own
36 behalf. For purposes of this clause, notification to the clients' rights
37 advocate shall include a copy of the most recent comprehensive
38 assessment or updated assessment and the time, date, and location
39 of the meeting, and shall be provided as soon as practicable, but
40 not less than seven calendar days prior to the meeting.

1 (v) Regional centers shall complete a comprehensive assessment
2 of any consumer residing in an institution for mental disease as of
3 July 1, 2012, for which federal Medicaid funding is not available,
4 and for any consumer residing in an institution for mental disease
5 as of July 1, 2013, without regard to federal funding. The
6 comprehensive assessment shall be completed prior to the
7 consumer's next scheduled individual program plan meeting and
8 shall include identification of the services and supports needed
9 and the timeline for identifying or developing those services needed
10 to transition the consumer back to the community. Effective
11 October 1, 2012, the regional center shall also consider resource
12 options identified by the statewide specialized resource service.
13 For each individual program plan meeting convened pursuant to
14 this subparagraph, the clients' rights advocate for the regional
15 center shall be notified of the meeting and may participate in the
16 meeting unless the consumer objects on his or her own behalf. For
17 purposes of this clause, notification to the clients' rights advocate
18 shall include the time, date, and location of the meeting, and shall
19 be provided as soon as practicable, but not less than seven calendar
20 days prior to the meeting.

21 (D) A person with developmental disabilities placed by the
22 regional center in a community living arrangement has the rights
23 specified in this division. These rights shall be brought to the
24 person's attention by any means necessary to reasonably
25 communicate these rights to each resident, provided that, at a
26 minimum, the Director of Developmental Services prepare,
27 provide, and require to be clearly posted in all residential facilities
28 and day programs a poster using simplified language and pictures
29 that is designed to be more understandable by persons with
30 intellectual disabilities and that the rights information shall also
31 be available through the regional center to each residential facility
32 and day program in alternative formats, including, but not limited
33 to, other languages, braille, and audiotapes, when necessary to
34 meet the communication needs of consumers.

35 (E) Consumers are eligible to receive supplemental services
36 including, but not limited to, additional staffing, pursuant to the
37 process described in subdivision (d) of Section 4646. Necessary
38 additional staffing that is not specifically included in the rates paid
39 to the service provider may be purchased by the regional center if
40 the additional staff are in excess of the amount required by

1 regulation and the individual's planning team determines the
2 additional services are consistent with the provisions of the
3 individual program plan. Additional staff should be periodically
4 reviewed by the planning team for consistency with the individual
5 program plan objectives in order to determine if continued use of
6 the additional staff is necessary and appropriate and if the service
7 is producing outcomes consistent with the individual program plan.
8 Regional centers shall monitor programs to ensure that the
9 additional staff is being provided and utilized appropriately.

10 (10) Emergency and crisis intervention services including, but
11 not limited to, mental health services and behavior modification
12 services, may be provided, as needed, to maintain persons with
13 developmental disabilities in the living arrangement of their own
14 choice. Crisis services shall first be provided without disrupting a
15 person's living arrangement. If crisis intervention services are
16 unsuccessful, emergency housing shall be available in the person's
17 home community. If dislocation cannot be avoided, every effort
18 shall be made to return the person to his or her living arrangement
19 of choice, with all necessary supports, as soon as possible.

20 (11) Among other service and support options, planning teams
21 shall consider the use of paid roommates or neighbors, personal
22 assistance, technical and financial assistance, and all other service
23 and support options which would result in greater self-sufficiency
24 for the consumer and cost-effectiveness to the state.

25 (12) When facilitation as specified in an individual program
26 plan requires the services of an individual, the facilitator shall be
27 of the consumer's choosing.

28 (13) The community support may be provided to assist
29 individuals with developmental disabilities to fully participate in
30 community and civic life, including, but not limited to, programs,
31 services, work opportunities, business, and activities available to
32 persons without disabilities. This facilitation shall include, but not
33 be limited to, any of the following:

34 (A) Outreach and education to programs and services within
35 the community.

36 (B) Direct support to individuals that would enable them to
37 more fully participate in their community.

38 (C) Developing unpaid natural supports when possible.

39 (14) When feasible and recommended by the individual program
40 planning team, for purposes of facilitating better and cost-effective

1 services for consumers or family members, technology, including
2 telecommunication technology, may be used in conjunction with
3 other services and supports. Technology in lieu of a consumer's
4 in-person appearances at judicial proceedings or administrative
5 due process hearings may be used only if the consumer or, when
6 appropriate, the consumer's parent, legal guardian, conservator,
7 or authorized representative, gives informed consent. Technology
8 may be used in lieu of, or in conjunction with, in-person training
9 for providers, as appropriate.

10 (15) Other services and supports may be provided as set forth
11 in Sections 4685, 4686, 4687, 4688, and 4689, when necessary.

12 (16) Notwithstanding any other law or regulation, effective July
13 1, 2009, regional centers shall not purchase experimental
14 treatments, therapeutic services, or devices that have not been
15 clinically determined or scientifically proven to be effective or
16 safe or for which risks and complications are unknown.
17 Experimental treatments or therapeutic services include
18 experimental medical or nutritional therapy when the use of the
19 product for that purpose is not a general physician practice. For
20 regional center consumers receiving these services as part of their
21 individual program plan (IPP) or individualized family service
22 plan (IFSP) on July 1, 2009, this prohibition shall apply on August
23 1, 2009.

24 (b) (1) Advocacy for, and protection of, the civil, legal, and
25 service rights of persons with developmental disabilities as
26 established in this division.

27 (2) Whenever the advocacy efforts of a regional center to secure
28 or protect the civil, legal, or service rights of any of its consumers
29 prove ineffective, the regional center or the person with
30 developmental disabilities or his or her parents, legal guardian, or
31 other representative may request advocacy assistance from the
32 state council.

33 (c) The regional center may assist consumers and families
34 directly, or through a provider, in identifying and building circles
35 of support within the community.

36 (d) In order to increase the quality of community services and
37 protect consumers, the regional center shall, when appropriate,
38 take either of the following actions:

39 (1) Identify services and supports that are ineffective or of poor
40 quality and provide or secure consultation, training, or technical

1 assistance services for any agency or individual provider to assist
2 that agency or individual provider in upgrading the quality of
3 services or supports.

4 (2) Identify providers of services or supports that may not be
5 in compliance with local, state, and federal statutes and regulations
6 and notify the appropriate licensing or regulatory authority to
7 investigate the possible noncompliance.

8 (e) When necessary to expand the availability of needed services
9 of good quality, a regional center may take actions that include,
10 but are not limited to, the following:

11 (1) Soliciting an individual or agency by requests for proposals
12 or other means, to provide needed services or supports not presently
13 available.

14 (2) Requesting funds from the Program Development Fund,
15 pursuant to Section 4677, or community placement plan funds
16 designated from that fund, to reimburse the startup costs needed
17 to initiate a new program of services and supports.

18 (3) Using creative and innovative service delivery models,
19 including, but not limited to, natural supports.

20 (f) Except in emergency situations, a regional center shall not
21 provide direct treatment and therapeutic services, but shall utilize
22 appropriate public and private community agencies and service
23 providers to obtain those services for its consumers.

24 (g) When there are identified gaps in the system of services and
25 supports or when there are identified consumers for whom no
26 provider will provide services and supports contained in his or her
27 individual program plan, the department may provide the services
28 and supports directly.

29 (h) At least annually, regional centers shall provide the
30 consumer, his or her parents, legal guardian, conservator, or
31 authorized representative a statement of services and supports the
32 regional center purchased for the purpose of ensuring that they are
33 delivered. The statement shall include the type, unit, month, and
34 cost of services and supports purchased.

35 *SEC. 581. Section 4903 of the Welfare and Institutions Code*
36 *is amended to read:*

37 4903. (a) The protection and advocacy agency shall have
38 access to the records of any of the following people with
39 disabilities:

1 (1) Any person who is a client of the agency, or any person who
2 has requested assistance from the agency, if that person or the
3 agent designated by that person, or the legal guardian, conservator,
4 or other legal representative of that person, has authorized the
5 protection and advocacy agency to have access to the records and
6 information. If a person with a disability who is able to authorize
7 the protection and advocacy agency to access his or her records
8 expressly denies this access after being informed by the protection
9 and advocacy agency of his or her right to authorize or deny access,
10 the protection and advocacy agency may not have access to that
11 person's records.

12 (2) Any person, including any individual who cannot be located,
13 to whom all of the following conditions apply:

14 (A) The individual, due to his or her mental or physical
15 condition, is unable to authorize the protection and advocacy
16 agency to have access to his or her records.

17 (B) The individual does not have a legal guardian, conservator,
18 or other legal representative, or the individual's representative is
19 a public entity, including the state or one of its political
20 subdivisions.

21 (C) The protection and advocacy agency has received a
22 complaint that the individual has been subject to abuse or neglect,
23 or has determined that probable cause exists to believe that the
24 individual has been subject to abuse or neglect.

25 (3) Any person who is deceased, and for whom the protection
26 and advocacy agency has received a complaint that the individual
27 had been subjected to abuse or neglect, or for whom the agency
28 has determined that probable cause exists to believe that the
29 individual had been subjected to abuse or neglect.

30 (4) Any person who has a legal guardian, conservator, or other
31 legal representative with respect to whom a complaint has been
32 received by the protection and advocacy agency, or with respect
33 to whom the protection and advocacy agency has determined that
34 probable cause exists to believe that the person has been subjected
35 to abuse or neglect, whenever all of the following conditions exist:

36 (A) The representative has been contacted by the protection and
37 advocacy agency upon receipt of the representative's name and
38 address.

39 (B) The protection and advocacy agency has offered assistance
40 to the representatives to resolve the situation.

1 (C) The representative has failed or refused to act on behalf of
2 the person.

3 (b) Individual records that shall be available to the protection
4 and advocacy agency under this section shall include, but not be
5 limited to, all of the following information and records related to
6 the investigation, whether written or in another medium, draft or
7 final, including, but not limited to, handwritten notes, electronic
8 files, photographs, videotapes, or audiotapes:

9 (1) Information and records prepared or received in the course
10 of providing intake, assessment, evaluation, education, training,
11 or other supportive services, including, but not limited to, medical
12 records, financial records, monitoring reports, or other reports,
13 prepared or received by a member of the staff of a facility, program,
14 or service that is providing care, treatment, or services.

15 (2) Reports prepared by an agency charged with investigating
16 reports of incidents of abuse, neglect, injury, or death occurring
17 at the program, facility, or service while the individual with a
18 disability is under the care of a member of the staff of a program,
19 facility, or service, or by or for a program, facility, or service, that
20 describe any or all of the following:

21 (A) Abuse, neglect, injury, or death.

22 (B) The steps taken to investigate the incidents.

23 (C) Reports and records, including, but not limited to, personnel
24 records prepared or maintained by the facility, program, or service
25 in connection with reports of incidents, subject to the following:

26 (i) If a state statute specifies procedures with respect to personnel
27 records, the protection and advocacy agency shall follow those
28 procedures.

29 (ii) Personnel records shall be protected from disclosure in
30 compliance with the fundamental right of privacy established
31 pursuant to Section 1 of Article I of the California Constitution.
32 The custodian of personnel records shall have a right and a duty
33 to resist attempts to allow the unauthorized disclosure of personnel
34 records, and may not waive the privacy rights that are guaranteed
35 pursuant to Section 1 of Article I of the California Constitution.

36 (D) Supporting information that was relied upon in creating a
37 report, including, but not limited to, all information and records
38 that document interviews with persons who were interviewed,
39 physical and documentary evidence that was reviewed, or related
40 investigative findings.

1 (3) Discharge planning records.

2 (c) Information in the possession of a program, facility, or
3 service that must be available to the agency investigating instances
4 of abuse or neglect pursuant to paragraph (1) of subdivision (a) of
5 Section 4902, whether written or in another medium, draft or final,
6 including, but not limited to, handwritten notes, electronic files,
7 photographs, videotapes, audiotapes, or records, shall include, but
8 not be limited to, all of the following:

9 (1) Information in reports prepared by individuals and entities
10 performing certification or licensure reviews, or by professional
11 accreditation organizations, as well as related assessments prepared
12 for a program, facility, or service by its staff, contractors, or related
13 entities, subject to any other provision of state law protecting
14 records produced by medical care evaluation or peer review
15 committees.

16 (2) Information in professional, performance, building, or other
17 safety standards, or demographic and statistical information,
18 relating to the facility.

19 (d) The authority of the protection and advocacy agency to have
20 access to records does not supersede any prohibition on discovery
21 specified in Sections 1157 and 1157.6 of the Evidence Code, nor
22 does it supersede any prohibition on disclosure subject to the
23 physician-patient privilege or the psychotherapist-patient privilege.

24 (e) (1) The protection and advocacy agency shall have access
25 to records of individuals described in paragraph (1) of subdivision
26 (a) of Section 4902 and in subdivision (a), and other records that
27 are relevant to conducting an investigation, under the circumstances
28 described in those subdivisions, not later than three business days
29 after the agency makes a written request for the records involved.

30 (2) The protection and advocacy agency shall have immediate
31 access to the records, not later than 24 hours after the agency makes
32 a request, without consent from another party, in a situation in
33 which treatment, services, supports, or other assistance is provided
34 to an individual with a disability, if the agency determines there
35 is probable cause to believe that the health or safety of the
36 individual is in serious and immediate jeopardy, or in a case of
37 death of an individual with a disability.

38 (f) Confidential information kept or obtained by the protection
39 and advocacy agency shall remain confidential and may not be
40 subject to disclosure. This subdivision shall not, however, prevent

1 the protection and advocacy agency from doing any of the
2 following:

3 (1) Sharing the information with the individual client who is
4 the subject of the record or report or other document, or with his
5 or her legally authorized representative, subject to any limitation
6 on disclosure to recipients of mental health services as provided
7 in subsection (b) of Section 10806 of Title 42 of the United States
8 Code.

9 (2) Issuing a public report of the results of an investigation that
10 maintains the confidentiality of individual service recipients.

11 (3) Reporting the results of an investigation to responsible
12 investigative or enforcement agencies should an investigation
13 reveal information concerning the facility, its staff, or employees
14 warranting possible sanctions or corrective action.—~~This~~ *The*
15 information may be reported to agencies that are responsible for
16 facility licensing or accreditation, employee discipline, employee
17 licensing or certification suspension or revocation, or criminal
18 prosecution.

19 (4) Pursuing alternative remedies, including the initiation of
20 legal action.

21 (5) Reporting suspected elder or dependent adult abuse pursuant
22 to the Elder Abuse and Dependent Adult Civil Protection Act
23 (Chapter 11 (commencing with Section 15600) of Part 3 of
24 Division 9).

25 (g) The protection and advocacy agency shall inform and train
26 employees as appropriate regarding the confidentiality of client
27 records.

28 (h) The authority provided pursuant to subdivision (b) shall
29 include access to all of the following:

30 (1) An unredacted facility evaluation report form or an
31 unredacted complaint investigation report form of the State
32 Department of Social Services. This information shall remain
33 confidential and subject to the confidentiality requirements of
34 subdivision (f).

35 (2) An unredacted citation report, unredacted licensing report,
36 unredacted survey report, unredacted plan of correction, or
37 unredacted statement of deficiency of the State Department of
38 Public Health, prepared by authorized licensing personnel or
39 authorized representatives *as* described in subdivision—~~(n)~~. ~~This~~

1 (a) of Section 5328.15. The information shall remain confidential
2 and subject to the confidentiality requirements of subdivision (f).

3 SEC. 582. Section 5328.15 of the Welfare and Institutions Code
4 is amended to read:

5 5328.15. All information and records obtained in the course
6 of providing services under Division 5 (commencing with Section
7 5000), Division 6 (commencing with Section 6000), or Division
8 7 (commencing with Section ~~7000~~; 7100), to either voluntary or
9 involuntary recipients of services shall be confidential. Information
10 and records may be disclosed, however, notwithstanding any other
11 provision of law, as follows:

12 (a) To authorized licensing personnel who are employed by, or
13 who are authorized representatives of, the State Department of
14 Public Health, and who are licensed or registered health
15 professionals, and to authorized legal staff or special investigators
16 who are peace officers who are employed by, or who are authorized
17 representatives of the State Department of Social Services, as
18 necessary to the performance of their duties to inspect, license,
19 and investigate health facilities and community care facilities and
20 to ensure that the standards of care and services provided in such
21 facilities are adequate and appropriate and to ascertain compliance
22 with the rules and regulations to which the facility is subject. The
23 confidential information shall remain confidential except for
24 purposes of inspection, licensing, or investigation pursuant to
25 Chapter 2 (commencing with Section 1250) of, and Chapter 3
26 (commencing with Section 1500) of, Division 2 of the Health and
27 Safety Code, or a criminal, civil, or administrative proceeding in
28 relation thereto. The confidential information may be used by the
29 State Department of Public Health or the State Department of
30 Social Services in a criminal, civil, or administrative proceeding.
31 The confidential information shall be available only to the judge
32 or hearing officer and to the parties to the case. Names which are
33 confidential shall be listed in attachments separate to the general
34 pleadings. The confidential information shall be sealed after the
35 conclusion of the criminal, civil, or administrative hearings, and
36 shall not subsequently be released except in accordance with this
37 subdivision. If the confidential information does not result in a
38 criminal, civil, or administrative proceeding, it shall be sealed after
39 the State Department of Public Health or the State Department of
40 Social Services decides that no further action will be taken in the

1 matter of suspected licensing violations. Except as otherwise
2 provided in this subdivision, confidential information in the
3 possession of the State Department of Public Health or the State
4 Department of Social Services shall not contain the name of the
5 patient.

6 (b) To any board which licenses and certifies professionals in
7 the fields of mental health pursuant to state law, when the Director
8 of State Hospitals has reasonable cause to believe that there has
9 occurred a violation of any provision of law subject to the
10 jurisdiction of that board and the records are relevant to the
11 violation. ~~This~~ *The* information shall be sealed after a decision is
12 reached in the matter of the suspected violation, and shall not
13 subsequently be released except in accordance with this
14 subdivision. Confidential information in the possession of the
15 board shall not contain the name of the patient.

16 (c) To a protection and advocacy agency established pursuant
17 to Section 4901, to the extent that the information is incorporated
18 within any of the following:

19 (1) An unredacted facility evaluation report form or an
20 unredacted complaint investigation report form of the State
21 Department of Social Services. ~~This~~ *The* information shall remain
22 confidential and subject to the confidentiality requirements of
23 subdivision (f) of Section 4903.

24 (2) An unredacted citation report, unredacted licensing report,
25 unredacted survey report, unredacted plan of correction, or
26 unredacted statement of deficiency of the State Department of
27 Public Health, prepared by authorized licensing personnel or
28 authorized representatives *as* described in subdivision ~~(n)~~. ~~This~~
29 *(a)*. *The* information shall remain confidential and subject to the
30 confidentiality requirements of subdivision (f) of Section 4903.

31 ~~SEC. 574.~~

32 *SEC. 583.* Section 5840.2 of the Welfare and Institutions Code
33 is amended to read:

34 5840.2. The department shall contract for the provision of
35 services pursuant to this part with each county mental health
36 program in the manner set forth in Section 5897.

37 ~~SEC. 575.~~

38 *SEC. 584.* The heading of Article 8 (commencing with Section
39 5869) of Chapter 1 of Part 4 of Division 5 of the Welfare and
40 Institutions Code is amended to read:

1 Article 8. State Department of Health Care Services
2 Requirements

3
4 ~~SEC. 576.~~

5 *SEC. 585.* Section 5892.5 of the Welfare and Institutions Code
6 is amended to read:

7 5892.5. (a) (1) The California Housing Finance Agency, with
8 the concurrence of the State Department of Health Care Services,
9 shall release unencumbered Mental Health Services Fund moneys
10 dedicated to the Mental Health Services Act housing program upon
11 the written request of the respective county. The county shall use
12 these Mental Health Services Fund moneys released by the agency
13 to provide housing assistance to the target populations who are
14 identified in Section 5600.3.

15 (2) For purposes of this section, “housing assistance” means
16 each of the following:

17 (A) Rental assistance or capitalized operating subsidies.

18 (B) Security deposits, utility deposits, or other move-in cost
19 assistance.

20 (C) Utility payments.

21 (D) Moving cost assistance.

22 (E) Capital funding to build or rehabilitate housing for homeless,
23 mentally ill persons or mentally ill persons who are at risk of being
24 homeless.

25 (b) For purposes of administering those funds released to a
26 respective county pursuant to subdivision (a), the county shall
27 comply with all of the requirements described in the Mental Health
28 Services Act, including, but not limited to, Sections 5664, 5847,
29 subdivision (h) of Section 5892, and 5899.

30 ~~SEC. 577.~~

31 *SEC. 586.* The heading of Article 1 (commencing with Section
32 6331) is added to Chapter 2 of Part 2 of Division 6 of the Welfare
33 and Institutions Code, to read:

34
35 Article 1. Mentally Disordered Sex Offenders (Repealed)

36
37 ~~SEC. 578.~~

38 *SEC. 587.* Section 9757.5 of the Welfare and Institutions Code
39 is amended and renumbered to read:

1 9541.5. (a) The California Department of Aging shall assess
2 annually a fee of not less than one dollar and forty cents (\$1.40),
3 but not more than one dollar and sixty-five cents (\$1.65), on a
4 health care service plan for each person enrolled in a health care
5 service plan as of December 31 of the previous year under a prepaid
6 Medicare program that serves Medicare eligible beneficiaries
7 within the state, and on a health care service plan for each enrollee
8 under a Medicare supplement contract, including a Medicare Select
9 contract, as of December 31 of the previous year, to offset the cost
10 of counseling Medicare eligible beneficiaries on the benefits and
11 programs available through health maintenance organizations
12 instead of the traditional Medicare provider system.

13 (b) All fees collected pursuant to this section shall be deposited
14 into the State HICAP Fund for the implementation of the Health
15 Insurance Counseling and Advocacy Program, and shall be
16 available for expenditure for activities as specified in Section 9541
17 when appropriated by the Legislature.

18 (c) The department may use up to 7 percent of the fee collected
19 pursuant to subdivision (a) for the administration, assessment, and
20 collection of that fee.

21 (d) It is the intent of the Legislature, in enacting this act and
22 funding the Health Insurance Counseling and Advocacy Program,
23 to maintain a ratio of two dollars (\$2) collected from the Insurance
24 Fund to every one dollar (\$1) collected pursuant to subdivision
25 (a). This ratio shall be reviewed by the Department of Finance
26 within 30 days of January 1, 1999, and biennially thereafter to
27 examine changes in the demographics of Medicare imminent
28 populations, including, but not limited to, the number of citizens
29 residing in California 55 years of age and older, the number and
30 average duration of counseling sessions performed by counselors
31 of the Health Insurance Counseling and Advocacy Program,
32 particularly the number of counseling sessions regarding prepaid
33 Medicare programs and counseling sessions regarding Medi-Gap
34 programs, and the use of other long-term care and health-related
35 products. Upon review, the Department of Finance shall make
36 recommendations to the Joint Legislative Budget Committee
37 regarding appropriate changes to the ratio of funding from the
38 Insurance Fund and the fees collected pursuant to subdivision (a).

39 (e) It is the intent of the Legislature that the revenue raised from
40 the fee assessed pursuant to subdivision (a), and according to the

1 ratio established pursuant to subdivision (d), be used to partially
2 offset and reduce the amount of revenue appropriated annually
3 from the Insurance Fund for funding of the Health Insurance
4 Counseling and Advocacy Program.

5 (f) There shall be established in the State Treasury a “State
6 HICAP Fund” administered by the California Department of Aging
7 for the purpose of collecting fee assessments described in
8 subdivision (a), and for the sole purpose of funding the Health
9 Insurance Counseling and Advocacy Program.

10 (g) It is the intent of the Legislature that, starting in the
11 2005—06 fiscal year, two million dollars (\$2,000,000) of additional
12 funding shall be made available to local HICAP programs, to be
13 derived from an increase in the HICAP fee and the corresponding
14 Insurance Fund pursuant to subdivision (d). Any additional funding
15 shall only be used for local HICAP funding and shall not be used
16 for department or local area agencies on aging administration.

17 ~~SEC. 579.~~

18 *SEC. 588.* Section 10104 of the Welfare and Institutions Code
19 is amended to read:

20 10104. (a) It is the intent of the Legislature to ensure that the
21 impacts of the 2011 realignment of child welfare services, foster
22 care, adoptions, and adult protective services programs are
23 identified and evaluated initially and over time. It is further the
24 intent of the Legislature to ensure that information regarding these
25 impacts is publicly available and accessible and can be utilized to
26 support the state’s and counties’ effectiveness in delivering these
27 critical services and supports.

28 (b) The State Department of Social Services shall annually
29 report to the appropriate fiscal and policy committees of the
30 Legislature, and publicly post on the department’s Internet Web
31 site, a summary of outcome and expenditure data that allows for
32 monitoring of changes over time.

33 (c) The report shall be submitted and posted by April 15 of each
34 year and shall contain expenditures for each county for the
35 programs described in clauses (i) to (vii), inclusive, of
36 subparagraph (A) of paragraph (16) of subdivision (f) of Section
37 30025 of the Government Code. To the extent that the information
38 is readily or publicly available, the report shall also contain the
39 amount of funds each county receives from the Protective Services
40 Growth Special Account created pursuant to Section 30025 of the

1 Government Code, child welfare services social worker caseloads
2 per county, and the number of authorized positions in the local
3 child welfare services agency.

4 (d) The department shall consult with legislative staff and with
5 stakeholders to develop a reporting format consistent with the
6 Legislature's desired level of outcome and expenditure reporting
7 detail.

