Assembly Bill No. 474

CHAPTER 615

An act to amend Sections 27, 30, 161, 211, 655, 4083, 4372, 4857, 5070, 5070.5, 5079, 6001, 6026.11, 6056, 6060.2, 6060.25, 6086.1, 6086.5, 6090.6, 6168, 6200, 6232, 6234, 7071.18, 7125, 9882.6, 10083.2, 10141.6, 10166.07, 10166.11, 10232.2, 11317.2, 17594, 19819, 19821, 22954, 22979.24, 25205, 25622, 26067, and 26162 of the Business and Professions Code, to amend Sections 1670.9, 1798.3, 1798.24, 1798.29, 1798.70, 1798.75, 1798.82, 1798.85, 1899.5, 1947.8, 3426.7, 5405, and 6760 of the Civil Code, to amend Sections 130, 425.16, and 1985.4 of the Code of Civil Procedure, to amend Sections 25247 and 28106 of the Corporations Code, to amend Sections 5091, 17250.25, 17611, 24214.5, 26812, 33133, 33353, 35147, 44438, 47604.1, 49006, 49060, 49562, 54004.1, 67380, 67383, 72695, 72696, 72701, 76060.5, 87102, 89307, 89573, 89574, 89915.5, 89916, 89919, 92955, 92956, 92961, and 99162 of the Education Code, to amend Sections 2166.7, 2194, 2194.1, 2227, 2267, 9002, 11301, 13300.7, 13311, 17200, 17400, 18109, 18650, and 23003 of the Elections Code, to amend Section 1157.7 of the Evidence Code, to amend Sections 17212 and 17514 of the Family Code, to amend Sections 12104, 14257, 18394, 22067, 22375, 22380, 23049, 31111, and 50314 of the Financial Code, to amend Sections 2584 and 9002.5 of the Fish and Game Code, to amend Sections 4061, 9269, 13134, 14022, 14407, 15205, 29041, 46013.2, 46014.1, 46029, 55075, 58577, 71089, 77965, 78925, and 79505 of the Food and Agricultural Code, to amend Sections 925.6, 1363, 3105, 3558, 5872, 5976, 6204, 6204.1, 6204.2, 6204.3, 6527, 7283.1, 7284.6, 7514.7, 8201.5, 8301.3, 8545, 8585, 8587.11, 8589.5, 8592.45, 11000.5, 11015.5, 11018.5, 11019.7, 11104.5, 11124.1, 11125.1, 11126, 11126.1, 11146.2, 11549.3, 12019.45, 12019.55, 12172.5, 12237, 12271, 12274, 12419.10, 12525, 12525.5, 12811.3, 12894.5, 12999, 13073.6, 14462, 15570.42, 15650, 15652, 15705, 20057, 22854.5, 24102, 25124, 26908.5, 27394, 36525, 52054, 53087.8, 53170, 53232.3, 53235.2, 53237.2, 53359.7, 53398.51.1, 53753, 53755.5, 53760.9, 54230.5, 54953, 54953.5, 54956.9, 54957.2, 54957.5, 60201, 62001, 62262, 63048.63, 64511, 64626, 65913.4, 66024, 66201, 66704.3, and 100508 of the Government Code, to amend Sections 1255.7, 1280.20, 1324.22, 1339.88, 1368, 1371.31, 1380, 1382, 1385.07, 1397.5, 1399.72, 1399.74, 1416.28, 1439, 1457, 1536, 1776.6, 1798.200, 1798.201, 1799.112, 11605, 25152.5, 25186.5, 25200.3, 25201.10, 25201.11, 25205.13, 25214, 25214.8.5, 25214.17, 25215.51, 25257, 25358.7, 25501, 25512, 25538, 25968, 34191.55, 39660, 40440.5, 40440.7, 42303.2, 44346, 50220.6, 50222, 51615, 57020, 101661, 101848.2, 101848.9, 101850, 101855, 102100, 102230, 102231, 105459, 110845, 111792, 111792.6, 115000.1, 116456, 116787, 120160, 123853, 125191, 125290.30, 125290.50, 125342, 127673.81, 127696, 128735, 128736, 128737, 128745, 130060, 130506, and 131052 of the Health and Safety Code, to amend Sections 791.13, 922.41, 923.6,

925.3, 929.1, 935.8, 936.6, 1215.8, 1666.5, 1861.07, 1871.1, 10112.82, 10113.2, 10181.7, 10489.15, 10489.99, 11401.5, 11785, 11873, 12921.2, and 12968 of the Insurance Code, to amend Sections 138.7, 147.2, 432.3, 1776, 2810, 4600.5, 4610, 6322, 6396, and 7873 of the Labor Code, to amend Sections 55 and 56 of the Military and Veterans Code, to amend Sections 146e, 186.34, 290.07, 290.46, 293, 293.5, 637.5, 679.03, 832.5, 832.7, 832.18, 936.7, 1524.4, 5058, 6126.3, 7443, 11167.5, 13300, 13302, 13519.4, 13650, 14029, and 14167 of the Penal Code, to amend Sections 2602, 6703, 6824, 10191, 10335, 10506.6, 10506.9, 20101, 20119.3, 20155.3, 20663.3, 20928.2, and 22164 of the Public Contract Code, to amend Sections 2207, 3160, 3234, 3752, 4604, 5080.24, 5080.25, 5096.512, 5096.513, 14547, 14551.4, 14554, 21082.3, 21089, 21160, 21167.6.2, 21189.70.1, 25223, 25322, 25364, 25402.10, 26213, 29754, 40062, 41821.5, 41821.6, 42036.4, 42987.3, and 48704 of the Public Resources Code, to amend Sections 345.5, 349.5, 399.25, 743.3, 3328, 6354, 7665.4, 9614, 9618, 28844, 99246, 130051.28, 132354.1, 132360.5, and 132660 of the Public Utilities Code, to amend Sections 408.2, 408.3, 409, 7284.6, 7284.7, 7284.10, 18410.2, 19195, and 19528 of the Revenue and Taxation Code, to amend Sections 36612 and 36740 of the Streets and Highways Code, to amend Sections 10205 and 14109 of the Unemployment Insurance Code, to amend Sections 12801.9, 21362.5, 21455.5, and 40240 of the Vehicle Code, to amend Sections 5206, 6102.5, 6161, 10730.8, and 81671 of the Water Code, and to amend Sections 827.9, 1764, 4712.5, 4903, 11478.1, 12301.24, 13302, 14005.27, 14087.5, 14087.36, 14087.58, 14087.98, 14089, 14089.07, 14105.8, 14105.22, 14105.33, 14105.45, 14105.334, 14107.11, 14124.24, 14129.2, 14167.37, 14301.1, 14456.3, 14499.6, 15805, 16519.55, 16809.4, and 17852 of the Welfare and Institutions Code, relating to public records.

[Approved by Governor October 7, 2021. Filed with Secretary of State October 7, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 474, Chau. California Public Records Act: conforming revisions.

The California Public Records Act requires state and local agencies to make their records available for public inspection, unless an exemption from disclosure applies.

This bill would enact various conforming and technical changes related to another bill, AB 473, which recodifies and reorganizes the California Public Records Act. This bill would only become operative if AB 473 is enacted and reorganizes and makes other nonsubstantive changes to the California Public Records Act that become operative on January 1, 2023. The bill would also specify that any other bill enacted by the Legislature during the 2021 calendar year that takes effect on or before January 1, 2022, and that affects a provision of this bill shall prevail over this act, except as specified.

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

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

27. (a) Each entity specified in subdivisions (c), (d), and (e) shall provide on the internet information regarding the status of every license issued by that entity in accordance with the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). The public information to be provided on the internet shall include information on suspensions and revocations of licenses issued by the entity and other related enforcement action, including accusations filed pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) taken by the entity relative to persons, businesses, or facilities subject to licensure or regulation by the entity. The information may not include personal information, including home telephone number, date of birth, or social security number. Each entity shall disclose a licensee's address of record. However, each entity shall allow a licensee to provide a post office box number or other alternate address, instead of the licensee's home address, as the address of record. This section shall not preclude an entity from also requiring a licensee, who has provided a post office box number or other alternative mailing address as the licensee's address of record, to provide a physical business address or residence address only for the entity's internal administrative use and not for disclosure as the licensee's address of record or disclosure on the internet.

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

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

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

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

(3) The Bureau of Household Goods and Services shall disclose information on its licensees and registrants, including major appliance repair dealers, combination dealers (electronic and appliance), electronic repair dealers, service contract sellers, service contract administrators, and household movers.

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

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

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

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

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

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

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

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

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

(13) The Board of Behavioral Sciences shall disclose information on its licensees and registrants.

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

(15) The State Board of Optometry shall disclose information on its licensees and registrants.

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

(17) The Veterinary Medical Board shall disclose information on its licensees, registrants, and permitholders.

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

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

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

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

SEC. 2. Section 30 of the Business and Professions Code is amended to read:

30. (a) (1) Notwithstanding any other law, any board, as defined in Section 22, the State Bar of California, and the Department of Real Estate shall, at the time of issuance of the license, require that the applicant provide

its federal employer identification number, if the applicant is a partnership, or the applicant's social security number for all other applicants.

(2) (A) In accordance with Section 135.5, a board, as defined in Section 22, the State Bar of California, and the Department of Real Estate shall require either the individual taxpayer identification number or social security number if the applicant is an individual for a license or certificate, as defined in subparagraph (2) of subdivision (e), and for purposes of this subdivision.

(B) In implementing the requirements of subparagraph (A), a licensing board shall not require an individual to disclose either citizenship status or immigration status for purposes of licensure.

(C) A licensing board shall not deny licensure to an otherwise qualified and eligible individual based solely on the individual's citizenship status or immigration status.

(D) The Legislature finds and declares that the requirements of this subdivision are consistent with subsection (d) of Section 1621 of Title 8 of the United States Code.

(b) A licensee failing to provide the federal employer identification number, or the individual taxpayer identification number or social security number shall be reported by the licensing board to the Franchise Tax Board. If the licensee fails to provide that information after notification pursuant to paragraph (1) of subdivision (b) of Section 19528 of the Revenue and Taxation Code, the licensee shall be subject to the penalty provided in paragraph (2) of subdivision (b) of Section 19528 of the Revenue and Taxation Code.

(c) In addition to the penalty specified in subdivision (b), a licensing board shall not process an application for an initial license unless the applicant provides its federal employer identification number, or individual taxpayer identification number or social security number where requested on the application.

(d) A licensing board shall, upon request of the Franchise Tax Board or the Employment Development Department, furnish to the board or the department, as applicable, the following information with respect to every licensee:

(1) Name.

(2) Address or addresses of record.

(3) Federal employer identification number if the licensee is a partnership, or the licensee's individual taxpayer identification number or social security number for all other licensees.

(4) Type of license.

(5) Effective date of license or a renewal.

(6) Expiration date of license.

(7) Whether license is active or inactive, if known.

(8) Whether license is new or a renewal.

(e) For the purposes of this section:

(1) "Licensee" means a person or entity, other than a corporation, authorized by a license, certificate, registration, or other means to engage

in a business or profession regulated by this code or referred to in Section 1000 or 3600.

(2) "License" includes a certificate, registration, or any other authorization needed to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.

(3) "Licensing board" means any board, as defined in Section 22, the State Bar of California, and the Department of Real Estate.

(f) The reports required under this section shall be filed on magnetic media or in other machine-readable form, according to standards furnished by the Franchise Tax Board or the Employment Development Department, as applicable.

(g) Licensing boards shall provide to the Franchise Tax Board or the Employment Development Department the information required by this section at a time that the board or the department, as applicable, may require.

(h) Notwithstanding Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code, a federal employer identification number, individual taxpayer identification number, or social security number furnished pursuant to this section shall not be deemed to be a public record and shall not be open to the public for inspection.

(i) A deputy, agent, clerk, officer, or employee of a licensing board described in subdivision (a), or any former officer or employee or other individual who, in the course of their employment or duty, has or has had access to the information required to be furnished under this section, shall not disclose or make known in any manner that information, except as provided pursuant to this section, to the Franchise Tax Board, the Employment Development Department, the Office of the Chancellor of the California Community Colleges, a collections agency contracted to collect funds owed to the State Bar by licensees pursuant to Sections 6086.10 and 6140.5, or as provided in subdivisions (j) and (k).

(j) It is the intent of the Legislature in enacting this section to utilize the federal employer identification number, individual taxpayer identification number, or social security number for the purpose of establishing the identification of persons affected by state tax laws, for purposes of compliance with Section 17520 of the Family Code, for purposes of measuring employment outcomes of students who participate in career technical education programs offered by the California Community Colleges, and for purposes of collecting funds owed to the State Bar by licensees pursuant to Section 6086.10 and Section 6140.5 and, to that end, the information furnished pursuant to this section shall be used exclusively for those purposes.

(k) If the board utilizes a national examination to issue a license, and if a reciprocity agreement or comity exists between the State of California and the state requesting release of the individual taxpayer identification number or social security number, any deputy, agent, clerk, officer, or employee of any licensing board described in subdivision (a) may release an individual taxpayer identification number or social security number to

an examination or licensing entity, only for the purpose of verification of licensure or examination status.

(*l*) For the purposes of enforcement of Section 17520 of the Family Code, and notwithstanding any other law, a board, as defined in Section 22, the State Bar of California, and the Department of Real Estate shall at the time of issuance of the license require that each licensee provide the individual taxpayer identification number or social security number of each individual listed on the license and any person who qualifies for the license. For the purposes of this subdivision, "licensee" means an entity that is issued a license by any board, as defined in Section 22, the State Bar of California, the Department of Real Estate, and the Department of Motor Vehicles.

(m) The department shall, upon request by the Office of the Chancellor of the California Community Colleges, furnish to the chancellor's office, as applicable, the following information with respect to every licensee:

(1) Name.

(2) Federal employer identification number if the licensee is a partnership, or the licensee's individual taxpayer identification number or social security number for all other licensees.

(3) Date of birth.

(4) Type of license.

(5) Effective date of license or a renewal.

(6) Expiration date of license.

(n) The department shall make available information pursuant to subdivision (m) only to allow the chancellor's office to measure employment outcomes of students who participate in career technical education programs offered by the California Community Colleges and recommend how these programs may be improved. Licensure information made available by the department pursuant to this section shall not be used for any other purpose.

(o) The department may make available information pursuant to subdivision (m) only to the extent that making the information available complies with state and federal privacy laws.

(p) The department may, by agreement, condition or limit the availability of licensure information pursuant to subdivision (m) in order to ensure the security of the information and to protect the privacy rights of the individuals to whom the information pertains.

(q) All of the following apply to the licensure information made available pursuant to subdivision (m):

(1) It shall be limited to only the information necessary to accomplish the purpose authorized in subdivision (n).

(2) It shall not be used in a manner that permits third parties to personally identify the individual or individuals to whom the information pertains.

(3) Except as provided in subdivision (n), it shall not be shared with or transmitted to any other party or entity without the consent of the individual or individuals to whom the information pertains.

(4) It shall be protected by reasonable security procedures and practices appropriate to the nature of the information to protect that information from unauthorized access, destruction, use, modification, or disclosure.

(5) It shall be immediately and securely destroyed when no longer needed for the purpose authorized in subdivision (n).

(r) The department or the chancellor's office may share licensure information with a third party who contracts to perform the function described in subdivision (n), if the third party is required by contract to follow the requirements of this section.

SEC. 3. Section 161 of the Business and Professions Code is amended to read:

161. The department, or any board in the department, may, in accordance with the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code), make available to the public copies of any part of its respective public records, or compilations, extracts, or summaries of information contained in its public records, at a charge sufficient to pay the actual cost thereof. That charge shall be determined by the director with the approval of the Department of General Services.

SEC. 4. Section 211 of the Business and Professions Code is amended to read:

211. If the department hires a third-party consultant to assess the department's operations, the department shall, promptly upon receipt of the consultant's final report on that assessment, submit that report to the appropriate policy committees of the Legislature after omitting any information that is not subject to disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

SEC. 5. Section 655 of the Business and Professions Code is amended to read:

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

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

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

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

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

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

(b) No optometrist may have any membership, proprietary interest, coownership, or any profit-sharing arrangement, either by stock ownership, interlocking directors, trusteeship, mortgage, or trust deed, with any registered dispensing optician or any optical company, except as otherwise permitted under this section.

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

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

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

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

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

to patients, and the optometrist's contracting with managed care organizations.

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

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

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

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

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

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

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

(commencing with Section 1340) of Division 2 of the Health and Safety Code).

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

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

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

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

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

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

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

(11) The landlord shall act in good faith in terminating the lease and in no case shall the landlord terminate the lease for reasons that constitute interference with the practice of optometry.

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

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

(14) The landlord shall provide the optometrist with written notice of the scheduled expiration date of a lease at least 60 days prior to the scheduled expiration date. This notice obligation shall not affect the ability of either party to terminate the lease pursuant to this section. The landlord may not

interfere with an outgoing optometrist's efforts to inform the optometrist's patients, in accordance with customary practice and professional obligations, of the relocation of the optometrist's practice.

(15) The State Board of Optometry may inspect, upon request, an individual lease agreement pursuant to its investigational authority, and if such a request is made, the landlord or tenant, as applicable, shall promptly comply with the request. Failure or refusal to comply with the request for lease agreements within 30 days of receiving the request constitutes unprofessional conduct and is grounds for disciplinary action by the appropriate regulatory agency. This section shall not affect the Department of Managed Health Care's authority to inspect all books and records of a health plan pursuant to Section 1381 of the Health and Safety Code.

Any financial information contained in the lease submitted to a regulatory entity, pursuant to this paragraph, shall be considered confidential trade secret information that is exempt from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

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

(e) No registered dispensing optician may have any membership, proprietary interest, coownership, or profit-sharing arrangement either by stock ownership, interlocking directors, trusteeship, mortgage, or trust deed, with an optometrist, except as permitted under this section.

(f) Nothing in this section shall prohibit a person licensed under Chapter 5 (commencing with Section 2000) or its professional corporation from contracting with or employing optometrists, ophthalmologists, or optometric assistants and entering into a contract or landlord-tenant relationship with a health plan, an optical company, or a registered dispensing optician, in accordance with Sections 650 and 654 of this code.

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

(h) (1) Notwithstanding any other law and in addition to any action available to the State Board of Optometry, the State Board of Optometry may issue a citation containing an order of abatement, an order to pay an administrative fine, or both, to an optical company, an optometrist, or a registered dispensing optician for a violation of this section. The administrative fine shall not exceed fifty thousand dollars ($50,000) per investigation. In assessing the amount of the fine, the board shall give due consideration to all of the following:

(A) The gravity of the violation.

(B) The good faith of the cited person or entity.

(C) The history of previous violations of the same or similar nature.

(D) Evidence that the violation was or was not willful.

(E) The extent to which the cited person or entity has cooperated with the board's investigation.

(F) The extent to which the cited person or entity has mitigated or attempted to mitigate any damage or injury caused by the violation.

(G) Any other factors as justice may require.

(2) A citation or fine assessment issued pursuant to a citation shall inform the cited person or entity that if a hearing is desired to contest the finding of a violation, that hearing shall be requested by written notice to the board within 30 days of the date of issuance of the citation or assessment. If a hearing is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged. Hearings shall be held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(3) The board shall adopt regulations to implement a system for the issuance of citations, administrative fines, and orders of abatement authorized by this section. The regulations shall include provisions for both of the following:

(A) The issuance of a citation without an administrative fine.

(B) The opportunity for a cited person or entity to have an informal conference with the executive officer of the board in addition to the hearing described in paragraph (2).

(4) The failure of a licensee to pay a fine within 30 days of the date of assessment, unless the citation is being appealed, may result in disciplinary action being taken by the board. Where a citation is not contested and a fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of the license. A license shall not be renewed without payment of the renewal fee and fine.

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

(i) Administrative fines collected pursuant to this section shall be deposited in the Optometry Fund. It is the intent of the Legislature that moneys collected as fines and deposited in the fund be used by the board primarily for enforcement purposes.

SEC. 6. Section 4083 of the Business and Professions Code is amended to read:

4083. (a) An inspector may issue an order of correction to a licensee directing the licensee to comply with this chapter or regulations adopted pursuant to this chapter.

(b) The order of correction shall be in writing and shall describe in detail the nature and facts of the violation, including a reference to the statute or regulations violated.

(c) The order of correction shall inform the licensee that within 30 days of service of the order of correction, the licensee may do either of the following:

(1) Submit a written request for an office conference with the board's executive officer to contest the order of correction.

(A) Upon a timely request, the executive officer, or designee of the executive officer, shall hold an office conference with the licensee or the licensee's legal counsel or authorized representative. Unless so authorized by the executive officer, or designee of the executive officer, no individual other than the licensee's legal counsel or authorized representative may accompany the licensee to the office conference.

(B) Prior to or at the office conference, the licensee may submit to the executive officer declarations and documents pertinent to the subject matter of the order of correction.

(C) The office conference is intended to be an informal proceeding and shall not be subject to the provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), Chapter 4.5 (commencing with Section 11400), and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

(D) The executive officer, or designee of the executive officer, may affirm, modify, or withdraw the order of correction. Within 14 calendar days from the date of the office conference, the executive officer, or designee of the executive officer, shall personally serve or send by certified mail to the licensee's address of record with the board a written decision. This decision shall be deemed the final administrative decision concerning the order of correction.

(E) Judicial review of the decision may be had by filing a petition for a writ of mandate in accordance with the provisions of Section 1094.5 of the Code of Civil Procedure within 30 days of the date the decision was personally served or sent by certified mail. The judicial review shall extend to the question of whether or not there was a prejudicial abuse of discretion in the issuance of the order of correction.

(2) Comply with the order of correction and submit a written corrective action plan to the inspector documenting compliance. If an office conference is not requested pursuant to this section, compliance with the order of correction shall not constitute an admission of the violation noted in the order of correction.

(d) The order of correction shall be served upon the licensee personally or by certified mail at the licensee's address of record with the board. If the licensee is served by certified mail, service shall be effective upon deposit in the United States mail.

(e) The licensee shall maintain and have readily available on the pharmacy premises a copy of the order of correction and corrective action plan for at least three years from the date of issuance of the order of correction.

(f) Nothing in this section shall in any way limit the board's authority or ability to do any of the following:

(1) Issue a citation pursuant to Section 125.9, 148, or 4067 or pursuant to Section 1775, 1775.15, 1777, or 1778 of Title 16 of the California Code of Regulations.

(2) Issue a letter of admonishment pursuant to Section 4315.

(3) Institute disciplinary proceedings pursuant to Article 19 (commencing with Section 4300).

(g) Unless a writ of mandate is filed, a citation issued, a letter of admonishment issued, or a disciplinary proceeding instituted, an order of correction shall not be considered a public record and shall not be disclosed pursuant to a request under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

SEC. 7. Section 4372 of the Business and Professions Code is amended to read:

4372. All board records and records of the pharmacists recovery program pertaining to the treatment of a pharmacist or intern pharmacist in the program shall be kept confidential and are not subject to discovery, subpoena, or disclosure pursuant to Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code. However, board records and records of the pharmacists recovery program may be disclosed and testimony provided in connection with participation in the pharmacists recovery program, but only to the extent those records or testimony are relevant to the conduct for which the pharmacist or intern pharmacist was terminated from the pharmacists recovery program.

SEC. 8. Section 4857 of the Business and Professions Code is amended to read:

4857. (a) A veterinarian licensed under this chapter shall not disclose any information concerning an animal receiving veterinary services, the client responsible for the animal receiving veterinary services, or the veterinary care provided to an animal, except under any one of the following circumstances:

(1) Upon written or witnessed oral authorization by knowing and informed consent of the client responsible for the animal receiving services or an authorized agent of the client.

(2) Upon authorization received by electronic transmission when originated by the client responsible for the animal receiving services or an authorized agent of the client.

(3) In response to a valid court order or subpoena.

(4) As may be required to ensure compliance with any federal, state, county, or city law or regulation, including, but not limited to, the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(5) Nothing in this section is intended to prevent the sharing of veterinary medical information between veterinarians or facilities for the purpose of diagnosis or treatment of the animal that is the subject of the medical records.

(6) If the care or service was for a horse that has participated in the previous year, or is intended to participate, in a licensed horse race. In these situations, the entire medical record for the horse shall be made available

upon request to anyone responsible for the direct medical care of the horse, including the owner, trainer, or veterinarian, the California Horse Racing Board or any other state or local governmental entity, and the racing association or fair conducting the licensed horse race.

(7) As otherwise provided in this section.

(b) This section shall not apply to the extent that the client responsible for an animal or an authorized agent of the client responsible for the animal has filed or caused to be filed a civil or criminal complaint that places the veterinarian's care and treatment of the animal or the nature and extent of the injuries to the animal at issue, or when the veterinarian is acting to comply with federal, state, county, or city laws or regulations.

(c) A veterinarian shall be subject to the criminal penalties set forth in Section 4831 or any other provision of this code for a violation of this section. In addition, any veterinarian who negligently releases confidential information shall be liable in a civil action for any damages caused by the release of that information.

(d) Nothing in this section is intended to prevent the sharing of veterinary medical information between veterinarians and peace officers, humane society officers, or animal control officers who are acting to protect the welfare of animals.

SEC. 9. Section 5070 of the Business and Professions Code is amended to read:

5070. (a) Permits to engage in the practice of public accountancy in this state shall be issued by the board only to holders of the certificate of certified public accountant issued under this chapter and to those partnerships, corporations, and other persons who, upon application approved by the board, are registered with the board under this chapter. Notwithstanding any other law, the board may register an entity organized and authorized to practice public accountancy under the laws of another state for the purpose of allowing that entity to satisfy the registration requirement set forth in Section 5096.12, if (1) the certified public accountants providing services in California qualify for the practice privilege, and (2) the entity satisfies all other requirements to register in this state, other than its form of legal organization.

(b) All applicants for registration shall furnish satisfactory evidence that the applicant is entitled to registration and shall pay the fee as provided in Article 8 (commencing with Section 5130). Every partnership, corporation, and other person to whom a permit is issued shall, in addition to any other fee that may be payable, pay the initial permit fee provided in Article 8 (commencing with Section 5130).

(c) Each applicant who has a valid email address shall report to the board that email address at the time of application or registration. In the interest of protecting an applicant's privacy, the email address shall not be considered a public record and shall not be disclosed pursuant to Section 27 or pursuant to a request under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), unless required pursuant to a court order by a court of competent jurisdiction.

(d) Each partnership, corporation, and other person issued a permit by the board to practice as a certified public accountant or as a public accountant shall be furnished with a suitable certificate evidencing that registration.

SEC. 10. Section 5070.5 of the Business and Professions Code is amended to read:

5070.5. (a) (1) A permit issued under this chapter to a certified public accountant or a public accountant expires at 12 midnight on the last day of the month of the legal birthday of the licensee during the second year of a two-year term if not renewed.

(2) To renew an unexpired permit, a permitholder shall, before the time at which the permit would otherwise expire, apply for renewal on a form prescribed by the board, pay the renewal fee prescribed by this chapter, and give evidence satisfactory to the board that the permitholder has complied with the continuing education provisions of this chapter.

(3) Each applicant for renewal who has a valid email address shall report that email address to the board on the renewal form described in paragraph (1). In the interest of protecting an applicant's privacy, the electronic mail address shall not be considered a public record and shall not be disclosed pursuant to Section 27 or pursuant to a request under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), unless required pursuant to a court order by a court of competent jurisdiction.

(b) A permit to practice as an accountancy partnership or an accountancy corporation expires at 12 midnight on the last day of the month in which the permit was initially issued during the second year of a two-year term if not renewed. To renew an unexpired permit, the permitholder shall, before the time at which the permit would otherwise expire, apply for renewal on a form prescribed by the board, pay the renewal fee prescribed by this chapter, and provide evidence satisfactory to the board that the accountancy partnership or accountancy corporation is in compliance with this chapter.

(c) On or before July 1, 2020, each permitholder who has a valid email address shall provide that email address to the board.

(d) A permitholder shall notify the board within 30 days of any change to their email address on file with the board. The board may periodically, as it determines necessary, require permitholders to confirm that their email address on file with the board is current.

SEC. 11. Section 5079 of the Business and Professions Code is amended to read:

5079. (a) Notwithstanding any other provision of this chapter, any firm lawfully engaged in the practice of public accountancy in this state may have owners who are not licensed as certified public accountants or public accountants if the following conditions are met:

(1) Nonlicensee owners shall be natural persons or entities, such as partnerships, professional corporations, or others, provided that each ultimate beneficial owner of an equity interest in that entity shall be a natural person materially participating in the business conducted by the firm or an entity controlled by the firm.

(2) Nonlicensee owners shall materially participate in the business of the firm, or an entity controlled by the firm, and their ownership interest shall revert to the firm upon the cessation of any material participation.

(3) Licensees shall in the aggregate, directly or beneficially, comprise a majority of owners, except that firms with two owners may have one owner who is a nonlicensee.

(4) Licensees shall in the aggregate, directly or beneficially, hold more than half of the equity capital and possess majority voting rights.

(5) Nonlicensee owners shall not hold themselves out as certified public accountants or public accountants and each licensed firm shall disclose actual or potential involvement of nonlicensee owners in the services provided.

(6) There shall be a certified public accountant or public accountant who has ultimate responsibility for each financial statement attest and compilation service engagement.

(7) Except as permitted by the board in the exercise of its discretion, a person may not become a nonlicensee owner or remain a nonlicensee owner if the person has done either of the following:

(A) Been convicted of any crime, an element of which is dishonesty or fraud, under the laws of any state, of the United States, or of any other jurisdiction.

(B) Had a professional license or the right to practice revoked or suspended for reasons other than nonpayment of dues or fees, or has voluntarily surrendered a license or right to practice with disciplinary charges or a disciplinary investigation pending, and not reinstated by a licensing or regulatory agency of any state, or of the United States, including, but not limited to, the Securities and Exchange Commission or Public Company Accounting Oversight Board, or of any other jurisdiction.

(b) (1) A nonlicensee owner of a licensed firm shall report to the board in writing of the occurrence of any of the events set forth in paragraph (7) of subdivision (a) within 30 days of the date the nonlicensee owner has knowledge of the event. A conviction includes the initial plea, verdict, or finding of guilt, pleas of no contest, or pronouncement of sentence by a trial court even though that conviction may not be final or sentence actually imposed until appeals are exhausted.

(2) A California nonlicensee owner of a licensed firm shall report to the board in writing the occurrence of any of the following events occurring on or after January 1, 2006, within 30 days of the date the California nonlicensee owner has knowledge of the events:

(A) Any notice of the opening or initiation of a formal investigation of the nonlicensee owner by the Securities and Exchange Commission or its designee, or any notice from the Securities and Exchange Commission to a nonlicensee owner requesting a Wells submission.

(B) Any notice of the opening or initiation of an investigation of the nonlicensee owner by the Public Company Accounting Oversight Board or its designee.

(C) Any notice of the opening or initiation of an investigation of the nonlicensee owner by another professional licensing agency.

(3) The report required by paragraphs (1) and (2) shall be signed by the nonlicensee owner and set forth the facts that constitute the reportable event. If the reportable event involves the action of an administrative agency or court, the report shall identify the name of the agency or court, the title of the matter, and the date of occurrence of the event.

(4) Notwithstanding any other provision of law, reports received by the board pursuant to paragraph (2) shall not be disclosed to the public pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) other than (A) in the course of any disciplinary proceeding by the board after the filing of a formal accusation, (B) in the course of any legal action to which the board is a party, (C) in response to an official inquiry from a state or federal agency, (D) in response to a subpoena or summons enforceable by order of a court, or (E) when otherwise specifically required by law.

(5) Nothing in this subdivision shall impose a duty upon any licensee or nonlicensee owner to report to the board the occurrence of any events set forth in paragraph (7) of subdivision (a) or paragraph (2) of this subdivision either by or against any other nonlicensee owner.

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

(1) "Licensee" means a certified public accountant or public accountant in this state or a certified public accountant in good standing in another state.

(2) "Material participation" means an activity that is regular, continuous, and substantial.

(d) All firms with nonlicensee owners shall certify at the time of registration and renewal that the firm is in compliance with this section.

(e) The board shall adopt regulations to implement, interpret, or make specific this section.