8 ~~SEC. 580.~~

9 *SEC. 589.* Section 11253.5 of the Welfare and Institutions
10 Code is amended to read:

11 11253.5. (a) All children in an assistance unit for whom school
12 attendance is compulsory, except individuals who are eligible for
13 the Cal-Learn Program under Article 3.5 (commencing with
14 Section 11331), for any period during which that article is
15 operative, and children subject to a county school attendance
16 project under Article 2 (commencing with Section 18236) of
17 Chapter 3.3 of Part 6, shall be required to attend school pursuant
18 to subdivision (f).

19 (b) Applicants for and recipients of aid under this chapter shall
20 be informed of the attendance requirement in subdivision (a) and
21 it shall be included in the recipients' welfare-to-work plan under
22 Section 11325.21.

23 (c) A recipient shall cooperate in providing the county with
24 documentation routinely available from the school or school district
25 of regular attendance of all children described in subdivision (a)
26 in the assistance unit when the county determines it is appropriate,
27 unless there is good cause for the inability to secure that
28 documentation.

29 (d) If it is determined by the county that any child in the
30 assistance unit is not attending school as required by subdivision
31 (a), the family may be informed of how to enroll the child in a
32 continuation school within the county and may be screened to
33 determine eligibility for family stabilization services pursuant to
34 Section 11325.24 and in accordance with county policy and
35 procedures. If applicable, the county shall document that the family
36 was given this information and was screened for those services.
37 The needs of a child in the assistance unit who is 16 years of age
38 or older shall not be considered in computing the grant of the
39 family under Section 11450 for any month in which the county is
40 informed by a school district or a county school attendance review

1 board that the child did not attend school pursuant to subdivision
2 (f), unless at least one of the following conditions is present:

3 (1) The county is provided with evidence that the child's
4 attendance records are not available.

5 (2) The county is provided with evidence that the child has been
6 attending school.

7 (3) Good cause for school nonparticipation exists at any time
8 during the month.

9 (4) Any member of the household is eligible to participate in
10 family stabilization pursuant to Section 11325.24.

11 (5) The county is provided with evidence that the child, parent,
12 or caregiver is complying with requirements imposed by a school
13 attendance review board, the county probation department, or the
14 district attorney pursuant to Section 48263 or 48263.5 of the
15 Education Code.

16 (6) A member of the household is cooperating with a plan
17 developed by a county child welfare agency.

18 (e) A child whose needs have not been considered in computing
19 the grant of the family pursuant to this section shall remain eligible
20 for services that may lead to attendance in school.

21 (f) For the purposes of this section, a child shall be presumed
22 to be attending school unless he or she has been deemed a chronic
23 truant pursuant to Section 48263.6 of the Education Code.

24 ~~SEC. 581.~~

25 *SEC. 590.* Section 11325.24 of the Welfare and Institutions
26 Code is amended to read:

27 11325.24. (a) If, in the course of appraisal pursuant to Section
28 11325.2 or at any point during an individual's participation in
29 welfare-to-work activities in accordance with paragraph (1) of
30 subdivision (a) of Section 11322.85, it is determined that a recipient
31 meets the criteria described in subdivision (b), the recipient is
32 eligible to participate in family stabilization.

33 (b) (1) A recipient is eligible to participate in family
34 stabilization if the county determines that his or her family is
35 experiencing an identified situation or crisis that is destabilizing
36 the family and would interfere with participation in welfare-to-work
37 activities and services.

38 (2) A situation or a crisis that is destabilizing the family in
39 accordance with paragraph (1) may include, but shall not be limited
40 to:

- 1 (A) Homelessness or imminent risk of homelessness.
- 2 (B) A lack of safety due to domestic violence.
- 3 (C) Untreated or undertreated behavioral needs, including mental
- 4 health or substance abuse-related needs.

5 (c) Family stabilization shall include intensive case management
 6 and services designed to support the family in overcoming the
 7 situation or crisis, which may include, but are not limited to,
 8 welfare-to-work activities.

9 (d) Funds allocated for family stabilization in accordance with
 10 this section shall be in addition to, and independent of, the county
 11 allocations made pursuant to Section 15204.2.

12 (e) Funds allocated for family stabilization in accordance with
 13 this section, or the county allocations made pursuant to Section
 14 15204.2, may be used to provide housing and other needed services
 15 to a family during any month that a family is participating in family
 16 stabilization.

17 (f) Each county shall submit to the department a plan, as defined
 18 by the department, regarding how it intends to implement the
 19 provisions of this section and shall report information to the
 20 department, including, but not limited to, the number of recipients
 21 served pursuant to this section, information regarding the services
 22 provided, outcomes for the families served, and any lack of
 23 availability of services. The department shall provide an update
 24 regarding this information to the Legislature during the 2014–15
 25 budget process.

26 (g) It is the intent of the Legislature that family stabilization be
 27 a voluntary component intended to provide needed services and
 28 constructive interventions for parents and to assist in barrier
 29 removal for families facing very difficult needs. Participants in
 30 family stabilization are encouraged to participate, but the
 31 Legislature does not intend that parents be sanctioned as part of
 32 their experience in this program component. The Legislature further
 33 intends that recipients refusing or unable to follow their family
 34 stabilization plans without good cause be returned to the traditional
 35 welfare-to-work program.

36 ~~SEC. 582.~~

37 *SEC. 591.* Section 11363 of the Welfare and Institutions Code
 38 is amended to read:

39 11363. (a) Aid in the form of state-funded Kin-GAP shall be
 40 provided under this article on behalf of any child under 18 years

1 of age and to any eligible youth under 19 years of age as provided
2 in Section 11403, who satisfies all of the following conditions:

3 (1) Has been adjudged a dependent child of the juvenile court
4 pursuant to Section 300, or, effective October 1, 2006, a ward of
5 the juvenile court pursuant to Section 601 or 602.

6 (2) Has been residing for at least six consecutive months in the
7 approved home of the prospective relative guardian while under
8 the jurisdiction of the juvenile court or a voluntary placement
9 agreement.

10 (3) Has had a kinship guardianship established pursuant to
11 Section 360 or 366.26.

12 (4) Has had his or her dependency jurisdiction terminated after
13 January 1, 2000, pursuant to Section 366.3, or his or her wardship
14 terminated pursuant to subdivision (e) of Section 728, concurrently
15 or subsequently to the establishment of the kinship guardianship.

16 (b) If the conditions specified in subdivision (a) are met and,
17 subsequent to the termination of dependency jurisdiction, any
18 parent or person having an interest files with the juvenile court a
19 petition pursuant to Section 388 to change, modify, or set aside an
20 order of the court, Kin-GAP payments shall continue unless and
21 until the juvenile court, after holding a hearing, orders the child
22 removed from the home of the guardian, terminates the
23 guardianship, or maintains dependency jurisdiction after the court
24 concludes the hearing on the petition filed under Section 388.

25 (c) A child or nonminor former dependent or ward shall be
26 eligible for Kin-GAP payments if he or she meets one of the
27 following age criteria:

28 (1) He or she is under 18 years of age.

29 (2) He or she is under 21 years of age and has a physical or
30 mental disability that warrants the continuation of assistance.

31 (3) Through December 31, 2011, he or she satisfies the
32 conditions of Section 11403, and on and after January 1, 2012, he
33 or she satisfies the conditions of Section 11403.01.

34 (4) He or she satisfies the conditions as described in subdivision
35 (d).

36 (d) Commencing January 1, 2012, state-funded Kin-GAP
37 payments shall continue for youths who have attained 18 years of
38 age and who are under 19 years of age, if they reached 16 years
39 of age before the Kin-GAP negotiated agreement payments
40 commenced, and as described in Section 10103.5. Effective January

1 1, 2013, Kin-GAP payments shall continue for youths who have
2 attained 18 years of age and are under 20 years of age, if they
3 reached 16 years of age before the Kin-GAP negotiated agreement
4 payments commenced, and as described in Section 10103.5.
5 Effective January 1, 2014, Kin-GAP payments shall continue for
6 youths who have attained 18 years of age and are under 21 years
7 of age, if they reached 16 years of age before the Kin-GAP
8 negotiated agreement payments commenced. To be eligible for
9 continued payments, the youth shall satisfy one or more of the
10 conditions specified in paragraphs (1) to (5), inclusive, of
11 subdivision (b) of Section 11403.

12 (e) Termination of the guardianship with a kinship guardian
13 shall terminate eligibility for Kin-GAP unless the conditions in
14 Section 11403 apply; provided, however, that if an alternate
15 guardian or coguardian is appointed pursuant to Section 366.3 who
16 is also a kinship guardian, the alternate or coguardian shall be
17 entitled to receive Kin-GAP on behalf of the child pursuant to this
18 article. A new period of six months of placement with the alternate
19 guardian or coguardian shall not be required if that alternate
20 guardian or coguardian has been assessed pursuant to Sections
21 361.3 and 361.4 and the court terminates dependency jurisdiction.
22 When a nonminor former dependent is receiving Kin-GAP after
23 18 years of age and the nonminor former dependent's former
24 guardian dies, the nonminor former dependent may petition the
25 court for a hearing pursuant to Section 388.1.

26 ~~SEC. 583.~~

27 *SEC. 592.* Section 11403 of the Welfare and Institutions Code
28 is amended to read:

29 11403. (a) It is the intent of the Legislature to exercise the
30 option afforded states under Section 475(8) (42 U.S.C. Sec.
31 675(8)), and Section 473(a)(4) (42 U.S.C. Sec. 673(a)(4)) of the
32 federal Social Security Act, as contained in the federal Fostering
33 Connections to Success and Increasing Adoptions Act of 2008
34 (Public Law 110-351), to receive federal financial participation
35 for nonminor dependents of the juvenile court who satisfy the
36 conditions of subdivision (b), consistent with their transitional
37 independent living case plan. Effective January 1, 2012, these
38 nonminor dependents shall be eligible to receive support up to 19
39 years of age, effective January 1, 2013, up to 20 years of age, and
40 effective January 1, 2014, up to 21 years of age, consistent with

1 their transitional independent living case plan and as described in
2 Section 10103.5. It is the intent of the Legislature both at the time
3 of initial determination of the nonminor dependent's eligibility
4 and throughout the time the nonminor dependent is eligible for aid
5 pursuant to this section, that the social worker or probation officer
6 or Indian tribal placing entity and the nonminor dependent shall
7 work together to ensure the nonminor dependent's ongoing
8 eligibility. All case planning shall be a collaborative effort between
9 the nonminor dependent and the social worker, probation officer,
10 or Indian tribe, with the nonminor dependent assuming increasing
11 levels of responsibility and independence.

12 (b) A nonminor dependent receiving aid pursuant to this chapter,
13 who satisfies the age criteria set forth in subdivision (a), shall meet
14 the legal authority for placement and care by being under a foster
15 care placement order by the juvenile court, or the voluntary reentry
16 agreement as set forth in subdivision (z) of Section 11400, and is
17 otherwise eligible for AFDC-FC payments pursuant to Section
18 11401. A nonminor who satisfies the age criteria set forth in
19 subdivision (a), and who is otherwise eligible, shall continue to
20 receive CalWORKs payments pursuant to Section 11253 or, as a
21 nonminor former dependent or ward, aid pursuant to Kin-GAP
22 under Article 4.5 (commencing with Section 11360) or Article 4.7
23 (commencing with Section 11385) or adoption assistance payments
24 as specified in Chapter 2.1 (commencing with Section 16115) of
25 Part 4. Effective January 1, 2012, a nonminor former dependent
26 child or ward of the juvenile court who is receiving AFDC-FC
27 benefits pursuant to Section 11405 and who satisfies the criteria
28 set forth in subdivision (a) shall be eligible to continue to receive
29 aid as long as the nonminor is otherwise eligible for AFDC-FC
30 benefits under this subdivision. This subdivision applies when one
31 or more of the following conditions exist:

32 (1) The nonminor is completing secondary education or a
33 program leading to an equivalent credential.

34 (2) The nonminor is enrolled in an institution which provides
35 postsecondary or vocational education.

36 (3) The nonminor is participating in a program or activity
37 designed to promote, or remove barriers to employment.

38 (4) The nonminor is employed for at least 80 hours per month.

39 (5) The nonminor is incapable of doing any of the activities
40 described in subparagraphs (1) to (4), inclusive, due to a medical

1 condition, and that incapability is supported by regularly updated
2 information in the case plan of the nonminor. The requirement to
3 update the case plan under this section shall not apply to nonminor
4 former dependents or wards in receipt of Kin-GAP program or
5 Adoption Assistance Program payments.

6 (c) The county child welfare or probation department, Indian
7 tribe, consortium of tribes, or tribal organization that has entered
8 into an agreement pursuant to Section 10553.1, shall work together
9 with a nonminor dependent who is in foster care on his or her 18th
10 birthday and thereafter or a nonminor former dependent receiving
11 aid pursuant to Section 11405, to satisfy one or more of the
12 conditions described in paragraphs (1) to (5), inclusive, of
13 subdivision (b) and shall certify the nonminor's applicable
14 condition or conditions in the nonminor's six-month transitional
15 independent living case plan update, and provide the certification
16 to the eligibility worker and to the court at each six-month case
17 plan review hearing for the nonminor dependent. Relative
18 guardians who receive Kin-GAP payments and adoptive parents
19 who receive adoption assistance payments shall be responsible for
20 reporting to the county welfare agency that the nonminor does not
21 satisfy at least one of the conditions described in subdivision (b).
22 The social worker, probation officer, or tribal entity shall verify
23 and obtain assurances that the nonminor dependent continues to
24 satisfy at least one of the conditions in paragraphs (1) to (5),
25 inclusive, of subdivision (b) at each six-month transitional
26 independent living case plan update. The six-month case plan
27 update shall certify the nonminor's eligibility pursuant to
28 subdivision (b) for the next six-month period. During the six-month
29 certification period, the payee and nonminor shall report any
30 change in placement or other relevant changes in circumstances
31 that may affect payment. The nonminor dependent, or nonminor
32 former dependent receiving aid pursuant to subdivision (e) of
33 Section 11405, shall be informed of all due process requirements,
34 in accordance with state and federal law, prior to an involuntary
35 termination of aid, and shall simultaneously be provided with a
36 written explanation of how to exercise his or her due process rights
37 and obtain referrals to legal assistance. Any notices of action
38 regarding eligibility shall be sent to the nonminor dependent or
39 former dependent, his or her counsel, as applicable, and the placing
40 worker, in addition to any other payee. Payments of aid pursuant

1 to Kin-GAP under Article 4.5 (commencing with Section 11360)
2 or Article 4.7 (commencing with Section 11385), adoption
3 assistance payments as specified in Chapter 2.1 (commencing with
4 Section 16115) of Part 4, or aid pursuant to subdivision (e) of
5 Section 11405 that are made on behalf of a nonminor former
6 dependent shall terminate subject to the terms of the agreements.
7 Subject to federal approval of amendments to the state plan, aid
8 payments may be suspended and resumed based on changes of
9 circumstances that affect eligibility. Nonminor former dependents,
10 as identified in paragraph (2) of subdivision (aa) of Section 11400,
11 are not eligible for reentry under subdivision (e) of Section 388 as
12 nonminor dependents under the jurisdiction of the juvenile court,
13 but may be eligible for reentry pursuant to Section 388.1 if (1) the
14 nonminor former dependent was receiving aid pursuant to Kin-GAP
15 under Article 4.5 (commencing with Section 11360) or Article 4.7
16 (commencing with Section 11385), the nonminor former dependent
17 was receiving aid pursuant to subdivision (e) of Section 11405, or
18 the nonminor was receiving adoption assistance payments as
19 specified in Chapter 2.1 (commencing with Section 16115) of Part
20 3, and (2) the nonminor's former guardian or adoptive parent dies,
21 or no longer provides ongoing support to, and no longer receives
22 benefits on behalf of, the nonminor after the nonminor turns 18
23 years of age but before the nonminor turns 21 years of age.
24 Nonminor former dependents requesting the resumption of
25 AFDC-FC payments pursuant to subdivision (e) of Section 11405
26 shall complete the applicable portions of the voluntary reentry
27 agreement, as described in subdivision (z) of Section 11400.

28 (d) A nonminor dependent may receive all of the payment
29 directly provided that the nonminor is living independently in a
30 supervised placement, as described in subdivision (w) of Section
31 11400, and that both the youth and the agency responsible for the
32 foster care placement have signed a mutual agreement, as defined
33 in subdivision (u) of Section 11400, if the youth is capable of
34 making an informed agreement, that documents the continued need
35 for supervised out-of-home placement, and the nonminor's and
36 social worker's or probation officer's agreement to work together
37 to facilitate implementation of the mutually developed supervised
38 placement agreement and transitional independent living case plan.

39 (e) Eligibility for aid under this section shall not terminate until
40 the nonminor dependent attains the age criteria, as set forth in

1 subdivision (a), but aid may be suspended when the nonminor
2 dependent no longer resides in an eligible facility, as described in
3 Section 11402, or is otherwise not eligible for AFDC-FC benefits
4 under Section 11401, or terminated at the request of the nonminor,
5 or after a court terminates dependency jurisdiction pursuant to
6 Section 391, delinquency jurisdiction pursuant to Section 607.2,
7 or transition jurisdiction pursuant to Section 452. AFDC-FC
8 benefits to nonminor dependents, may be resumed at the request
9 of the nonminor by completing a voluntary reentry agreement
10 pursuant to subdivision (z) of Section 11400, before or after the
11 filing of a petition filed pursuant to subdivision (e) of Section 388
12 after a court terminates dependency or transitional jurisdiction
13 pursuant to Section 391, or delinquency jurisdiction pursuant to
14 Section 607.2. The county welfare or probation department or
15 Indian tribal entity that has entered into an agreement pursuant to
16 Section 10553.1 shall complete the voluntary reentry agreement
17 with the nonminor who agrees to satisfy the criteria of the
18 agreement, as described in subdivision (z) of Section 11400. The
19 county welfare department or tribal entity shall establish a new
20 child-only Title IV-E eligibility determination based on the
21 nonminor's completion of the voluntary reentry agreement pursuant
22 to Section 11401. The beginning date of aid for either federal or
23 state AFDC-FC for a reentering nonminor who is placed in foster
24 care is the date the voluntary reentry agreement is signed or the
25 nonminor is placed, whichever is later. The county welfare
26 department, county probation department, or tribal entity shall
27 provide a nonminor dependent who wishes to continue receiving
28 aid with the assistance necessary to meet and maintain eligibility.

29 (f) (1) The county having jurisdiction of the nonminor
30 dependent shall remain the county of payment under this section
31 regardless of the youth's physical residence. Nonminor former
32 dependents receiving aid pursuant to subdivision (e) of Section
33 11405 shall be paid by their county of residence. Counties may
34 develop courtesy supervision agreements to provide case
35 management and independent living services by the county of
36 residence pursuant to the nonminor dependent's transitional
37 independent living case plan. Placements made out of state are
38 subject to the applicable requirements of the Interstate Compact
39 on Placement of Children, pursuant to Part 5 (commencing with
40 Section 7900) of Division 12 of the Family Code.

1 (2) The county welfare department, county probation
2 department, or tribal entity shall notify all foster youth who attain
3 16 years of age and are under the jurisdiction of that county or
4 tribe, including those receiving Kin-GAP, and AAP, of the
5 existence of the aid prescribed by this section.

6 (3) The department shall seek any waiver to amend its Title
7 IV-E State Plan with the Secretary of the United States Department
8 of Health and Human Services necessary to implement this section.

9 (g) (1) Subject to paragraph (3), a county shall pay the
10 nonfederal share of the cost of extending aid pursuant to this
11 section to eligible nonminor dependents who have reached 18
12 years of age and who are under the jurisdiction of the county,
13 including AFDC-FC payments pursuant to Section 11401, aid
14 pursuant to Kin-GAP under Article 4.7 (commencing with Section
15 11385), adoption assistance payments as specified in Chapter 2.1
16 (commencing with Section 16115) of Part 4, and aid pursuant to
17 Section 11405 for nonminor dependents who are residing in the
18 county as provided in paragraph (1) of subdivision (f). A county
19 shall contribute to the CalWORKs payments pursuant to Section
20 11253 and aid pursuant to Kin-GAP under Article 4.5 (commencing
21 with Section 11360) at the statutory sharing ratios in effect on
22 January 1, 2012.

23 (2) Subject to paragraph (3), a county shall pay the nonfederal
24 share of the cost of providing permanent placement services
25 pursuant to subdivision (c) of Section 16508 and administering
26 the Aid to Families with Dependent Children Foster Care program
27 pursuant to Section 15204.9. For purposes of budgeting, the
28 department shall use a standard for the permanent placement
29 services that is equal to the midpoint between the budgeting
30 standards for family maintenance services and family reunification
31 services.

32 (3) (A) (i) Notwithstanding any other law, a county's required
33 total contribution pursuant to paragraphs (1) and (2), excluding
34 costs incurred pursuant to Section 10103.5, shall not exceed the
35 amount of savings in Kin-GAP assistance grant expenditures
36 realized by the county from the receipt of federal funds due to the
37 implementation of Article 4.7 (commencing with Section 11385),
38 and the amount of funding specifically included in the Protective
39 Services Subaccount within the Support Services Account within
40 the Local Revenue Fund 2011, plus any associated growth funding

1 from the Support Services Growth Subaccount within the Sales
 2 and Use Tax Growth Account to pay the costs of extending aid
 3 pursuant to this section.

4 (ii) A county, at its own discretion, may expend additional funds
 5 beyond the amounts identified in clause (i). These additional
 6 amounts shall not be included in any cost and savings calculations
 7 or comparisons performed pursuant to this section.

8 (B) Beginning in the 2011–12 fiscal year, and for each fiscal
 9 year thereafter, funding and expenditures for programs and
 10 activities under this section shall be in accordance with the
 11 requirements provided in Sections 30025 and 30026.5 of the
 12 Government Code. In addition, the following are available to the
 13 counties for the purpose of funding costs pursuant to this section:

14 (i) The savings in Kin-GAP assistance grant expenditures
 15 realized from the receipt of federal funds due to the implementation
 16 of Article 4.7 (commencing with Section 11385).

17 (ii) The savings realized from the change in federal funding for
 18 adoption assistance resulting from the enactment of Public Law
 19 110-351 and consistent with subdivision (d) of Section 16118.

20 (4) (A) The limit on the county’s total contribution pursuant to
 21 paragraph (3) shall be assessed by the State Department of Social
 22 Services, in conjunction with the California State Association of
 23 Counties, in 2015–16, to determine if it shall be removed. The
 24 assessment of the need for the limit shall be based on a
 25 determination on a statewide basis of whether the actual county
 26 costs of providing extended care pursuant to this section, excluding
 27 costs incurred pursuant to Section 10103.5, are fully funded by
 28 the amount of savings in Kin-GAP assistance grant expenditures
 29 realized by the counties from the receipt of federal funds due to
 30 the implementation of Article 4.7 (commencing with Section
 31 11385) and the amount of funding specifically included in the
 32 Protective Services Subaccount within the Support Services
 33 Account within the Local Revenue Fund 2011 plus any associated
 34 growth funding from the Support Services Growth Subaccount
 35 within the Sales and Use Tax Growth Account to pay the costs of
 36 extending aid pursuant to this section.

37 (B) If the assessment pursuant to subparagraph (A) shows that
 38 the statewide total costs of extending aid pursuant to this section,
 39 excluding costs incurred pursuant to Section 10103.5, are fully
 40 funded by the amount of savings in Kin-GAP assistance grant

1 expenditures realized by the counties from the receipt of federal
2 funds due to the implementation of Article 4.7 (commencing with
3 Section 11385) and the amount of funding specifically included
4 in the Protective Services Subaccount within the Support Services
5 Account within the Local Revenue Fund 2011 plus any associated
6 growth funding from the Support Services Growth Subaccount
7 within the Sales and Use Tax Growth Account to pay the costs of
8 extending aid pursuant to this section, the Department of Finance
9 shall certify that fact, in writing, and shall post the certification on
10 its Internet Web site, at which time subparagraph (A) of paragraph
11 (3) shall no longer be implemented.

12 (h) It is the intent of the Legislature that a county currently
13 participating in the Child Welfare Demonstration Capped
14 Allocation Project not be adversely impacted by the department's
15 exercise of its option to extend foster care benefits pursuant to
16 Section 673(a)(4) and Section 675(8) of Title 42 of the United
17 States Code in the federal Social Security Act, as contained in the
18 federal Fostering Connections to Success and Increasing Adoptions
19 Act of 2008 (Public Law 110-351). Therefore, the department shall
20 negotiate with the United States Department of Health and Human
21 Services on behalf of those counties that are currently participating
22 in the demonstration project to ensure that those counties receive
23 reimbursement for these new programs outside of the provisions
24 of those counties' waiver under Subtitle IV-E (commencing with
25 Section 470) of the federal Social Security Act (42 U.S.C. Sec.
26 670 et seq.).

27 (i) The department, on or before July 1, 2013, shall develop
28 regulations to implement this section in consultation with
29 concerned stakeholders, including, but not limited to,
30 representatives of the Legislature, the County Welfare Directors
31 Association, the Chief Probation Officers of California, the Judicial
32 Council, representatives of Indian tribes, the California Youth
33 Connection, former foster youth, child advocacy organizations,
34 labor organizations, juvenile justice advocacy organizations, foster
35 caregiver organizations, and researchers. In the development of
36 these regulations, the department shall consider its Manual of
37 Policy and Procedures, Division 30, Chapter 30-912, 913, 916,
38 and 917, as guidelines for developing regulations that are
39 appropriate for young adults who can exercise incremental
40 responsibility concurrently with their growth and development.

1 The department, in its consultation with stakeholders, shall take
2 into consideration the impact to the Automated Child Welfare
3 Services Case Management Services (CWS-CMS) and required
4 modifications needed to accommodate eligibility determination
5 under this section, benefit issuance, case management across
6 counties, and recognition of the legal status of nonminor
7 dependents as adults, as well as changes to data tracking and
8 reporting requirements as required by the Child Welfare System
9 Improvement and Accountability Act as specified in Section
10 10601.2, and federal outcome measures as required by the federal
11 John H. Chafee Foster Care Independence Program (42 U.S.C.
12 Sec. 677(f)). In addition, the department, in its consultation with
13 stakeholders, shall define the supervised independent living setting
14 which shall include, but not be limited to, apartment living, room
15 and board arrangements, college or university dormitories, and
16 shared roommate settings, and define how those settings meet
17 health and safety standards suitable for nonminors. The department,
18 in its consultation with stakeholders, shall define the six-month
19 certification of the conditions of eligibility pursuant to subdivision
20 (b) to be consistent with the flexibility provided by federal policy
21 guidance, to ensure that there are ample supports for a nonminor
22 to achieve the goals of his or her transition independent living case
23 plan. The department, in its consultation with stakeholders, shall
24 ensure that notices of action and other forms created to inform the
25 nonminor of due process rights and how to access them shall be
26 developed, using language consistent with the special needs of the
27 nonminor dependent population.

28 (j) Notwithstanding the Administrative Procedure Act, Chapter
29 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
30 Title 2 of the Government Code, the department shall prepare for
31 implementation of the applicable provisions of this section by
32 publishing, after consultation with the stakeholders listed in
33 subdivision (i), all-county letters or similar instructions from the
34 director by October 1, 2011, to be effective January 1, 2012.
35 Emergency regulations to implement the applicable provisions of
36 this act may be adopted by the director in accordance with the
37 Administrative Procedure Act. The initial adoption of the
38 emergency regulations and one readoption of the emergency
39 regulations shall be deemed to be an emergency and necessary for
40 the immediate preservation of the public peace, health, safety, or

1 general welfare. Initial emergency regulations and the first
2 readoption of those emergency regulations shall be exempt from
3 review by the Office of Administrative Law. The emergency
4 regulations authorized by this section shall be submitted to the
5 Office of Administrative Law for filing with the Secretary of State
6 and shall remain in effect for no more than 180 days.

7 ~~SEC. 584.~~

8 *SEC. 593.* Section 11460 of the Welfare and Institutions Code
9 is amended to read:

10 11460. (a) Foster care providers shall be paid a per child per
11 month rate in return for the care and supervision of the AFDC-FC
12 child placed with them. The department is designated as the single
13 organizational unit whose duty it shall be to administer a state
14 system for establishing rates in the AFDC-FC program. State
15 functions shall be performed by the department or by delegation
16 of the department to county welfare departments or Indian tribes,
17 consortia of tribes, or tribal organizations that have entered into
18 an agreement with the department pursuant to Section 10553.1.

19 (b) "Care and supervision" includes food, clothing, shelter, daily
20 supervision, school supplies, a child's personal incidentals, liability
21 insurance with respect to a child, reasonable travel to the child's
22 home for visitation, and reasonable travel for the child to remain
23 in the school in which he or she is enrolled at the time of
24 placement. Reimbursement for the costs of educational travel, as
25 provided for in this subdivision, shall be made pursuant to
26 procedures determined by the department, in consultation with
27 representatives of county welfare and probation directors, and
28 additional stakeholders, as appropriate.

29 (1) For a child placed in a group home, care and supervision
30 shall also include reasonable administration and operational
31 activities necessary to provide the items listed in this subdivision.

32 (2) For a child placed in a group home, care and supervision
33 may also include reasonable activities performed by social workers
34 employed by the group home provider that are not otherwise
35 considered daily supervision or administration activities.

36 (c) It is the intent of the Legislature to establish the maximum
37 level of state participation in out-of-state foster care group home
38 program rates effective January 1, 1992.

39 (1) The department shall develop regulations that establish the
40 method for determining the level of state participation for each

1 out-of-state group home program. The department shall consider
2 all of the following methods:

3 (A) A standardized system based on the level of care and
4 services per child per month as detailed in Section 11462.

5 (B) A system that considers the actual allowable and reasonable
6 costs of care and supervision incurred by the program.

7 (C) A system that considers the rate established by the host
8 state.

9 (D) Any other appropriate methods as determined by the
10 department.

11 (2) State reimbursement for the AFDC-FC group home rate to
12 be paid to an out-of-state program on or after January 1, 1992,
13 shall only be paid to programs which have done both of the
14 following:

15 (A) Submitted a rate application to the department and received
16 a determination of the level of state participation.

17 (i) The level of state participation shall not exceed the current
18 fiscal year's standard rate for rate classification level 14.

19 (ii) The level of state participation shall not exceed the rate
20 determined by the ratesetting authority of the state in which the
21 facility is located.

22 (iii) The level of state participation shall not decrease for any
23 child placed prior to January 1, 1992, who continues to be placed
24 in the same out-of-state group home program.

25 (B) Agreed to comply with information requests, and program
26 and fiscal audits as determined necessary by the department.

27 (3) State reimbursement for an AFDC-FC rate paid on or after
28 January 1, 1993, shall only be paid to a group home organized and
29 operated on a nonprofit basis.

30 (d) A foster care provider that accepts payments, following the
31 effective date of this section, based on a rate established under this
32 section, shall not receive rate increases or retroactive payments as
33 the result of litigation challenging rates established prior to the
34 effective date of this section. This subdivision applies regardless
35 of whether a provider is a party to the litigation or a member of a
36 class covered by the litigation.

37 (e) A county is not precluded from using a portion of its county
38 funds to increase rates paid to family homes and foster family
39 agencies within that county, and to make payments for specialized

1 care increments, clothing allowances, or infant supplements to
2 homes within that county, solely at that county's expense.

3 (f) A county is not precluded from providing a supplemental
4 rate to serve commercially sexually exploited foster children to
5 provide for the additional care and supervision needs of these
6 children. To the extent that federal financial participation is
7 available, it is the intent of the Legislature that the federal funding
8 be utilized.

9 ~~SEC. 585.~~

10 *SEC. 594.* Section 11461.3 of the Welfare and Institutions
11 Code is amended to read:

12 11461.3. (a) The Approved Relative Caregiver Funding Option
13 Program is hereby established for the purpose of making the
14 amount paid to approved relative caregivers for the in-home care
15 of children placed with them who are ineligible for AFDC-FC
16 payments equal to the amount paid on behalf of children who are
17 eligible for AFDC-FC payments. This is an optional program for
18 counties choosing to participate, and in so doing, participating
19 counties agree to the terms of this section as a condition of their
20 participation. It is the intent of the Legislature that the funding
21 described in paragraph (1) of subdivision (e) for the Approved
22 Relative Caregiver Funding Option Program be appropriated and
23 available for use from January through December of each year,
24 unless otherwise specified.

25 (b) Subject to subdivision (c), effective January 1, 2015, counties
26 shall pay an approved relative caregiver a per child per month rate
27 in return for the care and supervision, as defined in subdivision
28 (b) of Section 11460, of a child that is placed with the relative
29 caregiver that is equal to the basic rate paid to foster care providers
30 pursuant to subdivision (g) of Section 11461, if both of the
31 following conditions are met:

32 (1) The county with payment responsibility notified the
33 department in writing by October 1 of the year before participation
34 begins of its decision to participate in the Approved Relative
35 Caregiver Funding Option Program.

36 (2) The related child placed in the home meets all of the
37 following requirements:

38 (A) The child resides in the State of California.

39 (B) The child is described by subdivision (b), (c), or (e) of
40 Section 11401 and the county welfare department or the county

1 probation department is responsible for the placement and care of
 2 the child.

3 (C) The child is not eligible for AFDC-FC while placed with
 4 the approved relative caregiver because the child is not eligible
 5 for federal financial participation in the AFDC-FC payment.

6 (c) A county’s election to participate in the Approved Relative
 7 Caregiver Funding Option Program shall affirmatively indicate
 8 that the county understands and agrees to all of the following
 9 conditions:

10 (1) Commencing October 1, 2014, the county shall notify the
 11 department in writing of its decision to participate in the Approved
 12 Relative Caregiver Funding Option Program. Failure to make
 13 timely notification, without good cause as determined by the
 14 department, shall preclude the county from participating in the
 15 program for the upcoming year. Annually thereafter, any county
 16 not presently participating who elects to do so shall notify the
 17 department in writing no later than October 1 of its decision to
 18 participate for the upcoming calendar year.

19 (2) The county shall confirm that it will make per child per
 20 month payments to all approved relative caregivers on behalf of
 21 eligible children in the amount specified in subdivision (b) for the
 22 duration of the participation of the county in this program.

23 (3) The county shall confirm that it will be solely responsible
 24 to pay any additional costs needed to make all payments pursuant
 25 to subdivision (b) if the state and federal funds allocated to the
 26 Approved Relative Caregiver Funding Option Program pursuant
 27 to paragraph (1) of subdivision (e) are insufficient to make all
 28 eligible payments.

29 (d) (1) A county deciding to opt out of the Approved Relative
 30 Caregiver Funding Option Program shall provide at least 120 days’
 31 prior written notice of that decision to the department. Additionally,
 32 the county shall provide at least 90 days’ prior written notice to
 33 the approved relative caregiver or caregivers informing them that
 34 his or her per child per month payment will be reduced and the
 35 date that the reduction will occur.

36 (2) The department shall presume all counties have opted out
 37 of the Approved Relative Caregiver Funding Option Program if
 38 the funding appropriated in subclause (II) of clause (i) of
 39 subparagraph (B) of paragraph (1) of subdivision (e), including
 40 any additional funds appropriated pursuant to clause (ii) of

1 subparagraph (B) of paragraph (1) of subdivision (e), is reduced,
2 unless a county notifies the department in writing of its intent to
3 opt in within 60 days of enactment of the State Budget. The
4 counties shall provide at least 90 days' prior written notice to the
5 approved relative caregiver or caregivers informing them that his
6 or her per child per month payment will be reduced, and the date
7 that the reduction will occur.

8 (3) A reduction in payments received by an approved relative
9 caregiver on behalf of a child under this section that results from
10 a decision by a county, including the presumed opt-out pursuant
11 to paragraph (2), to not participate in the Approved Relative
12 Caregiver Funding Option Program shall be exempt from state
13 hearing jurisdiction under Section 10950.

14 (e) (1) The following funding shall be used for the Approved
15 Relative Caregiver Funding Option Program:

16 (A) The applicable regional per-child CalWORKs grant.

17 (B) (i) General Fund resources that do not count toward the
18 state's maintenance of effort requirements under Section
19 609(a)(7)(B)(i) of Title 42 of the United States Code. For this
20 purpose, the following money is hereby appropriated:

21 (I) The sum of thirty million dollars (\$30,000,000) from the
22 General Fund for the period January 1, 2015, through December
23 31, 2015.

24 (II) The sum of thirty million dollars (\$30,000,000) from the
25 General Fund in each calendar year thereafter, as cumulatively
26 adjusted annually by the California Necessities Index used for each
27 May Revision of the Governor's Budget, to be used in each
28 respective calendar year.

29 (ii) To the extent that the appropriation made in subclause (I)
30 of clause (i) is insufficient to fully fund the base caseload of
31 approved relative caregivers as of July 1, 2014, for the period of
32 time described in subclause (I) of clause (i), as jointly determined
33 by the department and the County Welfare Directors Association
34 and approved by the Department of Finance on or before October
35 1, 2015, the amounts specified in subclauses (I) and (II) of clause
36 (i) shall be increased in the respective amounts necessary to fully
37 fund that base caseload. Thereafter, the adjusted amount of
38 subclause (II) of clause (i), and the other terms of that provision,
39 including an annual California Necessities Index adjustment to its
40 amount, shall apply.

1 (C) County funds only to the extent required under paragraph
2 (3) of subdivision (c).

3 (D) This section is intended to appropriate the funding necessary
4 to fully fund the base caseload of approved relative caregivers,
5 defined as the number of approved relative caregivers caring for
6 a child who is not eligible to receive AFDC-FC payments, as of
7 July 1, 2014.

8 (2) Funds available pursuant to subparagraphs (A) and (B) of
9 paragraph (1) shall be allocated to participating counties
10 proportionate to the number of their approved relative caregiver
11 placements, using a methodology and timing developed by the
12 department, following consultation with county human services
13 agencies and their representatives.

14 (3) Notwithstanding subdivision (c), if in any calendar year the
15 entire amount of funding appropriated by the state for the Approved
16 Relative Caregiver Funding Option Program has not been fully
17 allocated to, or utilized by, counties, a county that has paid any
18 funds pursuant to subparagraph (C) of paragraph (1) of subdivision
19 (e) may request reimbursement for those funds from the
20 department. The authority of the department to approve the requests
21 shall be limited by the amount of available unallocated funds.

22 (f) An approved relative caregiver receiving payments on behalf
23 of a child pursuant to this section shall not be eligible to receive
24 additional CalWORKs payments on behalf of the same child under
25 Section 11450.

26 (g) To the extent permitted by federal law, payments received
27 by the approved relative caregiver from the Approved Relative
28 Caregiver Funding Option Program shall not be considered income
29 for the purpose of determining other public benefits.

30 (h) Prior to referral of any individual or recipient, or that
31 person's case, to the local child support agency for child support
32 services pursuant to Section 17415 of the Family Code, the county
33 human services agency shall determine if an applicant or recipient
34 has good cause for noncooperation, as set forth in Section
35 11477.04. If the applicant or recipient claims good cause exception
36 at any subsequent time to the county human services agency or
37 the local child support agency, the local child support agency shall
38 suspend child support services until the county social services
39 agency determines the good cause claim, as set forth in Section
40 11477.04. If good cause is determined to exist, the local child

1 support agency shall suspend child support services until the
2 applicant or recipient requests their resumption, and shall take
3 other measures that are necessary to protect the applicant or
4 recipient and the children. If the applicant or recipient is the parent
5 of the child for whom aid is sought and the parent is found to have
6 not cooperated without good cause as provided in Section
7 11477.04, the applicant's or recipient's family grant shall be
8 reduced by 25 percent for the time the failure to cooperate lasts.

9 (i) Consistent with Section 17552 of the Family Code, if aid is
10 paid under this chapter on behalf of a child who is under the
11 jurisdiction of the juvenile court and whose parent or guardian is
12 receiving reunification services, the county human services agency
13 shall determine, prior to referral of the case to the local child
14 support agency for child support services, whether the referral is
15 in the best interest of the child, taking into account both of the
16 following:

17 (1) Whether the payment of support by the parent will pose a
18 barrier to the proposed reunification in that the payment of support
19 will compromise the parent's ability to meet the requirements of
20 the parent's reunification plan.

21 (2) Whether the payment of support by the parent will pose a
22 barrier to the proposed reunification in that the payment of support
23 will compromise the parent's current or future ability to meet the
24 financial needs of the child.

25 ~~SEC. 586.~~

26 *SEC. 595.* Section 11477 of the Welfare and Institutions Code
27 is amended to read:

28 11477. As a condition of eligibility for aid paid under this
29 chapter, each applicant or recipient shall do all of the following:

30 (a) (1) Do either of the following:

31 (A) For applications received before October 1, 2009, assign to
32 the county any rights to support from any other person the applicant
33 or recipient may have on his or her own behalf or on behalf of any
34 other family member for whom the applicant or recipient is
35 applying for or receiving aid, not exceeding the total amount of
36 cash assistance provided to the family under this chapter. Receipt
37 of public assistance under this chapter operates as an assignment
38 by operation of law. An assignment of support rights to the county
39 shall also constitute an assignment to the state. If support rights
40 are assigned pursuant to this subdivision, the assignee may become

1 an assignee of record by the local child support agency or other
2 public official filing with the court clerk an affidavit showing that
3 an assignment has been made or that there has been an assignment
4 by operation of law. This procedure does not limit any other means
5 by which the assignee may become an assignee of record.

6 (B) For applications received on or after October 1, 2009, assign
7 to the county any rights to support from any other person the
8 applicant or recipient may have on his or her own behalf, or on
9 behalf of any other family member for whom the applicant or
10 recipient is applying for or receiving aid. The assignment shall
11 apply only to support that accrues during the period of time that
12 the applicant is receiving assistance under this chapter, and shall
13 not exceed the total amount of cash assistance provided to the
14 family under this chapter. Receipt of public assistance under this
15 chapter shall operate as an assignment by operation of law. An
16 assignment of support rights to the county shall also constitute an
17 assignment to the state. If support rights are assigned pursuant to
18 this subdivision, the assignee may become an assignee of record
19 by the local child support agency or other public official filing
20 with the court clerk an affidavit showing that an assignment has
21 been made or that there has been an assignment by operation of
22 law. This procedure does not limit any other means by which the
23 assignee may become an assignee of record.

24 (2) Support that has been assigned pursuant to paragraph (1)
25 and that accrues while the family is receiving aid under this chapter
26 shall be permanently assigned until the entire amount of aid paid
27 has been reimbursed.

28 (3) If the federal government does not permit states to adopt the
29 same order of distribution for preassistance and postassistance
30 child support arrears that are assigned on or after October 1, 1998,
31 support arrears that accrue before the family receives aid under
32 this chapter that are assigned pursuant to this subdivision shall be
33 assigned as follows:

34 (A) Child support assigned prior to January 1, 1998, shall be
35 permanently assigned until aid is no longer received and the entire
36 amount of aid has been reimbursed.

37 (B) Child support assigned on or after January 1, 1998, but prior
38 to October 1, 2000, shall be temporarily assigned until aid under
39 this chapter is no longer received and the entire amount of aid paid

1 has been reimbursed or until October 1, 2000, whichever comes
2 first.

3 (C) On or after October 1, 2000, support assigned pursuant to
4 this subdivision that was not otherwise permanently assigned shall
5 be temporarily assigned to the county until aid is no longer
6 received.

7 (D) On or after October 1, 2000, support that was temporarily
8 assigned pursuant to this subdivision shall, when a payment is
9 received from the federal tax intercept program, be temporarily
10 assigned until the entire amount of aid paid has been reimbursed.

11 (4) If the federal government permits states to adopt the same
12 order of distribution for preassistance and postassistance child
13 support arrears, child support arrears shall be assigned, as follows:

14 (A) Child support assigned pursuant to this subdivision prior
15 to October 1, 1998, shall be assigned until aid under this chapter
16 is no longer received and the entire amount has been reimbursed.

17 (B) On or after October 1, 1998, child support assigned pursuant
18 to this subdivision that accrued before the family receives aid under
19 this chapter and that was not otherwise permanently assigned, shall
20 be temporarily assigned until aid under this chapter is no longer
21 received.

22 (C) On or after October 1, 1998, support that was temporarily
23 assigned pursuant to this subdivision shall, when a payment is
24 received from the federal tax intercept program, be temporarily
25 assigned until the entire amount of aid paid has been reimbursed.

26 (b) (1) Cooperate with the county welfare department and local
27 child support agency in establishing the paternity of a child of the
28 applicant or recipient born out of wedlock with respect to whom
29 aid is claimed, and in establishing, modifying, or enforcing a
30 support order with respect to a child of the individual for whom
31 aid is requested or obtained, unless the applicant or recipient
32 qualifies for a good cause exception pursuant to Section 11477.04.
33 The granting of aid shall not be delayed or denied if the applicant
34 is otherwise eligible, completes the necessary forms, and agrees
35 to cooperate with the local child support agency in securing support
36 and determining paternity, if applicable. The local child support
37 agency shall have staff available, in person or by telephone, at all
38 county welfare offices and shall conduct an interview with each
39 applicant to obtain information necessary to establish paternity
40 and establish, modify, or enforce a support order at the time of the

1 initial interview with the welfare office. The local child support
2 agency shall make the determination of cooperation. If the applicant
3 or recipient attests under penalty of perjury that he or she cannot
4 provide the information required by this subdivision, the local
5 child support agency shall make a finding regarding whether the
6 individual could reasonably be expected to provide the information
7 before the local child support agency determines whether the
8 individual is cooperating. In making the finding, the local child
9 support agency shall consider all of the following:

- 10 (A) The age of the child for whom support is sought.
11 (B) The circumstances surrounding the conception of the child.
12 (C) The age or mental capacity of the parent or caretaker of the
13 child for whom aid is being sought.
14 (D) The time that has elapsed since the parent or caretaker last
15 had contact with the alleged father or obligor.

16 (2) Cooperation includes all of the following:

17 (A) Providing the name of the alleged parent or obligor and
18 other information about that person if known to the applicant or
19 recipient, such as address, social security number, telephone
20 number, place of employment or school, and the names and
21 addresses of relatives or associates.

22 (B) Appearing at interviews, hearings, and legal proceedings,
23 provided the applicant or recipient is provided with reasonable
24 advance notice of the interview, hearing, or legal proceeding and
25 does not have good cause not to appear.

26 (C) If paternity is at issue, submitting to genetic tests, including
27 genetic testing of the child, if necessary.

28 (D) Providing any additional information known to, or
29 reasonably obtainable by, the applicant or recipient necessary to
30 establish paternity or to establish, modify, or enforce a child
31 support order.

32 (3) A recipient or applicant shall not be required to sign a
33 voluntary declaration of paternity, as set forth in Chapter 3
34 (commencing with Section 7570) of Part 2 of Division 12 of the
35 Family Code, as a condition of cooperation.

36 (c) (1) This section does not apply if all of the adults are
37 excluded from the assistance unit pursuant to Section 11251.3,
38 11454, or 11486.5.

39 (2) It is the intent of the Legislature that the regular receipt of
40 child support in the preceding reporting period be considered in

1 determining reasonably anticipated income for the following
2 reporting period.

3 (3) In accordance with Sections 11265.2 and 11265.46, if the
4 income of an assistance unit described in paragraph (1) includes
5 reasonably anticipated income derived from child support, the
6 amount established in Section 17504 of the Family Code and
7 Section 11475.3 of the Welfare and Institutions Code of any
8 amount of child support received each month shall not be
9 considered income or resources and shall not be deducted from
10 the amount of aid to which the assistance unit otherwise would be
11 eligible.

12 ~~SEC. 587.~~

13 *SEC. 596.* Section 12104 of the Welfare and Institutions Code,
14 as added by Section 3 of Chapter 27 of the 3rd Extraordinary
15 Session of the Statutes of 2009, is repealed.

16 ~~SEC. 588.~~

17 *SEC. 597.* Section 12104 of the Welfare and Institutions Code,
18 as added by Section 5 of Chapter 633 of the Statutes of 2009, is
19 amended to read:

20 12104. Notwithstanding any other law, upon the order of the
21 Director of Finance, the Director of Social Services shall defer all
22 supplemental payments to the federal government required pursuant
23 to subdivision (b) of Section 12100 in February 2010 and March
24 2010 and, instead, make payments for those months after April
25 20, 2010, but no later than May 31, 2010.

26 ~~SEC. 589.~~

27 *SEC. 598.* Section 12300.4 of the Welfare and Institutions
28 Code is amended to read:

29 12300.4. (a) Notwithstanding any other law, including, but
30 not limited to, Chapter 10 (commencing with Section 3500) of
31 Division 4 of Title 1 of the Government Code and Title 23
32 (commencing with Section 110000) of the Government Code, a
33 recipient who is authorized to receive in-home supportive services
34 pursuant to this article, or Section 14132.95, 14132.952, or
35 14132.956, administered by the State Department of Social
36 Services, or waiver personal care services pursuant to Section
37 14132.97, administered by the State Department of Health Care
38 Services, or any combination of these services, shall direct these
39 authorized services, and the authorized services shall be performed

1 by a provider or providers within a workweek and in a manner
2 that complies with the requirements of this section.

3 (b) (1) A workweek is defined as beginning at 12:00 a.m. on
4 Sunday and includes the next consecutive 168 hours, terminating
5 at 11:59 p.m. the following Saturday.

6 (2) A provider of services specified in subdivision (a) shall not
7 work a total number of hours within a workweek that exceeds 66,
8 as reduced by the net percentage defined by Sections 12301.02
9 and 12301.03, as applicable, and in accordance with subdivision
10 (d). The total number of hours worked within a workweek by a
11 provider is defined as the sum of the following:

12 (A) All hours worked providing authorized services specified
13 in subdivision (a).

14 (B) Travel time as defined in subdivision (f), only if federal
15 financial participation is not available to compensate for that travel
16 time. If federal financial participation is available for travel time
17 as defined in subdivision (f), the travel time shall not be included
18 in the calculation of the total weekly hours worked within a
19 workweek.

20 (3) (A) If the authorized in-home supportive services of a
21 recipient cannot be provided by a single provider as a result of the
22 limitation specified in paragraph (2), it is the responsibility of the
23 recipient to employ an additional provider or providers, as needed,
24 to ensure his or her authorized services are provided within his or
25 her total weekly authorized hours of services established pursuant
26 to subdivision (b) of Section 12301.1.

27 (B) (i) It is the intent of the Legislature that this section not
28 result in reduced services authorized to recipients of waiver
29 personal care services defined in subdivision (a).

30 (ii) The State Department of Health Care Services shall work
31 with and assist recipients receiving services pursuant to the Nursing
32 Facility/Acute Hospital Waiver who are at or near their individual
33 cost cap, as that term is used in the waiver, to avoid a reduction in
34 the recipient's services that may result because of increased
35 overtime pay for providers. As part of this effort, the department
36 shall consider allowing the recipient to exceed the individual cost
37 cap, if appropriate. The department shall provide timely
38 information to waiver recipients as to the steps that will be taken
39 to implement this clause.

1 (4) (A) A provider shall inform each of his or her recipients of
2 the number of hours that the provider is available to work for that
3 recipient, in accordance with this section.