SEC. 12. Section 6001 of the Business and Professions Code is amended to read:

6001. The State Bar of California is a public corporation. It is hereinafter designated as the State Bar.

The State Bar has perpetual succession and a seal and it may sue and be sued. It may, for the purpose of carrying into effect and promoting its objectives:

(a) Make contracts.

(b) Borrow money, contract debts, issue bonds, notes, and debentures, and secure the payment or performance of its obligations.

(c) Own, hold, use, manage, and deal in and with real and personal property.

(d) Construct, alter, maintain, and repair buildings and other improvements to real property.

(e) Purchase, lease, obtain options upon, acquire by gift, bequest, devise, or otherwise, any real or personal property or any interest therein.

(f) Sell, lease, exchange, convey, transfer, assign, encumber, pledge, or dispose of any of its real or personal property or any interest therein, including without limitation all or any portion of its income or revenues from license fees paid or payable by licensees.

(g) Do all other acts incidental to the foregoing or necessary or expedient for the administration of its affairs and the attainment of its purposes.

Pursuant to those powers enumerated in subdivisions (a) to (g), inclusive, it is recognized that the State Bar has authority to raise revenue in addition to that provided for in Section 6140 and other statutory provisions. The State Bar is empowered to raise that additional revenue by any lawful means. However, as of March 31, 2018, the State Bar shall not create any foundations or nonprofit corporations.

The State Bar shall conspicuously publicize to its licensees in the annual fees statement and other appropriate communications, including its internet website and electronic communications, that its licensees have the right to limit the sale or disclosure of licensee information not reasonably related to regulatory purposes. In those communications the State Bar shall note the location of the State Bar's privacy policy, and shall also note the simple procedure by which a licensee may exercise the licensee's right to prohibit or restrict, at the licensee's option, the sale or disclosure of licensee information not reasonably related to regulatory purposes. On or before May 1, 2005, the State Bar shall report to the Assembly and Senate Committees on Judiciary regarding the procedures that it has in place to ensure that licensees can appropriately limit the use of their licensee information not reasonably related to regulatory purposes, and the number of licensees choosing to utilize these procedures.

No law of this state restricting, or prescribing a mode of procedure for the exercise of powers of state public bodies or state agencies, or classes thereof, including, but not by way of limitation, the provisions contained in Division 3 (commencing with Section 11000), Division 4 (commencing with Section 16100), and Part 1 (commencing with Section 18000) and Part 2 (commencing with Section 18500) of Division 5, of Title 2 of the Government Code, shall be applicable to the State Bar, unless the Legislature expressly so declares. Notwithstanding the foregoing or any other law, pursuant to Sections 6026.7 and 6026.11, the State Bar is subject to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) and, commencing April 1, 2016, the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

SEC. 13. Section 6026.11 of the Business and Professions Code is amended to read:

6026.11. The State Bar is subject to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) and all public records and writings of the State Bar are subject to the California Public Records Act.

SEC. 14. Section 6056 of the Business and Professions Code is amended to read:

6056. (a) The State Bar, acting pursuant to Section 6001, shall assist the Sections of the State Bar to incorporate as a private, nonprofit corporation organized under Section 501(c)(6) of the Internal Revenue Code and shall transfer the functions and activities of the 16 State Bar Sections and the California Young Lawyers Association to the new private, nonprofit corporation, to be called the California Lawyers Association. The California Lawyers Association shall be a voluntary association, shall not be a part of the State Bar, and shall not be funded in any way through mandatory fees collected by the State Bar. The California Lawyers Association shall have independent contracting authority and full control of its resources. The California Lawyers Association shall not be considered a state, local, or other public body for any purpose, including, but not limited to, the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code) and the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(b) The California Lawyers Association shall be governed in accordance with the bylaws of the California Lawyers Association, which shall ensure that all of the State Bar Sections and the California Young Lawyers Association are adequately represented and are able to make decisions in a fair and representative manner that complies with all provisions of state and federal law governing private nonprofit corporations organized under Section 501(c)(6) of the Internal Revenue Code. The bylaws of the California Lawyers Association shall ensure that the governing board of the California Lawyers Association includes one representative of each of the 16 sections of the State Bar Sections and one representative from the California Young Lawyers Association. The bylaws shall ensure that each of these 17 governing board members have equal voting power on the governing board. The bylaws shall ensure that the governing board may terminate individual sections or add individual sections by a two-thirds vote of the governing board.

(c) The California Lawyers Association shall establish the criteria for membership in the California Young Lawyers Association. The California Lawyers Association may change the name of the California Young Lawyers Association to another name consistent with the criteria for membership and its mission.

(d) The State Bar may assist the California Lawyers Association in gaining appointment to the American Bar Association (ABA) House of Delegates, consistent with the California Lawyers Association's mission and subject to the consent of the ABA.

(e) The State Bar shall support the California Lawyers Association's efforts to partner with the Continuing Education of the Bar (CEB), subject to agreement by the University of California.

(f) The State Bar of California shall ensure that State Bar staff who support the Sections, as of September 15, 2017, are reassigned to other comparable positions within the State Bar.

(g) The Sections of the State Bar or the California Lawyers Association and the State Bar shall enter into a memorandum of understanding regarding the terms of separation of the Sections of the State Bar from the State Bar and mandatory duties of the California Lawyers Association, including a requirement to provide all of the following:

(1) Low- and no-cost mandatory continuing legal education (MCLE).

(2) Expertise and information to the State Bar, as requested.

(3) Educational programs and materials to the licensees of the State Bar and the public.

(h) The State Bar of California shall assist the California Lawyers Association in meeting the association's requirement to provide low- and no-cost MCLE by the inclusion on the State Bar's internet website of easily accessible links to the low- and no-cost MCLE provided by the California Lawyers Association.

SEC. 15. Section 6060.2 of the Business and Professions Code is amended to read:

6060.2. (a) All investigations or proceedings conducted by the State Bar concerning the moral character of an applicant shall be confidential and shall not be disclosed pursuant to any state law, including, but not limited to, the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) unless the applicant, in writing, waives the confidentiality.

(b) Notwithstanding subdivision (a), the records of the proceeding may be disclosed in response to either of the following:

(1) A lawfully issued subpoena.

(2) A written request from a government agency responsible for either the enforcement of civil or criminal laws or the professional licensing of individuals that is conducting an investigation about the applicant.

SEC. 16. Section 6060.25 of the Business and Professions Code is amended to read:

6060.25. (a) Notwithstanding any other law, any identifying information submitted by an applicant to the State Bar for admission and a license to practice law and all State Bar admission records, including, but not limited to, bar examination scores, law school grade point average (GPA), undergraduate GPA, Law School Admission Test scores, race or ethnicity, and any information contained within the State Bar Admissions database or any file or other data created by the State Bar with information submitted by the applicant that may identify an individual applicant, other than information described in subdivision (b), shall be confidential and shall not be disclosed pursuant to any state law, including, but not limited to, the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(b) Subject to existing state and federal laws protecting education records, subdivision (a) does not prohibit the disclosure of any of the following:

(1) The names of applicants who have passed any examination administered, given, or prescribed by the Committee of Bar Examiners.

(2) Information that is provided at the request of an applicant to another jurisdiction where the applicant is seeking admission to the practice of law.

(3) Information provided to a law school that is necessary for the purpose of the law school's compliance with accreditation or regulatory requirements. Beginning with the release of results from the July 2018 bar examination, the information provided to a law school shall also include the bar examination results of the law school's graduates allocated to the law school and the scores of any graduate allocated to the law school who did not pass the bar examination and who consents to the release of the graduate's scores to the law school. Consent of a law school graduate to the release of the graduate's scores may be obtained by a check-off on the graduate's application to take the bar examination. For purposes of this paragraph, "scores" means the same scores reported to a graduate who did not successfully pass the bar examination.

(4) Information provided to the National Conference of Bar Examiners or a successor nonprofit organization in connection to the State Bar's administration of any examination.

(5) This subdivision shall apply retroactively to January 1, 2016.

(c) Disclosure of any of the information in paragraphs (2) to (4), inclusive, of subdivision (b) shall not constitute a waiver under Section 7921.505 of the Government Code of the exemption from disclosure provided for in subdivision (a) of this section.

(d) (1) Notwithstanding any other law except existing state and federal laws protecting education records, any information received from an educational or testing entity that is collected by the State Bar for the purpose of conducting a Law School Bar Exam Performance Study as the State Bar has been directed to do by the California Supreme Court by letter dated February 28, 2017, other than aggregate, summary, or statistical data that does not identify any person and does not provide substantial risk of identification of any person, shall be confidential and shall not be disclosed pursuant to any state law, including, but not limited to, the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(2) Nothing in this subdivision is intended to impact any litigation pending on the effective date of the measure that added this subdivision.

SEC. 17. Section 6086.1 of the Business and Professions Code is amended to read:

6086.1. (a) (1) Subject to subdivision (b), and except as otherwise provided by law, hearings and records of original disciplinary proceedings in the State Bar Court shall be public, following a notice to show cause.

(2) Subject to subdivision (b), and except as otherwise provided by law, hearings and records of the following matters shall be public:

(A) Filings for involuntary inactive enrollment or restriction under subdivision (a), (c), (d), or (e) of Section 6007.

(B) Petitions for reinstatement under Section 6078.

(C) Proceedings for suspension or disbarment under Section 6101 or 6102.

(D) Payment information from the Client Security Fund pursuant to Section 6140.5.

(E) Actions to cease a law practice or assume a law practice under Section 6180 or 6190.

(b) All disciplinary investigations are confidential until the time that formal charges are filed and all investigations of matters identified in paragraph (2) of subdivision (a) are confidential until the formal proceeding identified in paragraph (2) of subdivision (a) is instituted. These investigations shall not be disclosed pursuant to any state law, including, but not limited to, the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code). This confidentiality requirement may be waived under any of the following exceptions:

(1) The licensee whose conduct is being investigated may waive confidentiality.

(2) The Chief Trial Counsel or Chair of the State Bar may waive confidentiality, but only when warranted for protection of the public. Under those circumstances, after private notice to the licensee, the Chief Trial Counsel or Chair of the State Bar may issue, if appropriate, one or more public announcements or make information public confirming the fact of an investigation or proceeding, clarifying the procedural aspects and current status, and defending the right of the licensee to a fair hearing. If the Chief Trial Counsel or Chair of the State Bar for any reason declines to exercise the authority provided by this paragraph, or self-disqualifies from acting under this paragraph, the Chief Trial Counsel or Chair of the State Bar shall designate someone to act in that person's behalf. Conduct of a licensee that is being inquired into by the State Bar but that is not the subject of a formal investigation shall not be disclosed to the public.

(3) The Chief Trial Counsel or Chief Trial Counsel's designee may waive confidentiality pursuant to Section 6044.5.

(c) Notwithstanding the confidentiality of investigations, the State Bar shall disclose to any member of the public so inquiring, any information reasonably available to it pursuant to subdivision (o) of Section 6068, and to Sections 6086.7, 6086.8, and 6101, concerning a licensee of the State Bar that is otherwise a matter of public record, including civil or criminal filings and dispositions.

SEC. 18. Section 6086.5 of the Business and Professions Code is amended to read:

6086.5. (a) The board of trustees shall establish a State Bar Court, to act in its place and stead in the determination of disciplinary and reinstatement proceedings and proceedings pursuant to subdivisions (b) and (c) of Section 6007 to the extent provided by rules adopted by the board of trustees pursuant to this chapter. In these proceedings the State Bar Court may exercise the powers and authority vested in the board of trustees by this chapter, including those powers and that authority vested in committees

of, or established by, the board, except as limited by rules of the board of trustees within the scope of this chapter.

(b) Access to records of the State Bar Court shall be governed by court rules and laws applicable to records of the judiciary and not the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(c) For the purposes of Sections 6007, 6043, 6049, 6049.2, 6050, 6051, 6052, 6077 (excluding the first sentence), 6078, 6080, 6081, and 6082, "board" includes the State Bar Court.

(d) (1) Nothing in this section shall authorize the State Bar Court to adopt rules of professional conduct or rules of procedure.

(2) The Executive Committee of the State Bar Court may adopt rules of practice for the conduct of all proceedings within its jurisdiction. These rules may not conflict with the rules of procedure adopted by the board, unless approved by the Supreme Court.

SEC. 19. Section 6090.6 of the Business and Professions Code is amended to read:

6090.6. In a disciplinary proceeding, the State Bar shall have access, on an ex parte basis, to all nonpublic court records relevant to the competence or performance of its licensees, provided that these records shall remain confidential and shall not be disclosed pursuant to any state law, including, but not limited to, the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code). This access, for investigation and enforcement purposes, shall not be limited by any court order sealing those records, except a court order authorized by Section 851.6, 851.7, 851.8, or 851.85 of the Penal Code. The State Bar may disclose publicly the nature and content of those records, including sealed records other than those specified immediately above in this section, after notice of intention to disclose all or a part of the records has been given to the parties in the underlying action. A party to the underlying action who would be adversely affected by the disclosure may serve notice on the State Bar within 10 days of receipt of the notice of intention to disclose the records that it opposes the disclosure and will seek a hearing in the court of competent jurisdiction on an expedited basis.

SEC. 20. Section 6168 of the Business and Professions Code is amended to read:

6168. (a) The State Bar may conduct an investigation of the conduct of the business of a law corporation.

(b) Upon that investigation, the Board of Trustees, or a committee authorized by it, shall have power to issue subpoenas, administer oaths, examine witnesses, and compel the production of records, in the same manner as upon an investigation or formal hearing in a disciplinary matter under the State Bar Act. The investigation shall be private and confidential and shall not be disclosed pursuant to any state law, including, but not limited to, the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), except to the

extent that disclosure of facts and information may be required if a cease and desist order is thereafter issued and subsequent proceedings are had.

SEC. 21. Section 6200 of the Business and Professions Code is amended to read:

6200. (a) The board of trustees shall, by rule, establish, maintain, and administer a system and procedure for the arbitration, and may establish, maintain, and administer a system and procedure for mediation of disputes concerning fees, costs, or both, charged for professional services by licensees of the State Bar or by members of the bar of other jurisdictions. The rules may include provision for a filing fee in the amount as the board may, from time to time, determine.

(b) This article shall not apply to any of the following:

(1) Disputes where a licensee of the State Bar of California is also admitted to practice in another jurisdiction or where an attorney is only admitted to practice in another jurisdiction, and the attorney maintains no office in the State of California, and no material portion of the services were rendered in the State of California.

(2) Claims for affirmative relief against the attorney for damages or otherwise based upon alleged malpractice or professional misconduct, except as provided in subdivision (a) of Section 6203.

(3) Disputes where the fee or cost to be paid by the client or on the client's behalf has been determined pursuant to statute or court order.

(c) Unless the client has agreed in writing to arbitration under this article of all disputes concerning fees, costs, or both, arbitration under this article shall be voluntary for a client and shall be mandatory for an attorney if commenced by a client. Mediation under this article shall be voluntary for an attorney and a client.

(d) The board of trustees shall adopt rules to allow arbitration and mediation of attorney fee and cost disputes under this article to proceed under arbitration and mediation systems sponsored by local bar associations in this state. Rules of procedure promulgated by local bar associations are subject to review by the board or a committee designated by the board to ensure that they provide for a fair, impartial, and speedy hearing and award.

(e) In adopting or reviewing rules of arbitration under this section, the board shall provide that the panel shall include one attorney member whose area of practice is either, at the option of the client, civil law, if the attorney's representation involved civil law, or criminal law, if the attorney's representation involved criminal law, as follows:

(1) If the panel is composed of three members the panel shall include one attorney member whose area of practice is either, at the option of the client, civil or criminal law, and shall include one lay member.

(2) If the panel is composed of one member, that member shall be an attorney whose area of practice is either, at the option of the client, civil or criminal law.

(f) In any arbitration or mediation conducted pursuant to this article by the State Bar or by a local bar association, pursuant to rules of procedure approved by the board of trustees, an arbitrator or mediator, as well as the

arbitrating association and its directors, officers, and employees, shall have the same immunity that attaches in judicial proceedings.

(g) In the conduct of arbitrations under this article the arbitrator or arbitrators may do all of the following:

(1) Take and hear evidence pertaining to the proceeding.

(2) Administer oaths and affirmations.

(3) Issue subpoenas for the attendance of witnesses and the production of books, papers, and documents pertaining to the proceeding.

(h) Participation in mediation is a voluntary consensual process, based on direct negotiations between the attorney and client, and is an extension of the negotiated settlement process. All discussions and offers of settlement are confidential and shall not be disclosed pursuant to any state law, including, but not limited to, the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), and may not be disclosed in any subsequent arbitration or other proceedings.

SEC. 22. Section 6232 of the Business and Professions Code is amended to read:

6232. (a) The committee shall establish practices and procedures for the acceptance, denial, completion, or termination of attorneys in the Attorney Diversion and Assistance Program, and may recommend rehabilitative criteria for adoption by the board for acceptance, denial, completion of, or termination from, the program.

(b) An attorney currently under investigation by the State Bar may enter the program in the following ways:

(1) By referral of the Office of the Chief Trial Counsel.

(2) By referral of the State Bar Court following the initiation of a disciplinary proceeding.

(3) Voluntarily, and in accordance with terms and conditions agreed upon by the attorney participant with the Office of the Chief Trial Counsel or upon approval by the State Bar Court, as long as the investigation is based primarily on the self-administration of drugs or alcohol or the illegal possession, prescription, or nonviolent procurement of drugs for self-administration, or on mental illness, and does not involve actual harm to the public or the attorney's clients. An attorney seeking entry under this paragraph may be required to execute an agreement that violations of this chapter, or other statutes that would otherwise be the basis for discipline, may nevertheless be prosecuted if the attorney is terminated from the program for failure to comply with program requirements.

(c) Neither acceptance into nor participation in the Attorney Diversion and Assistance Program shall relieve the attorney of any lawful duties and obligations otherwise required by any agreements or stipulations with the Office of the Chief Trial Counsel, court orders, or applicable statutes relating to attorney discipline.

(d) An attorney who is not the subject of a current investigation may voluntarily enter, whether by self-referral or referral by a third party, the diversion and assistance program on a confidential basis and that information

shall not be disclosed pursuant to any state law, including, but not limited to, the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code). Confidentiality pursuant to this subdivision shall be absolute unless waived by the attorney.

(e) By rules subject to the approval of the board and consistent with the requirements of this article, applicants who are in law school or have applied for admission to the State Bar may enter the program.

SEC. 23. Section 6234 of the Business and Professions Code is amended to read:

6234. Any information provided to or obtained by the Attorney Diversion and Assistance Program, or any subcommittee or agent thereof, shall be as follows:

(a) Confidential and shall not be disclosed pursuant to any state law, including, but not limited to, the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code). This confidentiality shall be absolute unless waived by the attorney.

(b) Exempt from the provisions of Section 6086.1.

(c) Not discoverable or admissible in any civil proceeding without the written consent of the attorney to whom the information pertains.

(d) Not discoverable or admissible in any disciplinary proceeding without the written consent of the attorney to whom the information pertains.

(e) Except with respect to the provisions of subdivision (d) of Section 6232, the limitations on the disclosure and admissibility of information in this section shall not apply to information relating to an attorney's noncooperation with, or unsuccessful completion of, the Attorney Diversion and Assistance Program, or any subcommittee or agent thereof, or to information otherwise obtained by the Office of the Chief Trial Counsel, by independent means, or from any other lawful source.

SEC. 24. Section 7071.18 of the Business and Professions Code is amended to read:

7071.18. (a) Notwithstanding any other law, a licensee shall report to the registrar in writing the occurrence of any of the following within 90 days after the licensee obtains knowledge of the event:

(1) The conviction of the licensee for any felony.

(2) The conviction of the licensee for any other crime that is substantially related to the qualifications, functions, and duties of a licensed contractor.

(b) (1) The board shall consult with licensees, consumers, and other interested stakeholders in order to prepare a study of judgments, arbitration awards, and settlements that were the result of claims for construction defects for rental residential units and, by January 1, 2018, shall report to the Legislature the results of this study to determine if the board's ability to protect the public as described in Section 7000.6 would be enhanced by regulations requiring licensees to report judgments, arbitration awards, or settlement payments of those claims. Participation by licensees and consumers shall be voluntary. The study shall include, but not be limited to, criteria used by insurers or others to differentiate between settlements that are for nuisance value and those that are not, whether settlement

information or other information can help identify licensees who may be subject to an enforcement action, if there is a way to separate subcontractors from general contractors when identifying licensees who may be subject to an enforcement action, whether reporting should be limited to settlements resulting from construction defects that resulted in death or injury, the practice of other boards within the department, and any other criteria considered reasonable by the board. The board shall submit the report to the Legislature in accordance with Section 9795 of the Government Code.

(2) Records or documents obtained by the board during the course of implementing this subdivision that are exempt from public disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) shall remain exempt from disclosure pursuant to that act.

SEC. 25. Section 7125 of the Business and Professions Code is amended to read:

7125. (a) Except as provided in subdivision (b), the board shall require as a condition precedent to the issuance, reinstatement, reactivation, renewal, or continued maintenance of a license, that the applicant or licensee have on file at all times a current and valid Certificate of Workers' Compensation Insurance or Certification of Self-Insurance in the applicant's or licensee's business name. A Certificate of Workers' Compensation Insurance shall be issued and filed, electronically or otherwise, by an insurer duly licensed to write workers' compensation insurance in this state. A Certification of Self-Insurance shall be issued and filed by the Director of Industrial Relations. If reciprocity conditions exist, as provided in Section 3600.5 of the Labor Code, the registrar shall require the information deemed necessary to ensure compliance with this section.

(b) This section does not apply to an applicant or licensee who meets both of the following conditions:

(1) Has no employees provided that the applicant or licensee files a statement with the board on a form prescribed by the registrar prior to the issuance, reinstatement, reactivation, or continued maintenance of a license, certifying that the applicant or licensee does not employ any person in any manner so as to become subject to the workers' compensation laws of California or is not otherwise required to provide for workers' compensation insurance coverage under California law.

(2) Does not hold a C-39 license, as defined in Section 832.39 of Title 16 of the California Code of Regulations.

(c) No Certificate of Workers' Compensation Insurance, Certification of Self-Insurance, or exemption certificate is required of a holder of a license that has been inactivated on the official records of the board during the period the license is inactive.

(d) (1) The insurer, including the State Compensation Insurance Fund, shall report to the registrar the following information for any policy required under this section: name, license number, policy number, dates that coverage is scheduled to commence and lapse, and cancellation date if applicable.

(2) A workers' compensation insurer shall also report to the registrar a licensee whose workers' compensation insurance policy is canceled by the insurer if all of the following conditions are met:

(A) The insurer has completed a premium audit or investigation.

(B) A material misrepresentation has been made by the insured that results in financial harm to the insurer.

(C) No reimbursement has been paid by the insured to the insurer.

(3) Willful or deliberate disregard and violation of workers' compensation insurance laws constitutes a cause for disciplinary action by the registrar against the licensee.

(e) (1) For any license that, on January 1, 2013, is active and includes a C-39 classification in addition to any other classification, the registrar shall, in lieu of the automatic license suspension otherwise required under this article, remove the C-39 classification from the license unless a valid Certificate of Workers' Compensation Insurance or Certification of Self-Insurance is received by the registrar.

(2) For any licensee whose license, after January 1, 2013, is active and has had the C-39 classification removed as provided in paragraph (1), and who is found by the registrar to have employees and to lack a valid Certificate of Workers' Compensation Insurance or Certification of Self-Insurance, that license shall be automatically suspended as required under this article.

(f) The information reported pursuant to paragraph (2) of subdivision (d) shall be confidential, and shall be exempt from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

SEC. 26. Section 9882.6 of the Business and Professions Code is amended to read:

9882.6. (a) There is in the department an enforcement program that shall investigate violations of this chapter and the Motor Vehicle Inspection and Maintenance Program (Chapter 5 (commencing with Section 44000) of Part 5 of Division 2 of the Health and Safety Code) and any regulations adopted thereunder.

(b) (1) When purchasing undercover vehicles to be used for evidentiary purposes as part of the investigation, the department may purchase motor vehicles of various makes, models, and condition. These acquisitions shall be exempt from the following requirements:

(A) Chapter 5.5 (commencing with Section 8350) of Division 1 of Title 2 of the Government Code.

(B) Section 12990 of the Government Code and any applicable regulations promulgated thereunder.

(C) Subdivision (a) of Section 13332.09 of the Government Code.

(D) Section 14841 of the Government Code and subdivision (d) of Section 999.5 of the Military and Veterans Code.

(E) Sections 2010, 10286.1, 10295.1, 10295.3, 10295.35, 10296, and 12205 and Article 13 (commencing with Section 10475) of Chapter 2 of Part 2 of Division 2 of the Public Contract Code.

(F) Section 42480 of the Public Resources Code.

(2) After purchase, the department may prepare the vehicle for use in an investigation by disabling, modifying, or otherwise changing the vehicle's emission control system components or any other part or parts of the vehicle. To complete the investigation, the department may purchase or attempt to purchase repairs, services, or parts from those entities licensed or registered by the department. The funds for the preparation and purchases shall not be subject to the monetary limit specified in Section 16404 of the Government Code, but the department shall comply with all other provisions of that section. The department shall implement the safeguards necessary to ensure the proper use and disbursement of funds utilized pursuant to this section. These expenses may be paid out of the Consumer Affairs Fund established pursuant to Section 204.

(3) Vehicles acquired pursuant to this subdivision shall be exempt from requirements established pursuant to Chapter 8.3 (commencing with Section 25722) of Division 15 of the Public Resources Code.

(4) The department shall maintain an inventory of these vehicles and provide semiannual fleet reports to the Department of General Services, including, but not limited to, the vehicle's identification number, equipment number, and acquisition and disposal information.

(5) Records associated with these vehicles are exempt from disclosure pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

SEC. 27. Section 10083.2 of the Business and Professions Code is amended to read:

10083.2. (a) (1) The commissioner shall provide on the internet information regarding the status of every license issued by the department in accordance with the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code).

(2) The public information to be provided on the internet shall include information on suspensions and revocations of licenses issued by the department and accusations filed pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) relative to persons or businesses subject to licensure or regulation by the department.

(3) The public information shall not include personal information, including home telephone number, date of birth, or social security number. The commissioner shall disclose a licensee's address of record. However, the commissioner shall allow a licensee to provide a post office box number or other alternate address, instead of the licensee's home address, as the address of record. This section shall not preclude the commissioner from also requiring a licensee who has provided a post office box number or other alternative mailing address as the licensee's address of record to provide a physical business address or residence address only for the department's

internal administrative use and not for disclosure as the licensee's address of record or disclosure on the internet.

(4) The public information shall also include whether a licensee is an associate licensee within the meaning of subdivision (b) of Section 2079.13 of the Civil Code and, if the associate licensee is a broker, identify each responsible broker with whom the licensee is contractually associated as described in Section 10032 of this code or Section 2079.13 of the Civil Code.

(b) For purposes of this section, "internet" has the meaning set forth in paragraph (6) of subdivision (f) of Section 17538.

(c) Upon petition by a licensee accompanied by a fee sufficient to defray costs associated with consideration of a petition, as described in Section 10223, the commissioner may remove from the posting of discipline described in subdivision (a) an item that has been posted on the bureau's internet website for no less than 10 years and for which the licensee provides evidence of rehabilitation indicating that the notice is no longer required in order to prevent a credible risk to members of the public utilizing licensed activity of the licensee. In evaluating a petition, the commissioner shall take into consideration other violations that present a credible risk to the members of the public since the posting of discipline requested for removal.

(d) The bureau may develop, through regulations, the amount of the fee and the minimum information to be included in a licensee's petition, including, but not limited to, a written justification and evidence of rehabilitation pursuant to Section 482.

(e) "Posted" for purposes of this section is defined as the date of disciplinary action taken by the bureau.

(f) The petition process described in subdivisions (c) and (d) shall commence January 1, 2018.

(g) The bureau shall maintain a list of all licensees whose disciplinary records are altered as a result of a petition approved under subdivision (c). The bureau shall make the list accessible to other licensing bodies. The bureau shall update and provide the list to other licensing bodies as often as it modifies the records displayed on its internet website in response to petitions approved under subdivision (c).

(h) This section shall become operative January 1, 2018.

SEC. 28. Section 10141.6 of the Business and Professions Code is amended to read:

10141.6. (a) A real estate broker who engages in escrow activities for five or more transactions in a calendar year pursuant to the exemption from the Escrow Law contained in Section 17006 of the Financial Code, or whose escrow activities pursuant to that exemption equal or exceed one million dollars ($1,000,000) in a calendar year, shall file with the department a report, within 60 days following the completion of the calendar year, documenting the number of escrows conducted and the dollar volume escrowed during the calendar year in which the threshold was met. This report shall be made on a form acceptable to the commissioner.

(b) A real estate broker subject to this section and Section 10232.2 may file consolidated reports that include all of the information required under this section and Section 10232.2. Those consolidated reports shall clearly indicate that they are intended to satisfy the requirements of both sections.

(c) A real estate broker who fails to submit the report required pursuant to subdivision (a) shall be assessed a penalty of fifty dollars ($50) per day for each day the report has not been received by the department, up to and including the 30th day after the first day of the assessment penalty. On and after the 31st day, the penalty shall be one hundred dollars ($100) per day, not to exceed a total penalty of ten thousand dollars ($10,000), regardless of the number of days, until the department receives the report.

(d) The commissioner may suspend or revoke the license of a real estate broker who fails to pay a penalty imposed pursuant to this section. In addition, the commissioner may bring an action in an appropriate court of this state to collect payment of that penalty.

(e) All penalties paid or collected under this section shall be deposited into the Recovery Account of the Real Estate Fund and shall, upon appropriation by the Legislature, be available for expenditure for the purposes specified in Chapter 6.5 (commencing with Section 10470).

(f) The reports described in this section are exempted from any requirement of public disclosure by subdivision (b) of Section 7929.000 of the Government Code.

(g) This section shall become operative on July 1, 2012.

SEC. 29. Section 10166.07 of the Business and Professions Code is amended to read:

10166.07. (a) A real estate broker who acts pursuant to Section 10131.1 or subdivision (d) or (e) of Section 10131, and who makes, arranges, or services one or more loans in a calendar year that are secured by real property containing one to four residential units, shall annually file a business activities report, within 90 days after the end of the broker's fiscal year or within any additional time as the commissioner may allow for filing for good cause. The report shall contain within its scope all of the following information for the fiscal year, relative to the business activities of the broker and those of any other brokers and real estate salespersons acting under that broker's supervision:

(1) Name and license number of the supervising broker and names and license numbers of the real estate brokers and salespersons under that broker's supervision. The report shall include brokers and salespersons who were under the supervising broker's supervision for all or part of the year.

(2) A list of the real estate-related activities in which the supervising broker and the brokers and salespersons under the supervising broker's supervision engaged during the prior year. This listing shall identify all of the following:

(A) Activities relating to mortgages, including arranging, making, or servicing.

(B) Other activities performed under the real estate broker's or salesperson's license.

(C) Activities performed under related licenses, including, but not limited to, a license to engage as a finance lender or a finance broker under the California Financing Law (Division 9 (commencing with Section 22000) of the Financial Code), or a license to engage as a residential mortgage lender or residential mortgage loan servicer under the California Residential Mortgage Lending Act (Division 20 (commencing with Section 50000) of the Financial Code).

(3) A list of the forms of media used by the broker and those under the broker's supervision to advertise to the public, including print, radio, television, the internet, or other means.

(4) For fixed rate loans made, brokered, or serviced, all of the following:

(A) The total number, aggregate principal amount, lowest interest rate, highest interest rate, and a list of the institutional lenders of record. If the loan was funded by any lender other than an institutional lender, the broker shall categorize the loan as privately funded.

(B) The total number and aggregate principal amount of covered loans, as defined in Section 4970 of the Financial Code.

(C) The total number and aggregate principal amount of loans for which Bureau of Real Estate form RE Form 885 or an equivalent is required.

(5) For adjustable rate loans made, brokered, or serviced, all of the following:

(A) The total number, aggregate principal amount, lowest beginning interest rate, highest beginning interest rate, highest margin, and a list of the institutional lenders of record. If the loan was funded by any lender other than an institutional lender, the broker shall categorize the loan as privately funded.

(B) The total number and aggregate principal amount of covered loans, as defined in Section 4970 of the Financial Code.