4 (B) A recipient, his or her authorized representative, or any
5 other entity, including any person or entity providing services
6 pursuant to Section 14186.35, shall not authorize any provider to
7 work hours that exceed the applicable limitation or limitations of
8 this section.

9 (C) A recipient may authorize a provider to work hours in excess
10 of the recipient's weekly authorized hours established pursuant to
11 Section 12301.1 without notification of the county welfare
12 department, in accordance with both of the following:

13 (i) The authorization does not result in more than 40 hours of
14 authorized services per week being provided.

15 (ii) The authorization does not exceed the recipient's authorized
16 hours of monthly services pursuant to paragraph (1) of subdivision
17 (b) of Section 12301.1.

18 (5) For providers of in-home supportive services, the State
19 Department of Social Services or a county may terminate the
20 provider from providing services under the IHSS program if a
21 provider continues to violate the limitations of this section on
22 multiple occasions.

23 (c) Notwithstanding any other law, only federal law and
24 regulations regarding overtime compensation apply to providers
25 of services defined in subdivision (a).

26 (d) A provider of services defined in subdivision (a) is subject
27 to all of the following, as applicable to his or her situation:

28 (1) (A) A provider who works for one individual recipient of
29 those services shall not work a total number of hours within a
30 workweek that exceeds 66 hours, as reduced by the net percentage
31 defined by Sections 12301.02 and 12301.03, as applicable. In no
32 circumstance shall the provision of these services by that provider
33 to the individual recipient exceed the total weekly hours of the
34 services authorized to that recipient, except as additionally
35 authorized pursuant to subparagraph (C) of paragraph (4) of
36 subdivision (b). If multiple providers serve the same recipient, it
37 shall continue to be the responsibility of that recipient or his or
38 her authorized representative to schedule the work of his or her
39 providers to ensure the authorized services of the recipient are
40 provided in accordance with this section.

1 (B) When a recipient's weekly authorized hours are adjusted
2 pursuant to subparagraph (C) of paragraph (1) of subdivision (b)
3 of Section 12301.1 and exceed 66 hours, as reduced by the net
4 percentage defined by Sections 12301.02 and 12301.03, as
5 applicable, and at the time of adjustment the recipient currently
6 receives all authorized hours of service from one provider, that
7 provider shall be deemed authorized to work the recipient's
8 county-approved adjusted hours for that week, but only if the
9 additional hours of work, based on the adjustment, do not exceed
10 the total number of hours worked that are compensable at an
11 overtime pay rate that the provider would have been authorized to
12 work in that month if the weekly hours had not been adjusted.

13 (2) A provider of in-home supportive services described in
14 subdivision (a) who serves multiple recipients is not authorized
15 to, and shall not, work more than 66 total hours in a workweek,
16 as reduced by the net percentage defined by Sections 12301.02
17 and 12301.03, as applicable, regardless of the number of recipients
18 for whom the provider provides services authorized by subdivision
19 (a). Providers are subject to the limits of each recipient's total
20 authorized weekly hours of in-home supportive services described
21 in subdivision (a), except as additionally authorized pursuant to
22 subparagraph (C) of paragraph (4) of subdivision (b).

23 (e) Recipients and providers shall be informed of the limitations
24 and requirements contained in this section, through notices at
25 intervals and on forms as determined by the State Department of
26 Social Services or the State Department of Health Care Services,
27 as applicable, following consultation with stakeholders.

28 (f) (1) A provider of services described in subdivision (a) shall
29 not engage in travel time in excess of seven hours per week. For
30 purposes of this subdivision, "travel time" means time spent
31 traveling directly from a location where authorized services
32 specified in subdivision (a) are provided to one recipient to another
33 location where authorized services are to be provided to another
34 recipient. A provider shall coordinate hours of work with his or
35 her recipients to comply with this section.

36 (2) The hourly wage to compensate a provider for travel time
37 described in this subdivision when the travel is between two
38 counties shall be the hourly wage of the destination county.

39 (3) Travel time, and compensation for that travel time, between
40 a recipient of authorized in-home supportive services specified in

1 subdivision (a) and a recipient of authorized waiver personal care
2 services specified in subdivision (a) shall be attributed to the
3 program authorizing services for the recipient to whom the provider
4 is traveling.

5 (4) Hours spent by a provider while engaged in travel time shall
6 not be deducted from the authorized hours of service of any
7 recipient of services specified in subdivision (a).

8 (5) The State Department of Social Services and the State
9 Department of Health Care Services shall issue guidance and
10 processes for travel time between recipients that will assist the
11 provider and recipient to comply with this subdivision. Each county
12 shall provide technical assistance to providers and recipients, as
13 necessary, to implement this subdivision.

14 (g) A provider of authorized in-home supportive services
15 specified in subdivision (a) shall timely submit, deliver, or mail,
16 verified by postmark or request for delivery, a signed payroll
17 timesheet within two weeks after the end of each bimonthly payroll
18 period. Notwithstanding any other law, a provider who submits
19 an untimely payroll timesheet for providing authorized in-home
20 supportive services specified in subdivision (a) shall be paid by
21 the state within 30 days of the receipt of the signed payroll
22 timesheet.

23 (h) This section does not apply to a contract entered into
24 pursuant to Section 12302 or 12302.6 for authorized in-home
25 supportive services. Contract rates negotiated pursuant to Section
26 12302 or 12302.6 shall be based on costs consistent with a 40-hour
27 workweek.

28 (i) The state and counties are immune from any liability resulting
29 from implementation of this section.

30 (j) Any action authorized under this section that is implemented
31 in a program authorized pursuant to Section 14132.95, 14132.956,
32 or 14132.97 shall be compliant with federal Medicaid requirements,
33 as determined by the State Department of Health Care Services.

34 (k) Notwithstanding the rulemaking provisions of the
35 Administrative Procedure Act (Chapter 3.5 (commencing with
36 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
37 Code), the State Department of Social Services and the State
38 Department of Health Care Services may implement, interpret, or
39 make specific this section by means of all-county letters or similar
40 instructions, without taking any regulatory action.

1 (l) (1) This section shall become operative only when the
2 regulatory amendments made by RIN 1235-AA05 to Part 552 of
3 Title 29 of the Code of Federal Regulations are deemed effective,
4 either on the date specified in RIN 1235-AA05 or at a later date
5 specified by the United States Department of Labor, whichever is
6 later.

7 (2) If the regulatory amendments described in paragraph (1)
8 become only partially effective by the date specified in paragraph
9 (1), this section shall become operative only for those persons for
10 whom federal financial participation is available as of that date.

11 ~~SEC. 590.~~

12 *SEC. 599.* Section 12300.41 of the Welfare and Institutions
13 Code is amended to read:

14 12300.41. (a) For three months following the effective date
15 specified in paragraph (1) of subdivision (l) of Section 12300.4,
16 timesheets submitted by providers may be paid in excess of the
17 limitations specified in Section 12300.4, so long as the number of
18 hours worked by the provider within a month do not exceed the
19 authorized hours of the recipient or recipients served by that
20 provider.

21 (b) The State Department of Social Services, in consultation
22 with stakeholders, shall oversee a study of the implementation of
23 Section 12300.4, Section 12301.1, and this section. This study
24 shall cover the 24-month period subsequent to the three-month
25 period specified in subdivision (a). Information collected for the
26 study shall periodically be made available to stakeholders,
27 including, but not limited to, representatives of recipients and
28 providers, counties, and the legislative staff. Upon completion of
29 the study, a report shall be submitted to the Legislature.

30 (c) Using the study described in (b), it is the intent of the
31 Legislature to evaluate implementation of the federal regulations
32 described in paragraph (1) of subdivision (l) of Section 12300.4
33 and make any adjustments determined appropriate or necessary
34 through subsequent legislation.

35 ~~SEC. 591.~~

36 *SEC. 600.* Section 12301.1 of the Welfare and Institutions
37 Code is amended to read:

38 12301.1. (a) The department shall adopt regulations
39 establishing a uniform range of services available to all eligible
40 recipients based upon individual needs. The availability of services

1 under these regulations is subject to the provisions of Section
2 12301 and county plans developed pursuant to Section 12302.

3 (b) (1) The county welfare department shall assess each
4 recipient's continuing monthly need for in-home supportive
5 services at varying intervals as necessary, but at least once every
6 12 months. The results of this assessment of monthly need for
7 hours of in-home supportive services shall be divided by 4.33, to
8 establish a recipient's weekly authorized number of hours of
9 in-home supportive services, subject to any of the following, as
10 applicable:

11 (A) Within the limit of the assessed monthly need for hours of
12 in-home supportive services, a county welfare department may
13 adjust the authorized weekly hours of a recipient for any particular
14 week for known recurring or periodic needs of the recipient.

15 (B) Within the limit of the assessed monthly need for hours of
16 in-home supportive services, a county welfare department may
17 temporarily adjust the authorized weekly hours of a recipient at
18 the request of the recipient, to accommodate unexpected
19 extraordinary circumstances.

20 (C) In addition to the flexibility provided to a recipient pursuant
21 to subparagraph (C) of paragraph (4) of subdivision (b) of Section
22 12300.4, a recipient may request the county welfare department
23 to adjust his or her weekly authorized hours of services to exceed
24 40 hours of weekly authorized hours of services per week, within
25 his or her total monthly authorized hours of services. A request
26 for adjustment may be made retroactive to the hours actually
27 worked. The county welfare department shall not unreasonably
28 withhold approval of a recipient request made pursuant to this
29 subparagraph.

30 (2) For purposes of subparagraph (C) of paragraph (1), and prior
31 to its implementation, the State Department of Social Services
32 shall develop a process for requests made pursuant to that
33 subparagraph. The process shall include all of the following:

34 (A) The procedure, standards, and timeline for making a request
35 to adjust the authorized weekly hours of service for a recipient
36 described in this section.

37 (B) The language to be used for notices about the process.

38 (C) Provisions for adjustments to authorization, and for
39 authorization after services have been provided, when the criteria
40 for approval have been met.

1 (D) A requirement that the opportunity for a revision to the
2 limitations of this section shall be discussed at each annual
3 reassessment, and also may be authorized by the county welfare
4 department outside of the reassessment process.

5 (3) Recipients shall be timely informed of their total monthly
6 and weekly authorized hours.

7 (4) The weekly authorization of services defined in this section
8 shall be used solely for the purposes of ensuring compliance with
9 the federal Fair Labor Standards Act and its implementing
10 regulations.

11 (5) Notwithstanding the rulemaking provisions of the
12 Administrative Procedure Act (Chapter 3.5 (commencing with
13 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
14 Code), the department may implement, interpret, or make specific
15 this subdivision by means of all-county letters, or similar
16 instructions, without taking any regulatory action.

17 (c) (1) Notwithstanding subdivision (b), at the county's option,
18 assessments may be extended, on a case-by-case basis, for up to
19 six months beyond the regular 12-month period, provided that the
20 county documents that all of the following conditions exist:

21 (A) The recipient has had at least one reassessment since the
22 initial program intake assessment.

23 (B) The recipient's living arrangement has not changed since
24 the last annual reassessment and the recipient lives with others, or
25 has regular meaningful contact with persons other than his or her
26 service provider.

27 (C) The recipient or, if the recipient is a minor, his or her parent
28 or legal guardian, or if incompetent, his or her conservator, is able
29 to satisfactorily direct the recipient's care.

30 (D) There has not been a known change in the recipient's
31 supportive service needs within the previous 24 months.

32 (E) A report has not been made to, and there has been no
33 involvement of, an adult protective services agency or agencies
34 since the county last assessed the recipient.

35 (F) The recipient has not had a change in provider or providers
36 for at least six months.

37 (G) The recipient has not reported a change in his or her need
38 for supportive services that requires a reassessment.

39 (H) The recipient has not been hospitalized within the last three
40 months.

1 (2) If some, but not all, of the conditions specified in paragraph
2 (1) are met, the county may consider other factors in determining
3 whether an extended assessment interval is appropriate, including,
4 but not limited to, involvement in the recipient's care of a social
5 worker, case manager, or other similar representative from another
6 human services agency, such as a regional center or county mental
7 health program, or communications, or other instructions from a
8 physician or other licensed health care professional that the
9 recipient's medical condition is unlikely to change.

10 (3) A county may reassess a recipient's need for services at a
11 time interval of less than 12 months from a recipient's initial intake
12 or last assessment if the county social worker has information
13 indicating that the recipient's need for services is expected to
14 decrease in less than 12 months.

15 (d) A county shall assess a recipient's need for supportive
16 services any time that the recipient notifies the county of a need
17 to adjust the supportive services hours authorized, or if there are
18 other indications or expectations of a change in circumstances
19 affecting the recipient's need for supportive services.

20 (e) (1) Notwithstanding the rulemaking provisions of the
21 Administrative Procedure Act, Chapter 3.5 (commencing with
22 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
23 Code, until emergency regulations are filed with the Secretary of
24 State, the department may implement this section through
25 all-county letters or similar instructions from the director. The
26 department shall adopt emergency regulations implementing this
27 section no later than September 30, 2005, unless notification of a
28 delay is made to the Chair of the Joint Legislative Budget
29 Committee prior to that date. The notification shall include the
30 reason for the delay, the current status of the emergency
31 regulations, a date by which the emergency regulations shall be
32 adopted, and a statement of need to continue use of all-county
33 letters or similar instructions. The adoption of emergency
34 regulations shall not be delayed, or the use of all-county letters or
35 similar instructions be extended, beyond June 30, 2006.

36 (2) The adoption of regulations implementing this section shall
37 be deemed an emergency and necessary for the immediate
38 preservation of the public peace, health, safety, or general welfare.
39 The emergency regulations authorized by this section are exempt
40 from review by the Office of Administrative Law. The emergency

1 regulations authorized by this section shall be submitted to the
2 Office of Administrative Law for filing with the Secretary of State
3 and shall remain in effect for no more than 180 days by which
4 time final regulations shall be adopted. The department shall seek
5 input from the entities listed in Section 12305.72 when developing
6 all-county letters or similar instructions and the regulations.

7 ~~SEC. 592.~~

8 *SEC. 601.* Section 14005.75 of the Welfare and Institutions
9 Code, as added by Section 1 of Chapter 1144 of the Statutes of
10 1985, is amended and renumbered to read:

11 14005.73. A person who is otherwise eligible for Medi-Cal
12 benefits under either Section 14005.4 or 14005.7, except for income
13 and resource eligibility, and who is receiving Medi-Cal services
14 for the treatment of multiple sclerosis, shall continue to be eligible
15 to receive benefits only for these services under Medi-Cal, provided
16 that all other conditions of eligibility for the Medi-Cal program
17 are met. These restricted benefits shall continue until such time as
18 the person is eligible for, and receives, third party coverage for
19 these treatments. However, restricted benefits under this section
20 shall not continue for more than two years.

21 ~~SEC. 593.~~

22 *SEC. 602.* Section 14005.271 of the Welfare and Institutions
23 Code is amended to read:

24 14005.271. (a) The Healthy Families Advisory Board
25 established by former Section 12693.90 of the Insurance Code is
26 hereby renamed the Medi-Cal Children's Health Advisory Panel.

27 (b) The Medi-Cal Children's Health Advisory Panel shall be
28 an independent, statewide advisory board that shall advise the State
29 Department of Health Care Services on matters relevant to all
30 children enrolled in Medi-Cal and their families, including, but
31 not limited to, emerging trends in the care of children, quality
32 measurements, communications between the State Department of
33 Health Care Services and Medi-Cal families, provider network
34 issues, and Medi-Cal enrollment issues.

35 (c) The membership of the advisory panel shall be composed
36 of the following 15 members:

37 (1) One member who is a licensed, practicing dentist.

38 (2) One physician and surgeon who is board certified in the area
39 of family practice medicine.

- 1 (3) One physician and surgeon who is board certified in
2 pediatrics.
- 3 (4) One representative from a licensed nonprofit primary care
4 clinic.
- 5 (5) One representative from the mental health provider
6 community.
- 7 (6) One representative of the substance abuse provider
8 community.
- 9 (7) One representative of the county public health provider
10 community.
- 11 (8) One representative from a licensed hospital that is on the
12 disproportionate share list maintained by the State Department of
13 Health Care Services.
- 14 (9) A current or former foster youth; an attorney, social worker,
15 probation officer, or court appointed special advocate who currently
16 represents one or more foster youth; a foster care service provider;
17 or a child welfare advocate.
- 18 (10) A parent of a Medi-Cal enrollee who has received treatment
19 services under the California Children’s Services Program within
20 the past six months.
- 21 (11) A Medi-Cal enrollee who has received services under the
22 Access for Infants and Mothers Program within the past six months.
- 23 (12) A parent or legal guardian of a Medi-Cal enrollee under
24 21 years of age who has received mental health services under the
25 Early and Periodic Screening, Diagnostic, and Treatment Program
26 (EPSDT) within the past six months.
- 27 (13) One representative from the health plan community.
- 28 (14) One representative from the business community.
- 29 (15) One representative from the education community.
- 30 (d) The advisory panel shall elect, from among its members, its
31 chair. In order to coordinate the activities of the advisory panel
32 with other advisory bodies whose scope includes children enrolled
33 in Medi-Cal, the chair shall keep apprised of relevant Medi-Cal
34 stakeholder meetings by communicating with State Department
35 of Health Care Services staff assisting the advisory panel.
- 36 (e) The advisory panel members shall be appointed by the State
37 Department of Health Care Services, or in the case of vacancies
38 of three months or greater, by the chair.
- 39 (f) The advisory panel’s powers and duties include, but are not
40 limited to, both of the following:

- 1 (1) To advise the Director of Health Care Services on all
2 policies, regulations, and operations of the Medi-Cal program
3 related to providing health care services to children.
- 4 (2) To meet at least quarterly, unless deemed unnecessary by
5 the chair.
- 6 (g) The State Department of Health Care Services' powers and
7 duties shall include, but not be limited to, all of the following:
- 8 (1) To provide general support and staff assistance to the
9 advisory panel.
- 10 (2) To convene and attend meetings of the advisory panel at
11 least quarterly, unless deemed unnecessary by the chair, at locations
12 that are easily accessible to the public and advisory panel members,
13 are of sufficient duration for presentation, discussion, and public
14 comment on each agenda item, and are in accordance with the
15 Bagley-Keene Open Meeting Act (Article 9 (commencing with
16 Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of
17 the Government Code).
- 18 (3) To reimburse the members of the advisory panel for all
19 necessary travel expenses associated with the activities of the
20 advisory panel, and to provide a stipend of one hundred dollars
21 (\$100) per meeting attended to each panel member who is a
22 Medi-Cal enrollee or a parent of a Medi-Cal enrollee.
- 23 (4) To maintain an Internet Web page on the department's
24 Internet Web site dedicated to the advisory panel that shall include,
25 but not be limited to, all of the following:
- 26 (A) The purpose and scope of the advisory panel.
- 27 (B) The current membership of the advisory panel.
- 28 (C) A list of past and future meetings.
- 29 (D) Agendas and other materials made available for past and
30 future meetings.
- 31 (E) Recommendations submitted to the department by the
32 advisory panel.
- 33 (F) The department's responses to recommendations submitted
34 by the advisory panel.
- 35 (G) Contact information for department staff assisting the
36 advisory panel.
- 37 (5) To inform advisory panel members when new information
38 is posted to the Internet Web page dedicated to the advisory panel.
- 39 (6) Notwithstanding Section 10231.5 of the Government Code,
40 to submit on or before January 1, 2018, a report to the Legislature

1 on the advisory panel's accomplishments, effectiveness, efficiency,
2 and any recommendations for statutory changes needed to improve
3 the ability of the advisory panel to fulfill its purpose. The report
4 shall be submitted in compliance with Section 9795 of the
5 Government Code.

6 (h) The Legislature does not intend the addition of this section
7 to result in a new panel, but rather a continuation of the prior panel
8 established by former Section 12693.90 of the Insurance Code.
9 New panel members shall not be appointed until a vacancy occurs.

10 ~~SEC. 594.~~

11 *SEC. 603.* Section 14011.2 of the Welfare and Institutions
12 Code, as added by Section 34 of Chapter 171 of the Statutes of
13 2001, is amended and renumbered to read:

14 14011.25. To the extent federal financial participation is
15 available, the department shall take all steps necessary to comply
16 with the terms and conditions of the State Child Health Insurance
17 Program waiver described in Section 12693.755 of the Insurance
18 Code extending eligibility under the Healthy Families Program to
19 parents and certain other adults. The department shall seek any
20 state plan amendments or other waivers under Title XIX of the
21 Social Security Act (42 U.S.C. Sec. 1396 et seq.) necessary to
22 implement this section.

23 ~~SEC. 595.~~

24 *SEC. 604.* Section 14011.10 of the Welfare and Institutions
25 Code is amended to read:

26 14011.10. (a) Except as provided in Sections 14053.7 and
27 14053.8, benefits provided under this chapter to an individual who
28 is an inmate of a public institution shall be suspended in accordance
29 with Section 1396d(a)(29)(A) of Title 42 of the United States Code
30 as provided in subdivision (c).

31 (b) County welfare departments shall notify the department
32 within 10 days of receiving information that an individual on
33 Medi-Cal in the county is or will be an inmate of a public
34 institution.

35 (c) If an individual is a Medi-Cal beneficiary on the date he or
36 she becomes an inmate of a public institution, his or her benefits
37 under this chapter and under Chapter 8 (commencing with Section
38 14200) shall be suspended effective the date he or she becomes
39 an inmate of a public institution. The suspension shall end on the
40 date he or she is no longer an inmate of a public institution or one

1 year from the date he or she becomes an inmate of a public
2 institution, whichever is sooner.

3 (d) This section does not create a state-funded benefit or
4 program. Health care services under this chapter and Chapter 8
5 (commencing with Section 14200) shall not be available to inmates
6 of public institutions whose Medi-Cal benefits have been suspended
7 under this section.

8 (e) This section shall be implemented only if and to the extent
9 allowed by federal law. This section shall be implemented only to
10 the extent that any necessary federal approval of state plan
11 amendments or other federal approvals are obtained.

12 (f) If any part of this section is in conflict with or does not
13 comply with federal law, this entire section shall be inoperative.

14 (g) This section shall be implemented on January 1, 2010, or
15 the date when all necessary federal approvals are obtained,
16 whichever is later.

17 (h) By January 1, 2010, or the date when all necessary federal
18 approvals are obtained, whichever is later, the department, in
19 consultation with the Chief Probation Officers of California and
20 the County Welfare Directors Association, shall establish the
21 protocols and procedures necessary to implement this section,
22 including any needed changes to the protocols and procedures
23 previously established to implement Section 14029.5.

24 (i) The department shall determine whether federal financial
25 participation will be jeopardized by implementing this section and
26 shall implement this section only if and to the extent that federal
27 financial participation is not jeopardized.

28 (j) Notwithstanding Chapter 3.5 (commencing with Section
29 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
30 the department shall implement this section by means of all-county
31 letters or similar instructions without taking regulatory action.
32 Thereafter, the department shall adopt regulations in accordance
33 with the requirements of Chapter 3.5 (commencing with Section
34 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

35 ~~SEC. 596.~~

36 *SEC. 605.* Section 14021.6 of the Welfare and Institutions
37 Code is amended to read:

38 14021.6. (a) For the fiscal years prior to fiscal year 2004–05,
39 and subject to the requirements of federal law, the maximum
40 allowable rates for the Medi-Cal Drug Treatment Program shall

1 be determined by computing the median rate from available cost
2 data by modality from the fiscal year that is two years prior to the
3 year for which the rate is being established.

4 (b) (1) For the fiscal year 2007–08, and subsequent fiscal years,
5 and subject to the requirements of federal law, the maximum
6 allowable rates for the Medi-Cal Drug Treatment Program shall
7 be determined by computing the median rate from the most recently
8 completed cost reports, by specific service codes that are consistent
9 with the federal Health Insurance Portability and Accountability
10 Act of 1996 (42 U.S.C. Sec. 300gg).

11 (2) For the fiscal years 2005–06 and 2006–07, if the State
12 Department of Health Care Services determines that reasonably
13 reliable and complete cost report data are available, the
14 methodology specified in this subdivision shall be applied to either
15 or both of those years. If reasonably reliable and complete cost
16 report data are not available, the State Department of Health Care
17 Services shall establish rates for either or both of those years based
18 upon the usual, customary, and reasonable charge for the services
19 to be provided, as the department may determine in its discretion.
20 This subdivision is not intended to modify subdivision (h) of
21 Section 14124.24, which requires certain providers to submit
22 performance reports.

23 (c) Notwithstanding subdivision (a), for the 1996–97 fiscal year,
24 the rates for nonperinatal outpatient methadone maintenance
25 services shall be set at the rate established for the 1995–96 fiscal
26 year.

27 (d) Notwithstanding subdivision (a), the maximum allowable
28 rate for group outpatient drug free services shall be set on a per
29 person basis. A group shall consist of a minimum of 2 and a
30 maximum of 12 individuals, at least one of which shall be a
31 Medi-Cal eligible beneficiary. For groups consisting of two
32 individuals, if one of the individuals is ineligible for Medi-Cal,
33 the individual who is ineligible for Medi-Cal shall be receiving
34 outpatient drug free services for a substance abuse disorder
35 diagnosed by a physician.

36 (e) The department shall develop individual and group rates for
37 extensive counseling for outpatient drug free treatment, based on
38 a 50-minute individual or a 90-minute group hour, not to exceed
39 the total rate established for subdivision (d).

1 (f) The department may adopt regulations as necessary to
2 implement subdivisions (a), (b), and (c), or to implement cost
3 containment procedures. These regulations may be adopted as
4 emergency regulations in accordance with Chapter 3.5
5 (commencing with Section 11340) of Part 1 of Division 3 of Title
6 2 of the Government Code. The adoption of these emergency
7 regulations shall be deemed an emergency necessary for the
8 immediate preservation of the public peace, health and safety, or
9 general welfare.