(C) The total number and aggregate principal amount of loans for which Bureau of Real Estate form RE Form 885 or an equivalent is required.

(6) For all loans made, brokered, or serviced, the total number and aggregate principal amount of loans funded by institutional lenders, and the total number and aggregate principal amount of loans funded by private lenders.

(7) For all loans made, brokered, or serviced, the total number and aggregate principal amount of loans that included a prepayment penalty, the minimum prepayment penalty length, the maximum prepayment penalty length, and the number of loans with prepayment penalties whose length exceeded the length of time before the borrower's loan payment amount could increase.

(8) For all loans brokered, the total compensation received by the broker, including yield spread premiums, commissions, and rebates, but excluding compensation used to pay fees for third-party services on behalf of the borrower.

(9) For all mortgage loans made or brokered, the total number of loans for which a mortgage loan disclosure statement was provided in a language

other than English, and the number of forms provided per language other than English.

(10) For all mortgage loans serviced, the total amount of funds advanced to be applied toward a payment to protect the security of the note being serviced.

(11) For purposes of this section, an institutional lender has the meaning specified in paragraph (1) of subdivision (c) of Section 10232.

(b) A broker subject to this section and Section 10232.2 may file consolidated reports that include all of the information required under this section and Section 10232.2. Those consolidated reports shall clearly indicate that they are intended to satisfy the requirements of both sections.

(c) If a broker subject to this section fails to timely file the report required under this section, the commissioner may cause an examination and report to be made and may charge the broker one and one-half times the cost of making the examination and report. In determining the hourly cost incurred by the commissioner for conducting an examination and preparing the report, the commissioner may use the estimated average hourly cost for all department audit staff performing audits of real estate brokers. If a broker fails to pay the commissioner's cost within 60 days of the mailing of a notice of billing, the commissioner may suspend the broker's license or deny renewal of that license. The suspension or denial shall remain in effect until the billed amount is paid or the broker's right to renew a license has expired. The commissioner may maintain an action for the recovery of the billed amount in any court of competent jurisdiction.

(d) The report described in this section is exempted from any requirement of public disclosure by subdivision (b) of Section 7929.000 of the Government Code.

(e) The commissioner may waive the requirement to submit certain information described in paragraphs (1) to (10), inclusive, of subdivision (a) if the commissioner determines that this information is duplicative of information required by the Nationwide Mortgage Licensing System and Registry, pursuant to Section 10166.08.

SEC. 30. Section 10166.11 of the Business and Professions Code is amended to read:

10166.11. (a) A real estate broker who acts pursuant to Section 10131.1 or subdivision (d) or (e) of Section 10131 and who makes, arranges, or services loans secured by real property containing one to four residential units, shall keep documents and records that will properly enable the commissioner to determine whether the residential mortgage brokerage, servicing, and lending functions performed by the broker comply with this division and with all applicable rules and orders made by the commissioner. These documents shall include, at a minimum, the documents described in Section 10148. Upon request of the commissioner, a real estate broker shall file an authorization for disclosure to the commissioner of financial records of the broker's licensed business pursuant to Section 7473 of the Government Code.

(b) Notwithstanding subdivision (a) of Section 10148, the business documents and records of real estate brokers described in subdivision (a) and real estate salespersons acting under those brokers are subject to inspection and examination or audit by the commissioner, at the commissioner's discretion, after reasonable notice. That real estate broker or salesperson shall, upon request by the commissioner and within the time period specified in that request, allow the commissioner, or the commissioner's authorized representative, to inspect and copy any business documents and records. The commissioner may suspend or revoke the license of the broker or salesperson if that person fails to produce documents or records within the time period specified in the request.

(c) Inspection and examination or audit reports prepared by the commissioner's duly designated representatives pursuant to this section are not public records. Those reports may be disclosed to the officers or directors of a licensee that is the subject of the report for the purpose of corrective action. That disclosure shall not operate as a waiver of the exemption specified in Section 7929.000 of the Government Code.

SEC. 31. Section 10232.2 of the Business and Professions Code is amended to read:

10232.2. A real estate broker who meets the criteria of subdivision (a) of Section 10232 shall annually file the reports referred to in subdivisions (a) and (c) with the Bureau of Real Estate within 90 days after the end of the broker's fiscal year or within any additional time as the Real Estate Commissioner may allow for filing for good cause:

(a) The report of a review by a licensed California independent public accountant of trust fund financial statements, conducted in accordance with generally accepted accounting practices, which shall include within its scope the following information for the fiscal year relative to the business activities of the broker described in subdivisions (d) and (e) of Section 10131:

(1) The receipt and disposition of all funds of others to be applied to the making of loans and the purchasing of promissory notes or real property sales contracts.

(2) The receipt and disposition of all funds of others in connection with the servicing by the broker of the accounts of owners of promissory notes and real property sales contracts including installment payments and loan or contract payoffs by obligors.

(3) A statement as of the end of the fiscal year, which shall include an itemized trust fund accounting of the broker and confirmation that the trust funds are on deposit in an account or accounts maintained by the broker in a financial institution.

(b) A broker who meets the criteria of Section 10232, but who, in carrying on the activities described in subdivisions (d) and (e) of Section 10131, has not during a fiscal year, accepted for the benefit of a person to whom the broker is a trustee, any payment or remittance in a form convertible to cash by the broker, need not comply with the provisions of subdivision (a). In lieu thereof, the broker shall submit to the commissioner within 30 days after the end of the broker's fiscal year or, within any additional time as the

commissioner may allow for a filing for good cause, a notarized statement under penalty of perjury on a form provided by the bureau attesting to the fact that the broker did not receive any trust funds in cash or convertible to cash during the fiscal year.

(c) A report of all of the following aspects of the business conducted by the broker while engaging in activities described in subdivisions (d) and (e) of Section 10131 and in Section 10131.1:

(1) Number and aggregate dollar amount of loan, trust deed sales, and real property sales contract transactions negotiated.

(2) Number and aggregate dollar amount of promissory notes and contracts serviced by the broker or an affiliate of the broker.

(3) Number and aggregate dollar amount of late payment charges, prepayment penalties, and other fees or charges collected and retained by the broker under servicing agreements with beneficiaries and obligees.

(4) Default and foreclosure experience in connection with promissory notes and contracts subject to servicing agreements between the broker and beneficiaries or obligees.

(5) Commissions received by the broker for services performed as agent in negotiating loans and sales of promissory notes and real property sales contracts.

(6) Aggregate costs and expenses as referred to in Section 10241 paid by borrowers to the broker.

(d) The commissioner shall adopt regulations prescribing the form and content of the report referred to in subdivision (c) with appropriate categories to afford a better understanding of the business conducted by the broker.

(e) If the broker fails to file either of the reports required under subdivisions (a) and (c) within the time permitted herein, the commissioner may cause an examination and report to be made and may charge the broker one and one-half times the cost of making the examination and report. In determining the hourly cost incurred by the commissioner for conducting an examination and preparing the report, the commissioner may use the estimated average hourly cost for all department audit staff performing audits of real estate brokers. If a broker fails to pay the above amount within 60 days of the mailing of a notice of billing, the commissioner may suspend the broker's license or deny renewal of the broker's license. The suspension or denial shall remain in effect until the above amount is paid or the broker's right to renew a license has expired. The commissioner may maintain an action for the recovery of the above amount in any court of competent jurisdiction.

(f) The reports referred to in subdivisions (a) and (c) are exempted from any requirement of public disclosure by subdivision (b) of Section 7929.000 of the Government Code. The commissioner shall annually make and file as a public record, a composite of the annual reports and any comments thereon that are deemed to be in the public interest.

SEC. 32. Section 11317.2 of the Business and Professions Code is amended to read:

11317.2. (a) (1) In addition to publishing the summary required by Section 11317, the bureau shall provide on the internet information regarding the status of every license and registration issued by the bureau in accordance with the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). The public information to be provided on the internet shall include information on suspensions and revocations of licenses and registrations issued by the bureau and accusations filed pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) relative to persons or businesses subject to licensure, registration, or regulation by the bureau. The information shall not include personal information, including home telephone number, date of birth, or social security number. The bureau shall disclose a licensee's or registrant's address of record. However, the bureau shall allow a licensee or registrant to provide a post office box number or other alternate address, instead of the licensee's home address, as the address of record. This section shall not preclude the bureau from also requiring a licensee or registrant who has provided a post office box number or other alternative mailing address as the licensee's address of record to provide a physical business address or residence address only for the bureau's internal administrative use and not for disclosure as the licensee's or registrant's address of record or disclosure on the internet.

(2) In addition to the information required by subdivision (a), the bureau shall provide, on the internet, the continuing education course information provided by a licensee when an individual applies for licensure renewal.

(b) The bureau shall not provide on the internet identifying information with respect to private reprovals or letters of warning, which shall remain confidential.

(c) For purposes of this section, "internet" has the meaning set forth in paragraph (6) of subdivision (f) of Section 17538.

SEC. 33. Section 17594 of the Business and Professions Code is amended to read:

17594. Any information regarding any California telephone number that appears on the "do not call" list in the possession of the Attorney General, whether obtained from the Federal Trade Commission or submitted to the Attorney General by a subscriber for inclusion in the "do not call" list, shall not be disclosed pursuant to a request made under Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code and shall also be privileged under Section 1040 of the Evidence Code. Notwithstanding the foregoing, nothing in this section prevents the Attorney General from providing a certificate stating whether a specific telephone number was on the "do not call" list that was effective on the specified date or range of dates in response to:

(a) An inquiry from any law enforcement agency that is investigating, prosecuting, or responding to an allegation of a violation of this article.

(b) An inquiry from an individual who is investigating or litigating an alleged violation of this article and who seeks the certificate regarding the individual's telephone number or to an inquiry from the person who is responding to the allegation.

SEC. 34. Section 19819 of the Business and Professions Code is amended to read:

19819. (a) The commission shall establish and maintain a general office for the transaction of its business in Sacramento. The commission may hold meetings at any place within the state when the interests of the public may be better served.

(b) A public record of every vote shall be maintained at the commission's principal office.

(c) A majority of the membership of the commission is a quorum of the commission. The concurring vote of three members of the commission shall be required for any official action of the commission or for the exercise of any of the commission's duties, powers, or functions.

(d) Except as otherwise provided in this chapter, Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code applies to meetings of the commission. Notwithstanding Section 11125.1 of the Government Code, documents, which are filed with the commission by the department for the purpose of evaluating the qualifications of an applicant, are exempt from disclosure under Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code.

SEC. 35. Section 19821 of the Business and Professions Code is amended to read:

19821. (a) The commission shall cause to be made and kept a record of all proceedings at regular and special meetings of the commission. These records shall be open to public inspection.

(b) The department shall maintain a file of all applications for licenses under this chapter. The commission shall maintain a record of all actions taken with respect to those applications. The file and record shall be open to public inspection.

(c) The department and commission may maintain any other files and records as they deem appropriate. Except as provided in this chapter, the records of the department and commission are exempt from disclosure under Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code.

(d) Except as necessary for the administration of this chapter, no commissioner and no official, employee, or agent of the commission or the department, having obtained access to confidential records or information in the performance of duties pursuant to this chapter, shall knowingly disclose or furnish the records or information, or any part thereof, to any person who is not authorized by law to receive it. A violation of this subdivision is a misdemeanor.

(e) Notwithstanding subdivision (k) of Section 1798.24 of the Civil Code, a court shall not compel disclosure of personal information in the possession of the department or the commission to any person in any civil proceeding

wherein the department or the commission is not a party, except for good cause and upon a showing that the information cannot otherwise be obtained. This section shall not authorize the disclosure of personal information that is otherwise exempt from disclosure.

SEC. 36. Section 22954 of the Business and Professions Code is amended to read:

22954. (a) Any cigarette or tobacco products distributor or wholesaler as defined in Sections 30011 and 30016 of the Revenue and Taxation Code, and licensed under Article 1 (commencing with Section 30140) of Chapter 3 of Part 13 of Division 2 of the Revenue and Taxation Code or Article 3 (commencing with Section 30155) of Chapter 3 of Part 13 of Division 2 of the Revenue and Taxation Code, and any cigarette vending machine operator granted a seller's permit under the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code), shall annually provide to the State Department of Health Services, the names and addresses of those persons to whom they provide tobacco products, including, but not limited to, dealers as defined in Section 30012 of the Revenue and Taxation Code, for the purpose of identifying retailers of tobacco to ensure compliance with this division.

(b) Cigarette vending machine operators granted a seller's permit under the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code), shall annually provide to the department their name and the address of each location where cigarette vending machines are placed, in order to ensure compliance with this division.

(c) The data provided, pursuant to this section, shall be deemed confidential official information by the department and shall be exempt from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

SEC. 37. Section 22979.24 of the Business and Professions Code is amended to read:

22979.24. (a) Every manufacturer or importer holding a license pursuant to Section 22979.21 shall file a monthly report to the board, in a manner specified by the board, which may include, but is not limited to, electronic media. The monthly report shall include, but is not limited to, the following:

(1) A list of all distributors licensed pursuant to Section 22975 to which the manufacturer or importer shipped its tobacco products or caused its tobacco products to be shipped.

(2) The total wholesale cost of the products.

(b) The board may suspend the license or revoke the license, pursuant to the provisions applicable to the revocation of a license set forth in Section 30148 of the Revenue and Taxation Code, of any importer or any manufacturer that has failed to comply with the requirements of this section.

(c) All information and records provided to the board pursuant to subdivision (a) are confidential in nature and shall not be disclosed by the board. Information required under subdivision (a) are not public records under the California Public Records Act, as described in Division 10

(commencing with Section 7920.000) of Title 1 of the Government Code and shall not be open to public inspection.

(d) The amendments made to this section by the act adding this subdivision shall become operative May 1, 2007.

SEC. 38. Section 25205 of the Business and Professions Code is amended to read:

25205. (a) Any container of beer or alcoholic beverage, other than sake, that is approved for labeling as a malt beverage under the Federal Alcohol Administration Act (27 U.S.C. Sec. 201 et seq.), that derives 0.5 percent or more of its alcoholic content by volume from flavors or other ingredients containing distilled alcohol and that is sold by a manufacturer or importer to a wholesaler or retailer within this state on or after July 1, 2009, shall bear a distinctive, conspicuous, and prominently displayed label, or firmly affixed sticker, containing the following information:

(1) The percentage alcohol content of the beverage by volume.

(2) The phrase "CONTAINS ALCOHOL" in bold capitalized letters at least three millimeters in height and that is distinguishable from the background and placed conspicuously in either horizontal or vertical lettering on the front of the brand label. A firmly affixed sticker need not be placed on the brand label provided it is placed on the front of the container.

(b) The department may require licensees to submit information as it determines to be necessary, and may adopt regulations as may be required, to implement and enforce this section. The regulations shall be for the limited purpose of ensuring compliance with this section and shall not place additional requirements on the label or sticker required by this section. Any information required to be provided by any licensee to the department pursuant to this section shall be considered confidential and corporate proprietary information. This information shall not be subject to disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(c) It is the exclusive purpose of this section to identify and specially label products described in subdivision (a) and not to classify these specially labeled products. Nothing in this section shall be construed to permit the classification of any product in a manner that is inconsistent with the definitions of beer, wine, and distilled spirits set forth in Chapter 1 (commencing with Section 23000) of this division.

SEC. 39. Section 25622 of the Business and Professions Code is amended to read:

25622. (a) Beer to which caffeine has been directly added as a separate ingredient shall not be imported into this state, produced, manufactured, or distributed within this state, or sold by a licensed retailer within this state.

(b) The department may require licensees to submit product formulas as it determines to be necessary to implement and enforce this section. Any information required to be provided by any licensee to the department pursuant to this section shall be considered confidential and corporate proprietary information. This information shall not be subject to disclosure

under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

SEC. 40. Section 26067 of the Business and Professions Code is amended to read:

26067. (a) The department, in consultation with the bureau, shall establish a track and trace program for reporting the movement of cannabis and cannabis products throughout the distribution chain that utilizes a unique identifier pursuant to Section 26069, secure packaging, and is capable of providing information that captures, at a minimum, all of the following:

(1) The licensee receiving the product.

(2) The transaction date.

(3) The cultivator from which the product originates, including the associated unique identifier pursuant to Section 26069.

(b) (1) The department, in consultation with the California Department of Tax and Fee Administration, shall create an electronic database containing the electronic shipping manifests to facilitate the administration of the track and trace program, which shall include, but not be limited to, the following information:

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

(B) The estimated times of departure and arrival.

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

(D) The actual time of departure and arrival.

(E) A categorization of the product.

(F) The license number and the unique identifier pursuant to Section 26069 issued by the licensing authority for all licensees involved in the shipping process, including, but not limited to, cultivators, manufacturers, distributors, and dispensaries.

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

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

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

(4) The bureau shall have 24-hour access to the electronic database administered by the department. The California Department of Tax and Fee Administration shall have read access to the electronic database for the purpose of taxation and regulation of cannabis and cannabis products.

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

(6) Information received and contained in records kept by the department or licensing authorities for the purposes of administering this chapter are confidential and shall not be disclosed pursuant to the California Public

Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), except as necessary for authorized employees of the State of California or any city, county, or city and county to perform official duties pursuant to this division or a local ordinance.

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

SEC. 41. Section 26162 of the Business and Professions Code is amended to read:

26162. (a) Information identifying the names of patients, their medical conditions, or the names of their primary caregivers received and contained in records kept by the office or licensing authorities for the purposes of administering this chapter are confidential and shall not be disclosed pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), except as necessary for authorized employees of the State of California or any city, county, or city and county to perform official duties pursuant to this chapter, or a local ordinance.

(b) Information identifying the names of patients, their medical conditions, or the names of their primary caregivers received and contained in records kept by the bureau for the purposes of administering this chapter shall be maintained in accordance with Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code, Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code, and other state and federal laws relating to confidential patient information.

(c) Nothing in this section precludes the following:

(1) Employees of the bureau or any licensing authorities notifying state or local agencies about information submitted to the agency that the employee suspects is falsified or fraudulent.

(2) Notifications from the bureau or any licensing authorities to state or local agencies about apparent violations of this chapter or applicable local ordinance.

(3) Verification of requests by state or local agencies to confirm licenses and certificates issued by the regulatory authorities or other state agency.

(4) Provision of information requested pursuant to a court order or subpoena issued by a court or an administrative agency or local governing body authorized by law to issue subpoenas.

(d) Information shall not be disclosed by any state or local agency beyond what is necessary to achieve the goals of a specific investigation, notification, or the parameters of a specific court order or subpoena.

SEC. 42. Section 1670.9 of the Civil Code is amended to read:

1670.9. (a) A city, county, city and county, or local law enforcement agency that does not, as of January 1, 2018, have a contract with the federal government or any federal agency or a private corporation to house or detain noncitizens for purposes of civil immigration custody, shall not, on and after January 1, 2018, enter into a contract with the federal government or

any federal agency or a private corporation, to house or detain in a locked detention facility noncitizens for purposes of civil immigration custody.

(b) A city, county, city and county, or local law enforcement agency that, as of January 1, 2018, has an existing contract with the federal government or any federal agency or a private corporation to detain noncitizens for purposes of civil immigration custody, shall not, on and after January 1, 2018, renew or modify that contract in a manner that would expand the maximum number of contract beds that may be utilized to house or detain in a locked detention facility noncitizens for purposes of civil immigration custody.

(c) Any facility that detains a noncitizen pursuant to a contract with a city, county, city and county, or a local law enforcement agency is subject to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(d) A city, county, city and county, or public agency shall not, on and after January 1, 2018, approve or sign a deed, instrument, or other document related to a conveyance of land or issue a permit for the building or reuse of existing buildings by any private corporation, contractor, or vendor to house or detain noncitizens for purposes of civil immigration proceedings unless the city, county, city and county, or public agency has done both of the following:

(1) Provided notice to the public of the proposed conveyance or permitting action at least 180 days before execution of the conveyance or permit.

(2) Solicited and heard public comments on the proposed conveyance or permit action in at least two separate meetings open to the public.

SEC. 43. Section 1798.3 of the Civil Code is amended to read:

1798.3. As used in this chapter:

(a) The term "personal information" means any information that is maintained by an agency that identifies or describes an individual, including, but not limited to, the individual's name, social security number, physical description, home address, home telephone number, education, financial matters, and medical or employment history. It includes statements made by, or attributed to, the individual.

(b) The term "agency" means every state office, officer, department, division, bureau, board, commission, or other state agency, except that the term agency shall not include:

(1) The California Legislature.

(2) Any agency established under Article VI of the California Constitution.

(3) The State Compensation Insurance Fund, except as to any records that contain personal information about the employees of the State Compensation Insurance Fund.

(4) A local agency, as defined in Section 7920.510 of the Government Code.

(c) The term "disclose" means to disclose, release, transfer, disseminate, or otherwise communicate all or any part of any record orally, in writing, or by electronic or any other means to any person or entity.

(d) The term "individual" means a natural person.

(e) The term "maintain" includes maintain, acquire, use, or disclose.

(f) The term "person" means any natural person, corporation, partnership, limited liability company, firm, or association.

(g) The term "record" means any file or grouping of information about an individual that is maintained by an agency by reference to an identifying particular such as the individual's name, photograph, finger or voice print, or a number or symbol assigned to the individual.

(h) The term "system of records" means one or more records, which pertain to one or more individuals, which is maintained by any agency, from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

(i) The term "governmental entity," except as used in Section 1798.26, means any branch of the federal government or of the local government.

(j) The term "commercial purpose" means any purpose that has financial gain as a major objective. It does not include the gathering or dissemination of newsworthy facts by a publisher or broadcaster.

(k) The term "regulatory agency" means the Department of Business Oversight, the Department of Insurance, the Bureau of Real Estate, and agencies of the United States or of any other state responsible for regulating financial institutions.

SEC. 44. Section 1798.24 of the Civil Code is amended to read:

1798.24. An agency shall not disclose any personal information in a manner that would link the information disclosed to the individual to whom it pertains unless the information is disclosed, as follows:

(a) To the individual to whom the information pertains.

(b) With the prior written voluntary consent of the individual to whom the information pertains, but only if that consent has been obtained not more than 30 days before the disclosure, or in the time limit agreed to by the individual in the written consent.

(c) To the duly appointed guardian or conservator of the individual or a person representing the individual if it can be proven with reasonable certainty through the possession of agency forms, documents, or correspondence that this person is the authorized representative of the individual to whom the information pertains.

(d) To those officers, employees, attorneys, agents, or volunteers of the agency that has custody of the information if the disclosure is relevant and necessary in the ordinary course of the performance of their official duties and is related to the purpose for which the information was acquired.

(e) To a person, or to another agency if the transfer is necessary for the transferee agency to perform its constitutional or statutory duties, and the use is compatible with a purpose for which the information was collected and the use or transfer is in accordance with Section 1798.25. With respect to information transferred from a law enforcement or regulatory agency, or information transferred to another law enforcement or regulatory agency, a use is compatible if the use of the information requested is needed in an

investigation of unlawful activity under the jurisdiction of the requesting agency or for licensing, certification, or regulatory purposes by that agency.

(f) To a governmental entity if required by state or federal law.

(g) Pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(h) To a person who has provided the agency with advance, adequate written assurance that the information will be used solely for statistical research or reporting purposes, but only if the information to be disclosed is in a form that will not identify any individual.

(i) Pursuant to a determination by the agency that maintains information that compelling circumstances exist that affect the health or safety of an individual, if upon the disclosure notification is transmitted to the individual to whom the information pertains at the individual's last known address. Disclosure shall not be made if it is in conflict with other state or federal laws.

(j) To the State Archives as a record that has sufficient historical or other value to warrant its continued preservation by the California state government, or for evaluation by the Director of General Services or the director's designee to determine whether the record has further administrative, legal, or fiscal value.

(k) To any person pursuant to a subpoena, court order, or other compulsory legal process if, before the disclosure, the agency reasonably attempts to notify the individual to whom the record pertains, and if the notification is not prohibited by law.

(*l*) To any person pursuant to a search warrant.

(m) Pursuant to Article 3 (commencing with Section 1800) of Chapter 1 of Division 2 of the Vehicle Code.

(n) For the sole purpose of verifying and paying government health care service claims made pursuant to Division 9 (commencing with Section 10000) of the Welfare and Institutions Code.

(o) To a law enforcement or regulatory agency when required for an investigation of unlawful activity or for licensing, certification, or regulatory purposes, unless the disclosure is otherwise prohibited by law.

(p) To another person or governmental organization to the extent necessary to obtain information from the person or governmental organization for an investigation by the agency of a failure to comply with a specific state law that the agency is responsible for enforcing.

(q) To an adopted person and is limited to general background information pertaining to the adopted person's biological parents, if the information does not include or reveal the identity of the biological parents.

(r) To a child or a grandchild of an adopted person and disclosure is limited to medically necessary information pertaining to the adopted person's biological parents. However, the information, or the process for obtaining the information, shall not include or reveal the identity of the biological parents. The State Department of Social Services shall adopt regulations governing the release of information pursuant to this subdivision. The

regulations shall require licensed adoption agencies to provide the same services provided by the department as established by this subdivision.

(s) To a committee of the Legislature or to a Member of the Legislature, or a member's staff if authorized in writing by the member, if the member has permission to obtain the information from the individual to whom it pertains or if the member provides reasonable assurance that the member is acting on behalf of the individual.

(t) (1) To the University of California, a nonprofit educational institution, or, in the case of education-related data, another nonprofit entity, conducting scientific research, if the request for information is approved by the Committee for the Protection of Human Subjects (CPHS) for the California Health and Human Services Agency (CHHSA) or an institutional review board, as authorized in paragraphs (4) and (5). The approval shall include a review and determination that all the following criteria have been satisfied:

(A) The researcher has provided a plan sufficient to protect personal information from improper use and disclosures, including sufficient administrative, physical, and technical safeguards to protect personal information from reasonable anticipated threats to the security or confidentiality of the information.

(B) The researcher has provided a sufficient plan to destroy or return all personal information as soon as it is no longer needed for the research project, unless the researcher has demonstrated an ongoing need for the personal information for the research project and has provided a long-term plan sufficient to protect the confidentiality of that information.

(C) The researcher has provided sufficient written assurances that the personal information will not be reused or disclosed to any other person or entity, or used in any manner, not approved in the research protocol, except as required by law or for authorized oversight of the research project.

(2) The CPHS or institutional review board shall, at a minimum, accomplish all of the following as part of its review and approval of the research project for the purpose of protecting personal information held in agency databases:

(A) Determine whether the requested personal information is needed to conduct the research.

(B) Permit access to personal information only if it is needed for the research project.

(C) Permit access only to the minimum necessary personal information needed for the research project.

(D) Require the assignment of unique subject codes that are not derived from personal information in lieu of social security numbers if the research can still be conducted without social security numbers.

(E) If feasible, and if cost, time, and technical expertise permit, require the agency to conduct a portion of the data processing for the researcher to minimize the release of personal information.

(3) Reasonable costs to the agency associated with the agency's process of protecting personal information under the conditions of CPHS approval may be billed to the researcher, including, but not limited to, the agency's

costs for conducting a portion of the data processing for the researcher, removing personal information, encrypting or otherwise securing personal information, or assigning subject codes.

(4) The CPHS may enter into written agreements to enable other institutional review boards to provide the data security approvals required by this subdivision, if the data security requirements set forth in this subdivision are satisfied.

(5) Pursuant to paragraph (4), the CPHS shall enter into a written agreement with the institutional review board established pursuant to former Section 49079.6 of the Education Code. The agreement shall authorize, commencing July 1, 2010, or the date upon which the written agreement is executed, whichever is later, that board to provide the data security approvals required by this subdivision, if the data security requirements set forth in this subdivision and the act specified in subdivision (a) of Section 49079.5 of the Education Code are satisfied.

(u) To an insurer if authorized by Chapter 5 (commencing with Section 10900) of Division 4 of the Vehicle Code.

(v) Pursuant to Section 450, 452, 8009, or 18396 of the Financial Code.

(w) For the sole purpose of participation in interstate data sharing of prescription drug monitoring program information pursuant to the California Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code), if disclosure is limited to prescription drug monitoring program information.

This article does not require the disclosure of personal information to the individual to whom the information pertains if that information may otherwise be withheld as set forth in Section 1798.40.

SEC. 45. Section 1798.29 of the Civil Code is amended to read:

1798.29. (a) Any agency that owns or licenses computerized data that includes personal information shall disclose any breach of the security of the system following discovery or notification of the breach in the security of the data to any resident of California (1) whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person, or, (2) whose encrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person and the encryption key or security credential was, or is reasonably believed to have been, acquired by an unauthorized person and the agency that owns or licenses the encrypted information has a reasonable belief that the encryption key or security credential could render that personal information readable or usable. The disclosure shall be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in subdivision (c), or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

(b) Any agency that maintains computerized data that includes personal information that the agency does not own shall notify the owner or licensee of the information of any breach of the security of the data immediately

following discovery, if the personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

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

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

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

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

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

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

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

[NAME OF INSTITUTION / LOGO]	Date: [insert date]
NOTICE OF DATA BREACH	
What Happened?	
What Information Was Involved?	

What We Are Doing.	
What You Can Do.	
Other Important Information. [insert other important information]	
For More Information.	Call [telephone number] or go to [internet website]

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

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

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

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

(C) If the information is possible to determine at the time the notice is provided, then any of the following: (i) the date of the breach, (ii) the estimated date of the breach, or (iii) the date range within which the breach occurred. The notification shall also include the date of the notice.

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

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

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

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

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

(B) Advice on steps that people whose information has been breached may take to protect themselves.

(e) Any agency that is required to issue a security breach notification pursuant to this section to more than 500 California residents as a result of a single breach of the security system shall electronically submit a single sample copy of that security breach notification, excluding any personally identifiable information, to the Attorney General. A single sample copy of a security breach notification shall not be deemed to be within Article 1 (commencing with Section 7923.600) of Chapter 1 of Part 5 of Division 10 of Title 1 of the Government Code.

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

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

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

(A) Social security number.

(B) Driver's license number, California identification card number, tax identification number, passport number, military identification number, or other unique identification number issued on a government document commonly used to verify the identity of a specific individual.

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

(D) Medical information.

(E) Health insurance information.

(F) Unique biometric data generated from measurements or technical analysis of human body characteristics, such as a fingerprint, retina, or iris image, used to authenticate a specific individual. Unique biometric data does not include a physical or digital photograph, unless used or stored for facial recognition purposes.

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

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

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

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

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

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

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

(1) Written notice.

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

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

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

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

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

(4) In the case of a breach of the security of the system involving personal information defined in paragraph (2) of subdivision (g) for an online account, and no other personal information defined in paragraph (1) of subdivision (g), the agency may comply with this section by providing the security breach notification in electronic or other form that directs the person whose personal information has been breached to promptly change the person's password and security question or answer, as applicable, or to take other

steps appropriate to protect the online account with the agency and all other online accounts for which the person uses the same username or email address and password or security question or answer.

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

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

(k) Notwithstanding the exception specified in paragraph (4) of subdivision (b) of Section 1798.3, for purposes of this section, "agency" includes a local agency, as defined in Section 7920.510 of the Government Code.

(*l*) For purposes of this section, "encryption key" and "security credential" mean the confidential key or process designed to render the data usable, readable, and decipherable.

SEC. 46. Section 1798.70 of the Civil Code is amended to read:

1798.70. This chapter shall be construed to supersede any other provision of state law, including Article 2 (commencing with Section 7924.100) of Chapter 2 of Part 5 of Division 10 of Title 1 of the Government Code, or any exemption in Section 7922.000 of the Government Code or in any provision listed in Section 7920.505 of the Government Code, which authorizes any agency to withhold from an individual any record containing personal information that is otherwise accessible under the provisions of this chapter.

SEC. 47. Section 1798.75 of the Civil Code is amended to read:

1798.75. This chapter shall not be deemed to supersede Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code, except as to the provisions of Sections 1798.60, 1798.69, and 1798.70.

SEC. 48. Section 1798.82 of the Civil Code is amended to read:

1798.82. (a) A person or business that conducts business in California, and that owns or licenses computerized data that includes personal information, shall disclose a breach of the security of the system following discovery or notification of the breach in the security of the data to a resident of California (1) whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person, or, (2) whose encrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person and the encryption key or

security credential was, or is reasonably believed to have been, acquired by an unauthorized person and the person or business that owns or licenses the encrypted information has a reasonable belief that the encryption key or security credential could render that personal information readable or usable. The disclosure shall be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in subdivision (c), or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

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

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

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

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

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

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

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

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

[NAME OF INSTITUTION / LOGO]	Date: [insert date]
NOTICE OF DATA BREACH	

What Happened?	
What Information Was Involved?	
What We Are Doing.	
What You Can Do.	
Other Important Information. [insert other important information]	
For More Information.	Call [telephone number] or go to [internet website]

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

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

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

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

(C) If the information is possible to determine at the time the notice is provided, then any of the following: (i) the date of the breach, (ii) the estimated date of the breach, or (iii) the date range within which the breach occurred. The notification shall also include the date of the notice.

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

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

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

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

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

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

(B) Advice on steps that people whose information has been breached may take to protect themselves.

(C) In breaches involving biometric data, instructions on how to notify other entities that used the same type of biometric data as an authenticator to no longer rely on data for authentication purposes.

(e) A covered entity under the federal Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Sec. 1320d et seq.) will be deemed to have complied with the notice requirements in subdivision (d) if it has complied completely with Section 13402(f) of the federal Health Information Technology for Economic and Clinical Health Act (Public Law 111-5). However, nothing in this subdivision shall be construed to exempt a covered entity from any other provision of this section.

(f) A person or business that is required to issue a security breach notification pursuant to this section to more than 500 California residents as a result of a single breach of the security system shall electronically submit a single sample copy of that security breach notification, excluding any personally identifiable information, to the Attorney General. A single sample copy of a security breach notification shall not be deemed to be within Article 1 (commencing with Section 7923.600) of Chapter 1 of Part 5 of Division 10 of Title 1 of the Government Code.

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

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

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

(A) Social security number.

(B) Driver's license number, California identification card number, tax identification number, passport number, military identification number, or other unique identification number issued on a government document commonly used to verify the identity of a specific individual.

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

(D) Medical information.

(E) Health insurance information.

(F) Unique biometric data generated from measurements or technical analysis of human body characteristics, such as a fingerprint, retina, or iris image, used to authenticate a specific individual. Unique biometric data does not include a physical or digital photograph, unless used or stored for facial recognition purposes.

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

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

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

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

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

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

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

(1) Written notice.

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

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

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

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

(C) Notification to major statewide media.

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

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

(k) For purposes of this section, "encryption key" and "security credential" mean the confidential key or process designed to render data usable, readable, and decipherable.

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

SEC. 49. Section 1798.85 of the Civil Code is amended to read:

1798.85. (a) Except as provided in this section, a person or entity may not do any of the following:

(1) Publicly post or publicly display in any manner an individual's social security number. "Publicly post" or "publicly display" means to intentionally communicate or otherwise make available to the general public.

(2) Print an individual's social security number on any card required for the individual to access products or services provided by the person or entity.

(3) Require an individual to transmit the individual's social security number over the internet, unless the connection is secure or the social security number is encrypted.

(4) Require an individual to use the individual's social security number to access an internet website, unless a password or unique personal identification number or other authentication device is also required to access the internet website.

(5) Print an individual's social security number on any materials that are mailed to the individual, unless state or federal law requires the social security number to be on the document to be mailed. Notwithstanding this paragraph, social security numbers may be included in applications and forms sent by mail, including documents sent as part of an application or enrollment process, or to establish, amend, or terminate an account, contract, or policy, or to confirm the accuracy of the social security number. A social security number that is permitted to be mailed under this section may not be printed, in whole or in part, on a postcard or other mailer not requiring an envelope, or visible on the envelope or without the envelope having been opened.

(6) Sell, advertise for sale, or offer to sell an individual's social security number. For purposes of this paragraph, the following apply:

(A) "Sell" shall not include the release of an individual's social security number if the release of the social security number is incidental to a larger transaction and is necessary to identify the individual in order to accomplish a legitimate business purpose. Release of an individual's social security number for marketing purposes is not permitted.

(B) "Sell" shall not include the release of an individual's social security number for a purpose specifically authorized or specifically allowed by federal or state law.

(b) This section does not prevent the collection, use, or release of a social security number as required by state or federal law or the use of a social security number for internal verification or administrative purposes.

(c) This section does not prevent an adult state correctional facility, an adult city jail, or an adult county jail from releasing an inmate's social security number, with the inmate's consent and upon request by the county veterans service officer or the United States Department of Veterans Affairs, for the purposes of determining the inmate's status as a military veteran and the inmate's eligibility for federal, state, or local veterans' benefits or services.

(d) This section does not apply to documents that are recorded or required to be open to the public pursuant to Chapter 14 (commencing with Section 7150) or Chapter 14.5 (commencing with Section 7220) of Division 7 of Title 1 of, Division 10 (commencing with Section 7920.000) of Title 1 of, Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of, or Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of, the Government Code. This section does not apply to records that are required by statute, case law, or California Rules of Court, to be made available to the public by entities provided for in Article VI of the California Constitution.

(e) (1) In the case of a health care service plan, a provider of health care, an insurer or a pharmacy benefits manager, a contractor as defined in Section 56.05, or the provision by any person or entity of administrative or other services relative to health care or insurance products or services, including third-party administration or administrative services only, this section shall become operative in the following manner:

(A) On or before January 1, 2003, the entities listed in paragraph (1) shall comply with paragraphs (1), (3), (4), and (5) of subdivision (a) as these requirements pertain to individual policyholders or individual contractholders.

(B) On or before January 1, 2004, the entities listed in paragraph (1) shall comply with paragraphs (1) to (5), inclusive, of subdivision (a) as these requirements pertain to new individual policyholders or new individual contractholders and new groups, including new groups administered or issued on or after January 1, 2004.

(C) On or before July 1, 2004, the entities listed in paragraph (1) shall comply with paragraphs (1) to (5), inclusive, of subdivision (a) for all individual policyholders and individual contractholders, for all groups, and for all enrollees of the Healthy Families and Medi-Cal programs, except that for individual policyholders, individual contractholders and groups in existence prior to January 1, 2004, the entities listed in paragraph (1) shall comply upon the renewal date of the policy, contract, or group on or after July 1, 2004, but no later than July 1, 2005.

(2) A health care service plan, a provider of health care, an insurer or a pharmacy benefits manager, a contractor, or another person or entity as described in paragraph (1) shall make reasonable efforts to cooperate, through systems testing and other means, to ensure that the requirements of this article are implemented on or before the dates specified in this section.

(3) Notwithstanding paragraph (2), the Director of the Department of Managed Health Care, pursuant to the authority granted under Section 1346

of the Health and Safety Code, or the Insurance Commissioner, pursuant to the authority granted under Section 12921 of the Insurance Code, and upon a determination of good cause, may grant extensions not to exceed six months for compliance by health care service plans and insurers with the requirements of this section when requested by the health care service plan or insurer. Any extension granted shall apply to the health care service plan or insurer's affected providers, pharmacy benefits manager, and contractors.

(f) If a federal law takes effect requiring the United States Department of Health and Human Services to establish a national unique patient health identifier program, a provider of health care, a health care service plan, a licensed health care professional, or a contractor, as those terms are defined in Section 56.05, that complies with the federal law shall be deemed in compliance with this section.

(g) A person or entity may not encode or embed a social security number in or on a card or document, including, but not limited to, using a barcode, chip, magnetic strip, or other technology, in place of removing the social security number, as required by this section.

(h) This section shall become operative, with respect to the University of California, in the following manner:

(1) On or before January 1, 2004, the University of California shall comply with paragraphs (1), (2), and (3) of subdivision (a).

(2) On or before January 1, 2005, the University of California shall comply with paragraphs (4) and (5) of subdivision (a).

(i) This section shall become operative with respect to the Franchise Tax Board on January 1, 2007.

(j) This section shall become operative with respect to the California community college districts on January 1, 2007.

(k) This section shall become operative with respect to the California State University system on July 1, 2005.

(*l*) This section shall become operative, with respect to the California Student Aid Commission and its auxiliary organization, in the following manner:

(1) On or before January 1, 2004, the commission and its auxiliary organization shall comply with paragraphs (1), (2), and (3) of subdivision (a).

(2) On or before January 1, 2005, the commission and its auxiliary organization shall comply with paragraphs (4) and (5) of subdivision (a).

SEC. 50. Section 1899.5 of the Civil Code is amended to read:

1899.5. (a) A notice of intent to preserve an interest in property on loan to a museum filed pursuant to this chapter shall be in writing, shall contain a description of the property adequate to enable the museum to identify the property, shall be accompanied by documentation sufficient to establish the claimant as owner of the property, and shall be signed under penalty of perjury by the claimant or by a person authorized to act on behalf of the claimant.

(b) The museum need not retain a notice that does not meet the requirements set forth in subdivision (a). If, however, the museum does not

intend to retain a notice for this reason, the museum shall promptly notify the claimant at the address given on the notice that it believes the notice is ineffective to preserve an interest, and the reasons therefor. The fact that the museum retains a notice shall not be construed to mean that the museum accepts the sufficiency or accuracy of the notice or that the notice is effective to preserve an interest in property on loan to the museum.

(c) A notice of intent to preserve an interest in property on loan to a museum which is in substantially the following form, and contains the information and attachments described, satisfies the requirements of subdivision (a):

NOTICE OF INTENT TO PRESERVE AN INTEREST IN PROPERTY ON LOAN TO A MUSEUM

TO THE LENDER: Section 1899.4 of the California Civil Code requires that you notify the museum promptly in writing of any change of address or ownership of the property. If the museum is unable to contact you regarding your loan, you may lose rights in the loaned property. If you choose to file this form with the museum to preserve your interest in the property, the museum is required to maintain it, or a copy of it, for 25 years. For full details, see Section 1899, et seq. of the California Civil Code.

TO THE MUSEUM: You are hereby notified that the undersigned claims an interest in the property described herein.

Claimant

Name: _____

Address: _____

_____

_____

Telephone: _____

Social Security Number (optional): _____

Museum Name: _____

Date Property Loaned: _____

Interest in Property:

If you are not the original lender, describe the origin of your interest in the property and attach a copy of any document creating your interest:

_____

_____

_____

_____

Description of Property:

Unless an accurate, legible copy of the original loan receipt is attached, give a detailed description of the claimed property, including its nature and general characteristics and the museum registration number assigned to the property, if known, and attach any documentary evidence you have establishing the loan:

Registration # _____

Description: _____

_____

_____

_____

_____

_____

(Attach additional sheets if necessary.)

I understand that I must promptly notify the museum in writing of any change of address or change in ownership of the loaned property.

I declare under penalty of perjury that to the best of my knowledge the information contained in this notice is true.

Signed: _____ Date: _____

(claimant)

OR

I declare under penalty of perjury that I am authorized to act on behalf of the claimant and am informed and believe that the information contained in this notice is true.

Signed: _____ Date: _____

(claimant's representative)

RECEIPT FOR NOTICE OF INTENT
TO PRESERVE AN INTEREST IN PROPERTY

(For use by the museum.)

Notice received by: _____

Date of receipt: _____

Copy of receipt returned to claimant:

By _____

Date: _____

(d) Notices of intent to preserve an interest in property on loan to a museum filed pursuant to this chapter are exempt from the disclosure requirements of the California Public Records Act (Division 10 (commencing with Section 7920.000) of the Government Code).

SEC. 51. Section 1947.8 of the Civil Code is amended to read:

1947.8. (a) If an ordinance or charter controls or establishes a system of controls on the price at which residential rental units may be offered for rent or lease and requires the registration of rents, the ordinance or charter, or any regulation adopted pursuant thereto, shall provide for the establishment and certification of permissible rent levels for the registered rental units, and any changes thereafter to those rent levels, by the local agency as provided in this section.

(b) If the ordinance, charter, or regulation is in effect on January 1, 1987, the ordinance, charter, or regulation shall provide for the establishment and certification of permissible rent levels on or before January 1, 1988, including completion of all appeals and administrative proceedings connected therewith. After July 1, 1990, no local agency may maintain any action to recover excess rent against any property owner who has registered the unit

with the local agency within the time limits set forth in this section if the initial certification of permissible rent levels affecting that particular property has not been completed, unless the delay is willfully and intentionally caused by the property owner or is a result of court proceedings or further administrative proceedings ordered by a court. If the ordinance, charter, or regulation is adopted on or after January 1, 1987, the ordinance, charter, or regulation shall provide for the establishment and certification of permissible rent levels within one year after it is adopted, including completion of all appeals and administrative proceedings connected therewith. Upon the request of the landlord or the tenant, the local agency shall provide the landlord and the tenant with a certificate or other documentation reflecting the permissible rent levels of the rental unit. A landlord may request a certificate of permissible rent levels for rental units that have a base rent established, but are vacant and not exempt from registration under this section. The landlord or the tenant may appeal the determination of the permissible rent levels reflected in the certificate. The permissible rent levels reflected in the certificate or other documentation shall, in the absence of intentional misrepresentation or fraud, be binding and conclusive upon the local agency unless the determination of the permissible rent levels is being appealed.

(c) After the establishment and certification of permissible rent levels under subdivision (b), the local agency shall, upon the request of the landlord or the tenant, provide the landlord and the tenant with a certificate of the permissible rent levels of the rental unit. The certificate shall be issued within five business days from the date of request by the landlord or the tenant. The permissible rent levels reflected in the certificate shall, in the absence of intentional misrepresentation or fraud, be binding and conclusive upon the local agency unless the determination of the permissible rent levels is being appealed. The landlord or the tenant may appeal the determination of the permissible rent levels reflected in the certificate. Any appeal of a determination of permissible rent levels as reflected in the certificate, other than an appeal made pursuant to subdivision (b), shall be filed with the local agency within 15 days from issuance of the certificate. The local agency shall notify, in writing, the landlord and the tenant of its decision within 60 days following the filing of the appeal.

(d) The local agency may charge the person to whom a certificate is issued a fee in the amount necessary to cover the reasonable costs incurred by the local agency in issuing the certificate.

(e) The absence of a certification of permissible rent levels shall not impair, restrict, abridge, or otherwise interfere with either of the following:

(1) A judicial or administrative hearing.

(2) Any matter in connection with a conveyance of an interest in property.

(f) The record of permissible rent levels is a public record for purposes of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(g) Any notice specifying the rents applicable to residential rental units that is given by an owner to a public entity or tenant in order to comply with

Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 of the Government Code shall not be considered a registration of rents for purposes of this section.

(h) "Local agency," as used in this section, means the public entity responsible for the implementation of the ordinance, charter, or regulation.

(i) Nothing in this section shall be construed:

(1) To grant to any public entity any power that it does not possess independent of this section to control or establish a system of control on the price at which accommodations may be offered for rent or lease, or to diminish any power of this type that the public entity may possess, except as specifically provided in this section.

(2) On and after January 1, 2016, to apply to tenancies commencing on or after January 1, 1999, for which the owner of residential property may establish the initial rent under Chapter 2.7 (commencing with Section 1954.50). However, for a tenancy that commenced on or after January 1, 1999, if a property owner has provided the local agency with the tenancy's initial rent in compliance with that agency's registration requirements in a writing signed under penalty of perjury, there shall be a rebuttable presumption that the statement of the initial rent is correct.

SEC. 52. Section 3426.7 of the Civil Code is amended to read:

3426.7. (a) Except as otherwise expressly provided, this title does not supersede any statute relating to misappropriation of a trade secret, or any statute otherwise regulating trade secrets.

(b) This title does not affect (1) contractual remedies, whether or not based upon misappropriation of a trade secret, (2) other civil remedies that are not based upon misappropriation of a trade secret, or (3) criminal remedies, whether or not based upon misappropriation of a trade secret.

(c) This title does not affect the disclosure of a record by a state or local agency under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code). Any determination as to whether the disclosure of a record under the California Public Records Act constitutes a misappropriation of a trade secret and the rights and remedies with respect thereto shall be made pursuant to the law in effect before the operative date of this title.

SEC. 53. Section 5405 of the Civil Code is amended to read:

5405. (a) To assist with the identification of common interest developments, each association, whether incorporated or unincorporated, shall submit to the Secretary of State, on a form and for a fee not to exceed thirty dollars ($30) that the Secretary of State shall prescribe, the following information concerning the association and the development that it manages:

(1) A statement that the association is formed to manage a common interest development under the Davis-Stirling Common Interest Development Act.

(2) The name of the association.

(3) The street address of the business or corporate office of the association, if any.

(4) The street address of the association's onsite office, if different from the street address of the business or corporate office, or if there is no onsite office, the street address of the responsible officer or managing agent of the association.

(5) The name, address, and either the daytime telephone number or email address of the president of the association, other than the address, telephone number, or email address of the association's onsite office or managing agent.

(6) The name, street address, and daytime telephone number of the association's managing agent, if any.

(7) The county, and, if in an incorporated area, the city in which the development is physically located. If the boundaries of the development are physically located in more than one county, each of the counties in which it is located.

(8) If the development is in an unincorporated area, the city closest in proximity to the development.

(9) The front street and nearest cross street of the physical location of the development.

(10) The type of common interest development managed by the association.

(11) The number of separate interests in the development.

(b) The association shall submit the information required by this section as follows:

(1) By incorporated associations, within 90 days after the filing of its original articles of incorporation, and thereafter at the time the association files its statement of principal business activity with the Secretary of State pursuant to Section 8210 of the Corporations Code.

(2) By unincorporated associations, in July 2003, and in that same month biennially thereafter. Upon changing its status to that of a corporation, the association shall comply with the filing deadlines in paragraph (1).

(c) The association shall notify the Secretary of State of any change in the street address of the association's onsite office or of the responsible officer or managing agent of the association in the form and for a fee prescribed by the Secretary of State, within 60 days of the change.

(d) The penalty for an incorporated association's noncompliance with the initial or biennial filing requirements of this section shall be suspension of the association's rights, privileges, and powers as a corporation and monetary penalties, to the same extent and in the same manner as suspension and monetary penalties imposed pursuant to Section 8810 of the Corporations Code.

(e) The statement required by this section may be filed, notwithstanding suspension of the corporate powers, rights, and privileges under this section or under provisions of the Revenue and Taxation Code. Upon the filing of a statement under this section by a corporation that has suffered suspension under this section, the Secretary of State shall certify that fact to the Franchise Tax Board and the corporation may thereupon be relieved from suspension, unless the corporation is held in suspension by the Franchise

Tax Board by reason of Section 23301, 23301.5, or 23775 of the Revenue and Taxation Code.

(f) The Secretary of State shall make the information submitted pursuant to paragraph (5) of subdivision (a) available only for governmental purposes and only to Members of the Legislature and the Business, Consumer Services, and Housing Agency, upon written request. All other information submitted pursuant to this section shall be subject to public inspection pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code). The information submitted pursuant to this section shall be made available for governmental or public inspection.

(g) Whenever any form is filed pursuant to this section, it supersedes any previously filed form.

(h) The Secretary of State may destroy or otherwise dispose of any form filed pursuant to this section after it has been superseded by the filing of a new form.

SEC. 54. Section 6760 of the Civil Code is amended to read:

6760. (a) To assist with the identification of commercial or industrial common interest developments, each association, whether incorporated or unincorporated, shall submit to the Secretary of State, on a form and for a fee, to cover the reasonable cost to the Secretary of State of processing the form, not to exceed thirty dollars ($30), that the Secretary of State shall prescribe, the following information concerning the association and the development that it manages:

(1) A statement that the association is formed to manage a common interest development under the Commercial and Industrial Common Interest Development Act.

(2) The name of the association.

(3) The street address of the business or corporate office of the association, if any.

(4) The street address of the association's onsite office, if different from the street address of the business or corporate office, or if there is no onsite office, the street address of the responsible officer or managing agent of the association.

(5) The name, address, and either the daytime telephone number or email address of the association's onsite office or managing agent.

(6) The name, street address, and daytime telephone number of the association's managing agent, if any.

(7) The county, and, if in an incorporated area, the city in which the development is physically located. If the boundaries of the development are physically located in more than one county, each of the counties in which it is located.

(8) If the development is in an unincorporated area, the city closest in proximity to the development.

(9) The front street and nearest cross street of the physical location of the development.

(10) The type of common interest development managed by the association.

(11) The number of separate interests in the development.

(b) The association shall submit the information required by this section as follows:

(1) By incorporated associations, within 90 days after the filing of its original articles of incorporation, and thereafter at the time the association files its statement of principal business activity with the Secretary of State pursuant to Section 8210 of the Corporations Code.

(2) By unincorporated associations, in July of 2003, and in that same month biennially thereafter. Upon changing its status to that of a corporation, the association shall comply with the filing deadlines in paragraph (1).

(c) The association shall notify the Secretary of State of any change in the street address of the association's onsite office or of the responsible officer or managing agent of the association in the form and for a fee, to cover the reasonable cost to the Secretary of State of processing the form, prescribed by the Secretary of State, within 60 days of the change.

(d) The penalty for an incorporated association's noncompliance with the initial or biennial filing requirements of this section shall be suspension of the association's rights, privileges, and powers as a corporation and monetary penalties, to the same extent and in the same manner as suspension and monetary penalties imposed pursuant to Section 8810 of the Corporations Code.

(e) The statement required by this section may be filed, notwithstanding suspension of the corporate powers, rights, and privileges under this section or under provisions of the Revenue and Taxation Code. Upon the filing of a statement under this section by a corporation that has suffered suspension under this section, the Secretary of State shall certify that fact to the Franchise Tax Board and the corporation may thereupon be relieved from suspension, unless the corporation is held in suspension by the Franchise Tax Board by reason of Section 23301, 23301.5, or 23775 of the Revenue and Taxation Code.

(f) The Secretary of State shall make the information submitted pursuant to paragraph (5) of subdivision (a) available only for governmental purposes and only to Members of the Legislature and the Business, Consumer Services, and Housing Agency, upon written request. All other information submitted pursuant to this section shall be subject to public inspection pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code). The information submitted pursuant to this section shall be made available for governmental or public inspection.

(g) Whenever any form is filed pursuant to this section, it supersedes any previously filed form.

(h) The Secretary of State may destroy or otherwise dispose of any form filed pursuant to this section after it has been superseded by the filing of a new form.

SEC. 55. Section 130 of the Code of Civil Procedure is amended to read:

130. (a) Subject to the provisions of this section, when a child who is under 18 years of age is killed as a result of a criminal act and a person has been convicted and sentenced for the commission of that criminal act, or a person has been found to have committed that offense by the juvenile court and adjudged a ward of the juvenile court, upon the request of a qualifying family member of the deceased child, the autopsy report and evidence associated with the examination of the victim in the possession of a public agency, as defined in Section 7920.525 of the Government Code, shall be sealed and not disclosed, except that an autopsy report and evidence associated with the examination of the victim that has been sealed pursuant to this section may be disclosed, as follows:

(1) To law enforcement, prosecutorial agencies and experts hired by those agencies, public social service agencies, child death review teams, or the hospital that treated the child immediately prior to death, to be used solely for investigative, prosecutorial, or review purposes, and may not be disseminated further.

(2) To the defendant and the defense team in the course of criminal proceedings or related habeas proceedings, to be used solely for investigative, criminal defense, and review purposes, including review for the purpose of initiating any criminal proceeding or related habeas proceeding, and may not be disseminated further. The "defense team" includes, but is not limited to, all of the following: attorneys, investigators, experts, paralegals, support staff, interns, students, and state and privately funded legal assistance projects hired or consulted for the purposes of investigation, defense, appeal, or writ of habeas corpus on behalf of the person accused of killing the deceased child victim.

(3) To civil litigants in a cause of action related to the victim's death with a court order upon a showing of good cause and proper notice under Section 129, to be used solely to pursue the cause of action, and may not be disseminated further.

(b) Nothing in this section shall prohibit the use of autopsy reports and evidence in relation to court proceedings.

(c) Nothing in this section shall abrogate the rights of victims, their authorized representatives, or insurance carriers to request the release of information pursuant to Article 1 (commencing with Section 7923.600) of Chapter 1 of Part 5 of Division 10 of Title 1 of the Government Code. However, if a seal has been requested, an insurance carrier receiving items pursuant to a request under that article is prohibited from disclosing the requested items except as necessary in the normal course of business. An insurance carrier shall not, under any circumstances, disclose to the general public items received pursuant to Article 1 (commencing with Section 7923.600) of Chapter 1 of Part 5 of Division 10 of Title 1 of the Government Code.

(d) This section may not be invoked by a qualifying family member who has been charged with or convicted of any act in furtherance of the victim's death. Upon the filing of those charges against a qualifying family member,

any seal maintained at the request of that qualifying family member under this section shall be removed.

(e) A coroner or medical examiner shall not be liable for damages in a civil action for any reasonable act or omission taken in good faith in compliance with this section.

(f) If sealing of the autopsy report has been requested by a qualifying family member and another qualifying family member opposes sealing, the opposing party may request a hearing in the superior court in the county with jurisdiction over the crime leading to the child's death for a determination of whether the sealing should be maintained. The opposing party shall notify all other qualifying family members, the medical examiner's office that conducted the autopsy, and the district attorney's office with jurisdiction over the crime at least 10 court days in advance of the hearing. At the hearing, the court shall consider the interests of all qualifying family members, the protection of the memory of the deceased child, any evidence that the qualifying family member requesting the seal was involved in the crime that resulted in the death of the child, the public interest in scrutiny of the autopsy report or the performance of the medical examiner, any impact that unsealing would have on pending investigations or pending litigation, and any other relevant factors. Official information in the possession of a public agency necessary to the determination of the hearing shall be received in camera upon a proper showing. In its discretion, the court may, to the extent allowable by law and with good cause shown, restrict the dissemination of an autopsy report or evidence associated with the examination of a victim. This section shall not apply if a public agency has independently determined that the autopsy report may not be disclosed pursuant to Article 1 (commencing with Section 7923.600) of Chapter 1 of Part 5 of Division 10 of Title 1 of the Government Code because it is an investigative file. In that instance, nothing in this section shall preclude the application of Part 5 (commencing with Section 7923.000) of Division 10 of Title 1 of the Government Code.

(g) If a seal has been maintained pursuant to this section, a qualifying family member, or a biological or adoptive aunt, uncle, sibling, first cousin, child, or grandparent of the deceased child may request that the seal be removed. The request to remove the seal shall be adjudicated pursuant to subdivision (f), with the party requesting the removal of the seal being the opposing party.

(h) Nothing in this section shall limit the public access to information contained in the death certificate including: name, age, gender, race, date, time and location of death, the name of a physician reporting a death in a hospital, the name of the certifying pathologist, date of certification, burial information, and cause of death.

(i) When a medical examiner declines a request to provide a copy of an autopsy report that has been sealed pursuant to this section, the examiner shall cite this section as the reason for declining to provide a copy of the report.

(j) For purposes of this section:

(1) A "child who is under 18 years of age" does not include any child who comes within either of the following descriptions:

(A) The child was a dependent child of the juvenile court pursuant to Section 300 of the Welfare and Institutions Code at the time of the child's death, or, pursuant to subdivision (b) of Section 10850.4 of the Welfare and Institutions Code, abuse or neglect is determined to have led to the child's death.

(B) The child was residing in a state or county juvenile facility, or a private facility under contract with the state or county for the placement of juveniles, as a ward of the juvenile court pursuant to Section 602 of the Welfare and Institutions Code at the time of the child's death.

(2) "Evidence associated with the examination of a victim" means any object, writing, diagram, recording, computer file, photograph, video, DVD, CD, film, digital device, or other item that was collected during, or serves to document, the autopsy of a deceased child.

(3) "Qualifying family member" means the biological or adoptive parent, spouse, or legal guardian.

(k) Nothing in this section shall limit the discovery provisions set forth in Chapter 10 (commencing with Section 1054) of Title 6 of the Penal Code.

(*l*) Nothing in this section shall be construed to limit the authority of the court to seal records or restrict the dissemination of an autopsy report or evidence associated with the examination of a victim under case law, other statutory law, or the rules of court.

(m) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 56. Section 425.16 of the Code of Civil Procedure is amended to read:

425.16. (a) The Legislature finds and declares that there has been a disturbing increase in lawsuits brought primarily to chill the valid exercise of the constitutional rights of freedom of speech and petition for the redress of grievances. The Legislature finds and declares that it is in the public interest to encourage continued participation in matters of public significance, and that this participation should not be chilled through abuse of the judicial process. To this end, this section shall be construed broadly.

(b) (1) A cause of action against a person arising from any act of that person in furtherance of the person's right of petition or free speech under the United States Constitution or the California Constitution in connection with a public issue shall be subject to a special motion to strike, unless the court determines that the plaintiff has established that there is a probability that the plaintiff will prevail on the claim.

(2) In making its determination, the court shall consider the pleadings, and supporting and opposing affidavits stating the facts upon which the liability or defense is based.

(3) If the court determines that the plaintiff has established a probability that the plaintiff will prevail on the claim, neither that determination nor

the fact of that determination shall be admissible in evidence at any later stage of the case, or in any subsequent action, and no burden of proof or degree of proof otherwise applicable shall be affected by that determination in any later stage of the case or in any subsequent proceeding.

(c) (1) Except as provided in paragraph (2), in any action subject to subdivision (b), a prevailing defendant on a special motion to strike shall be entitled to recover that defendant's attorney's fees and costs. If the court finds that a special motion to strike is frivolous or is solely intended to cause unnecessary delay, the court shall award costs and reasonable attorney's fees to a plaintiff prevailing on the motion, pursuant to Section 128.5.

(2) A defendant who prevails on a special motion to strike in an action subject to paragraph (1) shall not be entitled to attorney's fees and costs if that cause of action is brought pursuant to Section 11130, 11130.3, 54960, or 54960.1 of the Government Code, or pursuant to Chapter 2 (commencing with Section 7923.100) of Part 4 of Division 10 of Title 1 of the Government Code. Nothing in this paragraph shall be construed to prevent a prevailing defendant from recovering attorney's fees and costs pursuant to Section 7923.115, 11130.5, or 54960.5 of the Government Code.

(d) This section shall not apply to any enforcement action brought in the name of the people of the State of California by the Attorney General, district attorney, or city attorney, acting as a public prosecutor.

(e) As used in this section, "act in furtherance of a person's right of petition or free speech under the United States or California Constitution in connection with a public issue" includes: (1) any written or oral statement or writing made before a legislative, executive, or judicial proceeding, or any other official proceeding authorized by law, (2) any written or oral statement or writing made in connection with an issue under consideration or review by a legislative, executive, or judicial body, or any other official proceeding authorized by law, (3) any written or oral statement or writing made in a place open to the public or a public forum in connection with an issue of public interest, or (4) any other conduct in furtherance of the exercise of the constitutional right of petition or the constitutional right of free speech in connection with a public issue or an issue of public interest.

(f) The special motion may be filed within 60 days of the service of the complaint or, in the court's discretion, at any later time upon terms it deems proper. The motion shall be scheduled by the clerk of the court for a hearing not more than 30 days after the service of the motion unless the docket conditions of the court require a later hearing.

(g) All discovery proceedings in the action shall be stayed upon the filing of a notice of motion made pursuant to this section. The stay of discovery shall remain in effect until notice of entry of the order ruling on the motion. The court, on noticed motion and for good cause shown, may order that specified discovery be conducted notwithstanding this subdivision.

(h) For purposes of this section, "complaint" includes "cross-complaint" and "petition," "plaintiff" includes "cross-complainant" and "petitioner," and "defendant" includes "cross-defendant" and "respondent."

(i) An order granting or denying a special motion to strike shall be appealable under Section 904.1.

(j) (1) Any party who files a special motion to strike pursuant to this section, and any party who files an opposition to a special motion to strike, shall, promptly upon so filing, transmit to the Judicial Council, by email or facsimile, a copy of the endorsed, filed caption page of the motion or opposition, a copy of any related notice of appeal or petition for a writ, and a conformed copy of any order issued pursuant to this section, including any order granting or denying a special motion to strike, discovery, or fees.

(2) The Judicial Council shall maintain a public record of information transmitted pursuant to this subdivision for at least three years, and may store the information on microfilm or other appropriate electronic media.