10 ~~SEC. 597.~~

11 *SEC. 606.* Section 14022 of the Welfare and Institutions Code
12 is amended to read:

13 14022. (a) This section shall be known as the “Medi-Cal
14 Conflict of Interest Law.”

15 It is the intent of the Legislature that provisions be made for
16 disclosure of the interests of providers of service in the services,
17 facilities and organizations to which they refer Medi-Cal recipients
18 so that it is possible to determine the extent to which conflicts of
19 interests may exist because of such referrals.

20 (b) As used in this section, the term “referral” means (1) the
21 referral of a recipient by a provider of service to any other provider
22 of service; (2) the placement of a recipient by a provider of service
23 in any facility; or (3) the obtaining, requesting, ordering or
24 prescribing of services or supplies by a provider of service on
25 behalf of a recipient from any other provider of service.

26 As used in this section, the term “immediate family” includes
27 the spouse and children of the provider of service, the parents of
28 the provider of service and his spouse, and the spouses of the
29 children of the provider of service.

30 (c) A payment under this chapter shall not be made to a provider
31 of service or to any facility or organization in which he or his
32 immediate family has a significant beneficial interest, for services
33 rendered in connection with any referral of a recipient, unless there
34 is on file with the director and the Advisory Health Council a
35 statement of the nature and extent of such interest.

36 (d) This section shall become operative only upon the date of
37 which Section 1902(a)(4)(C) of the federal Social Security Act,
38 as added by Public Law 95-559 is repealed, held invalid by a court
39 of appeal, or otherwise made inoperative.

1 ~~SEC. 598.~~

2 ~~SEC. 607.~~ Section 14029.91 of the Welfare and Institutions
3 Code is amended to read:

4 14029.91. (a) The department shall require all managed care
5 plans contracting with the department to provide Medi-Cal services
6 to provide language assistance services to
7 limited-English-proficient (LEP) Medi-Cal beneficiaries who are
8 mandatorily enrolled in managed care in the following manner:

9 (1) Oral interpretation services shall be provided in any language
10 on a 24-hour basis at key points of contact.

11 (2) Translation services shall be provided to the language groups
12 identified by the department.

13 (b) The department shall determine when an LEP population
14 meets the requirement for translation services using one of the
15 following numeric thresholds:

16 (1) A population group of at least 3,000 or 5 percent of the
17 beneficiary population, whichever is fewer, mandatory managed
18 care Medi-Cal beneficiaries, residing in the service area, who
19 indicate their primary language as other than English.

20 (2) A population group of mandatory managed care Medi-Cal
21 beneficiaries, residing in the service area, who indicate their
22 primary language as other than English, and that meet a
23 concentration standard of 1,000 beneficiaries in a single ZIP Code
24 or 1,500 beneficiaries in two contiguous ZIP Codes.

25 (c) The department shall make this determination if any of the
26 following occurs:

27 (1) A nonmanaged care county becomes a new managed care
28 county.

29 (2) A new population group becomes a mandatory Medi-Cal
30 managed care beneficiary population.

31 (3) A period of three years has passed since the last
32 determination.

33 (d) The department shall instruct managed care plans, by means
34 of incorporating the requirement into plan contracts, all-plan letters,
35 or similar instructions, of the language groups that meet the
36 numeric thresholds.

37 (e) For purposes of this section, a person is
38 “limited-English-proficient” if he or she speaks English less than
39 very well.

1 (f) This section does not apply to mental health plans contracting
2 with the department pursuant to Section 14712.

3 ~~SEC. 599.~~

4 ~~SEC. 608.~~ The heading of Article 2.93 (commencing with
5 Section 14091.3) of Chapter 7 of Part 3 of Division 9 of the
6 Welfare and Institutions Code is repealed.

7 ~~SEC. 600.~~

8 ~~SEC. 609.~~ Section 14103 of the Welfare and Institutions Code,
9 as added by Section 25 of Chapter 3 of the 1st Extraordinary
10 Session of the Statutes of 2013, is repealed.

11 ~~SEC. 601.~~

12 ~~SEC. 610.~~ Section 14105.18 of the Welfare and Institutions
13 Code is amended to read:

14 14105.18. (a) Notwithstanding any other law, provider rates
15 of payment for services rendered in all of the following programs
16 shall be identical to the rates of payment for the same service
17 performed by the same provider type pursuant to the Medi-Cal
18 program:

19 (1) The California Children’s Services Program established
20 pursuant to Article 5 (commencing with Section 123800) of
21 Chapter 3 of Part 2 of Division 106 of the Health and Safety Code.

22 (2) The Genetically Handicapped Persons Program established
23 pursuant to Article 1 (commencing with Section 125125) of
24 Chapter 2 of Part 5 of Division 106 of the Health and Safety Code.

25 (3) The Breast and Cervical Cancer Early Detection Program
26 established pursuant to Article 1.3 (commencing with Section
27 104150) of Chapter 2 of Part 1 of Division 103 of the Health and
28 Safety Code and the breast cancer programs specified in Section
29 30461.6 of the Revenue and Taxation Code.

30 (4) The State-Only Family Planning Program established
31 pursuant to Division 24 (commencing with Section 24000).

32 (5) The Family Planning, Access, Care, and Treatment (Family
33 PACT) Program established pursuant to subdivision (aa) of Section
34 14132.

35 (6) The Healthy Families Program established pursuant to Part
36 6.2 (commencing with Section 12693) of Division 2 of the
37 Insurance Code if the health care services are provided by a
38 Medi-Cal provider pursuant to subdivision (b) of Section 12693.26
39 of the Insurance Code.

1 (7) The Access for Infants and Mothers Program established
2 pursuant to Part 6.3 (commencing with Section 12695) of Division
3 2 of the Insurance Code if the health care services are provided by
4 a Medi-Cal provider.

5 (b) The director may identify in regulations other programs not
6 listed in subdivision (a) in which providers shall be paid rates of
7 payment that are identical to the rates of payments in the Medi-Cal
8 program pursuant to subdivision (a).

9 (c) Notwithstanding subdivision (a), services provided under
10 any of the programs described in subdivisions (a) and (b) may be
11 reimbursed at rates greater than the Medi-Cal rate that would
12 otherwise be applicable if those rates are adopted by the director
13 in regulations.

14 (d) Payment increases made pursuant to Section 14105.196 shall
15 not apply to provider rates of payment described in this section
16 for services provided to individuals not eligible for Medi-Cal or
17 Family PACT.

18 (e) This section shall become operative on January 1, 2011.

19 ~~SEC. 602.~~

20 *SEC. 611.* Section 14105.336 of the Welfare and Institutions
21 Code is repealed.

22 ~~SEC. 603.~~

23 *SEC. 612.* Section 14105.337 of the Welfare and Institutions
24 Code is repealed.

25 ~~SEC. 604.~~

26 *SEC. 613.* Section 14124.24 of the Welfare and Institutions
27 Code is amended to read:

28 14124.24. (a) For purposes of this section, “Drug Medi-Cal
29 reimbursable services” means the substance use disorder services
30 described in the California State Medicaid Plan and includes, but
31 is not limited to, all of the following services, administered by the
32 department, and to the extent consistent with state and federal law:

33 (1) Narcotic treatment program services, as set forth in Section
34 14021.51.

35 (2) Day care rehabilitative services.

36 (3) Perinatal residential services for pregnant women and women
37 in the postpartum period.

38 (4) Naltrexone services.

39 (5) Outpatient drug-free services.

1 (6) Other services upon approval of a federal Medicaid state
 2 plan amendment or waiver authorizing federal financial
 3 participation.

4 (b) (1) While seeking federal approval for any federal Medicaid
 5 state plan amendment or waiver associated with Drug Medi-Cal
 6 services, the department shall consult with the counties and
 7 stakeholders in the development of the state plan amendment or
 8 waiver.

9 (2) Upon federal approval of a federal Medicaid state plan
 10 amendment authorizing federal financial participation in the
 11 following services, and subject to appropriation of funds, “Drug
 12 Medi-Cal reimbursable services” shall also include the following
 13 services, administered by the department, and to the extent
 14 consistent with state and federal law:

15 (A) Notwithstanding subdivision (a) of Section 14132.90, day
 16 care habilitative services, which, for purposes of this paragraph,
 17 are outpatient counseling and rehabilitation services provided to
 18 persons with substance use disorder diagnoses.

19 (B) Case management services, including supportive services
 20 to assist persons with substance use disorder diagnoses in gaining
 21 access to medical, social, educational, and other needed services.

22 (C) Aftercare services.

23 (c) (1) The nonfederal share for Drug Medi-Cal services shall
 24 be funded through a county’s Behavioral Health Subaccount of
 25 the Support Services Account of the Local Revenue Fund 2011,
 26 and any other available county funds eligible under federal law
 27 for federal Medicaid reimbursement. The funds contained in each
 28 county’s Behavioral Health Subaccount of the Support Services
 29 Account of the Local Revenue Fund 2011 shall be considered state
 30 funds distributed by the principal state agency for the purposes of
 31 receipt of the federal block grant funds for prevention and treatment
 32 of substance abuse found at Subchapter XVII of Chapter 6A of
 33 Title 42 of the United States Code. Pursuant to applicable federal
 34 Medicaid law and regulations including Section 433.51 of Title
 35 42 of the Code of Federal Regulations, counties may claim
 36 allowable Medicaid federal financial participation for Drug
 37 Medi-Cal services based on the counties certifying their actual
 38 total funds expenditures for eligible Drug Medi-Cal services to
 39 the department.

1 (2) (A) If the director determines that a county's provision of
2 Drug Medi-Cal treatment services are disallowed by the federal
3 government or by state or federal audit or review, the impacted
4 county shall be responsible for repayment of all disallowed federal
5 funds. In addition to any other recovery methods available,
6 including, but not limited to, offset of Medicaid federal financial
7 participation funds owed to the impacted county, the director may
8 offset these amounts in accordance with Section 12419.5 of the
9 Government Code.

10 (B) A county subject to an action by the director pursuant to
11 subparagraph (A) may challenge that action by requesting a hearing
12 in writing no later than 30 days from receipt of notice of the
13 department's action. The proceeding shall be conducted in
14 accordance with Chapter 5 (commencing with Section 11500) of
15 Part 1 of Division 3 of Title 2 of the Government Code, and the
16 director has all the powers granted therein. Upon a county's timely
17 request for hearing, the county's obligation to make payment as
18 determined by the director shall be stayed pending the county's
19 exhaustion of administrative remedies provided herein but no
20 longer than will ensure the department's compliance with Section
21 1903(d)(2)(C) of the federal Social Security Act (42 U.S.C. Sec.
22 1396b).

23 (d) Drug Medi-Cal services are only reimbursable to Drug
24 Medi-Cal providers with an approved Drug Medi-Cal contract.

25 (e) Counties shall negotiate contracts only with providers
26 certified to provide Drug Medi-Cal services.

27 (f) The department shall develop methods to ensure timely
28 payment of Drug Medi-Cal claims.

29 (g) (1) A county or a contracted provider, except for a provider
30 to whom subdivision (h) applies, shall submit accurate and
31 complete cost reports for the previous fiscal year by November 1,
32 following the end of the fiscal year. The department may settle
33 Drug Medi-Cal reimbursable services, based on the cost report as
34 the final amendment to the approved county Drug Medi-Cal
35 contract.

36 (2) Amounts paid for services provided to Drug Medi-Cal
37 beneficiaries shall be audited by the department in the manner and
38 form described in Section 14170.

1 (3) Administrative appeals to review grievances or complaints
2 arising from the findings of an audit or examination made pursuant
3 to this section shall be subject to Section 14171.

4 (h) Certified narcotic treatment program providers that are
5 exclusively billing the state or the county for services rendered to
6 persons subject to Section 1210.1 or 3063.1 of the Penal Code or
7 Section 14021.52 of this code shall submit accurate and complete
8 performance reports for the previous state fiscal year by November
9 1 following the end of that fiscal year. A provider to which this
10 subdivision applies shall estimate its budgets using the uniform
11 state daily reimbursement rate. The format and content of the
12 performance reports shall be mutually agreed to by the department,
13 the County Alcohol and Drug Program Administrators' Association
14 of California, and representatives of the treatment providers.

15 (i) Contracts entered into pursuant to this section shall be exempt
16 from the requirements of Chapter 1 (commencing with Section
17 10100) and Chapter 2 (commencing with Section 10290) of Part
18 2 of Division 2 of the Public Contract Code.

19 (j) Annually, the department shall publish procedures for
20 contracting for Drug Medi-Cal services with certified providers
21 and for claiming payments, including procedures and specifications
22 for electronic data submission for services rendered.

23 (k) If the department commences a preliminary criminal
24 investigation of a certified provider, the department shall promptly
25 notify each county that currently contracts with the provider for
26 Drug Medi-Cal services that a preliminary criminal investigation
27 has commenced. If the department concludes a preliminary criminal
28 investigation of a certified provider, the department shall promptly
29 notify each county that currently contracts with the provider for
30 Drug Medi-Cal services that a preliminary criminal investigation
31 has concluded.

32 (1) Notice of the commencement and conclusion of a
33 preliminary criminal investigation pursuant to this section shall
34 be made to the county behavioral health director or his or her
35 equivalent.

36 (2) Communication between the department and a county
37 specific to the commencement or conclusion of a preliminary
38 criminal investigation pursuant to this section shall be deemed
39 confidential and shall not be subject to any disclosure request,
40 including, but not limited to, the Information Practices Act of 1977

1 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part
2 4 of Division 3 of the Civil Code), the California Public Records
3 Act (Chapter 3.5 (commencing with Section 6250) of Division 7
4 of Title 1 of the Government Code), requests pursuant to a
5 subpoena, or for any other public purpose, including, but not
6 limited to, court testimony.

7 (3) Information shared by the department with a county
8 regarding a preliminary criminal investigation shall be maintained
9 in a manner to ensure protection of the confidentiality of the
10 criminal investigation.

11 (4) The information provided to a county pursuant to this section
12 shall only include the provider name, national provider identifier
13 (NPI) number, address, and the notice that an investigation has
14 commenced or concluded.

15 (5) A county shall not take any adverse action against a provider
16 based solely upon the preliminary criminal investigation
17 information disclosed to the county pursuant to this section.

18 (6) In the event of a preliminary criminal investigation of a
19 county owned or operated program, the department has the option
20 to, but is not required to, notify the county pursuant to this section
21 when the department commences or concludes a preliminary
22 criminal investigation.

23 (7) This section does not limit the voluntary or otherwise legally
24 mandated or contractually mandated sharing of information
25 between the department and a county of information regarding
26 audits and investigations of Drug Medi-Cal providers.

27 (8) “Commenced” means the time at which a complaint or
28 allegation is assigned to an investigator for a field investigation.

29 (9) “Preliminary criminal investigation” means an investigation
30 to gather information to determine if criminal law or statutes have
31 been violated.

32 ~~SEC. 605.~~

33 *SEC. 614.* Section 14132.90 of the Welfare and Institutions
34 Code is repealed.

35 ~~SEC. 606.~~

36 *SEC. 615.* Section 14132.99 of the Welfare and Institutions
37 Code, as amended by Section 237 of Chapter 664 of the Statutes
38 of 2002, is amended and renumbered to read:

39 14132.985. For services provided pursuant to Chapter 7
40 (commencing with Section 14000) of Part 3 of Division 9, Section

1 14499.5, or Chapter 1 (commencing with Section 101525) to
2 Chapter 4 (commencing with Section 101825), inclusive, of Part
3 4 of Division 101 of the Health and Safety Code, the cost for
4 services defined in Section 1370.6 of the Health and Safety Code,
5 Code and Sections 14087.11 and 14132.98 of this code shall be
6 provided by state-only funds if federal financial participation is
7 not available.

8 ~~SEC. 607:~~

9 *SEC. 616.* Section 14132.277 of the Welfare and Institutions
10 Code is amended to read:

11 14132.277. (a) For purposes of this section, the following
12 definitions apply:

13 (1) “Alternate health care service plan” means a prepaid health
14 plan that is a nonprofit health care service plan with at least 3.5
15 million enrollees statewide, that owns or operates its own
16 pharmacies, and that provides medical services to enrollees in
17 specific geographic regions through an exclusive contract with a
18 single medical group in each specific geographic region in which
19 it operates to provide services to enrollees.

20 (2) “Cal MediConnect plan” means a health plan or other
21 qualified entity jointly selected by the state and CMS for
22 participation in the demonstration project.

23 (3) “CMS” means the federal Centers for Medicare and
24 Medicaid Services.

25 (4) “Coordinated Care Initiative county” means the Counties
26 of Alameda, Los Angeles, Orange, Riverside, San Bernardino, San
27 Diego, San Mateo, and Santa Clara, and any other county identified
28 in Appendix 3 of the Memorandum of Understanding Between
29 the Centers for Medicare and Medicaid Services and the State of
30 California, Regarding a Federal-State Partnership to Test a
31 Capitated Financial Alignment Model for Medicare-Medicaid
32 Enrollees, inclusive of all amendments, as authorized by Section
33 14132.275.

34 (5) “D-SNP plan” means a Medicare Advantage Dual Special
35 Needs Plan.

36 (6) “D-SNP contract” means a federal Medicare Improvements
37 for Patients and Provider Act of 2008 (Public Law 110-275)
38 compliant contract between the department and a D-SNP plan.

39 (7) “Demonstration project” means the demonstration project
40 authorized by Section 14132.275.

1 (8) “Excluded beneficiaries” means those beneficiaries who are
2 not eligible to participate in the demonstration project pursuant to
3 subdivision (l) of Section 14132.275.

4 (9) “FIDE-SNP plan” means a Medicare Advantage
5 Fully-Integrated Dual Eligible Special Needs Plan.

6 (10) “Non-Coordinated Care Initiative counties” means counties
7 not participating in the demonstration project.

8 (b) For the 2014 calendar year, the department shall offer D-SNP
9 contracts to existing D-SNP plans to continue to provide benefits
10 to their enrollees in their service areas as approved on January 1,
11 2013. The director may include in any D-SNP contract provisions
12 requiring that the D-SNP plan do the following:

13 (1) Submit to the department a complete and accurate copy of
14 the bid submitted by the plan to CMS for its D-SNP contract.

15 (2) Submit to the department copies of all utilization and quality
16 management reports submitted to CMS.

17 (c) In Coordinated Care Initiative counties, Medicare Advantage
18 plans and D-SNP plans may continue to enroll beneficiaries in
19 2014. In the 2014 calendar year, beneficiaries enrolled in a
20 Medicare Advantage or D-SNP plan operating in a Coordinated
21 Care Initiative county shall be exempt from the enrollment
22 provisions of subparagraph (A) of paragraph (1) of subdivision (l)
23 of Section 14132.275. Those beneficiaries may at any time
24 voluntarily choose to disenroll from their Medicare Advantage or
25 D-SNP plan and enroll in a demonstration site operating pursuant
26 to subdivision (g) of Section 14132.275. If a beneficiary chooses
27 to do so, that beneficiary may subsequently disenroll from the
28 demonstration site and return to fee-for-service Medicare or to a
29 D-SNP plan or Medicare Advantage plan.

30 (d) For the 2015 calendar year and the remainder of the
31 demonstration project, in Coordinated Care Initiative counties, the
32 department shall offer D-SNP contracts to D-SNP plans that were
33 approved for the D-SNP plan’s service areas as of January 1, 2013.
34 In Coordinated Care Initiative counties, the department shall enter
35 into D-SNP contracts with D-SNP plans only for excluded
36 beneficiaries and for those beneficiaries identified in paragraphs
37 (2) and (5) of subdivision (g).

38 (e) For the 2015 calendar year and the remainder of the
39 demonstration project, in non-Coordinated Care Initiative counties,
40 the department shall offer D-SNP contracts to D-SNP plans.

1 (f) The director may include in a D-SNP contract offered
2 pursuant to subdivision (d) or (e) provisions requiring that the
3 D-SNP plan do the following:

4 (1) Submit to the department a complete and accurate copy of
5 the bid submitted by the plan to CMS for its D-SNP contract.

6 (2) Submit to the department copies of all utilization and quality
7 management reports submitted to CMS.

8 (g) For the 2015 calendar year and the remainder of the
9 demonstration project, in Coordinated Care Initiative counties, the
10 enrollment provisions of subdivision (l) of Section 14132.275 shall
11 apply subject to the following:

12 (1) Beneficiaries enrolled in a FIDE-SNP plan or a Medicare
13 Advantage plan, other than a D-SNP plan, shall be exempt from
14 the enrollment provisions of subparagraph (A) of paragraph (1) of
15 subdivision (l) of Section 14132.275.

16 (2) If the D-SNP plan is not a Cal MediConnect plan,
17 beneficiaries enrolled as of December 31, 2014, in a D-SNP plan
18 shall be exempt from the enrollment provisions of subparagraph
19 (A) of paragraph (1) of subdivision (l) of Section 14132.275. Those
20 beneficiaries may at any time voluntarily choose to disenroll from
21 their D-SNP plan and enroll in a demonstration site operating
22 pursuant to subdivision (g) of Section 14132.275. A dual eligible
23 beneficiary who is enrolled as of December 31, 2014, in a D-SNP
24 plan that is not a Cal MediConnect plan and who opts out of a
25 demonstration site during the course of the demonstration project
26 may choose to reenroll in that D-SNP plan.

27 (3) If the D-SNP is a Cal MediConnect plan, beneficiaries
28 enrolled in a D-SNP plan who are eligible for the demonstration
29 project shall be subject to the enrollment provisions of
30 subparagraph (A) of paragraph (1) of subdivision (l) of Section
31 14132.275.

32 (4) For FIDE-SNP plans serving beneficiaries in Coordinated
33 Care Initiative counties, the department shall require the following
34 provisions:

35 (A) After December 31, 2014, enrollment in the County of Los
36 Angeles shall not exceed 6,000 additional beneficiaries at any
37 point during the term of the demonstration project. After December
38 31, 2014, enrollment in the combined Counties of Riverside and
39 San Bernardino shall not exceed 1,500 additional beneficiaries at
40 any point during the term of the demonstration project.

1 (B) Any necessary data or information requirements provided
2 by the FIDE-SNP to ensure contract compliance.

3 (5) Beneficiaries enrolled in an alternate health care service
4 plan (AHCSP) who become dually eligible for Medicare and
5 Medicaid benefits while enrolled in that AHCSP may elect to enroll
6 in the AHCSP's D-SNP plan subject to the following requirements:

7 (A) The beneficiary was a member of the AHCSP immediately
8 prior to becoming dually eligible for Medicare and Medicaid
9 benefits.

10 (B) Upon mutual agreement between a Cal MediConnect Plan
11 operated by a health authority or commission contracting with the
12 department and the AHCSP, the AHCSP shall take full financial
13 and programmatic responsibility for the long-term supports and
14 services of the D-SNP enrollee, including, but not limited to,
15 in-home supportive services, long term skilled nursing care,
16 community based adult services, multipurpose senior services
17 program services, and other Medi-Cal benefits offered in the
18 demonstration project.

19 (6) Prior to assigning a beneficiary in a Medi-Cal managed care
20 health plan pursuant to Section 14182.16, the department shall
21 determine whether the beneficiary is already a member of the
22 AHCSP. If so, the beneficiary shall be assigned to a Medi-Cal
23 managed care health plan operated by a health authority or
24 commission contracting with the department and subcontracting
25 with the AHCSP.

26 ~~SEC. 608.~~

27 *SEC. 617.* Section 14148.67 of the Welfare and Institutions
28 Code is amended to read:

29 14148.67. (a) When implementing the premium and
30 cost-sharing payments required under Sections 14102 and
31 14148.65, the department shall make the premium and cost-sharing
32 payments required under those sections to the beneficiary's
33 qualified health plan in conformity with the requirements of this
34 section.

35 (b) (1) The beneficiary shall not be charged, billed, asked, or
36 required to make any premium or cost-sharing payments to his or
37 her qualified health plan or service provider for any services that
38 are subject to premium or cost-sharing payments by the department
39 under Section 14102 or 14148.65.

1 (2) If the beneficiary makes any premium or cost-sharing
2 payments to his or her plan or provider for services that are subject
3 to premium or cost-sharing payments by the department under
4 Section 14102 or 14148.65, the department shall reimburse the
5 beneficiary for those payments. The department shall make every
6 reasonable effort to do both of the following:

7 (A) Make the reimbursement process simple and easy for
8 beneficiaries to use.

9 (B) Promptly reimburse beneficiaries under this paragraph.

10 (3) If, as a result of reconciliation in a tax year in which the
11 beneficiary was eligible for covered premium payments under
12 Section 14102 or 14148.65, the beneficiary owes and makes a tax
13 payment to the federal government to return a portion of the
14 advanced premium tax credit to which the beneficiary was not
15 entitled and the beneficiary notifies the department, the department
16 shall reimburse the beneficiary for the amount of the tax payment
17 related to the tax credits for covered premium payments under
18 Section 14102 or 14148.65.

19 (4) If, as a result of reconciliation in a tax year in which the
20 beneficiary was eligible for covered premium payments under
21 Section 14102 or 14148.65, the federal government owes and
22 makes a tax refund to the beneficiary based upon the beneficiary's
23 advanced premium tax credit, the beneficiary shall reimburse the
24 department for the portion of the refund that is related to the tax
25 credits that were applied to the premium payments made by the
26 department.

27 (c) (1) Except as provided in paragraph (2), beneficiaries who
28 are eligible for benefits under Section 14102 or 14148.65 shall be
29 eligible for the premium and cost-sharing payments required under
30 those sections only up to the amount necessary to pay for the
31 second lowest silver level plan in his or her qualified health plan
32 pricing region, as modified by cost-sharing reductions.