SEC. 57. Section 1985.4 of the Code of Civil Procedure is amended to read:

1985.4. The procedures set forth in Section 1985.3 are applicable to a subpoena duces tecum for records containing "personal information," as defined in Section 1798.3 of the Civil Code that are otherwise exempt from public disclosure under a provision listed in Section 7920.505 of the Government Code that are maintained by a state or local agency as defined in Section 7920.510 or 7920.540 of the Government Code. For the purposes of this section, "witness" means a state or local agency as defined in Section 7920.510 or 7920.540 of the Government Code and "consumer" means any employee of any state or local agency as defined in Section 7920.510 or 7920.540 of the Government Code, or any other natural person. Nothing in this section shall pertain to personnel records as defined in Section 832.8 of the Penal Code.

SEC. 58. Section 25247 of the Corporations Code is amended to read:

25247. (a) Upon written or oral request, the commissioner shall make available to any person the information specified in Section 7929.005 of the Government Code and made available through the Public Disclosure Program of the Financial Industry Regulatory Authority with respect to any broker-dealer or agent licensed or regulated under this part. The commissioner shall also make available the current license status and the year of issuance of the license of a broker-dealer. Any information disclosed pursuant to this subdivision shall constitute a public record. Notwithstanding any other law, the commissioner may disclose either orally or in writing that information pursuant to this subdivision. There shall be no liability on the part of, and no cause of action of any nature shall arise against, the state, the Department of Business Oversight, the Commissioner of Business Oversight, or any officer, agent, or employee of the state or the Department of Business Oversight for the release of any false or unauthorized information, unless the release of that information was done with knowledge and malice.

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

Corporations, or from any other source that provides substantially similar information.

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

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

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

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

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

SEC. 59. Section 28106 of the Corporations Code is amended to read:

28106. If the commissioner permits any licensee, any affiliate of the licensee, or any governmental agency to inspect or make copies of any record relating to the licensee or to any director, officer, employee, or affiliate of the licensee, or if the commissioner provides the record, or a copy thereof, to any of those persons, Section 7922.000 of the Government Code, subdivision (a) of Section 7922.540 of the Government Code, and each provision listed in Section 7920.505 of the Government Code shall continue to apply to the record to the extent that these provisions applied to the record prior to that action by the commissioner.

SEC. 60. Section 5091 of the Education Code is amended to read:

5091. (a) (1) If a vacancy occurs, or if a resignation has been filed with the county superintendent of schools containing a deferred effective date, the school district or community college district governing board shall, within 60 days of the vacancy or the filing of the deferred resignation, either order an election or make a provisional appointment to fill the vacancy. A governing board member may not defer the effective date of the member's resignation for more than 60 days after the member files the resignation with the county superintendent of schools.

(2) In the event that a governing board fails to make a provisional appointment or order an election within the prescribed 60-day period as required by this section, the county superintendent of schools shall order an election to fill the vacancy.

(b) When an election is ordered, it shall be held on the next established election date provided pursuant to Chapter 1 (commencing with Section 1000) of Division 1 of the Elections Code not less than 130 days after the order of the election.

(c) (1) If a provisional appointment is made within the 60-day period, the registered voters of the district may, within 30 days from the date of the appointment, petition for the conduct of a special election to fill the vacancy. A petition shall be deemed to bear a sufficient number of signatures if signed by at least the number of registered voters of the district equal to 1 ½ percent of the number of registered voters of the district at the time of the last regular election for governing board members, or 25 registered voters, whichever is greater. However, in districts with less than 2,000 registered voters, a petition shall be deemed to bear a sufficient number of signatures if signed by at least 5 percent of the number of registered voters of the district at the time of the last regular election for governing board members.

(2) The petition shall be submitted to the county superintendent of schools having jurisdiction who shall have 30 days to verify the signatures. If the petition is determined to be legally sufficient by the county superintendent of schools, the provisional appointment is terminated, and the county superintendent of schools shall order a special election to be conducted no later than the 130th day after the determination. However, if an established election date, as defined in Section 1000 of the Elections Code, occurs between the 130th day and the 150th day following the order of the election, the county superintendent of schools may order the special election to be conducted on the established election date.

(3) For purposes of this section, "registered voters" means the following:

(A) If the district uses the at-large method of election, as defined in subdivision (a) of Section 14026 of the Elections Code, registered voters of the entire school district or community college district.

(B) If the district uses district-based elections, as defined in subdivision (b) of Section 14026 of the Elections Code, registered voters of the election district.

(d) A provisional appointment made pursuant to subdivision (a) confers all powers and duties of a governing board member upon the appointee immediately following that appointment.

(e) A person appointed to fill a vacancy shall hold office only until the next regularly scheduled election for district governing board members that is scheduled 130 or more days after the effective date of the vacancy, whereupon an election shall be held to fill the vacancy for the remainder of the unexpired term. A person elected at an election to fill the vacancy shall hold office for the remainder of the term in which the vacancy occurs or will occur.

(f) (1) If a petition calling for a special election is circulated, the petition shall meet all of the following requirements:

(A) The petition shall contain the estimate of the elections official of the cost of conducting the special election.

(B) The name and residence address of at least one, but not more than five, of the proponents of the petition shall appear on the petition, each of which proponents shall be a registered voter of the school district or community college district, as applicable.

(C) None of the text or other language of the petition shall appear in less than six-point type.

(D) The petition shall be prepared and circulated in conformity with Sections 100 and 104 of the Elections Code.

(2) If any of the requirements of this subdivision are not met as to any petition calling for a special election, the county superintendent of schools shall not verify the signatures, nor shall any further action be taken with respect to the petition.

(3) No person shall permit the list of names on petitions prescribed by this section to be used for any purpose other than qualification of the petition for the purpose of holding an election pursuant to this section.

(4) The petition filed with the county superintendent of schools shall be subject to the restrictions in Article 2 (commencing with Section 7924.100) of Chapter 2 of Part 5 of Division 10 of Title 1 of the Government Code.

(g) Elections held pursuant to subdivisions (b) and (c) shall be conducted in as nearly the same manner as practicable as other governing board member elections.

SEC. 61. Section 17250.25 of the Education Code is amended to read:

17250.25. The procurement process for design-build projects shall progress as follows:

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

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

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

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

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

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

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

(B) Evidence that the members of the design-build team have completed, or demonstrated the experience, competency, capability, and capacity to complete, projects of similar size, scope, or complexity, and that the proposed key personnel have sufficient experience and training to competently manage and complete the design and construction of the project, and a financial statement that ensures that the design-build entity has the capacity to complete the project.

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

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

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

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

(G) An acceptable safety record. A proposer's safety record shall be deemed acceptable if its experience modification rate for the most recent

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

(4) (A) The information required under this subdivision shall be certified under penalty of perjury by the design-build entity and its general partners or joint venture members.

(B) Information required under this subdivision that is not otherwise a public record under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) shall not be open to public inspection.

(c) (1) A design-build entity shall not be prequalified or short-listed unless the entity provides an enforceable commitment to the school district that the entity and its subcontractors at every tier will use a skilled and trained workforce to perform all work on the project or contract that falls within an apprenticeable occupation in the building and construction trades, in accordance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code.

(2) This subdivision shall not apply if any of the following requirements are met:

(A) The school district has entered into a project labor agreement that will bind all contractors and subcontractors performing work on the project or contract to use a skilled and trained workforce, and the entity agrees to be bound by that project labor agreement.

(B) The project or contract is being performed under the extension or renewal of a project labor agreement that was entered into by the school district prior to January 1, 2017.

(C) The entity has entered into a project labor agreement that will bind the entity and all its subcontractors at every tier performing the project or contract to use a skilled and trained workforce.

(3) For purposes of this subdivision, "project labor agreement" has the same meaning as in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

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

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

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

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

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

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

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

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

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

(B) Technical design and construction expertise.

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

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

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

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

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

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

SEC. 62. Section 17611 of the Education Code is amended to read:

17611. (a) Each schoolsite shall maintain records of all pesticide use at the schoolsite for a period of four years, and shall make this information available to the public, upon request, pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code). A schoolsite may meet the requirements of this

section by retaining a copy of the warning sign posted for each application required pursuant to Section 17612, and recording on that copy the amount of the pesticide used.

(b) (1) If a schoolsite chooses to use a pesticide not included within Section 17610.5, at the end of each calendar year, or more often at the discretion of a school designee, the school designee shall submit to the Director of Pesticide Regulation a copy of the records of all pesticide use at the schoolsite for the calendar year. The records submitted to the Director of Pesticide Regulation shall be submitted using a form prepared by the Department of Pesticide Regulation similar to that prepared pursuant to subdivision (b) of Section 13186 of the Food and Agricultural Code, and shall include all of the following:

(A) The name of a school designee for the schoolsite.

(B) The name and address of the schoolsite, or the department code or licensed child daycare facility number indicating if the site is an elementary or secondary school facility, or a child daycare facility.

(C) The product name, manufacturer's name, the United States Environmental Protection Agency's product registration number, and the amount used, including the unit of measurement.

(D) The date, time, and location of application.

(2) The report submitted pursuant to paragraph (1) shall not include pesticide use reported pursuant to subdivision (c) of Section 13186 of the Food and Agricultural Code.

SEC. 63. Section 24214.5 of the Education Code is amended to read:

24214.5. (a) (1) Notwithstanding subdivision (f) of Section 24214, the postretirement compensation limitation that shall apply to the compensation paid in cash to the retired member for performance of retired member activities, excluding reimbursements paid by an employer for expenses incurred by the member in which payment of the expenses by the member is substantiated, shall be zero dollars ($0) during the first 180 calendar days after the most recent retirement of a member retired for service under this part.

(2) For written agreements pertaining to the performance of retired member activities entered into, extended, renewed, or amended on or after January 1, 2014, the limitation in paragraph (1) shall also apply to payments made for the performance of retired member activities, including, but not limited to, those for participation in a deferred compensation plan; to purchase an annuity contract, tax-deferred retirement plan, or insurance program; and for contributions to a plan that meets the requirements of Section 125, 401(a), 401(k), 403(b), 457(b), or 457(f) of Title 26 of the United States Code when the cost is covered by an employer.

(b) If the retired member has attained normal retirement age at the time the compensation is earned, subdivision (a) shall not apply and Section 24214 shall apply if the appointment has been approved by the governing body of the employer in a public meeting, as reflected in a resolution adopted by the governing body of the employer prior to the performance of retired member activities, expressing its intent to seek an exemption from the

limitation specified in subdivision (a). Approval of the appointment may not be placed on a consent calendar. Notwithstanding any other provision of Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code or any state or federal law incorporated by Section 7927.705 of the Government Code, the resolution shall be subject to disclosure by the entity adopting the resolution and the system. The resolution shall include the following specific information and findings:

(1) The nature of the employment.

(2) A finding that the appointment is necessary to fill a critically needed position before 180 calendar days have passed.

(3) A finding that the member is not ineligible for application of this subdivision pursuant to subdivision (d).

(4) A finding that the termination of employment of the retired member with the employer is not the basis for the need to acquire the services of the member.

(c) Subdivision (b) shall not apply to a retired member whose termination of employment with the employer is the basis for the need to acquire the services of the member.

(d) Subdivision (b) shall not apply if the retired member received additional service credit pursuant to Section 22714 or 22715 or received from any public employer any financial inducement to retire. For purposes of this section, "financial inducement to retire" includes, but is not limited to, any form of compensation or other payment that is paid directly or indirectly by a public employer to the member, even if not in cash, either before or after retirement, if the participant retires for service on or before a specific date or specific range of dates established by a public employer on or before the date the inducement is offered. The system shall liberally interpret this subdivision to further the Legislature's intent to make subdivision (b) inapplicable to members if the member received a financial incentive from any public employer to retire or otherwise terminate employment with a public employer.

(e) The Superintendent, the county superintendent of schools, or the chief executive officer of a community college shall submit all documentation required by the system to substantiate the eligibility of the retired member for application of subdivision (b), including, but not limited to, the resolution adopted pursuant to that subdivision.

(f) The documentation required by this section shall be received by the system prior to the retired member's performance of retired member activities.

(g) Within 30 calendar days after the receipt of all documentation required by the system pursuant to this section, the system shall inform the entity seeking application of the exemption specified in subdivision (b), and the retired member whether the compensation paid to the member will be subject to the limitation specified in subdivision (a).

(h) If a member retired for service under this part earns compensation for performing retired member activities in excess of the limitation specified in subdivision (a), the member's retirement allowance shall be reduced by

the amount of the excess compensation. The amount of the reduction in an individual month shall be no more than the monthly allowance payable in that month, and the total amount of the reduction shall not exceed the amount of the allowance payable during the first 180 calendar days, after a member retired for service under this part.

(i) The amendments to this section enacted during the first year of the 2013–14 Regular Session shall apply to compensation paid on or after January 1, 2014.

SEC. 64. Section 26812 of the Education Code is amended to read:

26812. (a) A participant retired for service under this part may perform retired participant activities, but the participant shall not make contributions to the plan or accrue service credit under the Defined Benefit Program based on compensation earned from that service. The employer shall maintain accurate records of the earnings of the retired participant and report those earnings monthly to the system and retired participant.

(b) If a participant is retired for service under this part, the annualized rate of pay for retired participant activities performed by that participant shall not be less than the minimum, nor exceed the maximum, paid by the employer to other employees performing comparable duties.

(c) A participant retired for service under this part shall not be required to reinstate for performing retired participant activities.

(d) (1) If all of the following apply to a participant retired for service under this part, the participant's annuity shall be reduced by the amount of the compensation:

(A) The participant is receiving an annuity under the Cash Balance Benefit Program.

(B) The participant is below normal retirement age or retired on or after January 1, 2014.

(C) The participant earns compensation paid in cash for performing retired participant activities, excluding reimbursements paid by an employer for expenses incurred by the participant in which payment of the expenses by the participant is substantiated.

(2) The reduction in paragraph (1) shall only be made for compensation paid in cash during the first 180 calendar days after a participant retired for service under this part. The amount of the reduction in an individual month shall be no more than the monthly annuity payable in that month, and the total amount of the reduction shall not exceed the amount of the annuity payable during the first 180 calendar days after a participant retired for service under this part. For written agreements pertaining to the performance of retired participant activities entered into, extended, renewed, or amended on or after January 1, 2014, the reduction in paragraph (1) shall also be made for payments made for the performance of retired participant activities, including, but not limited to, those for participation in a deferred compensation plan; to purchase an annuity contract, tax-deferred retirement plan, or insurance program; and for contributions to a plan that meets the requirements of Section 125, 401(a), 401(k), 403(b), 457(b), or 457(f) of Title 26 of the United States Code when the cost is covered by an employer.

(3) Subject to the limitation described in paragraph (4), if all of the following apply to a participant retired for service under this part, the participant's application for the retirement benefit shall automatically be canceled:

(A) The participant is anticipated to receive the retirement benefit in the form of a lump-sum payment.

(B) The participant earns compensation for performing creditable service within 180 calendar days following the date of termination of employment.

(4) Paragraph (3) does not apply if the participant has reached that age at which the Internal Revenue Code of 1986 requires a distribution of benefits. A participant who has reached that age shall receive a distribution commencing on the earlier of the date that the participant has met the conditions of subdivision (b) of Section 26806 or the conditions of subdivision (c) of Section 26004.

(e) If the participant has attained normal retirement age at the time the compensation is earned, subdivision (d) shall not apply if the appointment has been approved by the governing body of the employer in a public meeting, as reflected in a resolution adopted by the governing body of the employer prior to the performance of retired participant activities, expressing its intent to seek an exemption from the limitation specified in subdivision (d). Approval of the appointment shall not be placed on a consent calendar. Notwithstanding any other provision of Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code or any state or federal law incorporated by Section 7927.705 of the Government Code, the resolution shall be subject to disclosure by the entity adopting the resolution and the system. The resolution shall include the following specific information and findings:

(1) The nature of the employment.

(2) A finding that the appointment is necessary to fill a critically needed position before 180 calendar days have passed.

(3) A finding that the participant is not ineligible for application of this subdivision pursuant to subdivision (g).

(4) A finding that the termination of employment of the retired participant with the employer is not the basis for the need to acquire the services of the participant.

(f) Subdivision (e) shall not apply to a retired participant whose termination of employment with the employer is the basis for the need to acquire the services of the participant.

(g) Subdivision (e) shall not apply if the participant received additional service credit pursuant to Section 22714 or 22715 or received from any public employer any financial inducement to retire. For purposes of this section, "financial inducement to retire" includes, but is not limited to, any form of compensation or other payment that is paid directly or indirectly by a public employer to the participant, even if not in cash, either before or after retirement, if the participant retires for service on or before a specific date or specific range of dates established by a public employer on or before the date the inducement is offered. The system shall liberally interpret this

subdivision to further the Legislature's intent to make subdivision (e) inapplicable to participants if the participant received a financial incentive from any public employer to retire or otherwise terminate employment with a public employer.

(h) The superintendent, the county superintendent of schools, or the chief executive officer of a community college shall submit all documentation required by the system to substantiate the eligibility of the retired participant for application of subdivision (e), including, but not limited to, the resolution adopted pursuant to that subdivision.

(i) The documentation required by this section shall be received by the system prior to the retired participant's performance of retired participant activities.

(j) Within 30 calendar days of the receipt of all documentation required by the system pursuant to this section, the system shall inform the entity seeking application of the exemption specified in subdivision (e) and the retired participant whether the compensation paid to the participant will be subject to the limitation specified in subdivision (d).

SEC. 65. Section 33133 of the Education Code is amended to read:

33133. (a) The Superintendent of Public Instruction shall develop information, and submit this information to the State Board of Education for its approval. This information shall be for distribution to school districts and, to the extent feasible, for posting on the State Department of Education internet website, to strengthen and promote the opportunity for quality involvement by parents and guardians in schoolsite councils whose composition meets the requirements of Section 52012. In developing the information, the Superintendent of Public Instruction may use documents currently available from nonprofit organizations, such as EdSource and the California Parent Teacher Association, or state and local government agencies.

(b) The information shall be provided to each school district and county office of education and may be made available for parents and guardians who are members of schoolsite councils whose composition meets the requirements of Section 52012 and shall cover at least the following topics:

(1) Operation of schoolsite advisory bodies, including bylaws, group responsibilities, and roles.

(2) Public meeting notice requirements.

(3) Information about the total budget of a school district and how funds are distributed to schoolsite advisory bodies, including, but not limited to, the amount of funds distributed to schoolsites.

(4) Information about the school district and state standards of expected pupil achievement in core academic subjects for each grade level.

(5) Instruction on how to interpret data from the pupil performance measures selected by the school district.

(6) A definition of "significant gains made by pupils" toward meeting the standards of expected pupil achievement.

(7) Research-based information about curriculum and teaching strategies that will improve pupil performance.

(8) The right to information under the California Public Records Act set forth in Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code.

(9) Information regarding the educational and training needs for pupils, as identified and expressed by local employers, former pupils of the school district, and postsecondary education institutions.

(c) In addition to the composition set forth in Section 52012, a schoolsite council at the middle school level may, but is not required to, include pupil representation.

SEC. 66. Section 33353 of the Education Code is amended to read:

33353. (a) The California Interscholastic Federation is a voluntary organization that consists of school and school-related personnel with responsibility for administering interscholastic athletic activities in secondary schools. It is the intent of the Legislature that the California Interscholastic Federation, in consultation with the department, implement the following policies:

(1) Give the governing boards of school districts specific authority to select their athletic league representatives.

(2) Require that all league, section, and state meetings affiliated with the California Interscholastic Federation be subject to the notice and hearing requirements of the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

(3) Establish a neutral final appeals body to hear complaints related to interscholastic athletic policies.

(4) Provide information to parents and pupils regarding the state and federal complaint procedures for discrimination complaints arising out of interscholastic athletic activities.

(5) Comply with the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), and in doing so, as a third-party recipient of pupil and school personnel information, be afforded the same public records disclosure exemptions as are afforded to school districts, in order to protect the confidentiality of pupil and school personnel records and information.

(b) (1) The California Interscholastic Federation shall report to the appropriate policy committees of the Legislature and the Governor on its evaluation and accountability activities undertaken pursuant to this section on or before January 1, 2023, and on or before January 1 every seven years thereafter. This report shall include, but not be limited to, the goals and objectives of the California Interscholastic Federation with regard to, and the status of, all of the following:

(A) The governing structure of the California Interscholastic Federation, and the effectiveness of that governance structure in providing leadership for interscholastic athletics in secondary schools.

(B) Methods to facilitate communication with agencies, organizations, and public entities whose functions and interests interface with the California Interscholastic Federation.

(C) The quality of coaching and officiating, including, but not limited to, professional development for coaches and athletic administrators, and parent education programs.

(D) Gender equity in interscholastic athletics, including, but not limited to, the number of male and female pupils participating in interscholastic athletics in secondary schools, and action taken by the California Interscholastic Federation in order to ensure compliance with Title IX of the federal Education Amendments of 1972 (20 U.S.C. Sec. 1681 et seq.).

(E) Health and safety of pupils, coaches, officials, and spectators.

(F) The economic viability of interscholastic athletics in secondary schools, including, but not limited to, the promotion and marketing of interscholastic athletics.

(G) New and continuing programs available to pupil athletes.

(H) Awareness and understanding of emerging issues related to interscholastic athletics in secondary schools.

(2) It is the intent of the Legislature that the California Interscholastic Federation accomplish all of the following:

(A) During years in which the California Interscholastic Federation is not required to report to the Legislature and the Governor pursuant to paragraph (1), it shall hold a public comment period relating to that report at three regularly scheduled federation council meetings per year.

(B) Annually allow public comment on the policies and practices of the California Interscholastic Federation at a regularly scheduled federation council meeting.

(C) Require sections of the California Interscholastic Federation to allow public comment on the policies and practices of the California Interscholastic Federation and its sections, and the report required pursuant to paragraph (1), at each regularly scheduled section meeting.

(D) Engage in a comprehensive outreach effort to promote the public hearings described in subparagraphs (A) and (C).

(3) Upon receiving a report from the California Interscholastic Federation pursuant to paragraph (1), the appropriate policy committees of the Legislature shall hold a joint hearing at which the California Interscholastic Federation shall testify and members of the public shall be encouraged to testify on information in the report, including, but not limited to, the information required in paragraph (1).

SEC. 67. Section 35147 of the Education Code is amended to read:

35147. (a) Except as specified in this section, any meeting of the councils or committees specified in subdivision (b) is exempt from the provisions of this article, the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Division 3 of Title 2 of the Government Code), and the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Division 2 of Title 5 of the Government Code).

(b) The councils and schoolsite advisory committees established pursuant to Sections 52063, 52069, 52176, and 52852, subdivision (b) of Section 54425, Sections 54444.2, 62002.5, and 65000, and committees formed pursuant to Section 11503 are subject to this section.

(c) (1) Any meeting held by a council or committee specified in subdivision (b) shall be open to the public, and any member of the public shall be able to address the council or committee during the meeting on any item within the subject matter jurisdiction of the council or committee. Notice of the meeting shall be posted at the schoolsite, or other appropriate place accessible to the public, at least 72 hours before the time set for the meeting. The notice shall specify the date, time, and location of the meeting and contain an agenda describing each item of business to be discussed or acted upon. The council or committee may not take any action on any item of business unless that item appeared on the posted agenda or unless the council or committee members present, by unanimous vote, find that there is a need to take immediate action and that the need for action came to the attention of the council or committee subsequent to the posting of the agenda.

(2) Questions or brief statements made at a meeting by members of the council, committee, or public that do not have a significant effect on pupils or employees in the school or school district, or that can be resolved solely by the provision of information, need not be described on an agenda as items of business. If a council or committee violates the procedural meeting requirements of this section, upon demand of any person, the council or committee shall reconsider the item at its next meeting, after allowing for public input on the item.

(d) Any materials provided to a schoolsite council shall be made available to any member of the public who requests the materials pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

SEC. 68. Section 44438 of the Education Code is amended to read:

44438. (a) "Private admonition," as used in this article and in Article 3 (commencing with Section 44240) of Chapter 2, is a warning, in writing, to the applicant or credentialholder that states in ordinary and concise language the act or omission of the applicant or credentialholder and further states that repetition of that act or omission may result in denial, suspension, or revocation of the credential.

(b) The private admonition shall be included in the applicant's or credential holder's file, maintained by the commission.

(c) The applicant's or credentialholder's employer at the time of admonition shall receive a copy of the admonition and shall not make that copy accessible or disclose the contents thereof, unless the applicant or credentialholder consents, in writing, thereto.

(d) For purposes of Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code, the private admonition is deemed a personnel record within the meaning of Section 7927.700 of the Government Code.

(e) The commission and the applicant's or credentialholder's employer shall expunge all records pertaining to the private admonition maintained in the applicant's or credentialholder's files pursuant to subdivisions (b) and (c) at the expiration of three years, so long as there is no recurrence of the offense.

SEC. 69. Section 47604.1 of the Education Code is amended to read:

47604.1. (a) For purposes of this section, an "entity managing a charter school" means a nonprofit public benefit corporation that operates a charter school consistent with Section 47604. An entity that is not authorized to operate a charter school pursuant to Section 47604 is not an "entity managing a charter school" solely because it contracts with a charter school to provide to that charter school goods or task-related services that are performed at the direction of the governing body of the charter school and for which the governing body retains ultimate decisionmaking authority.

(b) A charter school and an entity managing a charter school shall be subject to all of the following:

(1) The Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code), except that a charter school operated by an entity pursuant to Chapter 5 (commencing with Section 47620) shall be subject to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code) regardless of the authorizing entity.

(2) (A) The California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(B) (i) The chartering authority of a charter school shall be the custodian of records with regard to any request for information submitted to the charter school if either of the following apply:

(I) The charter school is located on a federally recognized California Indian reservation or rancheria.

(II) The charter school is operated by a nonprofit public benefit corporation that was formed on or before May 31, 2002, and is currently operated by a federally recognized California Indian tribe.

(ii) This subparagraph does not allow a chartering authority to delay or obstruct access to records otherwise required under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(3) Article 4 (commencing with Section 1090) of Chapter 1 of Division 4 of Title 1 of the Government Code.

(4) (A) The Political Reform Act of 1974 (Title 9 (commencing with Section 81000) of the Government Code).

(B) For purposes of Section 87300 of the Government Code, a charter school and an entity managing a charter school shall be considered an agency and is the most decentralized level for purposes of adopting a conflict-of-interest code.

(c) (1) (A) The governing body of one charter school shall meet within the physical boundaries of the county in which the charter school is located.

(B) A two-way teleconference location shall be established at each schoolsite.

(2) (A) The governing body of one nonclassroom-based charter school that does not have a facility or operates one or more resource centers shall

meet within the physical boundaries of the county in which the greatest number of pupils who are enrolled in that charter school reside.

(B) A two-way teleconference location shall be established at each resource center.

(3) (A) For a governing body of an entity managing one or more charter schools located within the same county, the governing body of the entity managing a charter school shall meet within the physical boundaries of the county in which that charter school or schools are located.

(B) A two-way teleconference location shall be established at each schoolsite and each resource center.

(4) (A) For a governing body of an entity that manages two or more charter schools that are not located in the same county, the governing body of the entity managing the charter schools shall meet within the physical boundaries of the county in which the greatest number of pupils enrolled in those charter schools managed by that entity reside.

(B) A two-way teleconference location shall be established at each schoolsite and each resource center.

(C) The governing body of the entity managing the charter schools shall audio record, video record, or both, all the governing board meetings and post the recordings on each charter school's internet website.

(5) This subdivision does not limit the authority of the governing body of a charter school and an entity managing a charter school to meet outside the boundaries described in this subdivision if authorized by Section 54954 of the Government Code, and the meeting place complies with Section 54961 of the Government Code.

(d) Notwithstanding Article 4 (commencing with Section 1090) of Chapter 1 of Division 4 of Title 1 of the Government Code, an employee of a charter school shall not be disqualified from serving as a member of the governing body of the charter school because of that employee's employment status. A member of the governing body of a charter school who is also an employee of the charter school shall abstain from voting on, or influencing or attempting to influence another member of the governing body regarding, all matters uniquely affecting that member's employment.

(e) To the extent a governing body of a charter school or an entity managing a charter school engages in activities that are unrelated to a charter school, Article 4 (commencing with Section 1090) of Chapter 1 of Division 4 of Title 1 of the Government Code, the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code), the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code), the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), and the Political Reform Act of 1974 (Title 9 (commencing with Section 81000) of the Government Code) shall not apply with regard to those unrelated activities unless otherwise required by law.

(f) A meeting of the governing body of a charter school to discuss items related to the operation of the charter school shall not include the discussion

of any item regarding an activity of the governing body that is unrelated to the operation of the charter school.

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

SEC. 70. Section 49006 of the Education Code is amended to read:

49006. (a) A local educational agency that meets the definition of a "local educational agency" specified in Section 300.28 of Title 34 of the Code of Federal Regulations shall collect and, no later than three months after the end of a school year, report to the department annually on the use of behavioral restraints and seclusion for pupils enrolled in or served by the local educational agency for all or part of the prior school year.

(b) The report required pursuant to subdivision (a) shall include all of the following information, disaggregated by race or ethnicity, and gender:

(1) The number of pupils subjected to mechanical restraint, with separate counts for pupils with a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), pupils with an individualized education program, and pupils who do not have a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794) or an individualized education program.

(2) The number of pupils subjected to physical restraint, with separate counts for pupils with a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), pupils with an individualized education program, and pupils who do not have a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794) or an individualized education program.

(3) The number of pupils subjected to seclusion, with separate counts for pupils with a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), pupils with an individualized education program, and pupils who do not have a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794) or an individualized education program.

(4) The number of times mechanical restraint was used on pupils, with separate counts for the number of times mechanical restraint was used on pupils with a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), pupils with an individualized education program, and pupils who do not have a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794) or an individualized education program.

(5) The number of times physical restraint was used on pupils, with separate counts for the number of times physical restraint was used on pupils with a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), pupils with an individualized education program, and pupils who do not have a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794) or an individualized education program.

(6) The number of times seclusion was used on pupils, with separate counts for the number of times seclusion was used on pupils with a plan

pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), pupils with an individualized education program, and pupils who do not have a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794) or an individualized education program.

(c) Notwithstanding any other law, the data collected and reported pursuant to this section shall be available as a public record pursuant to Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code.

(d) No later than three months after the report is due to the department pursuant to subdivision (a), the department shall post the data from the report annually on its internet website.

SEC. 71. Section 49060 of the Education Code is amended to read:

49060. (a) It is the intent of the Legislature to resolve potential conflicts between California law and the provisions of Public Law 93-380 regarding parental access to, and the confidentiality of, pupil records in order to ensure the continuance of federal education funds to public educational institutions within the state, and to revise generally and update the law relating to those records.

(b) This chapter applies to public agencies that provide educationally related services to pupils with disabilities pursuant to Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code and to public agencies that educate pupils with disabilities in state hospitals or developmental centers and in youth and adult facilities.

(c) This chapter has no effect regarding public community colleges, other public or private institutions of higher education, other governmental or private agencies that receive federal education funds unless described herein, or, except for Sections 49068 and 40969.7 and paragraph (5) of subdivision (b) of Section 49076, private schools.

(d) The provisions of this chapter prevail over the provisions of Section 12400 of this code and Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code to the extent that they may pertain to access to pupil records.

SEC. 72. Section 49562 of the Education Code is amended to read:

49562. (a) The department, in consultation with the State Department of Health Care Services, shall develop and implement a process to use the participation data from the Medi-Cal program administered pursuant to Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code, to verify income as established in the federal Child Nutrition and WIC Reauthorization Act of 2004 (Public Law 108-265) and, to the extent permitted under federal law, directly certify children whose families meet the applicable income criteria into the school meal program.

(b) The department shall share the participation data described in subdivision (a) with local educational agencies. A local educational agency that participates in a federal school meal program shall use the participation data described in subdivision (a), commencing with the participation data of pupils in the 2017–18 school year, to directly certify pupils eligible for

free and reduced-price school meals, to the extent permitted under federal law.

(c) In the operation of this process, the department shall limit the information needed from the State Department of Health Care Services to identify families whose income falls below the eligibility cutoff for free or reduced-price meals, and utilize the least amount of information needed to facilitate a match of local school records. The State Department of Health Care Services shall conduct the data match of local school records and return a list to the department, including only the data fields submitted by the department and an indicator of program eligibility, as required by federal law.