33 (2) If a beneficiary selects or remains in a metal level plan that
34 is more expensive than the metal level plan amount limit required
35 under paragraph (1), the beneficiary may select or remain in that
36 plan only if he or she agrees to be responsible for paying all
37 applicable premium and cost-sharing charges that are in excess of
38 what is covered by the department. The department is not
39 responsible for paying for any premium or cost sharing that is in

1 excess of the metal level plan amount limit required under
2 paragraph (1).

3 (d) The department shall consult with the Exchange, Exchange
4 contracting health care service plans and health insurers, and
5 stakeholders, including consumer advocates, Medi-Cal providers,
6 and the counties, in the development and implementation of the
7 following:

8 (1) Processes and procedures to inform affected applicants and
9 beneficiaries in a clear, consumer-friendly manner of all of their
10 enrollment options under the Medi-Cal program and the Exchange,
11 of the manner in which they may receive the benefits and services
12 covered through the Exchange coverage, and of the manner in
13 which they may receive benefits and services under Section 14102.

14 (2) Provider notices to ensure that Medi-Cal providers are aware
15 of the Medi-Cal program under Section 14102 and that providers
16 comply with state laws applicable to Medi-Cal coverage for
17 individuals eligible under Section 14102.

18 (e) All notices developed under subdivision (d) shall be
19 accessible to persons with limited English language proficiency
20 and persons with disabilities consistent with all federal and state
21 requirements.

22 (f) Notwithstanding Chapter 3.5 (commencing with Section
23 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
24 the department, without taking any further regulatory action, shall
25 implement, interpret, or make specific this section by means of
26 all-county letters, plan letters, plan or provider bulletins, or similar
27 instructions until the time regulations are adopted. The department
28 shall adopt regulations by July 1, 2017, in accordance with the
29 requirements of Chapter 3.5 (commencing with Section 11340) of
30 Part 1 of Division 3 of Title 2 of the Government Code.
31 Notwithstanding Section 10231.5 of the Government Code,
32 beginning six months after the effective date of this section, the
33 department shall provide a status report to the Legislature on a
34 semiannual basis, in compliance with Section 9795 of the
35 Government Code, until regulations have been adopted.

36 (g) This section shall be implemented only if and to the extent
37 that federal financial participation is available and any necessary
38 federal approvals have been obtained.

1 ~~SEC. 609.~~

2 *SEC. 618.* Section 14148.9 of the Welfare and Institutions
3 Code, as added by Section 4 of Chapter 1171 of the Statutes of
4 1991, is amended and renumbered to read:

5 14148.85. The department shall provide for the receipt and
6 initial processing of Medi-Cal applications from (a) pregnant
7 women; and (b) children born after September 30, 1983, who have
8 not yet attained 19 years of age, at facilities other than the county
9 welfare department as described in Title XIX of the Social Security
10 Act (42 U.S.C., Sec. 1396 and following).

11 ~~SEC. 610.~~

12 *SEC. 619.* Section 14154 of the Welfare and Institutions Code
13 is amended to read:

14 14154. (a) (1) The department shall establish and maintain a
15 plan whereby costs for county administration of the determination
16 of eligibility for benefits under this chapter will be effectively
17 controlled within the amounts annually appropriated for that
18 administration. The plan, to be known as the County Administrative
19 Cost Control Plan, shall establish standards and performance
20 criteria, including workload, productivity, and support services
21 standards, to which counties shall adhere. The plan shall include
22 standards for controlling eligibility determination costs that are
23 incurred by performing eligibility determinations at county
24 hospitals, or that are incurred due to the outstationing of any other
25 eligibility function. Except as provided in Section 14154.15,
26 reimbursement to a county for outstationed eligibility functions
27 shall be based solely on productivity standards applied to that
28 county's welfare department office.

29 (2) (A) The plan shall delineate both of the following:

30 (i) The process for determining county administration base costs,
31 which include salaries and benefits, support costs, and staff
32 development.

33 (ii) The process for determining funding for caseload changes,
34 cost-of-living adjustments, and program and other changes.

35 (B) The annual county budget survey document utilized under
36 the plan shall be constructed to enable the counties to provide
37 sufficient detail to the department to support their budget requests.

38 (3) The plan shall be part of a single state plan, jointly developed
39 by the department and the State Department of Social Services, in
40 conjunction with the counties, for administrative cost control for

1 the California Work Opportunity and Responsibility to Kids
2 (CalWORKs), CalFresh, and Medical Assistance (Medi-Cal)
3 programs. Allocations shall be made to each county and shall be
4 limited by and determined based upon the County Administrative
5 Cost Control Plan. In administering the plan to control county
6 administrative costs, the department shall not allocate state funds
7 to cover county cost overruns that result from county failure to
8 meet requirements of the plan. The department and the State
9 Department of Social Services shall budget, administer, and
10 allocate state funds for county administration in a uniform and
11 consistent manner.

12 (4) The department and county welfare departments shall
13 develop procedures to ensure the data clarity, consistency, and
14 reliability of information contained in the county budget survey
15 document submitted by counties to the department. These
16 procedures shall include the format of the county budget survey
17 document and process, data submittal and its documentation, and
18 the use of the county budget survey documents for the development
19 of determining county administration costs. Communication
20 between the department and the county welfare departments shall
21 be ongoing as needed regarding the content of the county budget
22 surveys and any potential issues to ensure the information is
23 complete and well understood by involved parties. Changes
24 developed pursuant to this section shall be incorporated within the
25 state's annual budget process by no later than the 2011–12 fiscal
26 year.

27 (5) The department shall provide a clear narrative description
28 along with fiscal detail in the Medi-Cal estimate package, submitted
29 to the Legislature in January and May of each year, of each
30 component of the county administrative funding for the Medi-Cal
31 program. This shall describe how the information obtained from
32 the county budget survey documents was utilized and, if applicable,
33 modified and the rationale for the changes.

34 (6) Notwithstanding any other law, the department shall develop
35 and implement, in consultation with county program and fiscal
36 representatives, a new budgeting methodology for Medi-Cal county
37 administrative costs that reflects the impact of PPACA
38 implementation on county administrative work. The new budgeting
39 methodology shall be used to reimburse counties for eligibility
40 processing and case maintenance for applicants and beneficiaries.

1 (A) The budgeting methodology may include, but is not limited
2 to, identification of the costs of eligibility determinations for
3 applicants, and the costs of eligibility redeterminations and case
4 maintenance activities for recipients, for different groupings of
5 cases, based on variations in time and resources needed to conduct
6 eligibility determinations. The calculation of time and resources
7 shall be based on the following factors: complexity of eligibility
8 rules, ongoing eligibility requirements, and other factors as
9 determined appropriate by the department. The development of
10 the new budgeting methodology may include, but is not limited
11 to, county survey of costs, time and motion studies, in-person
12 observations by department staff, data reporting, and other factors
13 deemed appropriate by the department.

14 (B) The new budgeting methodology shall be clearly described,
15 state the necessary data elements to be collected from the counties,
16 and establish the timeframes for counties to provide the data to
17 the state.

18 (C) The new budgeting methodology developed pursuant to this
19 paragraph shall be implemented no sooner than the 2015–16 fiscal
20 year. The department may develop a process for counties to phase
21 in the requirements of the new budgeting methodology.

22 (D) The department shall provide the new budgeting
23 methodology to the legislative fiscal committees by March 1 of
24 the fiscal year immediately preceding the first fiscal year of
25 implementation of the new budgeting methodology.

26 (E) To the extent that the funding for the county budgets
27 developed pursuant to the new budget methodology is not fully
28 appropriated in any given fiscal year, the department, with input
29 from the counties, shall identify and consider options to align
30 funding and workload responsibilities.

31 (F) For purposes of this paragraph, “PPACA” means the federal
32 Patient Protection and Affordable Care Act (Public Law 111-148),
33 as amended by the federal Health Care and Education
34 Reconciliation Act of 2010 (Public Law 111-152) and any
35 subsequent amendments.

36 (G) Notwithstanding Chapter 3.5 (commencing with Section
37 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
38 the department may implement, interpret, or make specific this
39 paragraph by means of all-county letters, plan letters, plan or
40 provider bulletins, or similar instructions until the time any

1 necessary regulations are adopted. The department shall adopt
2 regulations by July 1, 2017, in accordance with the requirements
3 of Chapter 3.5 (commencing with Section 11340) of Part 1 of
4 Division 3 of Title 2 of the Government Code. Beginning six
5 months after the implementation of the new budgeting methodology
6 pursuant to this paragraph, and notwithstanding Section 10231.5
7 of the Government Code, the department shall provide a status
8 report to the Legislature on a semiannual basis, in compliance with
9 Section 9795 of the Government Code, until regulations have been
10 adopted.

11 (b) This section, Section 15204.5, or Section 18906 shall not
12 be construed to limit the administrative or budgetary
13 responsibilities of the department in a manner that would violate
14 Section 14100.1, and thereby jeopardize federal financial
15 participation under the Medi-Cal program.

16 (c) (1) The Legislature finds and declares that in order for
17 counties to do the work that is expected of them, it is necessary
18 that they receive adequate funding, including adjustments for
19 reasonable annual cost-of-doing-business increases. The Legislature
20 further finds and declares that linking appropriate funding for
21 county Medi-Cal administrative operations, including annual
22 cost-of-doing-business adjustments, with performance standards
23 will give counties the incentive to meet the performance standards
24 and enable them to continue to do the work they do on behalf of
25 the state. It is therefore the Legislature's intent to provide
26 appropriate funding to the counties for the effective administration
27 of the Medi-Cal program at the local level to ensure that counties
28 can reasonably meet the purposes of the performance measures as
29 contained in this section.

30 (2) It is the intent of the Legislature to not appropriate funds for
31 the cost-of-doing-business adjustment for the 2008–09, 2009–10,
32 2010–11, 2011–12, 2012–13, and 2014–15 fiscal years.

33 (d) The department is responsible for the Medi-Cal program in
34 accordance with state and federal law. A county shall determine
35 Medi-Cal eligibility in accordance with state and federal law. If
36 in the course of its duties the department becomes aware of
37 accuracy problems in any county, the department shall, within
38 available resources, provide training and technical assistance as
39 appropriate. This section shall not be interpreted to eliminate any
40 remedy otherwise available to the department to enforce accurate

1 county administration of the program. In administering the
2 Medi-Cal eligibility process, each county shall meet the following
3 performance standards each fiscal year:

4 (1) Complete eligibility determinations as follows:

5 (A) Ninety percent of the general applications without applicant
6 errors and are complete shall be completed within 45 days.

7 (B) Ninety percent of the applications for Medi-Cal based on
8 disability shall be completed within 90 days, excluding delays by
9 the state.

10 (2) (A) The department shall establish best-practice guidelines
11 for expedited enrollment of newborns into the Medi-Cal program,
12 preferably with the goal of enrolling newborns within 10 days after
13 the county is informed of the birth. The department, in consultation
14 with counties and other stakeholders, shall work to develop a
15 process for expediting enrollment for all newborns, including those
16 born to mothers receiving CalWORKs assistance.

17 (B) Upon the development and implementation of the
18 best-practice guidelines and expedited processes, the department
19 and the counties may develop an expedited enrollment timeframe
20 for newborns that is separate from the standards for all other
21 applications, to the extent that the timeframe is consistent with
22 these guidelines and processes.

23 (3) Perform timely annual redeterminations, as follows:

24 (A) Ninety percent of the annual redetermination forms shall
25 be mailed to the recipient by the anniversary date.

26 (B) Ninety percent of the annual redeterminations shall be
27 completed within 60 days of the recipient's annual redetermination
28 date for those redeterminations based on forms that are complete
29 and have been returned to the county by the recipient in a timely
30 manner.

31 (C) Ninety percent of those annual redeterminations for which
32 the redetermination form has not been returned to the county by
33 the recipient shall be completed by sending a notice of action to
34 the recipient within 45 days after the date the form was due to the
35 county.

36 (D) If a child is determined by the county to change from no
37 share of cost to a share of cost and the child meets the eligibility
38 criteria for the Healthy Families Program established under Section
39 12693.98 of the Insurance Code, the child shall be placed in the

1 Medi-Cal-to-Healthy Families Bridge Benefits Program, and these
2 cases shall be processed as follows:

3 (i) Ninety percent of the families of these children shall be sent
4 a notice informing them of the Healthy Families Program within
5 five working days from the determination of a share of cost.

6 (ii) Ninety percent of all annual redetermination forms for these
7 children shall be sent to the Healthy Families Program within five
8 working days from the determination of a share of cost if the parent
9 has given consent to send this information to the Healthy Families
10 Program.

11 (iii) Ninety percent of the families of these children placed in
12 the Medi-Cal-to-Healthy Families Bridge Benefits Program who
13 have not consented to sending the child's annual redetermination
14 form to the Healthy Families Program shall be sent a request,
15 within five working days of the determination of a share of cost,
16 to consent to send the information to the Healthy Families Program.

17 (E) Subparagraph (D) shall not be implemented until 60 days
18 after the Medi-Cal and Joint Medi-Cal and Healthy Families
19 applications and the Medi-Cal redetermination forms are revised
20 to allow the parent of a child to consent to forward the child's
21 information to the Healthy Families Program.

22 (e) The department shall develop procedures in collaboration
23 with the counties and stakeholder groups for determining county
24 review cycles, sampling methodology and procedures, and data
25 reporting.

26 (f) On January 1 of each year, each applicable county, as
27 determined by the department, shall report to the department on
28 the county's results in meeting the performance standards specified
29 in this section. The report is subject to verification by the
30 department. County reports shall be provided to the public upon
31 written request.

32 (g) If the department finds that a county is not in compliance
33 with one or more of the standards set forth in this section, the
34 county shall, within 60 days, submit a corrective action plan to the
35 department for approval. The corrective action plan shall, at a
36 minimum, include steps that the county shall take to improve its
37 performance on the standard or standards with which the county
38 is out of compliance. The plan shall establish interim benchmarks
39 for improvement that shall be expected to be met by the county in
40 order to avoid a sanction.

1 (h) (1) If a county does not meet the performance standards for
2 completing eligibility determinations and redeterminations as
3 specified in this section, the department may, at its sole discretion,
4 reduce the allocation of funds to that county in the following year
5 by 2 percent. Funds so reduced may be restored by the department
6 if, in the determination of the department, sufficient improvement
7 has been made by the county in meeting the performance standards
8 during the year for which the funds were reduced. If the county
9 continues not to meet the performance standards, the department
10 may reduce the allocation by an additional 2 percent for each year
11 thereafter in which sufficient improvement has not been made to
12 meet the performance standards.

13 (2) A reduction of the allocation of funds to a county shall not
14 be imposed pursuant to this subdivision for failure to meet
15 performance standards during any period of time in which the
16 cost-of-doing-business increase is suspended.

17 (i) The department shall develop procedures, in collaboration
18 with the counties and stakeholders, for developing instructions for
19 the performance standards established under subparagraph (D) of
20 paragraph (3) of subdivision (d), no later than September 1, 2005.

21 (j) No later than September 1, 2005, the department shall issue
22 a revised annual redetermination form to allow a parent to indicate
23 parental consent to forward the annual redetermination form to
24 the Healthy Families Program if the child is determined to have a
25 share of cost.

26 (k) The department, in coordination with the Managed Risk
27 Medical Insurance Board, shall streamline the method of providing
28 the Healthy Families Program with information necessary to
29 determine Healthy Families eligibility for a child who is receiving
30 services under the Medi-Cal-to-Healthy Families Bridge Benefits
31 Program.

32 (l) Notwithstanding Chapter 3.5 (commencing with Section
33 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
34 and except as provided in subparagraph (G) of paragraph (6) of
35 subdivision (a), the department shall, without taking any further
36 regulatory action, implement, interpret, or make specific this
37 section and any applicable federal waivers and state plan
38 amendments by means of all-county letters or similar instructions.

1 ~~SEC. 611.~~

2 *SEC. 620.* Section 14165.50 of the Welfare and Institutions
3 Code is amended to read:

4 14165.50. (a) To facilitate the financial viability of a new
5 private nonprofit hospital that will serve the population of South
6 Los Angeles that was formerly served by the Los Angeles County
7 Martin Luther King, Jr.-Harbor Hospital, Medi-Cal funding shall,
8 at a minimum, be made available, as specified in this section, or
9 pursuant to mechanisms that provide equivalent funding under
10 successor or modified Medi-Cal payment systems.

11 (b) Medi-Cal payment for hospital services provided by the
12 new hospital, exclusive of any payments under the Medi-Cal
13 Hospital Reimbursement Improvement Act of 2013 (Article 5.230
14 (commencing with Section 14169.50)) or funded by another
15 statewide hospital fee program, and exclusive of the supplemental
16 payments specified in subdivision (d), shall include consideration
17 of the new hospital's projected Medi-Cal costs for providing the
18 services as set forth in this section.

19 (1) (A) Subject to paragraph (2) of subdivision (c), and
20 notwithstanding any other law, Medi-Cal payments made to the
21 new hospital on a fee-for-service basis, including payments made
22 pursuant to the methodology authorized under Section 14105.28
23 or successor or modified methodologies, shall provide
24 compensation that is, at a minimum, equal to 100 percent of the
25 new hospital's projected Medi-Cal costs for each fiscal year.

26 (B) To the extent supplemental payments are necessary for any
27 fiscal year to meet the applicable minimum reimbursement level
28 as described in subparagraph (A), the department shall seek federal
29 approval, as necessary, to enable the new hospital to receive the
30 Medi-Cal supplemental payments.

31 (2) (A) To the extent permitted under federal law, the
32 department shall require Medi-Cal managed care plans serving
33 Medi-Cal beneficiaries in the County of Los Angeles to pay the
34 new hospital amounts determined necessary to meet compensation
35 levels for services provided to managed care enrollees that are no
36 less than the amount to which the new hospital would have received
37 on a fee-for-service basis pursuant to paragraph (1). The amounts
38 shall be determined in consultation with the new hospital, the
39 County of Los Angeles, and the Medi-Cal managed care plan, and
40 shall be subject to paragraph (2) of subdivision (c).

1 (B) Consistent with federal law, the capitation rates paid to
2 Medi-Cal managed care plans serving Medi-Cal beneficiaries in
3 the County of Los Angeles shall be determined to reflect the
4 obligations described in subparagraph (A). The increased payments
5 to Medi-Cal managed care plans that would be paid consistent
6 with actuarial certification and enrollment in the absence of this
7 paragraph shall not be reduced as a consequence of this paragraph.

8 (C) A Medi-Cal managed care plan receiving the increased
9 payments described in subparagraph (B) shall not impose a fee or
10 retention amount, or reduce other payments to the new hospital
11 that would result in a direct or indirect reduction to the amounts
12 required to be paid under subparagraph (A).

13 (3) This subdivision shall not be construed to result in payments
14 that are less than the rates of compensation that would be payable
15 to the new hospital for Medi-Cal services without regard to the
16 requirements of paragraphs (1) and (2).

17 (c) If the applicable minimum reimbursement levels required
18 in subdivision (b) result in payments to the new hospital that are
19 above the levels of compensation that would have been payable
20 absent that requirement, and to the extent a nonfederal share is
21 necessary with respect to the additional compensation, the
22 following provisions shall apply:

23 (1) (A) For each fiscal year through the 2016–17 fiscal year,
24 General Fund amounts appropriated in the annual Budget Act for
25 the Medi-Cal program shall fund the nonfederal share of the
26 additional payments to the extent that the rates of compensation
27 for inpatient hospital services provided by the new hospital that
28 would have been payable in the absence of the requirements of
29 subdivision (b) are less than 77 percent of the new hospital's
30 projected Medi-Cal costs. With respect to the nonfederal share of
31 the additional payments described in paragraph (2) of subdivision
32 (b), however, this subparagraph shall be applicable only for
33 inpatient services provided in conjunction with the implementation
34 of Section 14182, and other mandatory managed care enrollment
35 provisions implemented subsequent to January 1, 2011.

36 (B) For the 2017–18 fiscal year and each subsequent fiscal year,
37 General Fund amounts appropriated in the annual Budget Act for
38 the Medi-Cal program shall fund the nonfederal share of the
39 additional payments to the extent that the rates of compensation
40 for inpatient hospital services provided by the new hospital that

1 would have been payable in the absence of the requirements of
2 subdivision (b) are less than 72 percent of the new hospital's
3 projected Medi-Cal costs. With respect to the nonfederal share of
4 the additional payments described in paragraph (2) of subdivision
5 (b), however, this subparagraph shall be applicable only for
6 inpatient services provided in conjunction with the implementation
7 of Section 14182, and other mandatory managed care enrollment
8 provisions implemented subsequent to January 1, 2011.

9 (2) (A) The remaining necessary nonfederal share of the
10 additional payments, after taking into account the General Fund
11 amounts described in paragraph (1), may be funded with public
12 funds that are transferred to the state from the County of Los
13 Angeles, at the county's election, pursuant to Section 14164. To
14 the extent the county elects not to fund any portion of the remaining
15 necessary nonfederal share, the applicable minimum reimbursement
16 levels required in subdivision (b) shall be reduced accordingly.

17 (B) Public funds transferred to the state for payments to the new
18 hospital as described in this paragraph with respect to a fiscal
19 period shall be expended solely for the nonfederal share of the
20 payments. Notwithstanding any other law, except as provided in
21 subdivision (m), the department shall not impose any fee or
22 assessment in connection with the transferred funds or the
23 payments provided for under this section, including, but not limited
24 to, reimbursement for state staffing or administrative costs.

25 (C) If any portion of the funds transferred pursuant to this
26 paragraph is not expended, or not expected to be expended, for
27 the specified rate amounts required in subdivision (b), the
28 unexpended funds shall be returned promptly to the transferring
29 county.

30 (3) This subdivision shall not be construed to reduce the
31 nonfederal share of payments funded by General Fund amounts
32 below the amounts that would be funded without regard to the
33 minimum payment levels required under this section.

34 (d) (1) In addition to payments meeting the applicable minimum
35 reimbursement levels described in subdivision (b), the new hospital
36 shall be eligible to receive supplemental payments. The
37 supplemental payments shall be provided annually in amounts
38 determined in consultation with the new hospital and the County
39 of Los Angeles, and subject to paragraph (3).

1 (2) The department shall seek federal approval, as necessary,
2 to enable the new hospital to receive supplemental payments that
3 are in addition to the applicable minimum reimbursement levels
4 required in subdivision (b). The supplemental payments may be
5 provided for under the mechanisms described in Sections 14166.12
6 and 14301.4 or successor or modified mechanisms, or any other
7 federally permissible payment mechanism. Supplemental payments
8 that are payable through a Medi-Cal managed care plan shall be
9 subject to the same requirements described in subparagraph (C)
10 of paragraph (2) of subdivision (b).

11 (3) If a nonfederal share is necessary to fund the supplemental
12 payments, the County of Los Angeles may voluntarily provide
13 public funds that are transferred to the state pursuant to Section
14 14164. The county may specify the type of supplemental payment
15 for which it is transferring funds, and any other category relevant
16 to the payment, including, but not limited to, fee-for-service
17 supplemental payment, managed care rate range payment, and
18 payment for services rendered to newly eligible beneficiaries as
19 defined in subdivision (s) of Section 17612.2.

20 (4) Public funds transferred to the state for supplemental
21 payments to the new hospital as described in this subdivision with
22 respect to a fiscal period shall be expended solely for the nonfederal
23 share of the supplemental payments as specified pursuant to
24 paragraph (3). Notwithstanding any other law, subdivision (o) of
25 Section 14166.12 shall not apply, and the department shall not
26 assess the fee described in subdivision (d) of Section 14301.4, or
27 any other similar fee, except as provided in subdivision (m). If any
28 portion of the funds transferred pursuant to this subdivision is not
29 expended, or not expected to be expended, for the specified
30 supplemental payments, the unexpended funds shall be returned
31 promptly to the transferring county.

32 (e) Notwithstanding any other law, all payments provided for
33 under this section shall be treated as having been paid for purposes
34 of any determination of available room under the federal upper
35 payment limit, as specified in Part 447 of Title 42 of the Code of
36 Federal Regulations, with respect to the applicable class of services
37 and class of health care provider.

38 (f) (1) For purposes of this article, “new hospital” means a
39 health facility that is certified under Title XVIII and Title XIX of
40 the federal Social Security Act, and is licensed pursuant to Chapter

1 2 (commencing with Section 1250) of Division 2 of the Health
2 and Safety Code to provide acute inpatient hospital services, and
3 includes all components of the facility, with an inpatient hospital
4 service location on the campus of the former Los Angeles County
5 Martin Luther King, Jr.-Harbor Hospital.

6 (2) “Medi-Cal managed care plan” shall have the meaning
7 provided in paragraph (5) of subdivision (b) of Section 14199.1.

8 (g) For purposes of this article, the new hospital’s projected
9 Medi-Cal costs shall be based on the cost finding principles applied
10 under subdivision (b) of Section 14166.4, except that the projected
11 costs shall not be multiplied by the federal medical assistance
12 percentage and are not subject to the reimbursement limitations
13 set forth in Article 7.5 (commencing with Section 51536) of
14 Chapter 3 of Subdivision 1 of Division 3 of Title 22 of the
15 California Code of Regulations. The projected Medi-Cal costs
16 shall be determined prior to the start of each fiscal year in
17 consultation with the new hospital, using the best available and
18 reasonable current estimates or projections made with respect to
19 the new hospital for an annual period, and shall be considered final
20 as of the start of the fiscal year for purposes of the minimum
21 payment levels described in subdivision (b).