(d) The department and the State Department of Health Care Services shall design this process to maintain pupil privacy and the privacy of Medi-Cal recipients by establishing privacy and confidentiality procedures consistent with all applicable state and federal laws. Local educational agencies shall maintain pupil privacy and the privacy of Medi-Cal recipients through privacy and confidentiality procedures consistent with applicable state and federal laws. The department and local educational agencies shall utilize appropriate technical and security safeguards to ensure any Medi-Cal participation data is protected, consistent with applicable state and federal laws. To the extent permitted by state and federal law, the department and the State Department of Health Care Services may review the data only for the purposes of improving the effectiveness of the data matches made pursuant to this section and Section 49561.

(e) (1) The participation data described in subdivision (a) is exempt from the disclosure requirements of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code). The participation data described in subdivision (a) shall be used only for the purposes of direct certification pursuant to this section, shall not be open to the public for inspection, and shall not be disclosed to any other party without the written consent of the parent or legal guardian of the pupil, except for the purpose of directly certifying pupils for free and reduced-price meals pursuant to this section or as otherwise required or authorized by law or state or federal court order.

(2) This subdivision does not prohibit the disclosure of aggregate data that does not reveal personally identifying information about a pupil or a pupil's family.

(f) The department specifically shall ensure that the process, and use and sharing of participation data from the Medi-Cal program, conforms to the federal Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191), the federal Health Information Technology for Economic and Clinical Health Act (Public Law 111-5) and its implementing regulations, and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code), by using strategies employed by other states' Medicaid verification projects or by developing a new strategy that ensures conformity. If applicable,

Medi-Cal participation data shall also be subject to Section 49602 and its implementing regulations.

(g) The department shall seek all necessary approvals to establish this process and shall apply for available federal funds to support the work of this process.

(h) This section shall become operative upon the receipt of federal funds to assist the state in implementing the provisions of this section.

SEC. 73. Section 54004.1 of the Education Code is amended to read:

54004.1. For fiscal year 1979–80 and each year thereafter, the Superintendent of Public Instruction shall apportion funds available for programs in accord with procedures specified in this chapter and rules and regulations established by the State Board of Education. Funds shall be allocated to each district within its entitlement based upon the following:

(a) A district allocation plan developed pursuant to Sections 54004.3, 54004.5, and 54004.7, which shall be submitted to the Superintendent of Public Instruction and approved by the State Board of Education.

(b) A school plan, including any modification for each school receiving funds allocated pursuant to Sections 54004.5 and 54004.7, which has been approved by the governing board of the school district and is retained at the school site and at the school district office. This plan shall be available to the Superintendent of Public Instruction upon demand and shall be made available to the public on a reasonable basis pursuant to the provisions of the California Public Records Act, Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code. The plan shall include, but not be limited to:

(1) An explicit statement of what the school seeks to accomplish.

(2) A description of the program and activities designed to achieve these purposes.

(3) A planned program of annual evaluation, including a statement of criteria to be used to measure the effectiveness of the program.

(c) Schools that provide programs pursuant to subdivision (a) of Section 52165 shall include those programs in the school plan.

SEC. 74. Section 67380 of the Education Code is amended to read:

67380. (a) Except as provided in subparagraph (C) of paragraph (6), the governing board of each community college district, the Trustees of the California State University, the Board of Directors of the Hastings College of the Law, the Regents of the University of California, and the governing board of any postsecondary educational institution receiving public funds for student financial assistance shall do all of the following:

(1) Require the appropriate officials at each campus within their respective jurisdictions to compile records of both of the following:

(A) All occurrences reported to campus police, campus security personnel, or campus safety authorities of, and arrests for, crimes that are committed on campus and that involve violence, hate violence, theft, destruction of property, illegal drugs, or alcohol intoxication.

(B) All occurrences of noncriminal acts of hate violence reported to, and for which a written report is prepared by, designated campus authorities.

(2) Require any written record of a noncriminal act of hate violence to include, but not be limited to, the following:

(A) A description of the act of hate violence.

(B) Victim characteristics.

(C) Offender characteristics, if known.

(3) (A) Make the information concerning the crimes compiled pursuant to subparagraph (A) of paragraph (1) available within two business days following the request of any student or employee of, or applicant for admission to, any campus within their respective jurisdictions, or to the media, unless the information is the type of information exempt from disclosure pursuant to Article 1 (commencing with Section 7923.600) of Chapter 1 of Part 5 of Division 10 of Title 1 of the Government Code, in which case the information is not required to be disclosed. Notwithstanding Article 1 (commencing with Section 7923.600) of Chapter 1 of Part 5 of Division 10 of Title 1 of the Government Code, the name or any other personally identifying information of a victim of any crime defined by Section 243.4, 261, 262, 264, 264.1, 273a, 273d, 273.5, 286, 287, 288, 289, 422.6, 422.7, or 422.75 of, or former Section 288a of, the Penal Code shall not be disclosed without the permission of the victim, or the victim's parent or guardian if the victim is a minor.

(B) For purposes of this paragraph and subparagraph (A) of paragraph (1), the campus police, campus security personnel, and campus safety authorities described in subparagraph (A) of paragraph (1) shall be included within the meaning of "state or local police agency" and "state and local law enforcement agency," as those terms are used in Article 1 (commencing with Section 7923.600) of Chapter 1 of Part 5 of Division 10 of Title 1 of the Government Code.

(4) Require the appropriate officials at each campus within their respective jurisdictions to prepare, prominently post, and copy for distribution on request, a campus safety plan that sets forth all of the following: the availability and location of security personnel, methods for summoning assistance of security personnel, any special safeguards that have been established for particular facilities or activities, any actions taken in the preceding 18 months to increase safety, and any changes in safety precautions expected to be made during the next 24 months. For purposes of this section, posting and distribution may be accomplished by including relevant safety information in a student handbook or brochure that is made generally available to students.

(5) Require the appropriate officials at each campus within their respective jurisdictions to report information compiled pursuant to paragraph (1) relating to hate violence to the governing board, trustees, board of directors, or regents, as the case may be. The governing board, trustees, board of directors, or regents, as the case may be, shall, upon collection of that information from all of the campuses within their jurisdiction, make a report containing a compilation of that information available to the general public on the internet website of each respective institution. It is the intent of the Legislature that the governing board of each community college district,

the Trustees of the California State University, the Board of Directors of the Hastings College of the Law, the Regents of the University of California, and the governing board of any postsecondary educational institution receiving public funds for student financial assistance establish guidelines for identifying and reporting occurrences of hate violence. It is the intent of the Legislature that the guidelines established by these institutions of higher education be as consistent with each other as possible. These guidelines shall be developed in consultation with the Department of Fair Employment and Housing and the California Association of Human Relations Organizations.

(6) (A) Notwithstanding Article 1 (commencing with Section 7923.600) of Chapter 1 of Part 5 of Division 10 of Title 1 of the Government Code, require any report made by a victim or an employee pursuant to Section 67383 of a Part 1 violent crime, sexual assault, or hate crime, as described in Section 422.55 of the Penal Code, received by a campus security authority and made by the victim for purposes of notifying the institution or law enforcement, to be immediately, or as soon as practicably possible, disclosed to the local law enforcement agency with which the institution has a written agreement pursuant to Section 67381 without identifying the victim, unless the victim consents to being identified after the victim has been informed of the victim's right to have the victim's personally identifying information withheld. If the victim does not consent to being identified, the alleged assailant shall not be identified in the information disclosed to the local law enforcement agency, unless the institution determines both of the following, in which case the institution shall disclose the identity of the alleged assailant to the local law enforcement agency and shall immediately inform the victim of that disclosure:

(i) The alleged assailant represents a serious or ongoing threat to the safety of students, employees, or the institution.

(ii) The immediate assistance of the local law enforcement agency is necessary to contact or detain the assailant.

(B) The requirements of this paragraph shall not constitute a waiver of, or exception to, any law providing for the confidentiality of information.

(C) This paragraph applies only as a condition for participation in the Cal Grant Program established pursuant to Chapter 1.7 (commencing with Section 69430) of Part 42.

(b) Any person who is refused information required to be made available pursuant to subparagraph (A) of paragraph (1) of subdivision (a) may maintain a civil action for damages against any institution that refuses to provide the information, and the court shall award that person an amount not to exceed one thousand dollars ($1,000) if the court finds that the institution refused to provide the information.

(c) For purposes of this section:

(1) "Hate violence" means any act of physical intimidation or physical harassment, physical force or physical violence, or the threat of physical force or physical violence, that is directed against any person or group of persons, or the property of any person or group of persons because of the

ethnicity, race, national origin, religion, sex, sexual orientation, gender identity, gender expression, disability, or political or religious beliefs of that person or group.

(2) "Part 1 violent crime" means willful homicide, forcible rape, robbery, or aggravated assault, as defined in the Uniform Crime Reporting Handbook of the Federal Bureau of Investigation.

(3) "Sexual assault" includes, but is not limited to, rape, forced sodomy, forced oral copulation, rape by a foreign object, sexual battery, or the threat of any of these.

(d) This section does not apply to the governing board of a private postsecondary educational institution receiving funds for student financial assistance with a full-time enrollment of less than 1,000 students.

(e) This section shall apply to a campus of one of the public postsecondary educational systems identified in subdivision (a) only if that campus has a full-time equivalent enrollment of more than 1,000 students.

(f) Notwithstanding any other provision of this section, this section shall not apply to the California Community Colleges unless and until the Legislature makes funds available to the California Community Colleges for the purposes of this section.

SEC. 75. Section 67383 of the Education Code is amended to read:

67383. (a) As a condition for participation in the Cal Grant Program established pursuant to Chapter 1.7 (commencing with Section 96430) of Part 42, the governing board of each community college district, the Trustees of the California State University, the Regents of the University of California, and the governing board of each private and independent postsecondary institution shall, on or before July 1, 2015, adopt and implement written policies and procedures to ensure that any report of a Part 1 violent crime, sexual assault, or hate crime, committed on or off campus, received by a campus security authority, as defined pursuant to Section 668.46 of Title 34 of the Code of Federal Regulations, as that section existed on May 15, 2014, and made by the victim for purposes of notifying the institution or law enforcement, is immediately, or as soon as practicably possible, forwarded to the appropriate law enforcement agency.

(b) Notwithstanding Article 1 (commencing with Section 7923.600) of Chapter 1 of Part 5 of Division 10 of Title 1 of the Government Code, the report shall be forwarded to the appropriate law enforcement agency without identifying the victim, unless the victim consents to being identified after the victim has been informed of the victim's right to have the victim's personally identifying information withheld.

(c) For purposes of this section, the appropriate law enforcement agency shall be a campus law enforcement agency if one has been established on the campus where the report was made. If no campus law enforcement agency has been established, the report shall be immediately, or as soon as practicably possible, forwarded to a local law enforcement agency.

(d) For purposes of this section:

(1) "Hate crime" means any offense as described in Section 422.55 of the Penal Code.

(2) "Local law enforcement agency" means a city or county law enforcement agency with operational responsibilities for police services in the community in which a campus is located.

(3) "On or off campus" means the campus and any noncampus building or property as defined in Section 668.46 of Title 34 of the Code of Federal Regulations, as that section existed on May 15, 2014.

(4) "Part 1 violent crime" means willful homicide, forcible rape, robbery, or aggravated assault, as defined in the Uniform Crime Reporting Handbook of the Federal Bureau of Investigation.

(5) "Sexual assault" includes, but is not limited to, rape, forced sodomy, forced oral copulation, rape by a foreign object, sexual battery, or the threat of any of these.

(e) The requirements of this section shall not constitute a waiver of, or exception to, any law providing for the confidentiality of information.

SEC. 76. Section 72695 of the Education Code is amended to read:

72695. Nothing in this article shall require an auxiliary organization to disclose information that is exempt from disclosure pursuant to an exemption set forth in Section 7922.000 of the Government Code or in any provision listed in Section 7920.505 of the Government Code.

SEC. 77. Section 72696 of the Education Code is amended to read:

72696. (a) Notwithstanding any other law, the following records maintained by an auxiliary organization shall not be subject to disclosure:

(1) Information that would disclose the identity of a donor, prospective donor, or volunteer.

(2) Personal financial information, estate planning information, and gift planning information of a donor, prospective donor, or volunteer.

(3) Personal information related to a donor's private trusts or a donor's private annuities administered by an auxiliary organization.

(4) Information related to fundraising plans, fundraising research, and solicitation strategies to the extent that these activities are not already protected under Section 99040, Title 5 (commencing with Section 3426) of Part 1 of Division 4 of the Civil Code, Section 1060 of the Evidence Code, or Section 7927.705 of the Government Code.

(5) The identity of students and alumni to the extent that this information is already protected under state and federal statutes applicable to the California Community Colleges. This paragraph shall not apply to a part-time or full-time employee of the auxiliary organization, or to a student who participates in a legislative body of a student body organization that operates on a campus of a California community college.

(b) Subdivision (a) shall not be construed to exempt from disclosure records that contain information regarding any of the following:

(1) The amount and date of a donation.

(2) Any donor-designated use or purpose of a donation.

(3) Any other donor-imposed restrictions on the use of a donation.

(4) (A) The identity of a donor who, in any fiscal year, makes a gift or gifts, in a quid pro quo arrangement, where either the value of the benefit received is in excess of two thousand five hundred dollars ($2,500) or the

benefit would be impermissible under state or federal law. In these circumstances, records pertaining to the gift or gifts maintained by an auxiliary organization that would otherwise be exempt from disclosure under subdivision (a) shall be disclosed.

(B) Annually, on January 1, the monetary threshold set forth in subparagraph (A) shall be adjusted upward or downward to reflect the percentage change in the Consumer Price Index, as calculated by the United States Bureau of Labor Statistics, rounded off to the nearest one thousand dollars ($1,000).

(5) Self-dealing transactions, including, but not limited to, loans of money or property, or material financial interests of or between auxiliary officers or directors and an auxiliary organization, as set forth in Sections 5233 and 5236 of the Corporations Code. In these circumstances, records pertaining to the self-dealing transactions maintained by an auxiliary organization that would otherwise be exempt from disclosure under subdivision (a) shall be disclosed.

(6) Any instance in which a volunteer or donor of a gift is awarded, within five years of the date of the service or gift, a contract from the university or auxiliary organization that was not subject to competitive bidding. In these circumstances, records pertaining to the service or gift maintained by an auxiliary organization that would otherwise be exempt from disclosure under paragraph (1) of subdivision (a) shall be disclosed.

SEC. 78. Section 72701 of the Education Code is amended to read:

72701. This article shall not apply to any records subject to a request made pursuant to the California Public Records Act, as set forth in Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code.

SEC. 79. Section 76060.5 of the Education Code is amended to read:

76060.5. (a) If a student body association has been established at a community college as authorized by Section 76060, a student representation fee of two dollars ($2) shall be collected by the officials of the community college, together with all other fees, at the time of registration or before registration and shall be deposited in a separate fiduciary fund established per the California Community Colleges Budget and Accounting Manual for student representation fees. The money collected pursuant to this section shall be expended to provide support for governmental affairs representatives of local or statewide student body organizations who may be stating their positions and viewpoints before city, county, and district governments, and before offices and agencies of state government.

(b) (1) One dollar ($1) of every two-dollar ($2) fee collected shall be expended to establish and support the operations of a statewide community college student organization, recognized by the Board of Governors of the California Community Colleges, with effective student representation and participation in state-level community college shared governance and with governmental affairs representatives to advocate before the Legislature and other state and local governmental entities.

(2) The underlying goals of a statewide community college student organization shall include, but are not limited to, all of the following:

(A) Establishing a sustainable foundation for statewide community college student representation and advocacy.

(B) Promoting institutional and organizational memory.

(C) Ensuring and maintaining responsible community college student organizational oversight and decisionmaking.

(D) Strengthening regional approaches for community college student representation and coordination.

(E) Promoting and enhancing student opportunities for engagement in community college student issues and affairs.

(F) Providing for open and public transparency and accountability.

(G) Supporting student participation and engagement in statewide higher education policy and advocacy activities.

(c) Fees collected pursuant to subdivision (b) shall be annually distributed to the Board of Governors before February 1. The Board of Governors shall have custody of the moneys and shall, each year by April 15, distribute the moneys to the recognized statewide community college student organization if the recognized statewide community college student organization satisfies all of the following:

(1) Is established as a legal entity registered with the Secretary of State.

(2) Demonstrates compliance with all applicable state and federal laws and reporting requirements.

(3) Exercises prudent fiscal management by establishing generally accepted accounting controls and procedures.

(4) (A) Commencing after the first year it receives funding pursuant to this subdivision, completes an annual independent financial audit, the results of which shall be annually provided to the Board of Governors for review.

(B) (i) Except as provided in clause (ii) and after the first year funding is received, it shall be a condition for funding pursuant to this subdivision that the results of the annual audit identify no significant audit findings.

(ii) In no event shall funds be withheld from the statewide community college student organization unless the statewide community college student organization fails to address and correct any identified exceptions, concerns, errors, or deficiencies contained in the annual audit after being given a reasonable opportunity to do so.

(5) Meets the obligations and addresses the goals described in subdivision (b).

(d) Meetings of the recognized statewide community college student organization shall be open to the public and shall comply with the requirements of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) and the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

(e) (1) The chief fiscal officer of the community college shall have custody of the money collected pursuant to this section, except as provided in subdivision (c), and the money shall be disbursed for the purposes described in subdivision (a) upon the order of the governing body of the student body association.

(2) The community college district shall annually prepare a summary of all revenue collected from the student representation fee and the expenditures of the proceeds of the student representation fee. The summary shall include the amount distributed to the Board of Governors of the California Community Colleges each year. The summary shall be presented at the community college district board meeting each year and posted to the community college district internet website.

(3) The community college district may retain a portion of the fees collected and deposited pursuant to this section that is equal to the actual cost of administering these fees up to, but not more than, 7 percent.

(f) A student may refuse to pay the student representation fee established under this section. The community college shall provide the student a means to refuse to pay the student representation fee on the same form that is used for collection of fees, which, as determined by the community college, shall be as nearly as practical in the same form as a model form prescribed by regulations of the Board of Governors of the California Community Colleges.

(g) Any costs incurred by the Office of the Chancellor of the California Community Colleges to implement subdivisions (b) and (c) shall be reimbursed by the statewide community college student organization.

(h) If no statewide community college student organization that qualifies for funding in accordance with this section is recognized by the Board of Governors, the funds collected pursuant to this section shall be held by the Office of the Chancellor of the California Community Colleges until a qualifying statewide community college student organization is recognized, or shall be returned to the source of funds.

SEC. 80. Section 87102 of the Education Code is amended to read:

87102. (a) As a condition for the receipt of funds pursuant to Section 87107, the governing board of the community college district that opts to participate under the article shall periodically submit to the board of governors an affirmation of compliance with this article. Each participating district's equal employment opportunity program shall ensure participation in, and commitment to, the program by district personnel. Each participating district's equal employment opportunity plan shall include steps that the district will take in eliminating improper discrimination or preferences in its hiring and employment practices. Each plan shall address how the district will make progress in achieving the ratio of full-time to part-time faculty hiring, as indicated in Section 87482.6, while still ensuring equal employment opportunity.

(b) Each participating district's equal employment opportunity plan is a public record within the meaning of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

SEC. 81. Section 89307 of the Education Code is amended to read:

89307. (a) Any legislative body may hold a closed session under any of the following circumstances:

(1) A closed session with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the student body organization

to grant authority to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease. Prior to the closed session, the legislative body shall hold an open and public session in which it identifies its negotiators, the real property or real properties that the negotiations may concern, and the person or persons with whom its negotiators may negotiate.

(2) For purposes of this subdivision:

(A) A negotiator may be a member of the legislative body.

(B) "Lease" includes renewal or renegotiation of a lease.

(b) (1) Based on advice of its legal counsel, holding a closed session to confer with, or receive advice from, its legal counsel regarding a liability claim or pending litigation when discussion in open session concerning the matter would prejudice the position of the student body organization in the litigation.

(2) For purposes of this subdivision, all applications of the lawyer-client privilege other than those provided in this section are hereby abrogated. This section is the exclusive expression of the lawyer-client privilege for purposes of conducting closed-session meetings pursuant to this article.

(3) For purposes of this subdivision, "litigation" means any adjudicatory proceeding, including, but not limited to, eminent domain, court proceeding, or a proceeding of an administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

(4) For purposes of this subdivision, litigation shall be considered pending when any of the following circumstances exist:

(A) Litigation, to which the student body organization is a party, has been initiated formally.

(B) A point has been reached where, in the opinion of the legislative body on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the student body organization.

(C) Based on existing facts and circumstances, the legislative body is meeting only to decide whether a closed session is authorized pursuant to subparagraph (B).

(D) Based on existing facts and circumstances, the legislative body has decided to initiate, or is deciding whether to initiate, litigation.

(5) For purposes of subparagraphs (B), (C), and (D) of paragraph (4), "existing facts and circumstances" shall consist only of one of the following:

(A) Facts and circumstances that might result in litigation against the student body organization, but which the organization believes are not yet known to a potential plaintiff or plaintiffs, which facts and circumstances need not be disclosed.

(B) Facts and circumstances, including, but not necessarily limited to, an accident, disaster, incident, or transactional occurrence, that might result in litigation against the student body organization and that are known to a potential plaintiff or plaintiffs, which facts or circumstances shall be publicly stated on the agenda or announced.

(C) The receipt of a claim pursuant to the Government Claims Act (Division 3.6 (commencing with Section 810) of Title 1 of the Government

Code) or some other written communication from a potential plaintiff threatening litigation.

(D) A statement made by a person in an open and public meeting threatening litigation on a specific matter within the responsibility of the legislative body.

(E) A statement threatening litigation made by a person outside an open and public meeting on a specific matter within the responsibility of the legislative body, so long as the official or employee of the student body organization receiving knowledge of the threat makes a contemporaneous or other record of the statement prior to the meeting. The records so created need not identify the alleged victim of unlawful or tortious sexual conduct or anyone making the threat on their behalf, or identify a public employee who is the alleged perpetrator of any unlawful or tortious conduct upon which a threat of litigation is based, unless the identity of the person has been publicly disclosed.

(6) Nothing in this section shall require disclosure of written communications that are privileged and not subject to disclosure pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(7) Prior to holding a closed session pursuant to this section, the legislative body shall state on the agenda or publicly announce and identify the provision of this section that authorizes the closed session. If the session is closed pursuant to paragraph (1), the legislative body shall state the title of or otherwise specifically identify the litigation to be discussed, unless the legislative body states that to do so would jeopardize the ability of the student body organization to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

(8) For purposes of this subdivision, a student body organization shall be considered to be a "party" or to have a "significant exposure to litigation" if an officer or employee of the student body organization is a party or has significant exposure to litigation concerning prior or prospective activities or alleged activities during the course and scope of that office or employment, including litigation in which it is an issue whether an activity is outside the course and scope of the office or employment.

(c) (1) Nothing contained in this section shall be construed to prevent a legislative body from holding closed sessions with the Attorney General, district attorney, sheriff, or chief of police, or their respective deputies, on matters posing a threat to the security of public buildings or a threat to the public's right of access to public services or public facilities, or from holding closed sessions during a regular or special meeting to consider the appointment, employment, evaluation of performance, discipline, or dismissal of an employee of the student body organization or to hear complaints or charges brought against the employee by another person or employee unless the employee requests a public session.

(2) As a condition to holding a closed session on specific complaints or charges brought against an employee by another person or employee, the

employee shall be given written notice of the employee's right to have the complaints or charges heard in an open session rather than a closed session, which notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding the session. If notice is not given, any disciplinary or other action taken by the legislative body against the employee based on the specific complaints or charges in the closed session shall be null and void.

(3) A legislative body also may exclude from the public or closed meeting, during the examination of a witness, any or all other witnesses in the matter being investigated by the legislative body.

(4) For the purposes of this subdivision, the term "employee" shall include an officer or an independent contractor who functions as an officer or an employee of the student body organization, but shall not include any elected official, member of a legislative body, or other independent contractor. Closed sessions held pursuant to this section shall not include discussion or action on proposed compensation except for a reduction of compensation that results from the imposition of discipline.

(d) (1) A legislative body shall publicly report any action taken in closed session and the vote or abstention of every member present thereon, as follows:

(A) Approval of an agreement concluding real property negotiations pursuant to subdivision (a) shall be reported after the agreement is final, as follows:

(i) If its own approval renders the agreement final, the legislative body board or subboard shall report that approval and the substance of the agreement in open session at the public meeting during which the closed session is held.

(ii) If final approval rests with the other party to the negotiations, the legislative body shall disclose the fact of that approval and the substance of the agreement upon inquiry by any person, as soon as the other party or its agent has informed the legislative body of its approval.

(B) Approval given to its legal counsel to defend, or seek or refrain from seeking appellate review or relief, or to enter as an amicus curiae in any form of litigation, as the result of a consultation under subdivision (b) shall be reported in open session at the public meeting during which the closed session is held. The report shall identify, if known, the adverse party or parties and the substance of the litigation. In the case of approval given to initiate or intervene in an action, the announcement need not identify the action, the defendants, or other particulars, but shall specify that the direction to initiate or intervene in an action has been given and that the action, the defendants, and the other particulars shall, once formally commenced, be disclosed to any person upon inquiry, unless to do so would jeopardize the ability of the student body organization to effectuate service of process on one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

(C) Approval given to its legal counsel of a settlement of pending litigation, as defined in subdivision (b), at any stage prior to or during a

judicial or quasi-judicial proceeding shall be reported after the settlement is final, as follows:

(i) If a legislative body accepts a settlement offer signed by the opposing party, the legislative body shall report its acceptance and identify the substance of the agreement in open session at the public meeting during which the closed session is held.

(ii) If final approval rests with some other party to the litigation or with the court, then, as soon as the settlement becomes final, and upon inquiry by any person, the legislative body shall disclose the fact of that approval and identify the substance of the agreement.

(D) Action taken to appoint, employ, dismiss, accept the resignation of, or otherwise affect the employment status of an employee of the employee organization in closed session pursuant to subdivision (c) shall be reported at the public meeting during which the closed session is held. Any report required by this subparagraph shall identify the title of the employee's position. Notwithstanding the general requirement of this subparagraph, the report of a dismissal or of the nonrenewal of an employment contract shall be deferred until the first public meeting following the exhaustion of administrative remedies, if any.

(E) Approval of an agreement concluding labor negotiations with represented employees pursuant to subdivision (e) shall be reported after the agreement is final and has been accepted or ratified by the other party. The report shall identify the item approved and the other party or parties to the negotiation.

(2) Reports that are required to be made pursuant to this subdivision may be made orally or in writing. A legislative body shall provide to any person who has submitted a written request to the legislative body within 24 hours of the posting of the agenda, or to any person who has made a standing request for all documentation as part of a request for notice of meetings pursuant to Section 89306.5, if the requester is present at the time the closed session ends, copies of any contracts, settlement agreements, or other documents that were finally approved or adopted in the closed session. If the action taken results in one or more substantive amendments to the related documents requiring retyping, the documents need not be released until the retyping is completed during normal business hours, provided that the presiding officer of the legislative body, or the presiding officer's designee, orally summarizes the substance of the amendments for the benefit of the document requester or any other person present and requesting the information.

(3) The documentation referred to in paragraph (2) shall be available to any person on the next business day following the meeting in which the action referred to is taken or, in the case of substantial amendments, when any necessary retyping is complete.

(4) Nothing in this subdivision shall be construed to require that a legislative body approve actions not otherwise subject to the approval of that legislative body.

(5) No action for injury to a reputational, liberty, or other personal interest may be commenced by or on behalf of any employee or former employee with respect to whom a disclosure is made by a legislative body in an effort to comply with this subdivision.

(e) (1) Notwithstanding any other provision of law, a legislative body may hold closed sessions with the designated representative of the student body organization regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits of its represented and unrepresented employees, and, for represented employees, any other matter within the statutorily provided scope of representation. However, prior to the closed session, the legislative body shall hold an open and public session in which it identifies its designated representatives.

(2) (A) Closed sessions of a legislative body, as permitted in this subdivision, shall be for the purpose of reviewing its position and instructing the designated representative of the student body organization.

(B) Closed sessions, as permitted in this subdivision, may take place prior to and during consultations and discussions with representatives of employee organizations and unrepresented employees.

(C) Closed sessions with the designated representative of the student body organization regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits may include discussion of the available funds and funding priorities of the student body organization, but only insofar as these discussions relate to providing instructions to the designated representative of the student body organization.

(D) Closed sessions held pursuant to this subdivision shall not include final action on the proposed compensation of one or more unrepresented employees.

(E) For the purposes enumerated in this subdivision, a legislative body may also meet with a state conciliator who has intervened in the proceedings.

(3) For the purposes of this subdivision, the term "employee" includes an officer or an independent contractor who functions as an officer or an employee of the student body organization, but shall not include any elected official, member of a legislative body, or other independent contractors.

(f) (1) Prior to holding any closed session, the legislative body shall disclose, in an open meeting, the item or items to be discussed in the closed session. The disclosure may take the form of a reference to the item or items as they are listed by number or letter on the agenda. In the closed session, the legislative body may consider only those matters covered in its statement. Nothing in this subdivision shall require or authorize a disclosure of information prohibited by state or federal law.

(2) After any closed session, the legislative body shall reconvene into open session prior to adjournment, and shall make any disclosures required by subdivision (d) of action taken in the closed session.

(3) The disclosure required to be made in open session pursuant to this subdivision may be made at the location announced in the agenda for the closed session, as long as the public is allowed to be present at that location for the purpose of hearing the announcements.

SEC. 82. Section 89573 of the Education Code is amended to read:

89573. (a) Upon receiving a protected disclosure in writing, the administrator designated in accordance with established procedures of the California State University shall acknowledge receipt of the written disclosure to the complainant. The administrator may conduct or cause to be conducted an investigative audit of the matter, and determine what action, if any, is necessary.

(b) The administrator shall issue a formal response to the complainant that contains a summary of the allegations, a summary of the investigation, whether the allegations were substantiated, and what actions, if any, were taken in response to the complaint. This response shall be issued in a timely fashion and in a manner that is consistent with the privacy interests of each person who is involved in the situation addressed by the response. This response shall be subject to disclosure in accordance with Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code.

(c) The identity of the person providing the protected disclosure shall not be disclosed without the written permission of that person unless the disclosure is to a law enforcement agency that is conducting a criminal investigation or to the State Auditor.

SEC. 83. Section 89574 of the Education Code is amended to read:

89574. (a) Notwithstanding Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code, every investigative audit undertaken under this article shall be kept confidential, except that the California State University may issue any report of an investigation that has substantiated an allegation made by the complainant, keeping confidential the identity of the individual or individuals involved, or release any findings resulting from an investigation conducted pursuant to Section 89045 that the trustees deem necessary to serve the interests of the state.

(b) This article shall not be construed to limit any authority conferred by law upon the Attorney General or any other department or agency of government to investigate any matter.

SEC. 84. Section 89915.5 of the Education Code is amended to read:

89915.5. Nothing in this article shall require an auxiliary organization to disclose information that is exempt from disclosure pursuant to an exemption set forth in Section 7922.000 of the Government Code or in any provision listed in Section 7920.505 of the Government Code.

SEC. 85. Section 89916 of the Education Code is amended to read:

89916. (a) Notwithstanding any other law, the following records maintained by an auxiliary organization shall not be subject to disclosure:

(1) Information that would disclose the identity of a donor, prospective donor, or volunteer.

(2) Personal financial information, estate planning information, and gift planning information of a donor, prospective donor, or volunteer.

(3) Personal information related to a donor's private trusts or a donor's private annuities administered by an auxiliary organization.

(4) Information related to fundraising plans, fundraising research, and solicitation strategies to the extent that these activities are not already

protected under Section 99040, Title 5 (commencing with Section 3426) of Part 1 of Division 4 of the Civil Code, Section 1060 of the Evidence Code, or Section 7927.705 of the Government Code.

(5) The identity of students and alumni to the extent that this information is already protected under state and federal statutes applicable to the California State University. This paragraph shall not apply to a part-time or full-time employee of the auxiliary organization, or to a student who participates in a legislative body of a student body organization as defined in Section 89305.1.

(b) Subdivision (a) shall not be construed to exempt from disclosure records that contain information regarding any of the following:

(1) The amount and date of a donation.

(2) Any donor-designated use or purpose of a donation.

(3) Any other donor-imposed restrictions on the use of a donation.

(4) (A) The identity of a donor who, in any fiscal year, makes a gift or gifts, in a quid pro quo arrangement, where either the value of the benefit received is in excess of two thousand five hundred dollars ($2,500) or the benefit would be impermissible under state or federal law. In these circumstances, records pertaining to the gift or gifts maintained by an auxiliary organization that would otherwise be exempt from disclosure under subdivision (a) shall be disclosed.

(B) Annually, on January 1, the monetary threshold set forth in subparagraph (A) shall be adjusted upward or downward to reflect the percentage change in the Consumer Price Index, as calculated by the United States Bureau of Labor Statistics, rounded off to the nearest one thousand dollars ($1,000).

(5) Self-dealing transactions, including, but not limited to, loans of money or property, or material financial interests of or between auxiliary officers or directors and an auxiliary organization, as set forth in Sections 5233 and 5236 of the Corporations Code. In these circumstances, records pertaining to the self-dealing transactions maintained by an auxiliary organization that would otherwise be exempt from disclosure under subdivision (a) shall be disclosed.

(6) Any instance in which a volunteer or donor of a gift is awarded, within five years of the date of the service or gift, a contract from the university or auxiliary organization that was not subject to competitive bidding. In these circumstances, records pertaining to the service or gift maintained by an auxiliary organization that would otherwise be exempt from disclosure under paragraph (1) of subdivision (a) shall be disclosed.

SEC. 86. Section 89919 of the Education Code is amended to read:

89919. This article shall not apply to any records subject to a request made pursuant to the California Public Records Act, as set forth in Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code.

SEC. 87. Section 92955 of the Education Code is amended to read:

92955. Nothing in this chapter shall require a UC campus foundation to disclose information that is exempt from disclosure pursuant to an

exemption set forth in Section 7922.000 of the Government Code or in any provision listed in Section 7920.505 of the Government Code.

SEC. 88. Section 92956 of the Education Code is amended to read:

92956. (a) Notwithstanding any other law, the following records maintained by a UC campus foundation shall not be subject to disclosure:

(1) Information that would disclose the identity of a donor, prospective donor, or volunteer.

(2) Personal financial information, estate planning information, and gift planning information of a donor, prospective donor, or volunteer.

(3) Personal information related to any of a donor's private trusts or a donor's private annuities administered by a UC campus foundation.

(4) Information related to fundraising plans, fundraising research, and solicitation strategies to the extent that these activities are not already protected under Section 99040, Title 5 (commencing with Section 3426) of Part 1 of Division 4 of the Civil Code, Section 1060 of the Evidence Code, or Section 7927.705 of the Government Code.

(5) The identity of students and alumni to the extent that this information is already protected under state and federal statutes applicable to the University of California. This paragraph shall not apply to a part-time or full-time employee of the UC campus foundation, or to a student who participates in a legislative body of a student body organization on a University of California campus.

(b) Subdivision (a) shall not be construed to exempt from disclosure records that contain information regarding any of the following:

(1) The amount and date of a donation.

(2) Any donor-designated use or purpose of a donation.

(3) Any other donor-imposed restrictions on the use of a donation.

(4) (A) The identity of a donor who, in any fiscal year, makes a gift or gifts, in a quid pro quo arrangement, where either the value of the benefit received is in excess of two thousand five hundred dollars ($2,500) or the benefit would be impermissible under state or federal law. In these circumstances, records pertaining to the gift or gifts maintained by a UC campus foundation that would otherwise be exempt from disclosure under subdivision (a) shall be disclosed.

(B) Annually, on January 1, the monetary threshold set forth in subparagraph (A) shall be adjusted upward or downward to reflect the percentage change in the Consumer Price Index, as calculated by the United States Bureau of Labor Statistics, rounded off to the nearest one thousand dollars ($1,000).

(5) Self-dealing transactions, including, but not limited to, loans of money or property, or material financial interests of or between foundation officers or directors and a UC campus foundation, as set forth in Sections 5233 and 5236 of the Corporations Code. In these circumstances, records pertaining to the self-dealing transactions maintained by a UC campus foundation that would otherwise be exempt from disclosure under subdivision (a) shall be disclosed.

(6) Any instance in which a volunteer or donor of a gift is awarded, within five years of the date of the service or gift, a contract from the university or UC campus foundation that was not subject to competitive bidding. In these circumstances, records pertaining to the service or gift maintained by the UC campus foundation that would otherwise be exempt from disclosure under paragraph (1) of subdivision (a) shall be disclosed.

SEC. 89. Section 92961 of the Education Code is amended to read:

92961. This chapter shall not apply to records subject to any request made pursuant to the California Public Records Act, as set forth in Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code.

SEC. 90. Section 99162 of the Education Code is amended to read:

99162. Any information or report required to be submitted to the appropriate state agency or made publicly available on the test sponsor's internet website pursuant to this chapter shall be public record subject to disclosure under the provisions of Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code.

Nothing in this section shall be construed to diminish or authorize the infringement of any rights protected by law relating to copyright, to the protection of trade secrets, or other proprietary rights.

SEC. 91. Section 2166.7 of the Elections Code is amended to read:

2166.7. (a) If authorized by the county board of supervisors, a county elections official shall, upon application of a public safety officer, make confidential that officer's residence address, telephone number, and email address appearing on the affidavit of registration, in accordance with the terms and conditions of this section.

(b) The application by the public safety officer shall contain a statement, signed under penalty of perjury, that the person is a public safety officer as defined in subdivision (f) and that a life-threatening circumstance exists to the officer or a member of the officer's family. The application shall be a public record.

(c) The confidentiality granted pursuant to subdivision (a) shall terminate no more than two years after commencement, as determined by the county elections official. The officer may submit a new application for confidentiality pursuant to subdivision (a), and the new request may be granted for an additional period of not more than two years.

(d) Any person granted confidential voter status under subdivision (a) shall:

(1) Provide a valid mailing address and be considered a vote by mail voter for all subsequent elections or until the county elections official is notified otherwise by the Secretary of State or in writing by the voter. A voter requesting termination of vote by mail status thereby consents to placement of the voter's residence address, telephone number, and email address in the roster of voters.

(2) The elections official, in producing any list, roster, or index, shall exclude voters with a confidential voter status.

(3) Within 60 days of moving to a new county, if available in the new county, apply for confidential voter status pursuant to subdivision (a). The

elections official of the new county, upon notice of the confidential voter moving into the county, shall do all of the following:

(A) Contact the confidential voter and provide information regarding the application for confidential voter status in the new county.

(B) Honor the confidential voter status from the former county for 60 days from the date of notice.

(C) Pursuant to paragraph (2) of subdivision (b), exclude the confidential voter in any list, roster, or index during the 60-day period.

(D) Remove the confidential voter status if the new voter has not obtained or cannot obtain confidential voter status pursuant to this section in the new county during the 60-day period.

(e) No action in negligence may be maintained against any government entity or officer or employee thereof as a result of the disclosure of the information that is the subject of this section unless by a showing of gross negligence or willfulness.

(f) "A public safety officer" has the same meaning as defined in subdivision (a), (d), (e), (f), or (j) of Section 7920.535 of the Government Code.

SEC. 92. Section 2194 of the Elections Code is amended to read:

2194. (a) Except as provided in Section 2194.1, the affidavit of voter registration information identified in Section 7924.000 of the Government Code:

(1) Shall be confidential and shall not appear on any computer terminal, list, affidavit, duplicate affidavit, or other medium routinely available to the public at the county elections official's office.

(2) Shall not be used for any personal, private, or commercial purpose, including, but not limited to:

(A) The harassment of any voter or voter's household.

(B) The advertising, solicitation, sale, or marketing of products or services to any voter or voter's household.

(C) Reproduction in print, broadcast visual or audio, or display on the internet or any computer terminal unless pursuant to paragraph (3).

(3) Shall be provided with respect to any voter, subject to the provisions of Sections 2166, 2166.5, 2166.7, and 2188, to any candidate for federal, state, or local office, to any committee for or against any initiative or referendum measure for which legal publication is made, and to any person for election, scholarly, journalistic, or political purposes, or for governmental purposes, as determined by the Secretary of State.

(4) May be used by the Secretary of State for the purpose of educating voters pursuant to Section 12173 of the Government Code.

(b) (1) Notwithstanding any other law, the California driver's license number, the California identification card number, the social security number, and any other unique identifier used by the State of California for purposes of voter identification shown on the affidavit of voter registration of a registered voter, or added to voter registration records to comply with the requirements of the federal Help America Vote Act of 2002 (52 U.S.C. Sec. 20901 et seq.), are confidential and shall not be disclosed to any person.

(2) Notwithstanding any other law, the signature of the voter shown on the affidavit of voter registration or an image thereof is confidential and shall not be disclosed to any person, except as provided in subdivision (c).

(c) (1) The home address or signature of any voter shall be released whenever the person's vote is challenged pursuant to Sections 15105 to 15108, inclusive, or Article 3 (commencing with Section 14240) of Chapter 3 of Division 14. The address or signature shall be released only to the challenger, to elections officials, and to other persons as necessary to make, defend against, or adjudicate the challenge.

(2) An elections official shall permit a person to view the signature of a voter for the purpose of determining whether the signature matches a signature on an affidavit of registration or an image thereof or a petition, but shall not permit a signature to be copied.

(d) A governmental entity, or officer or employee thereof, shall not be held civilly liable as a result of disclosure of the information referred to in this section, unless by a showing of gross negligence or willfulness.

(e) For the purposes of this section, "voter's household" is defined as the voter's place of residence or mailing address or any persons who reside at the place of residence or use the mailing address as supplied on the affidavit of registration pursuant to paragraphs (3) and (4) of subdivision (a) of Section 2150.

(f) Notwithstanding any other law, information regarding voters who did not sign a vote by mail ballot identification envelope or whose signature on the vote by mail ballot identification envelope did not match the voter's signature on file shall be treated as confidential voter registration information pursuant to this section and Section 7924.000 of the Government Code. This information shall not be disclosed to any person except as provided in this section. Any disclosure of this information shall be accompanied by a notice to the recipient regarding Sections 18109 and 18540. Voter information provided pursuant to this subdivision shall be updated daily, include the name of the voter, and be provided in a searchable electronic format.

SEC. 93. Section 2194.1 of the Elections Code is amended to read:

2194.1. Any affidavit of registration information identified in Section 7924.000 of the Government Code in existence 100 years after the creation of the record shall be available to the public. If records are contained in the great registers of voters and the bound register contains information covering more than one year, the records shall not be available to the public until the entire contents of the register have been recorded for at least 100 years.

SEC. 94. Section 2227 of the Elections Code is amended to read:

2227. (a) In lieu of mailing a residency confirmation postcard, as prescribed in subdivision (a) of Section 2220, the county elections official may contract with a consumer credit reporting agency or its licensees to obtain use of change-of-address data in accordance with this section.

(b) If the county elections official contracts with a consumer credit reporting agency or its licensees pursuant to subdivision (a), all of the following shall occur:

(1) For each registered voter in the county, the county elections official shall initiate a search for change-of-address data with the consumer credit reporting agency or its licensees by providing the name and residence address of each registered voter in the county to the consumer credit reporting agency or its licensees.

(2) The consumer credit reporting agency or its licensees shall search their databases for each name and address provided by the county elections official and shall report to the county elections official any information indicating that the registered voter changed the voter's residence address.

(c) (1) Notwithstanding Section 2194 of this code or Section 7924.000 of the Government Code, and except as provided in paragraph (2), a county elections official may disclose a registered voter's name and residence address to a consumer credit reporting agency or its licensees pursuant to, and in accordance with, this section.

(2) A county elections official shall not disclose to a consumer credit reporting agency or its licensees the name and residence address of a registered voter if that information is deemed confidential pursuant to Section 2166, 2166.5, or 2166.7 of this code, or Chapter 3.1 (commencing with Section 6205) of Division 7 of Title 1 of the Government Code.

(d) A consumer credit reporting agency or its licensees shall use the information provided by a county elections official only pursuant to paragraph (2) of subdivision (b), and shall not retain any information received from the county elections official pursuant to this section.

(e) Based on change-of-address data received from a consumer credit reporting agency or its licensees, the county elections official shall send a forwardable notice, including a postage-paid and preaddressed return form, which may be in the form of a postcard, to the registered voter to enable the voter to verify or correct address information. The forwardable notice shall be in substantially the following form:

"We have received notification that you have moved to a new residence address in ____ County. You will remain registered to vote at your old address unless you notify our office that the address to which this card was mailed is a change of your permanent residence. Please notify our office in writing by returning the attached postage-paid postcard. If this is not a permanent residence, and you do not wish to change your address for voting purposes, please disregard this notice."

(f) The county elections official shall take all of the following actions as appropriate:

(1) If a voter responds to the forwardable notice sent pursuant to subdivision (e) or otherwise verifies in a signed writing that the voter has moved to a new residence address in California, the county elections official shall verify the signature on the response by comparing it to the signature on file for the voter and, if appropriate, immediately update the voter's registration record with the new residence address.

(2) If a voter does not respond to the forwardable notice sent pursuant to subdivision (e) and does not otherwise verify in a signed writing that the voter has moved to a new residence address, the elections official shall not update the status of the voter's registration to inactive or cancel the voter registration.

(g) For purposes of this section, "consumer credit reporting agency" has the same meaning as set forth in subdivision (d) of Section 1785.3 of the Civil Code.

SEC. 95. Section 2267 of the Elections Code is amended to read:

2267. This chapter does not affect the confidentiality of a person's voter registration or preregistration information, which remains confidential pursuant to Section 2194 of this code and Section 7924.000 of the Government Code and for all of the following persons:

(a) A victim of domestic violence, sexual assault, or stalking pursuant to Section 2166.5.

(b) A reproductive health care service provider, employee, volunteer, or patient pursuant to Section 2166.5.

(c) A public safety officer pursuant to Section 2166.7.

(d) A person with a life-threatening circumstance upon court order pursuant to Section 2166.

SEC. 96. Section 9002 of the Elections Code is amended to read:

9002. (a) Upon receipt of a request from the proponents of a proposed initiative measure for a circulating title and summary, the Attorney General shall initiate a public review process for a period of 30 days by doing all of the following:

(1) Posting the text of the proposed initiative measure on the Attorney General's internet website.

(2) Inviting, and providing for the submission of, written public comments on the proposed initiative measure on the Attorney General's internet website. The site shall accept written public comments for the duration of the public review period. The written public comments shall be public records, available for inspection upon request pursuant to Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code, but shall not be displayed to the public on the Attorney General's internet website during the public review period. The Attorney General shall transmit any written public comments received during the public review period to the proponents of the proposed initiative measure.

(b) During the public review period, the proponents of the proposed initiative measure may submit amendments to the measure that are reasonably germane to the theme, purpose, or subject of the initiative measure as originally proposed. However, amendments shall not be submitted if the initiative measure as originally proposed would not effect a substantive change in law.

(1) An amendment shall be submitted with a signed request by all the proponents to prepare a circulating title and summary using the amended language.

(2) An amendment shall be submitted to the Attorney General's Initiative Coordinator located in the Attorney General's Sacramento Office via United States Postal Service, alternative mail service, or personal delivery. Only printed documents shall be accepted; facsimile or email delivery shall not be accepted.

(3) The submission of an amendment shall not extend the period to prepare the estimate required by Section 9005.

(4) An amendment shall not be accepted more than five days after the public review period is concluded. However, a proponent shall not be prohibited from proposing a new initiative measure and requesting that a circulating title and summary be prepared for that measure pursuant to Section 9001.

SEC. 97. Section 11301 of the Elections Code is amended to read:

11301. If a petition is found insufficient by the elections official or, in the case of the recall of a state officer, the Secretary of State, the petition signatures may be examined in accordance with Section Article 2 (commencing with Section 7924.100) of Chapter 2 of Part 5 of Division 10 of Title 1 of the Government Code.

SEC. 98. Section 13300.7 of the Elections Code is amended to read:

13300.7. Notwithstanding any other law, county and city elections officials may establish procedures designed to permit a voter to opt out of receiving the county voter information guide, state voter information guide, notice of polling place, and associated materials by mail, and instead obtain them electronically via email or by accessing them on the county's or city's internet website, if all of the following conditions are met:

(a) The procedures establish a method of providing notice of and an opportunity by which a voter can notify elections officials of the voter's desire to obtain ballot materials electronically in lieu of receiving them by mail.

(b) The voter email address or any other information provided by the voter under this section remains confidential pursuant to Section 7924.000 of the Government Code and Section 2194 of this code.

(c) The procedures provide notice and opportunity for a voter who has opted out of receiving a county voter information guide and other materials by mail to opt back into receiving them by mail.

(d) The procedures establish a process by which a voter can apply electronically to become a vote by mail voter.

(e) A voter may only opt out of, or opt back into, receiving the county voter information guide and other ballot materials by mail if the elections official receives the request and can process it before the statutory deadline for the mailing of those materials for the next election, pursuant to Section 13303. If a voter misses this deadline, the request shall take effect the following election.

(f) The procedures shall include a verification process to confirm the voter's identity, either in writing with a signature card that can be matched to the one on file with the elections official, or if the request is submitted

electronically, it shall contain the voter's California driver's license number, California identification number, or a partial social security number.

(g) Information made available over the internet pursuant to this section shall meet or exceed the most current, ratified standards under Section 508 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794d), as amended, and the Web Content Accessibility Guidelines 2.0 adopted by the World Wide Web Consortium for accessibility. Election officials may also implement recommendations of the Voting Accessibility Advisory Committee made pursuant to paragraph (4) of subdivision (b) of Section 2053, and of any local Voting Accessibility Advisory Committee created pursuant to the guidelines promulgated by the Secretary of State related to the accessibility of polling places by the physically handicapped.

SEC. 99. Section 13311 of the Elections Code is amended to read:

13311. Notwithstanding the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), the statements filed pursuant to Section 13307 shall remain confidential until the expiration of the filing deadline.

SEC. 100. Section 17200 of the Elections Code is amended to read:

17200. (a) Except as provided in subdivision (b), elections officials required by law to receive or file in their offices any initiative or referendum petition shall preserve the petition until eight months after the certification of the results of the election for which the petition qualified or, if the measure, for any reason, is not submitted to the voters, eight months after the final examination of the petition by the elections official.

(b) Thereafter, the petition shall be destroyed as soon as practicable unless any of the following conditions is satisfied:

(1) The petition is in evidence in some action or proceeding then pending.

(2) The elections official has received a written request from the Attorney General, the Secretary of State, the Fair Political Practices Commission, a district attorney, a grand jury, or the governing body of a county, city and county, or district, including a school district, that the petition be preserved for use in a pending or ongoing investigation into election irregularities, the subject of which relates to the petition's qualification or disqualification for placement on the ballot, or in a pending or ongoing investigation into a violation of the Political Reform Act of 1974 (Title 9 (commencing with Section 81000) of the Government Code).

(3) The proponents of the petition have commenced an examination pursuant to Article 2 (commencing with Section 7924.100) of Chapter 2 of Part 5 of Division 10 of Title 1 of the Government Code, in which case the petition shall be preserved until one year from the date that the proponents last examined the petition.

(c) If a petition subject to paragraph (3) of subdivision (b) is circulated in multiple counties, a county that performs an examination pursuant to this section shall inform the other counties in which the petition is circulated of the examination to facilitate compliance with that paragraph. If the petition is circulated statewide, the Secretary of State shall ensure compliance.

(d) Public access to the petition shall be restricted in accordance with Article 2 (commencing with Section 7924.100) of Chapter 2 of Part 5 of Division 10 of Title 1 of the Government Code.

(e) This section applies to the following petitions:

(1) Statewide initiative and referendum petitions.

(2) County initiative and referendum petitions.

(3) Municipal initiative and referendum petitions.

(4) Municipal city charter amendment petitions.

(5) District initiative and referendum petitions.

SEC. 101. Section 17400 of the Elections Code is amended to read:

17400. (a) The elections official or, in the case of the recall of a state officer, the Secretary of State, shall preserve in that person's office all recall petitions filed for eight months after the results of the election for which the petition qualified or, if no election is held, eight months after the elections official's final examination of the petition.

(b) Thereafter, the petition shall be destroyed as soon as practicable, unless it is in evidence in some action or proceeding then pending or unless the elections official has received a written request from the Attorney General, the Secretary of State, the Fair Political Practices Commission, a district attorney, a grand jury, or the governing body of a county, city and county, city, or district, including a school district, that the petition be preserved for use in a pending or ongoing investigation into election irregularities, or in a pending or ongoing investigation into a violation of the Political Reform Act of 1974 (Title 9 (commencing with Section 81000) of the Government Code).

(c) Public access to the petition shall be restricted in accordance with Article 2 (commencing with Section 7924.100) of Chapter 2 of Part 5 of Division 10 of Title 1 of the Government Code.

SEC. 102. Section 18109 of the Elections Code is amended to read:

18109. (a) It is a misdemeanor for a person in possession of information identified in Section 2138.5, or obtained pursuant to Article 5 (commencing with Section 2183) of Chapter 2 of Division 2 of this code or Section 7924.000 of the Government Code, knowingly to use or permit the use of all or any part of that information for any purpose other than as permitted by law.

(b) It is a misdemeanor for a person knowingly to acquire possession or use of voter registration information from the Secretary of State or a county elections official without first complying with Section 2188.

SEC. 103. Section 18650 of the Elections Code is amended to read:

18650. No one shall knowingly or willfully permit the list of signatures on an initiative, referendum, or recall petition to be used for any purpose other than qualification of the initiative or referendum measure or recall question for the ballot, except as provided in Article 2 (commencing with Section 7924.100) of Chapter 2 of Part 5 of Division 10 of Title 1 of the Government Code. Violation of this section is a misdemeanor.

SEC. 104. Section 23003 of the Elections Code is amended to read:

23003. (a) This section applies to hybrid redistricting commissions and independent redistricting commissions.

(b) Notwithstanding any other law, the local jurisdiction may prescribe the manner in which members are appointed to the commission, provided that the jurisdiction uses an application process open to all eligible residents and provided that the commissioners are not directly appointed by the legislative body or an elected official of the local jurisdiction.

(c) A person shall not be appointed to serve on the commission if the person or any family member of the person has been elected or appointed to, or been a candidate for, an elective office of the local jurisdiction in the eight years preceding the person's application.

(d) A person shall not be appointed to serve on the commission if either of the following applies:

(1) The person or the person's spouse has done any of the following in the eight years preceding the person's application:

(A) Served as an officer of, employee of, or paid consultant to, a campaign committee or a candidate for elective office of the local jurisdiction.

(B) Served as an officer of, employee of, or paid consultant to, a political party or as an elected or appointed member of a political party central committee.

(C) Served as a staff member or a consultant to, or who has contracted with, a currently serving elected officer of the local jurisdiction.

(D) Been registered to lobby the local jurisdiction.

(E) Contributed five hundred dollars ($500) or more in a year to any candidate for an elective office of the local jurisdiction. The local jurisdiction may adjust this amount by the cumulative change in the California Consumer Price Index, or its successor, in every year ending in zero.

(2) A family member of the person, other than the person's spouse, has done any of the following in the four years preceding the person's application:

(A) Served as an officer of, employee of, or paid consultant to, a campaign committee or a candidate for elective office of the local jurisdiction.

(B) Served as an officer of, employee of, or paid consultant to, a political party or as an elected or appointed member of a political party central committee.

(C) Served as a staff member of or consultant to, or has contracted with, a currently serving elected officer of the local jurisdiction.

(D) Been registered to lobby the local jurisdiction.

(E) Contributed five hundred dollars ($500) or more in a year to any candidate for an elective office of the local jurisdiction. The local jurisdiction may adjust this amount by the cumulative change in the California Consumer Price Index, or its successor, in every year ending in zero.

(e) A member of the commission shall not do any of the following:

(1) While serving on the commission, endorse, work for, volunteer for, or make a campaign contribution to, a candidate for an elective office of the local jurisdiction.

(2) Be a candidate for an elective office of the local jurisdiction if any of the following is true:

(A) Less than five years has elapsed since the date of the member's appointment to the commission.

(B) The election for that office will be conducted using district boundaries that were adopted by the commission on which the member served, and those district boundaries have not been subsequently readopted by a commission after the end of the member's term on the commission.

(C) The election for that office will be conducted using district boundaries that were adopted by a legislative body pursuant to a recommendation by the commission on which the member served, and those district boundaries have not been subsequently readopted by a legislative body pursuant to a recommendation by a commission after the end of the member's term on the commission.

(3) For four years commencing with the date of the person's appointment to the commission:

(A) Accept employment as a staff member of, or consultant to, an elected official or candidate for elective office of the local jurisdiction.

(B) Receive a noncompetitively bid contract with the local jurisdiction.

(C) Register as a lobbyist for the local jurisdiction.

(4) For two years commencing with the date of the person's appointment to the commission, accept an appointment to an office of the local jurisdiction.

(f) The commission shall not be comprised entirely of members who are registered to vote with the same political party preference.

(g) Each member of the commission shall be a designated employee in the conflict of interest code for the commission pursuant to Article 3 (commencing with Section 87300) of Chapter 7 of Title 9 of the Government Code.

(h) The commission is subject to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code) and the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(i) The commission shall be subject to the same redistricting deadlines, requirements, and restrictions that would otherwise apply to a legislative body. A local jurisdiction may also impose additional requirements and restrictions on the commission, on members of the commission, or on applicants to the commission in excess of those prescribed by this section.

(j) The commission shall publish a map of the proposed new district boundaries and make that map available to the public for at least seven days before that map may be adopted. The commission shall hold at least three public hearings preceding the hearing at which the new boundaries are adopted.

(k) The commission shall not draw districts for the purpose of favoring or discriminating against a political party or an incumbent or political candidate.

(*l*) District boundaries adopted by an independent redistricting commission or adopted by a legislative body from recommendations provided by a hybrid redistricting commission, shall not be altered by the legislative body or the commission until after the next federal decennial census occurs, unless those boundaries have been invalidated by a final judgment or order of a court of competent jurisdiction.

(m) For the purposes of subdivisions (c) and (d), "local jurisdiction" does not include a local jurisdiction that contracts with a county independent redistricting commission pursuant to Section 23004.

SEC. 105. Section 1157.7 of the Evidence Code is amended to read:

1157.7. The prohibition relating to discovery or testimony provided in Section 1157 shall be applicable to proceedings and records of any committee established by a local governmental agency to monitor, evaluate, and report on the necessity, quality, and level of specialty health services, including, but not limited to, trauma care services, provided by a general acute care hospital that has been designated or recognized by that governmental agency as qualified to render specialty health care services. The provisions of Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code and Chapter 9 (commencing with Section 54950) of Division 2 of Title 5 of the Government Code shall not be applicable to the committee records and proceedings.

SEC. 106. Section 17212 of the Family Code is amended to read:

17212. (a) It is the intent of the Legislature to protect individual rights of privacy, and to facilitate and enhance the effectiveness of the child and spousal support enforcement program, by ensuring the confidentiality of support enforcement and child abduction records, and to thereby encourage the full and frank disclosure of information relevant to all of the following:

(1) The establishment or maintenance of parent and child relationships and support obligations.

(2) The enforcement of the child support liability of absent parents.

(3) The enforcement of spousal support liability of the spouse or former spouse to the extent required by the state plan under Section 17604 and Part 6 (commencing with Section 5700.101) of Division 9.

(4) The location of absent parents.

(5) The location of parents and children abducted, concealed, or detained by them.

(b) (1) (A) Except as provided in subdivision (c), all files, applications, papers, documents, and records established or maintained by a public entity pursuant to the administration and implementation of the child and spousal support enforcement program established pursuant to Part D (commencing with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the United States Code and this division, shall be confidential, and shall not be open to examination or released for disclosure for any purpose not directly connected with the administration of the child and spousal support enforcement program. A public entity shall not disclose any file, application, paper, document, or record, or the information contained therein, except as expressly authorized by this section.

(B) For purposes of this section, "public entity" does not include the court. This subparagraph is declaratory of existing law.

(2) Information shall not be released or the whereabouts of one party or the child disclosed to another party, or to the attorney of any other party, if a protective order has been issued by a court or administrative agency with respect to the party, a good cause claim under Section 11477.04 of the Welfare and Institutions Code has been approved or is pending, or the public agency responsible for establishing paternity or enforcing support has reason to believe that the release of the information may result in physical or emotional harm to the party or the child. When a local child support agency is prohibited from releasing information pursuant to this subdivision, the information shall be omitted from any pleading or document to be submitted to the court and this subdivision shall be cited in the pleading or other document as the authority for the omission. The information shall be released only upon an order of the court pursuant to paragraph (6) of subdivision (c).

(3) Notwithstanding any other law, a proof of service filed by the local child support agency shall not disclose the address where service of process was accomplished. Instead, the local child support agency shall keep the address in its own records. The proof of service shall specify that the address is on record at the local child support agency and that the address may be released only upon an order from the court pursuant to paragraph (6) of subdivision (c). The local child support agency shall, upon request by a party served, release to that person the address where service was effected.

(c) Disclosure of the information described in subdivision (b) is authorized as follows:

(1) All files, applications, papers, documents, and records as described in subdivision (b) shall be available and may be used by a public entity for all administrative, civil, or criminal investigations, actions, proceedings, or prosecutions conducted in connection with the administration of the child and spousal support enforcement program approved under Part D (commencing with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the United States Code and to the county welfare department responsible for administering a program operated under a state plan pursuant to Part A, Subpart 1 or 2 of Part B, or Part E of Subchapter IV of Chapter 7 of Title 42 of the United States Code.

(2) A document requested by a person who wrote, prepared, or furnished the document may be examined by or disclosed to that person or a designee.

(3) The payment history of an obligor pursuant to a support order may be examined by or released to the court, the obligor, or the person on whose behalf enforcement actions are being taken or that person's designee.

(4) An income and expense declaration of either parent may be released to the other parent for the purpose of establishing or modifying a support order.

(5) Public records subject to disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) may be released.

(6) After a noticed motion and a finding by the court, in a case in which establishment or enforcement actions are being taken, that release or disclosure to the obligor or obligee is required by due process of law, the court may order a public entity that possesses an application, paper, document, or record as described in subdivision (b) to make that item available to the obligor or obligee for examination or copying, or to disclose to the obligor or obligee the contents of that item. Article 9 (commencing with Section 1040) of Chapter 4 of Division 8 of the Evidence Code shall not be applicable to proceedings under this part. At any hearing of a motion filed pursuant to this section, the court shall inquire of the local child support agency and the parties appearing at the hearing if there is reason to believe that release of the requested information may result in physical or emotional harm to a party. If the court determines that harm may occur, the court shall issue any protective orders or injunctive orders restricting the use and disclosure of the information as are necessary to protect the individuals.

(7) To the extent not prohibited by federal law or regulation, information indicating the existence or imminent threat of a crime against a child, or location of a concealed, detained, or abducted child, or the location of the concealing, detaining, or abducting person, may be disclosed to a district attorney, an appropriate law enforcement agency, or to a state or county child protective agency, or may be used in any judicial proceedings to prosecute that crime or to protect the child.

(8) The social security number, most recent address, and the place of employment of the absent parent may be released to an authorized person as defined in Section 653(c) of Title 42 of the United States Code, only if the authorized person has filed a request for the information, and only if the information has been provided to the California Parent Locator Service by the federal Parent Locator Service pursuant to Section 653 of Title 42 of the United States Code.

(9) A parent's or relative's name, social security number, most recent address, telephone number, place of employment, or other contact information may be released to a county child welfare agency or county probation department pursuant to subdivision (c) of Section 17506.

(d) (1) "Administration and implementation of the child and spousal support enforcement program," as used in this division, means the carrying out of the state and local plans for establishing, modifying, and enforcing child support obligations, enforcing spousal support orders, and determining paternity pursuant to Part D (commencing with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the United States Code and this article.

(2) For purposes of this division, "obligor" means a person owing a duty of support.

(3) As used in this division, "putative parent" shall refer to any person reasonably believed to be the parent of a child for whom the local child support agency is attempting to establish paternity or establish, modify, or enforce support pursuant to Section 17400.

(e) A person who willfully, knowingly, and intentionally violates this section is guilty of a misdemeanor.

(f) This section does not compel the disclosure of information relating to a deserting parent who is a recipient of aid under a public assistance program for which federal aid is paid to this state, if that information is required to be kept confidential by the federal law or regulations relating to the program.