22 (h) Notwithstanding any other law, the new hospital shall not
23 be eligible to receive payments pursuant to Section 14166.11. This
24 subdivision, however, shall not be construed to preclude the
25 hospital from eligibility for disproportionate share status, or from
26 receipt of any federal Medicaid disproportionate share hospital
27 payments to which it would be entitled, pursuant to the Medi-Cal
28 State Plan.

29 (i) Except as specified in subdivision (h), this section shall not
30 be construed to preclude the new hospital from receiving any other
31 payment for which it is eligible in addition to the payments
32 provided for by this section.

33 (j) Notwithstanding any other law, for purposes of Article 12
34 (commencing with Section 17612.1) of Chapter 6 of Part 5, the
35 intergovernmental transfers described in this section as reflected
36 in the actual net expenditures for all operating budget units of the
37 County of Los Angeles Department of Health Services shall not
38 be reduced in any manner in the determination of total costs under
39 paragraph (6) of subdivision (b) of Section 17612.5, by application

1 of the imputed other entity intergovernmental transfer amounts or
2 otherwise.

3 (k) Notwithstanding the rulemaking provisions of Chapter 3.5
4 (commencing with Section 11340) of Part 1 of Division 3 of Title
5 2 of the Government Code, the department may implement this
6 section by means of all-facility letters, all-county letters, or similar
7 instructions, without taking further regulatory action. This section
8 shall not be construed to preclude the department from adopting
9 regulations.

10 (l) (1) The department shall obtain federal approvals or waivers
11 as necessary to implement this section and to obtain federal
12 matching funds to the maximum extent permitted by federal law.
13 This section shall be implemented only if, and to the extent that,
14 federal financial participation is available and this section does
15 not jeopardize the federal financial participation available for any
16 other state program.

17 (2) This section shall be implemented only if, and to the extent
18 that, any necessary federal approvals are obtained.

19 (m) As part of its voluntary participation to provide the
20 nonfederal share of payments under this section, the County of
21 Los Angeles shall agree to reimburse the state for the nonfederal
22 share of state staffing and administrative costs directly attributable
23 to the cost of administrating the payments and associated
24 intergovernmental transfers. The costs shall be documented and
25 subject to review by the county.

26 ~~SEC. 612.~~

27 *SEC. 621.* Section 14166.22 of the Welfare and Institutions
28 Code is amended to read:

29 14166.22. (a) To the extent required to maximize available
30 federal funds under the demonstration project and to the extent
31 authorized by the Special Terms and Conditions for the
32 demonstration project, the department may claim federal
33 reimbursement for expenditures, consistent with the equitable
34 distribution established under this article, in the following priority
35 order:

- 36 (1) The medically indigent adults long-term care program.
- 37 (2) The Genetically Handicapped Persons Program established
- 38 pursuant to Article 1 (commencing with Section 125125) of
- 39 Chapter 2 of Part 5 of Division 106 of the Health and Safety Code.

1 (3) The Breast and Cervical Cancer Treatment Program
2 established pursuant to Article 1.5 (commencing with Section
3 104160) of Chapter 2 of Part 1 of Division 103 of the Health and
4 Safety Code.

5 (4) The California Children’s Services Program established
6 pursuant to Article 5 (commencing with Section 123800) of
7 Chapter 3 of Part 2 of Division 106 of the Health and Safety Code.

8 (b) Notwithstanding any other law, the federal reimbursement
9 received as a result of a claim made pursuant to subdivision (a)
10 shall be used to create General Fund savings solely for the
11 department for use in support of safety net hospitals under the
12 demonstration project.

13 (c) The federal reimbursement received as a result of a claim
14 made pursuant to subdivision (a) is hereby appropriated to the
15 department for the program in which the claimed expenditures
16 were made.

17 (d) An amount of General Fund moneys appropriated to the
18 department for programs specified in subdivision (a) equal to the
19 amount of federal reimbursement identified pursuant to subdivision
20 (c) is hereby reappropriated to the Health Care Deposit Fund to
21 be used for the purposes set forth in this article.

22 ~~SEC. 613.~~

23 *SEC. 622.* The heading of Article 5.22 (commencing with
24 Section 14167.35) is added to Chapter 7 of Part 3 of Division 9 of
25 the Welfare and Institutions Code, to read:

26
27 Article 5.22. Quality Assurance Fee Act

28
29 ~~SEC. 614.~~

30 *SEC. 623.* Section 15151 of the Welfare and Institutions Code
31 is amended to read:

32 15151. During the times that grants-in-aid are provided or made
33 available by the United States government for the purpose of
34 defraying any portion of the costs of administration incurred for
35 public assistance, the State Treasurer shall pay to each county an
36 amount equal to the county’s proportionate share of the sum so
37 granted for the cost of administration, which amount shall be used
38 exclusively for paying the administrative costs. Except as provided
39 in Section 15151.5, the department shall determine the portion of
40 the amount so granted or made available for administrative costs

1 to be paid to the counties, which portion shall be determined
 2 pursuant to rules and regulations of the department and shall be
 3 not less than one-half of the amount so granted or made available.
 4 The department shall adopt rules and regulations that shall be of
 5 uniform application for determining the proportionate shares of
 6 the respective counties of the portion so determined to be paid to
 7 those counties.

8 This section shall become operative and shall supersede provision
 9 (2) of Section 15150 during the times that grants by the United
 10 States government, provided or made available to defray any
 11 portion of administrative costs incurred for public assistance, are
 12 not computed as a proportion of those costs of administration.
 13 Whenever this section is in effect, all other sections referring to
 14 Section 15150 shall also be deemed to refer to this section.

15 *SEC. 624. Section 15655 of the Welfare and Institutions Code*
 16 *is amended to read:*

17 15655. (a) (1) Each long-term health care facility, as defined
 18 in Section 1418 of the Health and Safety Code, community care
 19 facility, as defined in Section 1502 of the Health and Safety Code,
 20 or residential care facility for the elderly, as defined in Section
 21 1569.2 of the Health and Safety Code, that provides care to adults
 22 shall provide training in recognizing and reporting elder and
 23 dependent adult abuse, as prescribed by the Department of Justice.
 24 The Department of Justice shall, in cooperation with the State
 25 Department of Health Services and the State Department of Social
 26 Services, develop a minimal core training program for use by these
 27 facilities. As part of that training, long-term care facilities,
 28 including nursing homes and out-of-home care facilities, shall
 29 provide to all staff being trained a written copy of the reporting
 30 requirements and a written notification of the staff's confidentiality
 31 rights as specified in Section ~~15633~~. 15633.5.

32 (2) Each long-term health care facility, as defined in Section
 33 1418 of the Health and Safety Code, and each community care
 34 facility as defined in Section 1502 of the Health and Safety Code,
 35 shall comply with paragraph (1) by January 1, 2001, or, if the
 36 facility began operation after July 31, 2000, within six months of
 37 the date of the beginning of the operation of the facility. Employees
 38 hired after June 1, 2001, shall be trained within 60 days of their
 39 first day of employment.

1 (3) Each residential care facility, as defined in Section 1569.2
2 of the Health and Safety Code, shall comply with paragraph (1)
3 by July 1, 2002, or, if the facility began operation after July 1,
4 2002, within six months of the date of the beginning of the
5 operation of the facility. Employees hired on or after July 1, 2002,
6 shall be trained within 60 days of their first day of employment.

7 (b) Each long-term health care facility, as defined in Section
8 1418 of the Health and Safety Code, shall be subject to review by
9 the State Department of Health Services Licensing and Certification
10 Unit for compliance with the duties imposed in subdivision (a).

11 (c) Each community care facility, as defined in Section 1502
12 of the Health and Safety Code, and residential care facility for the
13 elderly, as defined in Section 1569.2 of the Health and Safety
14 Code, shall be subject to review by the State Department of Social
15 Services Community Care Licensing Unit for compliance with the
16 duties imposed in subdivision (a).

17 ~~SEC. 615.~~

18 *SEC. 625.* Section 15862 of the Welfare and Institutions Code
19 is amended to read:

20 15862. (a) The provisions of this chapter shall be implemented
21 only if all of the following conditions are met:

22 (1) Federal financial participation is available for this purpose.

23 (2) Federal participation is approved.

24 (3) The department determines that federal funds under Title
25 XXI of the Social Security Act remain available after providing
26 funds for all current enrollees and eligible children that are likely
27 to enroll in the optional targeted low-income children group and,
28 to the extent funded through the federal Children's Health
29 Insurance Program (Subchapter 21 (commencing with Section
30 1397aa) of Chapter 7 of Title 42 of the United States Code), the
31 Medi-Cal Access program and Medi-Cal program, as determined
32 by a Department of Finance estimate.

33 (4) Funds are appropriated specifically for this purpose.

34 (b) The department may accept funding necessary for the
35 preparation of the federal waiver applications or state plan
36 amendments described in Section 15861 from a not-for-profit
37 group or foundation, but only to the extent that the funding may
38 be eligible for federal financial participation.

1 ~~SEC. 616.~~

2 *SEC. 626.* Section 15885.5 of the Welfare and Institutions
3 Code is amended to read:

4 15885.5. If more than one participating health plan is offered,
5 the department shall make available to applicants eligible to enroll
6 in the program sufficient information to make an informed choice
7 among the various types of participating health plans. Each
8 applicant shall be issued an appropriate document setting forth or
9 summarizing the services to which an enrollee is entitled,
10 procedures for obtaining major risk medical coverage, a list of
11 contracting health plans and providers, and a summary of grievance
12 procedures.

13 ~~SEC. 617.~~

14 *SEC. 627.* Section 15894.5 of the Welfare and Institutions
15 Code is amended to read:

16 15894.5. (a) From money appropriated by the Legislature to
17 the fund, the department may expend sufficient funds to carry out
18 the purposes of this chapter and of Section 10127.16 of the
19 Insurance Code, and Section 1373.622 of the Health and Safety
20 Code.

21 (b) However, the state is not liable beyond the assets of the fund
22 for any obligations incurred, or liabilities sustained, in the operation
23 of the California Major Risk Medical Insurance Program or for
24 the expenditures described in Section 10127.16 of the Insurance
25 Code and Section 1373.622 of the Health and Safety Code.

26 ~~SEC. 618.~~

27 *SEC. 628.* Section 16120 of the Welfare and Institutions Code
28 is amended to read:

29 16120. A child is eligible for Adoption Assistance Program
30 benefits if all of the conditions specified in subdivisions (a) to (l),
31 inclusive, are met or if the conditions specified in subdivision (m)
32 are met.

33 (a) It has been determined that the child cannot or should not
34 be returned to the home of his or her parents as evidenced by a
35 petition for termination of parental rights, a court order terminating
36 parental rights, or a signed relinquishment, or, in the case of a
37 tribal customary adoption, if the court has given full faith and
38 credit to a tribal customary adoption order as provided for pursuant
39 to paragraph (2) of subdivision (e) of Section 366.26, or, in the
40 case of a nonminor dependent the court has dismissed dependency

1 or transitional jurisdiction subsequent to the approval of the
2 nonminor dependent, adoption petition pursuant to subdivision (f)
3 of Section 366.31.

4 (b) The child has at least one of the following characteristics
5 that are barriers to his or her adoption:

6 (1) Adoptive placement without financial assistance is unlikely
7 because of membership in a sibling group that should remain intact
8 or by virtue of race, ethnicity, color, language, age of three years
9 or older, or parental background of a medical or behavioral nature
10 that can be determined to adversely affect the development of the
11 child.

12 (2) Adoptive placement without financial assistance is unlikely
13 because the child has a mental, physical, emotional, or medical
14 disability that has been certified by a licensed professional
15 competent to make an assessment and operating within the scope
16 of his or her profession. This paragraph shall also apply to children
17 with a developmental disability, as defined in subdivision (a) of
18 Section 4512, including those determined to require out-of-home
19 nonmedical care, as described in Section 11464.

20 (c) The need for an adoption subsidy is evidenced by an
21 unsuccessful search for an adoptive home to take the child without
22 financial assistance, as documented in the case file of the
23 prospective adoptive child. The requirement for this search shall
24 be waived when it would be against the best interest of the child
25 because of the existence of significant emotional ties with
26 prospective adoptive parents while in the care of these persons as
27 a foster child.

28 (d) The child satisfies any of the following criteria:

29 (1) He or she is under 18 years of age.

30 (2) He or she is under 21 years of age and has a mental or
31 physical handicap that warrants the continuation of assistance.

32 (3) Effective January 1, 2012, he or she is under 19 years of
33 age, effective January 1, 2013, he or she is under 20 years of age,
34 and effective January 1, 2014, he or she is under 21 years of age
35 and as described in Section 10103.5, and has attained 16 years of
36 age before the adoption assistance agreement became effective,
37 and one or more of the conditions specified in paragraphs (1) to
38 (5), inclusive, of subdivision (b) of Section 11403 applies.

1 (e) The adoptive family is responsible for the child pursuant to
 2 the terms of an adoptive placement agreement or a final decree of
 3 adoption and has signed an adoption assistance agreement.

4 (f) The adoptive family is legally responsible for the support of
 5 the child and the child is receiving support from the adoptive
 6 parent.

7 (g) The department or the county responsible for determining
 8 the child’s Adoption Assistance Program eligibility status and for
 9 providing financial aid, and the prospective adoptive parent, prior
 10 to or at the time the adoption decree is issued by the court, have
 11 signed an adoption assistance agreement that stipulates the need
 12 for, and the amount of, Adoption Assistance Program benefits.

13 (h) The prospective adoptive parent or any adult living in the
 14 prospective adoptive home has completed the criminal background
 15 check requirements pursuant to Section 671(a)(20)(A) and (C) of
 16 Title 42 of the United States Code.

17 (i) To be eligible for state funding, the child is the subject of an
 18 agency adoption, as defined in Section 8506 of the Family Code,
 19 and was any of the following:

20 (1) Under the supervision of a county welfare department as
 21 the subject of a legal guardianship or juvenile court dependency.

22 (2) Relinquished for adoption to a licensed California private
 23 or public adoption agency, or another public agency operating a
 24 Title IV-E program on behalf of the state, and would have
 25 otherwise been at risk of dependency as certified by the responsible
 26 public child welfare agency.

27 (3) Committed to the care of the department pursuant to Section
 28 8805 or 8918 of the Family Code.

29 (4) The child is an Indian child and the subject of an order of
 30 adoption based on tribal customary adoption of an Indian child,
 31 as described in Section 366.24. Notwithstanding Section 8600.5
 32 of the Family Code, for purposes of this subdivision a tribal
 33 customary adoption shall be considered an agency adoption.

34 (j) To be eligible for federal funding, in the case of a child who
 35 is not an applicable child for the federal fiscal year as defined in
 36 subdivision (n), the child satisfies any of the following criteria:

37 (1) Prior to the finalization of an agency adoption, as defined
 38 in Section 8506 of the Family Code, or an independent adoption,
 39 as defined in Section 8524 of the Family Code, is filed, the child
 40 has met the requirements to receive federal supplemental security

1 income benefits pursuant to Subchapter 16 (commencing with
2 Section 1381) of Chapter 7 of Title 42 of the United States Code,
3 as determined and documented by the federal Social Security
4 Administration.

5 (2) The child was removed from the home of a specified relative
6 and the child would have been AFDC eligible in the home of
7 removal according to Section 606(a) or 607 of Title 42 of the
8 United States Code, as those sections were in effect on July 16,
9 1996, in the month of the voluntary placement agreement or in the
10 month court proceedings are initiated to remove the child, resulting
11 in a judicial determination that continuation in the home would be
12 contrary to the child's welfare. The child must have been living
13 with the specified relative from whom he or she was removed
14 within six months of the month the voluntary placement agreement
15 was signed or the petition to remove was filed.

16 (3) The child was voluntarily relinquished to a licensed public
17 or private adoption agency, or another public agency operating a
18 Title IV-E program on behalf of the state, and there is a petition
19 to the court to remove the child from the home within six months
20 of the time the child lived with a specified relative and a subsequent
21 judicial determination that remaining in the home would be
22 contrary to the child's welfare.

23 (4) Title IV-E foster care maintenance was paid on behalf of
24 the child's minor parent and covered the cost of the minor parent's
25 child while the child was in the foster family home or child care
26 institution with the minor parent.

27 (5) The child is an Indian child and the subject of an order of
28 adoption based on tribal customary adoption of an Indian child,
29 as described in Section 366.24.

30 (k) To be eligible for federal funding, in the case of a child who
31 is an applicable child for the federal fiscal year, as defined in
32 subdivision (n), the child meets any of the following criteria:

33 (1) At the time of initiation of adoptive proceedings was in the
34 care of a public or licensed private child placement agency or
35 Indian tribal organization pursuant to either of the following:

36 (A) An involuntary removal of the child from the home in
37 accordance with a judicial determination to the effect that
38 continuation in the home would be contrary to the welfare of the
39 child.

1 (B) A voluntary placement agreement or a voluntary
2 relinquishment.

3 (2) He or she meets all medical or disability requirements of
4 Title XVI with respect to eligibility for supplemental security
5 income benefits.

6 (3) He or she was residing in a foster family home or a child
7 care institution with the child's minor parent, and the child's minor
8 parent was in the foster family home or child care institution
9 pursuant to either of the following:

10 (A) An involuntary removal of the child from the home in
11 accordance with a judicial determination to the effect that
12 continuation in the home would be contrary to the welfare of the
13 child.

14 (B) A voluntary placement agreement or voluntary
15 relinquishment.

16 (4) The child is an Indian child and the subject of an order of
17 adoption based on tribal customary adoption of an Indian child,
18 as described in Section 366.24.

19 (5) The nonminor dependent, as described in subdivision (v) of
20 Section 11400, is the subject of an adoption pursuant to subdivision
21 (f) of Section 366.31.

22 (l) The child is a citizen of the United States or a qualified alien
23 as defined in Section 1641 of Title 8 of the United States Code. If
24 the child is a qualified alien who entered the United States on or
25 after August 22, 1996, and is placed with an unqualified alien, the
26 child must meet the five-year residency requirement pursuant to
27 Section 673(a)(2)(B) of Title 42 of the United States Code, unless
28 the child is a member of one of the excepted groups pursuant to
29 Section 1612(b) of Title 8 of the United States Code.

30 (m) A child or nonminor shall be eligible for Adoption
31 Assistance Program benefits if the following conditions are met:

32 (1) The child or nonminor received Adoption Assistance
33 Program benefits with respect to a prior adoption and the child or
34 nonminor is again available for adoption because the prior adoption
35 was dissolved and the parental rights of the adoptive parents were
36 terminated or because the child's or nonminor's adoptive parents
37 died and the child or nonminor meets the special needs criteria
38 described in subdivisions (a) to (c), inclusive. When a nonminor
39 is receiving Adoption Assistance Program benefits after 18 years
40 of age and the nonminor's adoptive parents die, the juvenile court

1 may resume dependency jurisdiction over the nonminor pursuant
2 to Section 388.1.

3 (2) To receive federal funding, the citizenship requirements in
4 subdivision (l).

5 (n) (1) Except as provided in this subdivision, “applicable child”
6 means a child for whom an adoption assistance agreement is
7 entered into under this section during any federal fiscal year
8 described in this subdivision if the child attained the applicable
9 age for that federal fiscal year before the end of that federal fiscal
10 year.

11 (A) For federal fiscal year 2010, the applicable age is 16 years.

12 (B) For federal fiscal year 2011, the applicable age is 14 years.

13 (C) For federal fiscal year 2012, the applicable age is 12 years.

14 (D) For federal fiscal year 2013, the applicable age is 10 years.

15 (E) For federal fiscal year 2014, the applicable age is eight years.

16 (F) For federal fiscal year 2015, the applicable age is six years.

17 (G) For federal fiscal year 2016, the applicable age is four years.

18 (H) For federal fiscal year 2017, the applicable age is two years.

19 (I) For federal fiscal year 2018 and thereafter, any age.

20 (2) Beginning with the 2010 federal fiscal year, the term
21 “applicable child” shall include a child of any age on the date on
22 which an adoption assistance agreement is entered into on behalf
23 of the child under this section if the child meets both of the
24 following criteria:

25 (A) He or she has been in foster care under the responsibility
26 of the state for at least 60 consecutive months.

27 (B) He or she meets the requirements of subdivision (k).

28 (3) Beginning with the 2010 federal fiscal year, an applicable
29 child shall include a child of any age on the date that an adoption
30 assistance agreement is entered into on behalf of the child under
31 this section, without regard to whether the child is described in
32 paragraph (2), if the child meets all of the following criteria:

33 (A) He or she is a sibling of a child who is an applicable child
34 for the federal fiscal year, under subdivision (n) or paragraph (2).

35 (B) He or she is to be placed in the same adoption placement
36 as an “applicable child” for the federal fiscal year who is their
37 sibling.

38 (C) He or she meets the requirements of subdivision (k).

1 ~~SEC. 619.~~

2 *SEC. 629.* Section 16500.5 of the Welfare and Institutions
3 Code is amended to read:

4 16500.5. (a) (1) The Legislature hereby declares its intent to
5 encourage the continuity of the family unit by:

6 (A) (i) Providing family preservation services.

7 (ii) For purposes of this subdivision, “family preservation
8 services” means intensive services for families whose children,
9 without these services, would be subject to any of the following:

10 (I) Be at imminent risk of out-of-home placement.

11 (II) Remain in existing out-of-home placement for longer periods
12 of time.

13 (III) Be placed in a more restrictive out-of-home placement.

14 (B) Providing supportive services for those children within the
15 meaning of Sections 360, 361, and 364 when they are returned to
16 the family unit or when a minor will probably soon be within the
17 jurisdiction of the juvenile court pursuant to Section 301.

18 (C) Providing counseling and family support services designed
19 to eradicate the situation that necessitated intervention.

20 (2) The Legislature finds that maintaining abused and neglected
21 children in foster care grows increasingly costly each year, and
22 that adequate funding for family services that might enable these
23 children to remain in their homes is not as readily available as
24 funding for foster care placement.

25 (3) The Legislature further finds that other state bodies have
26 addressed this problem through various systems of flexible
27 reimbursement in child welfare programs that provide for more
28 intensive and appropriate services to prevent foster care placement
29 or significantly reduce the length of stay in foster care.

30 (b) It is the intent of the Legislature that family preservation
31 and support services in California conform to the federal definitions
32 contained in Section 431 of the Social Security Act as contained
33 in Public Law 103-66, the Omnibus Budget Reconciliation Act of
34 1987. The Legislature finds and declares that California’s existing
35 family preservation programs meet the intent of the federal
36 Promoting Safe and Stable Families program.

37 (c) (1) Services that may be provided under this program may
38 include, but are not limited to, counseling, mental health treatment
39 and substance abuse treatment services, including treatment at a
40 residential substance abuse treatment facility that accepts families,

1 parenting, respite, day treatment, transportation, homemaking, and
2 family support services. Each county that chooses to provide mental
3 health treatment and substance abuse treatment shall identify and
4 develop these services in consultation with county mental health
5 treatment and substance abuse treatment agencies. Additional
6 services may include those enumerated in Sections 16506 and
7 16507. The services to be provided pursuant to this section may
8 be determined by each participating county. Each county may
9 contract with individuals and organizations for services to be
10 provided pursuant to this section. Each county shall utilize available
11 private nonprofit resources in the county prior to developing new
12 county-operated resources when these private nonprofit resources
13 are of at least equal quality and costs as county-operated resources
14 and shall utilize available county resources of at least equal quality
15 and cost prior to new private nonprofit resources.

16 (2) Participating counties authorized by this subdivision shall
17 provide specific programs of direct services based on individual
18 family needs as reflected in the service plans to families of the
19 following:

20 (A) Children who are dependent children not taken from
21 physical custody of their parents or guardians pursuant to Section
22 364.

23 (B) Children who are dependent children removed from the
24 physical custody of their parents or guardian pursuant to Section
25 361.

26 (C) Children who it is determined will probably soon be within
27 the jurisdiction of the juvenile court pursuant to Section 301.

28 (D) Upon approval of the department, children who have been
29 adjudged wards of the court pursuant to Sections 601 and 602.

30 (E) Upon approval of the department, families of children
31 subject to Sections 726 and 727.

32 (F) Upon approval of the department, children who are
33 determined to require out-of-home placement pursuant to Section
34 7572.5 of the Government Code.

35 (3) The services shall only be provided to families whose
36 children will be placed in out-of-home care without the provision
37 of services or to children who can be returned to their families
38 with the provision of services.

39 (4) The services selected by a participating county shall be
40 reasonable and meritorious and shall demonstrate cost-effectiveness

1 and success at avoiding out-of-home placement, or reducing the
2 length of stay in out-of-home placement. A county shall not expend
3 more funds for services under this subdivision than that amount
4 which would be expended for placement in out-of-home care.

5 (5) The program in each county shall be deemed successful if
6 it meets the following standards:

7 (A) Enables families to resolve their own problems, effectively
8 utilize service systems, and advocate for their children in
9 educational and social agencies.

10 (B) Enhancing family functioning by building on family
11 strengths.

12 (C) At least 75 percent of the children receiving services remain
13 in their own home for six months after termination of services.

14 (D) During the first year after services are terminated:

15 (i) At least 60 percent of the children receiving services remain
16 at home one year after services are terminated.

17 (ii) The average length of stay in out-of-home care of children
18 selected to receive services who have already been removed from
19 their home and placed in out-of-home care is 50 percent less than
20 the average length of stay in out-of-home care of children who do
21 not receive program services.

22 (E) Two years after the termination of family preservation
23 services:

24 (i) The average length of out-of-home stay of children selected
25 to receive services under this section who, at the time of selection,
26 are in out-of-home care, is 50 percent less than the average length
27 of stay in out-of-home care for children in out-of-home care who
28 do not receive services pursuant to this section.

29 (ii) At least 60 percent of the children who were returned home
30 pursuant to this section remain at home.

31 (6) Funds used for services provided under this section shall
32 supplement, not supplant, child welfare services funds available
33 for services pursuant to Sections 16506 and 16507.

34 (7) Programs authorized after the original pilot projects shall
35 submit data to the department upon the department's request.

36 (d) (1) A county welfare department social worker or probation
37 officer may, pursuant to an appropriate court order, return a
38 dependent minor or ward of the court removed from the home
39 pursuant to Section 361 to his or her home, with appropriate
40 interagency family preservation program services.

1 (2) The county probation department may, with the approval of
2 the State Department of Social Services, through an interagency
3 agreement with the county welfare department, refer cases to the
4 county welfare department for the direct provision of services
5 under this subdivision.

6 (e) Foster care funds shall remain within the administrative
7 authority of the county welfare department and shall be used only
8 for placement services or placement prevention services or county
9 welfare department administrative cost related to the interagency
10 family preservation program.

11 (f) To the extent permitted by federal law, any federal funds
12 provided for services to families and children may be utilized for
13 the purposes of this section.

14 (g) A county may establish family preservation programs that
15 serve one or more geographic areas of the county, subject to the
16 approval of the State Department of Social Services.

17 (1) All funds expended by a county for activities under this
18 section shall be expended by the county in a manner that will
19 maximize eligibility for federal financial participation.

20 (2) A county, subject to the approval of the State Department
21 of Social Services, may claim federal financial participation, if
22 allowable and available, as provided by the State Department of
23 Social Services in the federal Promoting Safe and Stable Families
24 program in accordance with the federal guidelines and regulations
25 for that county's AFDC-FC expenditures pursuant to subdivision
26 (d) of Section 11450, for children subject to Sections 300, 301,
27 360, and 364, in advance, provided that the county conducts a
28 program of family reunification and family maintenance services
29 for families receiving these services pursuant to Sections 300, 301,
30 360, and 364, and as permitted by the department, children subject
31 to Sections 601, 602, 726, and 727 of this code, and Section 7572.5
32 of the Government Code.

33 (h) In order to maintain federal funding and meet federal
34 requirements, the State Department of Social Services and the
35 Office of Child Abuse Prevention shall provide administrative
36 oversight, monitoring, and consultation to ensure both of the
37 following:

38 (1) Each county includes in its county plan information that
39 details what services are to be funded under this section and who
40 will be served, and how the services are coordinated with the array

1 of services available in the county. In order to maintain federal
 2 funding to meet federal requirements, the State Department of
 3 Social Services shall review these plans and provide technical
 4 assistance as needed, as provided in Section 10601.2. In order to
 5 meet federal requirements, the Office of Child Abuse Prevention
 6 shall require counties to submit annual reports, as part of the current
 7 reporting process, on program services and children and families
 8 served. The annual reporting process shall be developed jointly
 9 by the department and county agencies for the purpose of meeting
 10 federal reporting requirements.

11 (2) In order to maximize federal financial participation for the
 12 federal Promoting Safe and Stable Families grant, funds expended
 13 from this program are in compliance with data-reporting
 14 requirements in order to meet federal nonsupplantation
 15 requirements in accordance with Section 1357.32(f) of Title 45 of
 16 the Code of Federal Regulations, and the 25 percent state match
 17 requirement in accordance with Section 1357.32(d) of Title 45 of
 18 the Code of Federal Regulations.

19 (i) Beginning in the 2011–12 fiscal year, and for each fiscal
 20 year thereafter, funding and expenditures for programs and
 21 activities under this section shall be made with moneys allocated
 22 pursuant to Section 30025 of the Government Code.

23 ~~SEC. 620.~~

24 *SEC. 630.* Section 16513 of the Welfare and Institutions Code,
 25 as added by Chapter 1235 of the Statutes of 1978, is amended and
 26 renumbered to read:

27 16513.2. Funding of this chapter is subject to the provisions
 28 of Part 1.5 (commencing with Section 10100).

29 ~~SEC. 621.~~

30 *SEC. 631.* Section 16517 of the Welfare and Institutions Code,
 31 as added by Section 2 of Chapter 497 of the Statutes of 1992, is
 32 amended and renumbered to read:

33 16517.5. (a) A social worker or probation officer acting as an
 34 officer of the court shall not make an out-of-home placement of a
 35 dependent or ward of the court pursuant to this chapter with any
 36 of the following:

37 (1) A relative of the social worker or probation officer
 38 responsible for the placement of the child.

39 (2) The spouse of a relative described in paragraph (1).

1 (b) A social worker or probation officer acting as an officer of
2 the court shall not receive compensation for the out-of-home
3 placement of a dependent or ward of the court other than the
4 compensation received as an employee of the county or the state.

5 ~~SEC. 622.~~

6 *SEC. 632.* Section 16524.7 of the Welfare and Institutions
7 Code is amended to read:

8 16524.7. (a) (1) There is hereby established the Commercially
9 Sexually Exploited Children Program. This program shall be
10 administered by the State Department of Social Services.

11 (2) The department, in consultation with the County Welfare
12 Directors Association of California, shall develop an allocation
13 methodology to distribute funding for the program. Funds allocated
14 pursuant to this section shall be utilized to cover expenditures
15 related to the costs of implementing the program, prevention and
16 intervention services, and training related to children who are
17 victims of commercial sexual exploitation.

18 (3) (A) Funds shall be provided to counties that elect to
19 participate in the program for the provision of training to county
20 children's services workers to identify, intervene, and provide case
21 management services to children who are victims of commercial
22 sexual exploitation and trafficking, and to foster caregivers for the
23 prevention and identification of potential victims.

24 (B) The department shall contract to provide training for county
25 workers and foster caregivers. Training shall be selected and
26 contracted for in consultation with the County Welfare Directors
27 Association, county children's services representatives, and other
28 stakeholders. The department shall consult and collaborate with
29 the California Community Colleges Chancellor's Office to provide
30 training for foster parents of licensed foster family homes.

31 (4) Funds provided to the counties electing to participate in the
32 program shall be used for prevention activities, intervention
33 activities, and services to children who are victims, or at risk of
34 becoming victims, of commercial sexual exploitation. These
35 activities and services may include, but are not limited to, all of
36 the following:

37 (A) Training foster children to help recognize and help avoid
38 commercial sexual exploitation. Counties may target training
39 activities to foster children who are at higher risk of sexual
40 exploitation.

1 (B) Engaging survivors of commercial sexual exploitation to
2 do all of the following:

3 (i) Provide support to county staff who serve children who are
4 victims of commercial sexual exploitation.

5 (ii) ~~For~~ *Participate in* activities that may include training and
6 technical assistance.

7 (iii) ~~To serve~~ *Serve* as advocates for and perform outreach and
8 support to children who are victims of commercial sexual
9 exploitation.

10 (C) Consulting and coordinating with homeless youth shelters
11 and other service providers who work with children who are
12 disproportionately at risk of, or involved in, commercial sexual
13 exploitation, including, but not limited to, lesbian, gay, bisexual,
14 and transgender youth organizations, regarding outreach and
15 support to children who are victims of commercial sexual
16 exploitation.

17 (D) Hiring county staff trained and specialized to work with
18 children who are victims of commercial sexual exploitation to
19 support victims and their caregivers, and to provide case
20 management to support interagency and cross-departmental
21 response.

22 (E) Providing supplemental foster care rates for placement of
23 child victims of commercial sexual exploitation adjudged to be
24 within the definition of Section 300 to foster homes, relatives,
25 foster family agency certified homes, or other specialized
26 placements for the increased care and supervision needs of the
27 victim in accordance with Section 11460.

28 (b) Funds allocated for the program shall not supplant funds for
29 existing programs.

30 (c) (1) In order to ensure timely access to services to which
31 commercially sexually exploited children are entitled as dependents
32 in foster care, in participating counties, county agency
33 representatives from mental health, probation, public health, and
34 substance abuse disorders shall participate in the case planning
35 and assist in linking commercially sexually exploited children to
36 services that serve children who are in the child welfare system
37 and that are identified in the child's case plan and may include
38 other stakeholders as determined by the county.

39 (2) The entities described in paragraph (1) shall provide input
40 to the child welfare services agency regarding the services and

1 supports needed for these children to support treatment needs and
2 aid in their recovery and may assist in linking these children to
3 services that are consistent with their county plans submitted to
4 the department pursuant to subdivision (d).

5 (d) (1) A county electing to receive funding from the
6 Commercially Sexually Exploited Children Program pursuant to
7 this chapter shall submit a plan describing how the county intends
8 to utilize the funds allocated pursuant to paragraph (4) of
9 subdivision (a).

10 (2) The county shall submit a plan to the department pursuant
11 to a process developed by the department, in consultation with the
12 County Welfare Directors Association. The plan shall include
13 documentation indicating the county's collaboration with county
14 partner agencies and children-focused entities, which shall include
15 the formation of a multidisciplinary team to serve children pursuant
16 to this chapter.

17 A multidisciplinary team serving a child pursuant to this chapter
18 shall include, but is not limited to, appropriate staff from the county
19 child welfare, probation, mental health, substance abuse disorder,
20 and public health departments. Staff from a local provider of
21 services to this population, local education agencies, and local law
22 enforcement, and survivors of commercial sexual exploitation and
23 trafficking may be included on the team.

24 ~~SEC. 623.~~

25 *SEC. 633.* Section 16524.8 of the Welfare and Institutions
26 Code is amended to read:

27 16524.8. (a) Each county electing to receive funds from the
28 Commercially Sexually Exploited Children Program pursuant to
29 this chapter shall develop an interagency protocol to be utilized in
30 serving sexually exploited children. The county protocol shall be
31 developed by a team led by a representative of the county human
32 services department and shall include representatives from each
33 of the following agencies:

- 34 (1) The county probation department.
- 35 (2) The county mental health department.
- 36 (3) The county public health department.
- 37 (4) The juvenile court in the county.

38 The team may include, but shall not be limited to, representatives
39 from local education agencies, local law enforcement, survivors

1 of sexual exploitation and trafficking, and other providers as
2 necessary.

3 (b) At a minimum, the interagency protocol shall address the
4 provision of services to children who have been sexually exploited
5 and are within the definition of Section 300, including, but not
6 limited to, the use of a multidisciplinary team approach to provide
7 coordinated case management, service planning, and services to
8 these children.

9 ~~SEC. 624.~~

10 *SEC. 634.* Section 16524.9 of the Welfare and Institutions
11 Code is amended to read:

12 16524.9. The State Department of Social Services, in
13 consultation with the County Welfare Directors Association, shall
14 ensure that the Child Welfare Services/Case Management System
15 is capable of collecting data concerning children who are
16 commercially sexually exploited, including children who are
17 referred to the child abuse hotline and children currently served
18 by county child welfare and probation departments who are
19 subsequently identified as victims of commercial sexual
20 exploitation.

21 (a) The department shall disseminate any necessary instructions
22 on data entry to the county child welfare and probation department
23 staff.

24 (b) The department shall implement this section no later than
25 June 1, 2015.

26 ~~SEC. 625.~~

27 *SEC. 635.* The heading of Chapter 7 (commencing with Section
28 16997.1) of Part 4.7 of Division 9 of the Welfare and Institutions
29 Code is repealed.

30 ~~SEC. 626.~~

31 *SEC. 636.* The heading of Chapter 6 (commencing with Section
32 17500) of Part 5 of Division 9 of the Welfare and Institutions Code,
33 as added by Section 1 of Chapter 90 of the Statutes of 1988, is
34 amended and renumbered to read:

35

36 CHAPTER 5.5. UNEMPLOYED OR DISPLACED WORKERS

37

38 ~~SEC. 627.~~

39 *SEC. 637.* Section 17603 of the Welfare and Institutions Code
40 is amended to read:

1	Nevada	0.2734
2	Orange	5.4304
3	Placer	0.2806
4	Plumas	0.1145
5	Riverside	2.7867
6	Sacramento	2.7497
7	San Benito	0.1701
8	San Bernardino.....	2.4709
9	San Diego	4.7771
10	San Francisco	7.1450
11	San Joaquin	1.0810
12	San Luis Obispo	0.4811
13	San Mateo	1.5937
14	Santa Barbara	0.9418
15	Santa Clara	3.6238
16	Santa Cruz	0.6714
17	Shasta	0.6732
18	Sierra	0.0340
19	Siskiyou.....	0.2246
20	Solano	0.9377
21	Sonoma	1.6687
22	Stanislaus	1.0509
23	Sutter	0.4460
24	Tehama	0.2986
25	Trinity	0.1388
26	Tulare	0.7485
27	Tuolumne	0.2357
28	Ventura	1.3658
29	Yolo	0.3522
30	Yuba	0.3076
31	Berkeley	0.0692
32	Long Beach	0.2918
33	Pasadena	0.1385

34
35

36 (2) For the 1992–93 fiscal year and fiscal years thereafter until
 37 the commencement of the 2013–14 fiscal year, the allocations to
 38 each county and city and county shall equal the amounts received
 39 in the prior fiscal year by each county, city, and city and county

1 from the Sales Tax Account and the Sales Tax Growth Account
2 of the Local Revenue Fund into the health and welfare trust fund.

3 (b) (1) For the 2013–14 fiscal year, on the 27th day of each
4 month, the Controller shall allocate, in the same proportion as
5 funds in paragraph (2) of subdivision (a) were allocated, to each
6 county’s and city and county’s local health and welfare trust fund
7 health accounts, the amounts deposited and remaining unexpended
8 and unreserved on the 15th day of the month in the Health
9 Subaccount of the Sales Tax Account of the Local Revenue Fund.

10 (2) (A) Beginning January 2014 and for the remainder of the
11 2013–14 fiscal year, on or before the 27th of each month, the
12 Controller shall transfer to the Family Support Subaccount from
13 the Health Subaccount amounts determined pursuant to a schedule
14 prepared by the Department of Finance in consultation with the
15 California State Association of Counties. Cumulatively, no more
16 than three hundred million dollars (\$300,000,000) shall be
17 transferred.

18 (B) Every month, after the transfers in subparagraph (A) have
19 occurred, the remainder shall be allocated to the counties and cities
20 and counties in the same proportions as funds in paragraph (2) of
21 subdivision (a) were allocated.

22 (C) For counties participating in the County Medical Services
23 Program, transfers from each county shall not be greater than the
24 monthly amount the county would otherwise pay pursuant to
25 paragraph (2) of subdivision (j) of Section 16809 for participation
26 in the County Medical Services Program. Any difference between
27 the amount paid by these counties and the proportional share of
28 the three hundred million dollars (\$300,000,000) calculated as
29 payable by these counties and the County Medical Services
30 Program shall be paid from the funds available for allocation to
31 the County Medical Services Program in accordance with the
32 Welfare and Institutions Code.

33 (3) For the 2013–14 fiscal year, the Controller, using the same
34 timing and criteria used in paragraph (1), shall allocate to each
35 city, not to include a city and county, funds that shall equal the
36 amounts received in the prior fiscal year by each city from the
37 Sales Tax Account and the Sales Tax Growth Account of the Local
38 Revenue Fund into the health and welfare trust fund.

39 (c) (1) For the 2014–15 fiscal year and for every fiscal year
40 thereafter, the Department of Finance, in consultation with the

1 California State Association of Counties, shall calculate the amount
2 each county or city and county shall contribute to the Family
3 Support Subaccount in accordance with Section 17600.50.

4 (2) On or before the 27th of each month, the Controller shall
5 transfer, based on a schedule prepared by the Department of
6 Finance in consultation with the California State Association of
7 Counties, from the funds deposited and remaining unexpended
8 and unreserved on the 15th day of the month in the Health
9 Subaccount of the Sales Tax Account of the Local Revenue Fund
10 to the Family Support Subaccount, funds that equal, over the course
11 of the year, the amount determined in paragraph (1) pursuant to a
12 schedule provided by the Department of Finance.

13 (3) After the transfer in paragraph (2) has occurred, the
14 Controller shall allocate on or before the 27th of each month to
15 health account in the local health and welfare trust fund of every
16 county and city and county from a schedule prepared by the
17 Department of Finance, in consultation with the California State
18 Association of Counties, any funds remaining in the Health
19 Account from the funds deposited and remaining unexpended and
20 unreserved on the 15th day of the month in the Health Subaccount
21 of the Sales Tax Account of the Local Revenue Fund. The schedule
22 shall be prepared as the allocations would have been distributed
23 pursuant to paragraph (2) of subdivision (a).

24 (4) For the 2014–15 fiscal year and for every fiscal year
25 thereafter, the Controller, using the same timing and criteria as
26 had been used in paragraph (2) of subdivision (a), shall allocate
27 to each city, not to include a city and county, funds that equal the
28 amounts received in the prior fiscal year by each city from the
29 Sales Tax Account and the Sales Tax Growth Account of the Local
30 Revenue Fund into the health and welfare trust fund.

31 ~~SEC. 628.~~

32 *SEC. 638.* The heading of Chapter 4.5 (commencing with
33 Section 18260) of Part 6 of Division 9 of the Welfare and
34 Institutions Code, as added by Chapter 75 of the Statutes of 2006,
35 is amended and renumbered to read:

36
37 CHAPTER 4.45. CHILD WELFARE WAIVER DEMONSTRATION
38 PROJECT
39

1 ~~SEC. 629.~~

2 *SEC. 639.* Section 18901.2 of the Welfare and Institutions
3 Code is amended to read:

4 18901.2. (a) There is hereby created the State Utility
5 Assistance Subsidy (SUAS), a state-funded energy assistance
6 program that shall provide energy assistance benefits to eligible
7 CalFresh households so that the households may receive a standard
8 utility allowance to be used to help meet their energy costs, receive
9 information about energy efficiency, and so that some households
10 may experience an increase in federal Supplemental Nutrition
11 Assistance Program benefits, as well as benefit from paperwork
12 reduction.

13 (b) To the extent required by federal law, the Department of
14 Community Services and Development shall delegate authority to
15 the State Department of Social Services to design, implement, and
16 maintain SUAS as a program created exclusively for purposes of
17 this section, similar to the federal Low-Income Home Energy
18 Assistance Program (LIHEAP) (42 U.S.C. Sec. 8621 et seq.).

19 (c) In designing, implementing, and maintaining the SUAS
20 program, the State Department of Social Services shall do all of
21 the following:

22 (1) Provide households that do not currently qualify for, nor
23 receive, a standard utility allowance, with a SUAS benefit in an
24 amount and frequency sufficient to meet federal requirements
25 specified in Section 2014(e)(6)(C)(iv) of Title 7 of the United
26 States Code if the household meets either of the following
27 requirements:

28 (A) The household would become eligible for CalFresh benefits
29 if the standard utility allowance was provided.

30 (B) The household would receive increased benefits if the
31 standard utility allowance was provided.

32 (2) Provide the SUAS benefit without requiring the applicant
33 or recipient to provide additional paperwork or verification.

34 (3) Deliver the SUAS benefit using the Electronic Benefit
35 Transfer (EBT) system.

36 (4) Notwithstanding any other law, notification of a recipient's
37 impending EBT dormant account status shall not be required when
38 the remaining balance in a recipient's account at the time the
39 account becomes inactive is equal to or less than the value of one
40 year of SUAS benefits.

1 (5) Ensure that receipt of the SUAS benefit pursuant to this
2 section does not adversely affect a CalFresh recipient household's
3 eligibility, reduce a household's CalFresh benefits, or disqualify
4 the applicant or recipient of CalFresh benefits from receiving other
5 public benefits, including other utility benefits, for which it may
6 qualify.

7 (d) (1) To the extent permitted by federal law, a CalFresh
8 household that receives SUAS benefits in the month of application
9 for new cases or in the previous 12 months for existing cases is
10 entitled to use the full standard utility allowance for the purposes
11 of calculating CalFresh benefits. A CalFresh household shall be
12 entitled to use the full standard utility allowance regardless of
13 whether the SUAS benefit actually is expended by the household.

14 (2) If use of the full standard utility allowance, instead of the
15 homeless shelter deduction, results in a lower amount of CalFresh
16 benefits for a homeless household, the homeless household shall
17 be entitled to use the homeless shelter deduction instead of the full
18 standard utility allowance.

19 (e) This section shall not be implemented until funds are
20 appropriated for that purpose by the Legislature in the annual
21 Budget Act or related legislation.

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

23 ~~SEC. 630.~~

24 *SEC. 640.* Section 18901.11 of the Welfare and Institutions
25 Code is amended to read:

26 18901.11. (a) For the purposes of Section 273.5(b)(11)(ii) of
27 Title 7 of the Code of Federal Regulations, an educational program
28 that could be a component of a CalFresh E&T program described
29 in Section 18926.5, as identified by the department, shall be
30 considered an employment and training program under Section
31 273.7 of Title 7 of the Code of Federal Regulations, unless
32 prohibited by federal law.

33 (b) The department shall, in consultation with representatives
34 of the office of the Chancellor of the California Community
35 Colleges, offices of the Chancellor of the California State
36 University, University of California Chancellors' offices, the
37 California Workforce Investment Board, county human services
38 agencies, and advocates for students and clients, establish a
39 protocol to identify and verify all potential exemptions to the
40 eligibility rule described in Section 273.5(a) of Title 7 of the Code

1 of Federal Regulations, and to identify and verify participation in
2 educational programs, including, but not limited to, self-initiated
3 placements, that would exempt a student from the eligibility rule
4 described in Section 273.5(a) of Title 7 of the Code of Federal
5 Regulations. To the extent possible, this consultation shall take
6 place through existing workgroups convened by the department.

7 (c) If the United States Department of Agriculture requires
8 federal approval of the exemption designation established pursuant
9 to subdivision (a) and the protocol established pursuant to
10 subdivision (b), the department shall seek and obtain that approval
11 before publishing the guidance or regulation required by
12 subdivision (e).

13 (d) (1) This section does not require a county human services
14 agency to offer a particular component, support services, or
15 workers' compensation to a student found eligible for an exemption
16 pursuant to this section.

17 (2) This section does not restrict or require the use of federal
18 funds for the financing of CalFresh E&T programs.

19 (3) This section does not require a college or university to
20 provide a student with information necessary to verify eligibility
21 for CalFresh.

22 (e) Notwithstanding the rulemaking provisions of the
23 Administrative Procedure Act (Chapter 3.5 (commencing with
24 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
25 Code), the department shall implement this section by all-county
26 letters or similar instructions beginning no later than October 1,
27 2015, until regulations are adopted. The department shall adopt
28 regulations implementing this section on or before October 1,
29 2017.

30 ~~SEC. 631.~~

31 *SEC. 641.* Section 25 of Chapter 279 of the Statutes of 2005
32 is amended to read:

33 *Sec. 25.* Any section of any act, except Senate Bill 1108,
34 enacted by the Legislature during the 2005 calendar year that takes
35 effect on or before January 1, 2006, and that amends, amends and
36 renumbers, adds, repeals and adds, or repeals any one or more of
37 the sections affected by this act, shall prevail over this act, whether
38 this act is enacted prior to, or subsequent to, the enactment of this
39 act. The repeal, or repeal and addition, of any article, chapter, part,
40 title, or division of any code by this act shall not become operative

1 if any section of any other act that is enacted by the Legislature
2 during the 2005 calendar year and takes effect on or before January
3 1, 2006, amends, amends and renumbers, adds, repeals and adds,
4 or repeals any section contained in that article, chapter, part, title,
5 or division.

6 ~~SEC. 632.~~

7 *SEC. 642.* Section 1 of Chapter 15 of the Statutes of 2014 is
8 amended to read:

9 Section 1. It is the intent of the Legislature that the
10 Administrative Director of the Division of Workers' Compensation
11 collect data pursuant to subdivision (a) of Section 3702.2 of the
12 Labor Code for the purpose of determining whether the extended
13 statute of limitations established by this act provides an adequate
14 timeline for the families of fallen firefighters and peace officers
15 to commence proceedings for the collection of death benefits as
16 provided for in this act, such that the Legislature and the Governor,
17 when considering any extension of the date of repeal of Section
18 5406.7 of the Labor Code, be informed of the facts surrounding
19 the mortality rate of public safety officers who succumb to these
20 job-related diseases.

21 ~~SEC. 633.~~

22 *SEC. 643.* Section 1 of Chapter 243 of the Statutes of 2014 is
23 amended to read:

24 Section 1. The California Law Revision Commission shall,
25 within existing resources, conduct a study of the standards for
26 recognition of a tribal court or a foreign court judgment, under the
27 Tribal Court Civil Money Judgment Act (Title 11.5 (commencing
28 with Section 1730) of Part 3 of the Code of Civil Procedure) and
29 the Uniform Foreign-Country Money Judgments Recognition Act
30 (Chapter 2 (commencing with Section 1713) of Title 11 of Part 3
31 of the Code of Civil Procedure). On or before January 1, 2017, the
32 California Law Revision Commission shall report its findings,
33 along with any recommendations for improvement of those
34 standards, to the Legislature and the Governor.

35 ~~SEC. 634.~~

36 *SEC. 644.* Any section of any act enacted by the Legislature
37 during the 2015 calendar year that takes effect on or before January
38 1, 2016, and that amends, amends and renumbers, adds, repeals
39 and adds, or repeals a section that is amended, amended and
40 renumbered, added, repealed and added, or repealed by this act,

1 shall prevail over this act, whether that act is enacted prior to, or
2 subsequent to, the enactment of this act. The repeal, or repeal and
3 addition, of any article, chapter, part, title, or division of any code
4 by this act shall not become operative if any section of any other
5 act that is enacted by the Legislature during the 2015 calendar year
6 and takes effect on or before January 1, 2016, amends, amends
7 and renumbers, adds, repeals and adds, or repeals any section
8 contained in that article, chapter, part, title, or division.

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