SEC. 107. Section 17514 of the Family Code is amended to read:

17514. (a) It is the intent of the Legislature to protect individual rights of privacy, and to facilitate and enhance the effectiveness of the child abduction and recovery programs, by ensuring the confidentiality of child abduction records, and to thereby encourage the full and frank disclosure of information relevant to all of the following:

(1) The establishment or maintenance of parent and child relationships and support obligations.

(2) The enforcement of the child support liability of absent parents.

(3) The enforcement of spousal support liability of the spouse or former spouse to the extent required by the state plan under Section 17400, and Chapter 6 (commencing with Section 4800) of Part 5 of Division 9.

(4) The location of absent parents.

(5) The location of parents and children abducted, concealed, or detained by them.

(b) (1) Except as provided in this subdivision, all files, applications, papers, documents, and records, established or maintained by a public entity for the purpose of locating an abducted child, locating a person who has abducted a child, or prosecution of a person who has abducted a child shall be confidential, and shall not be open to examination or released for disclosure for any purpose not directly connected with locating or recovering the abducted child or abducting person or prosecution of the abducting person.

(2) Except as provided in subdivision (c), a public entity shall not disclose any file, application, paper, document, or record described in this section, or the information contained therein.

(c) (1) All files, applications, papers, documents, and records as described in subdivision (b) shall be available and may be used by a public entity for all administrative, civil, or criminal investigations, actions, proceedings, or prosecution conducted in connection with the child abduction or prosecution of the abducting person.

(2) A document requested by a person who wrote, prepared, or furnished the document may be examined by or disclosed to that person or a designee.

(3) Public records subject to disclosure under Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code may be released.

(4) After a noticed motion and a finding by the court, in a case in which child recovery or abduction prosecution actions are being taken, that release or disclosure is required by due process of law, the court may order a public entity that possesses an application, paper, document, or record described in this subdivision to make that item available to the defendant or other party for examination or copying, or to disclose to an appropriate person the contents of that item. Article 9 (commencing with Section 1040) of

Chapter 4 of Division 8 of the Evidence Code shall not be applicable to proceedings under this part.

(5) To the extent not prohibited by federal law or regulation, information indicating the existence or imminent threat of a crime against a minor child, or location of a concealed or abducted child, or the location of the concealing or abducting person, may be disclosed to any appropriate law enforcement agency, or to any state or county child protective agency, or may be used in any judicial proceedings to prosecute that crime or to protect the child.

(6) Information may be released to any state or local agency for the purposes connected with establishing, modifying, and enforcing child support obligations, enforcing spousal support orders, and determining paternity as required by Part D (commencing with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the United States Code and this article.

SEC. 108. Section 12104 of the Financial Code is amended to read:

12104. A nonprofit community service organization that meets all of the following criteria shall be exempt from any requirements imposed on proraters pursuant to this division:

(a) The nonprofit community service organization incorporates in this state or any other state as a nonprofit corporation and operates pursuant to either the Nonprofit Public Benefit Corporation Law, Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code or the Nonprofit Mutual Benefit Corporation Law, Part 3 (commencing with Section 7110) of Division 2 of Title 1 of the Corporations Code.

(b) The nonprofit community service organization limits its membership to retailers, lenders in the consumer credit field, educators, attorneys, social service organizations, employer and employee organizations, and related groups that serve educational, benevolent, fraternal, religious, charitable, social, or reformatory purposes.

(c) The nonprofit community service organization has as its principal functions the following:

(1) Consumer credit education.

(2) Counseling on consumer credit problems and family budgets.

(3) Arranging or administering debt management plans. “Debt management plan” means a method of paying debtor’s obligations in installments on a monthly basis.

(4) Arranging or administering debt settlement plans. “Debt settlement plans” means a method of paying debtor’s obligations in a negotiated amount to each creditor on a one-time basis.

(d) The nonprofit community service organization receives from a debtor no more than the following maximum amounts to offset the organization’s actual and necessary expenses for the services described in subdivision (c): a one-time sum not to exceed fifty dollars ($50) for education and counseling combined in connection with debt management or debt settlement services; and for debt management plans, a sum not to exceed 8 percent of the money disbursed monthly, or thirty-five dollars ($35) per month, whichever is less, and for debt settlement plans a sum not to exceed 15 percent of the amount of the debt forgiven for negotiated debt settlement plans. Nonprofit

community service organizations shall not require any upfront payments or deposits on debt settlement plans and may only require payment of fees once the debt has been successfully settled. For purposes of this subdivision, a household shall be considered one debtor. The fees allowed pursuant to this subdivision shall be the only fees that may be charged by a nonprofit community service organization for any services related to a debt management plan or a debt settlement plan.

(e) The nonprofit community service organization maintains and keeps current and accurate books, records, and accounts relating to its business in accordance with generally accepted accounting principles, and stores them in a readily accessible place for a period of no less than five years from the end of the fiscal year in which any transactions occurred.

(f) The nonprofit community service organization deposits any money received from a debtor for the services described in subdivision (c) in a noninterest-bearing trust account in a federally insured state or federal bank, savings bank, savings and loan association, or credit union, which account is maintained specifically for purposes of administering a debt management plan or debt settlement plan. The nonprofit community service organization shall provide the commissioner the following prior to engaging in business in this state and claiming this exemption:

(1) A written notice with the name, address, and telephone number of the bank, savings bank, savings and loan association, or credit union where the trust account is maintained, and the name of the account and the account number. The account information required in this paragraph shall be kept confidential pursuant to the laws governing disclosure of public records, including the California Public Records Act, Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code, and the rules adopted thereunder.

(2) An irrevocable written consent providing that upon the commissioner taking possession of the property and business of the nonprofit community service organization, all books, records, property, and business, including trust accounts and any other accounts holding debtors' funds, shall be immediately turned over to the commissioner or receiver appointed pursuant to this division. The consent shall be signed by the nonprofit community service organization and the bank, savings bank, savings and loan association, or credit union where the trust account is maintained. The consent shall be binding upon the nonprofit community service organization and the bank, savings bank, savings and loan association, or credit union, and any objection to it must be raised pursuant to the laws of the State of California and only in the forum in which the proceeding to take possession or appointment of the receiver has been filed. The nonprofit community service organization and the bank, savings bank, savings and loan association, or credit union shall further consent to the jurisdiction of the commissioner for the purpose of any investigation or proceeding under Sections 12105 and 12106 or any other provision of this division. The consent required by this paragraph shall include the name, title, and signature of an official of the bank, savings bank, savings and loan association, or

credit union holding the authority to consent on behalf of that institution, and the name, title, and signature of the chief executive officer or president of the nonprofit community service organization.

(g) The nonprofit community service organization maintains at all times a surety bond in the amount of twenty-five thousand dollars ($25,000), issued by an insurer licensed in this state. The bond shall be conditioned upon the obligor faithfully conforming to and abiding by the provisions of Section 12104 of the Financial Code, honestly and faithfully applying all funds received, honestly and faithfully performing all obligations and undertakings required under this section, and paying to the state and to any person all money that becomes due and owing to the state or to any person owed by the obligor of the bond.

(h) The nonprofit community service organization reports all of the following to the debtor at least once every three months, or upon the debtor's request, for any debt management plan or debt settlement plan:

(1) Total amount received from the debtor.

(2) Total amount paid to each creditor.

(3) Total amount any creditor has agreed to accept as payment in full on any debt owed by the debtor.

(4) Any amount paid to the organization by the debtor.

(5) Any amount held in reserve.

(i) The nonprofit community service organization submits to the commissioner, at the organization's expense, an audit report containing audited financial statements covering the calendar year or, if the organization has an established fiscal year, then for that fiscal year, within 120 days after the close of the calendar or fiscal year.

(j) The nonprofit community service organization submits with the annual financial statements required under subdivision (i) a declaration that conforms to Section 2015.5 of the Code of Civil Procedure, is executed by an official authorized by the board of the organization, and that states that the organization complies with this section. The annual financial statements shall also include a separate written statement that identifies the name, address, contact person, and telephone number of the organization.

(k) The nonprofit community service organization maintains accreditation by an independent accrediting organization, including either the Council on Accreditation or the International Standards Organization, with sector certification.

(*l*) The nonprofit community service organization does not engage in any act or practice in violation of Section 17200 or 17500 of the Business and Professions Code.

(m) The nonprofit community service organization inserts the following statement, in not less than 10-point type, in its debt management plan and debt settlement plan agreements: "Complaints related to this agreement may be directed to the California Department of Business Oversight. This nonprofit community service organization has adopted best practices for debt management plans and debt settlement plans, and a copy will be provided upon request."

(n) The nonprofit community service organization adopts and implements on a continuous basis policies or procedures of best practices that are designed to prevent improper debt management or debt settlement practices and prevent theft and misappropriation of funds. Failure to do the following shall constitute improper debt management or debt settlement practices, as applicable:

(1) Obtain counselor certification conducted by a nationally recognized third-party certification program that certifies that all of the agency's counselors receive proper training and are qualified to provide financial assistance prior to performing counseling services in this state.

(2) Disburse funds no later than 15 days after receipt of valid funds, or by a scheduled disbursement date, whichever is the greater amount of time.

(3) Transmit funds utilizing electronic payment processing when available.

(4) Implement an inception date policy, which shall include an agreement that a consumer's first disbursement pursuant to a debt management plan shall be received within 90 days of agreeing to the debt management plan service. The debt management plan shall include all items described in subdivision (h) and shall be provided to the consumer at the inception date of the plan. A description of best practices of the agency and of the consumer complaint resources shall be issued no later than the first payment date.

(5) Respond to and research any complaint initiated by a consumer within five business days of receipt of the complaint.

(6) Prohibit a policy requiring debt management plan consumers from being required to utilize additional ancillary services.

(7) Provide consumer access to debt management plan services regardless of the consumer's ability to pay fees related to the debt management plan, lack of creditor participation, or the amount of the consumer's outstanding debt.

(8) Implement policies that specifically prohibit credit counselors from receiving financial incentives or additional compensation based on the outcome of the counseling process.

(9) Prohibit the practice of paying referral fees to consumers or other third parties who refer new clients to the agency.

(10) Disclose in all written contracts with consumers the portion of funding for the agency that is provided by creditors.

(11) Disclose in all written contracts for debt management plans or debt settlement plans that these plans are not suitable for all consumers and that consumers may request information on other options, including, but not limited to, bankruptcy.

(12) Fully disclose all services to be provided by the agency and any initial and ongoing fees to be charged by the agency for services, including, but not limited to, contributions to the agency.

(13) Prohibit the agency or any affiliate of the agency from purchasing debt from a consumer.

(14) Prohibit the agency from offering loans to consumers involving the charging of interest.

(15) Prominently disclose in written contracts with consumers of any financial arrangement between the agency and any lender or any provider of financial services if the agency receives any form of compensation for referring consumers to that lender or provider of financial services.

(16) Provide professional liability insurance coverage.

(17) Provide the debtor a written individualized evaluation of the debtor's financial status and an initial debt management plan for the debtor's debts with specific recommendations regarding actions the debtor should take.

(18) Provide the debtor enrolling in a debt management plan a written reliable estimate of the length of time it will take to complete the plan and identifies the total debt owed to each creditor included in the plan, the proposed payment to each creditor, and any fees that would be charged for administering the plan. The estimate shall be provided prior to receipt of the debtor's first deposit.

(o) The nonprofit community service organization provides a copy of the best practices described in subdivision (n) to its debtor, upon request.

(p) The nonprofit community service organization resolves in a prompt and reasonable manner complaints from debtors relating to the organization's debt management plans or debt settlement plans.

(q) The nonprofit community service organization provides written notice to the commissioner within 30 days of dissolution or termination of engaging in the activities of a prorater, as defined in Section 12002.1.

(r) This section shall become inoperative upon the enactment of a statute requiring the licensure and regulation of nonprofit community service organizations providing consumer credit counseling.

SEC. 109. Section 14257 of the Financial Code is amended to read:

14257. Investigation and examination reports prepared by the commissioner's duly designated representatives shall not be public records. The reports may be disclosed to the officers, directors, members of the supervisory committee, members of the credit committee, and key management personnel of the credit union that is the subject of a report for the purpose of corrective action by those persons. The examination report may also be disclosed to internal and external auditors and attorneys that are retained by the subject credit union, but only to the extent necessary for the auditors and attorneys to perform work related to issues addressed in the examination report. The disclosure shall not operate as a waiver of the exemption specified in Section 7929.000 of the Government Code.

SEC. 110. Section 18394 of the Financial Code is amended to read:

18394. Investigation and examination reports prepared by the commissioner's duly designated representatives shall not be public records. Those reports may be disclosed to the officers and directors of a company that is the subject of a report for the purpose of corrective action by those officers or directors. That type of disclosure shall not operate as a waiver of the exemption specified in Section 7929.000 of the Government Code.

SEC. 111. Section 22067 of the Financial Code is amended to read:

22067. (a) On or before July 1 of each year, the commissioner shall post a report on the department's internet website summarizing the

information described in subdivision (b). The information disclosed to the commissioner for the commissioner's use in preparing the report described in this section is exempted from any requirement of public disclosure by subdivision (b) of Section 7929.000 of the Government Code.

(b) The report required by this section shall specify the time period to which the report corresponds, and shall include, but not be limited to, the following for that time period:

(1) The number of organizations that applied for exemptions pursuant to subdivision (c) of Section 22066, and the number of organizations that entered into partnerships with exempt organizations in accordance with subdivision (d) of Section 22066.

(2) The number of organizations granted exemptions and the types of exemptions granted.

(3) The reason or reasons for denying applications for exemptions, if applicable. This information shall be provided in a manner that does not identify the entity or entities denied.

(4) The number of borrowers who applied for loans through exempt or partnering organizations, the number of borrowers granted loans facilitated by exempt or partnering organizations, the total amount loaned, and the distribution of loan lengths upon origination.

(5) The number of borrowers who obtained more than one loan through an exempt or partnering organization and the distribution of the number of loans per borrower.

(6) Of the number of borrowers who obtained more than one loan facilitated by an exempt or a partnering organization, the percentage of those borrowers whose credit scores increased between successive loans, based on information from at least one major credit bureau, and the average size of the increase.

(7) The income distribution of borrowers upon loan origination, including the number of borrowers who obtained at least one loan and who resided in a low-to-moderate-income census tract at the time of their loan application.

(8) The number of borrowers who obtained loans facilitated by an exempt or a partnering organization for the following purposes, based on borrower responses at the time of their loan applications indicating the primary purpose for which the loan was obtained:

(A) Medical.
(B) Other emergency.
(C) Vehicle repair.
(D) Vehicle purchase.
(E) To pay bills.
(F) To consolidate debt.
(G) To build or repair credit history.
(H) To finance a purchase of goods or services other than a vehicle.
(I) For other than personal, family, or household purposes.
(J) Other.

(9) The number of borrowers who self-report that they had a bank account at the time of their loan application, the number of borrowers who self-report

that they had a bank account and used check-cashing services, and the number of borrowers who self-report that they did not have a bank account at the time of their loan application.

(10) The performance of loans under Section 22066, as reflected by all of the following:

(A) The number and percentage of borrowers who experienced at least one late payment lasting between 7 and 29 days and who subsequently brought the loan current, and the distribution of principal loan amounts corresponding to those late payments.

(B) The number and percentage of borrowers who experienced at least one late payment lasting between 30 and 59 days and who subsequently brought the loan current, and the distribution of principal loan amounts corresponding to those late payments.

(C) The number and percentage of borrowers who experienced at least one late payment lasting 60 days or more and who subsequently brought the loan current, and the distribution of principal loan amounts corresponding to those late payments.

(D) The number and percentage of borrowers who experienced at least one late payment of greater than seven days and who did not subsequently bring the loan current.

(E) Among loans that were ever late for seven days or more, the average number of times borrowers experienced a late payment of seven days or more.

(11) The number and types of violations of Section 22066 by exempt organizations, which were documented by the commissioner.

(12) The number and types of violations of Section 22066 by partnering organizations, which were documented by the commissioner.

(13) The number of times the commissioner suspended or revoked an exemption granted to an exempt organization pursuant to paragraph (4) of subdivision (c) of Section 22066 and the number of times a partnering organization was sanctioned by the commissioner pursuant to paragraph (5) of subdivision (d) of Section 22066.

(14) The number of complaints received by the commissioner about an exempt organization or a partnering organization, and the nature of those complaints.

(15) Recommendations, if any, for improving the program.

SEC. 112. Section 22375 of the Financial Code is amended to read:

22375. A licensee that utilizes the service of a finder shall do all of the following:

(a) Notify the commissioner within 15 days of entering into a contract with a finder, on a form acceptable to the commissioner, regarding all of the following:

(1) The name, business address, and licensing details of the finder and all locations at which the finder will perform services under this article.

(2) The name and contact information for an employee of the finder who is knowledgeable about, and has the authority to execute, the contract governing the business relationship between the finder and the licensee.

(3) The name and contact information for one or more employees of the finder who are responsible for that finder's finding activities on behalf of the licensee.

(4) A list of the activities the finder shall perform on behalf of the licensee.

(5) Any other information requested by the commissioner.

(b) Pay an annual finder registration fee to the commissioner in an amount to be established by the commissioner by regulation for each finder utilized by the licensee.

(c) Submit an annual report to the commissioner including, for each finder, the information listed in paragraph (12) and subparagraph (A) of paragraph (13) of subdivision (d) of Section 22380, and any other information pertaining to each finder and the licensee's relationship and business arrangements with each finder as the commissioner may by regulation require. The information disclosed to the commissioner for the report described in this subdivision is exempted from any requirement of public disclosure by subdivision (b) of Section 7929.000 of the Government Code.

SEC. 113. Section 22380 of the Financial Code is amended to read:

22380. (a) On or before July 1, 2015, and annually on or before July 1, 2017, to July 1, 2026, inclusive, the commissioner shall post a report on the commissioner's internet website summarizing utilization of the Pilot Program for Increased Access to Responsible Small Dollar Loans. The report required to be submitted on or before July 1, 2015, shall additionally include the information required by former Section 22361, summarizing utilization of the Pilot Program for Affordable Credit-Building Opportunities, which was created by Chapter 640 of the Statutes of 2010.

(b) The information disclosed to the commissioner for the commissioner's use in preparing the reports described in this section is exempted from any requirement of public disclosure by subdivision (b) of Section 7929.000 of the Government Code.

(c) If there is more than one licensee approved to participate in the program under this article, the reports required pursuant to subdivision (a) shall state information in aggregate so as not to identify data by specific licensee. The information stated in these reports pursuant to paragraphs (4) and (6) of subdivision (d) shall also be set forth for each specific finder whose services were used by a licensee in connection with the loans or loan applications, along with the specific finder's identity.

(d) Each report required pursuant to this section shall specify the time period to which the report corresponds and shall include, but not be limited to, the following for that time period:

(1) The number of entities that applied to participate in the program.

(2) The number of entities accepted to participate in the program.

(3) The reason or reasons for rejecting applications for participation, if applicable. This information shall be provided in a manner that does not identify the entity or entities rejected.

(4) The number of program loan applications received by lenders participating in the program, the number of loans made pursuant to the program, the total amount loaned, the distribution of loan lengths upon origination, and the distribution of interest rates and principal amounts upon origination among those loans.

(5) The number of borrowers who obtained more than one program loan and the distribution of the number of loans per borrower.

(6) Of the number of borrowers who obtained more than one program loan, the percentage of those borrowers whose credit scores increased between successive loans, based on information from at least one major credit bureau, and the average size of the increase.

(7) The income distribution of borrowers upon loan origination, including the number of borrowers who obtained at least one program loan and who resided in a low-to-moderate-income census tract at the time of their loan application.

(8) The number of borrowers who obtained loans for the following purposes, based on borrower responses at the time of their loan applications indicating the primary purpose for which the loan was obtained:

(A) Medical.

(B) Other emergency.

(C) Vehicle repair.

(D) Vehicle purchase.

(E) To pay bills.

(F) To consolidate debt.

(G) To build or repair credit history.

(H) To finance a purchase of goods or services other than a vehicle.

(I) For other than personal, family, or household purposes.

(J) Other.

(9) The number of borrowers who self-report that they had a bank account at the time of their loan application, the number of borrowers who self-report that they had a bank account and used check-cashing services, and the number of borrowers who self-report that they did not have a bank account at the time of their loan application.

(10) With respect to refinance loans, each report shall specifically include the following information:

(A) The number and percentage of borrowers who applied for a refinance loan.

(B) Of those borrowers who applied for a refinance loan, the number and percentage of borrowers who obtained a refinance loan.

(C) Of those borrowers who obtained a refinance loan:

(i) The percentage of borrowers who refinanced once.

(ii) The percentage of borrowers who refinanced twice.

(iii) The percentage of borrowers who refinanced more than twice.

(D) Of those borrowers who obtained a refinance loan, the average percentage of principal paid down before obtaining a refinance loan.

(E) Of those borrowers who obtained a refinance loan, the average amount of additional principal extended.

(F) Of those borrowers who obtained a refinance loan, the average number of late payments made on the loan that was refinanced.

(11) The number and type of finders used by licensees and the relative performance of loans consummated by finders compared to the performance of loans consummated without a finder.

(12) The number and percentage of borrowers who obtained one or more program loans on which late fees were assessed, the total amount of late fees assessed, and the average late fee assessed by dollar amount and as a percentage of the principal amount loaned.

(13) (A) The performance of loans under this article, as reflected by all of the following:

(i) The number and percentage of program borrowers who experienced at least one delinquency lasting between 7 and 29 days, and the distribution of principal loan amounts corresponding to those delinquencies.

(ii) The number and percentage of program borrowers who experienced at least one delinquency lasting between 30 and 59 days, and the distribution of principal loan amounts corresponding to those delinquencies.

(iii) The number and percentage of program borrowers who experienced at least one delinquency lasting 60 days or more, and the distribution of principal loan amounts corresponding to those delinquencies.

(iv) The number and percentage of program borrowers who experienced at least one delinquency of greater than seven days and who did not subsequently bring their loan current.

(v) Among loans that were ever delinquent for seven days or more, the average number of times borrowers experienced a delinquency of seven days or more.

(B) To the extent data are readily available to the commissioner, the commissioner shall include in each report comparable delinquency data for unsecured loans made by persons licensed under Chapter 2 (commencing with Section 22365) of Division 9 in principal amounts between two thousand five hundred dollars ($2,500) and four thousand nine hundred ninety-nine dollars ($4,999), and in principal amounts between five thousand dollars ($5,000) and nine thousand nine hundred ninety-nine dollars ($9,999), and for unsecured extensions of credit made by state-chartered banks and credit unions under the commissioner's jurisdiction, in principal amounts between two thousand five hundred dollars ($2,500) and four thousand nine hundred ninety-nine dollars ($4,999), and in principal amounts between five thousand dollars ($5,000) and nine thousand nine hundred ninety-nine dollars ($9,999).

(14) The number and types of violations of this article by finders that were documented by the commissioner.

(15) The number and types of violations of this article by licensees that were documented by the commissioner.

(16) The number of times that the commissioner disqualified a finder from performing services, barred a finder from performing services at one or more specific locations of the finder, terminated a written agreement between a finder and a licensee, or imposed an administrative penalty.

(17) The number of complaints received by the commissioner about a licensee or a finder and the nature of those complaints.

(18) Recommendations for improving the program.

(19) Recommendations regarding whether the program should continue after January 1, 2028.

SEC. 114. Section 23049 of the Financial Code is amended to read:

23049. After an examination, investigation, or hearing under this division, if the commissioner deems it of public interest or advantage, the commissioner may certify a record to the proper prosecuting official of the city, county, or city and county in which the act complained of, examined, or investigated occurred. The data and records shall be kept confidential pursuant to Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code and any regulations adopted thereunder.

SEC. 115. Section 31111 of the Financial Code is amended to read:

31111. Notwithstanding the fact that the commissioner permits any licensee, any affiliate of a licensee, or any governmental agency to inspect or make copies of any record relating to a licensee or to any director, officer, employee, or affiliate of a licensee, or that the commissioner provides any record of this type, or a copy thereof, to any person described above, any provision of Section 7922.000 of the Government Code and any provision listed in Section 7920.505 of the Government Code that would, but for that fact, apply to that record, shall continue to apply to the record.

SEC. 116. Section 50314 of the Financial Code is amended to read:

50314. (a) Every person subject to this division shall keep documents and records that will properly enable the commissioner to determine whether the residential mortgage lending or residential mortgage loan servicing functions performed by that person comply with the provisions of this division and with all rules and orders made by the commissioner under this division. Upon request of the commissioner, residential mortgage lenders and residential mortgage loan servicers shall file an authorization for disclosure to the commissioner of financial records of the licensed business pursuant to Section 7473 of the Government Code.

(b) (1) The business documents and records of every residential mortgage lender or residential mortgage loan servicer, whether required to be licensed under this division or not, are subject to inspection and examination by the commissioner at any time without prior notice. The provisions of this subdivision shall not apply to persons specified in subdivision (g) of Section 50003.

(2) Any person subject to this division shall, upon request and within the time specified in the request, allow inspection and copying of any documents and records by the commissioner or the commissioner's authorized representative.

(c) (1) The cost of every inspection and examination of a licensee or other person subject to this division shall be paid to the commissioner by the licensee or person examined, and the commissioner may maintain an action for the recovery of these costs in any court of competent jurisdiction. In determining the cost of any inspection or examination, the commissioner

may use the estimated average hourly cost, including overhead, for all persons performing inspections or examinations of licensees or other persons subject to this division for the fiscal year.

(2) For the purpose of this subdivision only, no person other than a licensee shall be deemed to be a person subject to this division unless and until the person is determined to be a person subject to this division by an administrative hearing in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, or by a judicial hearing in any court of competent jurisdiction.

(d) Investigation and examination reports prepared by the commissioner's duly designated representatives are not public reports. Those reports may be disclosed to the officers or directors of a licensee that is the subject of the report for the purpose of corrective action by the officers or directors. That type of disclosure shall not operate as a waiver of the exemption specified in Section 7929.000 of the Government Code.

SEC. 117. Section 2584 of the Fish and Game Code is amended to read:

2584. (a) Upon an actionable violation, the department shall consult, as to the appropriate civil or criminal remedy, with the district attorney in the jurisdiction where the violation was alleged to have occurred. Before proceeding with a civil action, the department shall seek the concurrence of the Attorney General.

(b) The director shall appoint a qualified referee or hearing board, composed of one or any combination of the following persons:

(1) A qualified hearing officer, as defined in subdivision (a) of Section 2580.

(2) A retired judge of the superior court who is knowledgeable in fish and wildlife law.

(3) A qualified neutral referee, appointed upon petition to the superior court in which the violation was alleged to have occurred.

(c) The director, after investigation of the facts and circumstances, may issue a complaint to any person on whom a civil penalty may be imposed pursuant to Section 2582 or 2583. The complaint shall allege the acts or failures to act that constitute a basis for a civil penalty and the amount of the proposed civil penalty. The complaint shall be served by personal service or certified mail and shall inform the person so served that a hearing shall be conducted within 60 days after the person has been served, unless the person waives the right to a hearing. If the person waives the right to a hearing, the department shall issue an order setting liability in the amount proposed in the complaint. If the person has waived the right to a hearing or if the department and the person have entered into a settlement agreement, the order shall be final.

(d) Any hearing required under this section shall be conducted by a referee or hearing board according to the procedures specified in Sections 11507 to 11517, inclusive, of the Government Code, except as otherwise provided in this section. In making a determination, the hearing officer may consider the records of the department in the matter, the complaint, and any new facts brought to the officer's attention by that person. The hearing

officer shall be the sole trier of fact as to the existence of a basis for liability under Section 2582 or 2583. The hearing officer shall make the determination of the facts of the case and shall prepare and submit the proposed decision, including recommended penalty assessment, to the director for the director's review and assistance in the penalty assessment process.

(e) The director may assess the civil penalty, and may reduce the amount, or not impose any assessment, of civil penalties based upon the nature, circumstances, extent, and gravity of the prohibited acts alleged, and the degree of culpability of the violator; or the director may enter into a settlement agreement with the person in the best interests of the state or confirm the amount of civil penalties contained in the complaint. If the director reduces the amount of the civil penalty, does not impose the civil penalty, or enters into a settlement agreement, the director shall seek the recommendation of the hearing officer and enter into the records of the case the reasons for that action, including the hearing officer's recommendation. The decision of the director assessing the civil penalty is final. The proposed decision is a public record and shall be served upon the person. The director may approve the proposed decision in its entirety, or the director may reduce the proposed penalty and adopt the balance of the proposed decision.

(f) Upon the final assessment of the civil penalty, the department shall issue an order setting the amount of the civil penalty to be imposed. An order setting civil liability under this section becomes effective and final upon the issuance thereof, and payment shall be made within 30 days of issuance. Copies of the order shall be served by personal service or by certified mail upon the person served with the complaint and upon other persons who appeared before the director and requested a copy. Copies of the order shall be provided to any person within 10 days of receipt of a written request from that person.

(g) Within 30 days after service of a copy of an order setting the amount of the civil penalty, any person so served may file with the superior court a petition for a writ of mandate for review of the order. In all proceedings pursuant to this subdivision, the court shall exercise its independent judgment on the evidence in the whole record. The filing of a petition for a writ of mandate shall not stay any other civil or criminal action.

(h) The records of the case, after all appeals are final, are public records, as defined in Section 7920.530 of the Government Code.

SEC. 118. Section 9002.5 of the Fish and Game Code is amended to read:

9002.5. (a) Notwithstanding Section 9002, the department, in consultation with the Dungeness crab task force, shall establish a retrieval program to provide for the retrieval of lost or abandoned commercial Dungeness crab traps by June 30, 2019.

(b) The retrieval program developed pursuant to subdivision (a) shall be consistent with all of the following:

(1) (A) The department shall establish a retrieval permit that grants a person who obtains a retrieval permit the authority to retrieve Dungeness crab traps located in ocean waters belonging to another person without

written permission from that person during both of the following periods of time:

(i) The closed season of the Dungeness crab commercial fishery, as described in Section 8276.

(ii) A period of time other than the time period described in clause (i) in which the director restricts the take of Dungeness crab pursuant to Section 8276.1 or regulations adopted pursuant to that section, if the director authorizes retrieval permitholders to retrieve traps during that time period.

(B) The department may establish any qualifications it deems necessary for a person to obtain a retrieval permit.

(C) The department shall require a permit fee in an amount necessary to fully recover, but not exceed, all reasonable administrative and implementation costs to the department of the retrieval program.

(2) Notwithstanding Chapter 4 (commencing with Section 2080) of Title 6 of Part 4 of Division 3 of the Civil Code or any other law, any Dungeness crab trap retrieved under the authority of a retrieval permit shall become the property of the retrieval permitholder.

(3) The department shall require a retrieval permitholder to notify the former trap owner of the retrieval of a Dungeness crab trap and to offer to sell the trap to the former owner for a reasonable recovery fee, as determined by the retrieval permitholder, based on the cost of trap retrieval and storage of the trap. The department shall impose per-trap fees on any former trap owner who refuses to pay the recovery fee to the retrieval permitholder. The department shall set the rate of these per-trap fees at a level sufficient to recover any costs to the department from handling noncompliance with the gear retrieval program and to reimburse the retrieval permitholder for the reasonable cost of trap retrieval, storage, and disposal of crab traps belonging to a former owner who refuses to pay the recovery fees for those traps and, upon appropriation by the Legislature, shall use the proceeds of the per-trap fees for these purposes. The department shall annually adjust the per-trap fees pursuant to Section 713.

(4) Notwithstanding Section 8022, the department may release contact information to a retrieval permitholder for purposes of the retrieval program under terms and conditions as the department deems necessary to preserve the confidentiality of the information released. Any release of information pursuant to this section does not constitute a waiver of any applicable exemptions from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(5) The department may deny an application for renewal or transfer of a Dungeness crab vessel permit until the applicant pays any fees imposed pursuant to paragraph (3).

(6) The department shall submit the proposed retrieval program developed pursuant to this section to the Dungeness crab task force for review, and shall not implement the retrieval program until the task force has had 60 days or more to review the proposed retrieval program and recommend any proposed changes. The director may implement the retrieval program earlier

than 60 days after it is submitted to the Dungeness crab task force for review, if recommended by the task force.

(c) This section shall become inoperative on April 1, 2029, and, as of January 1, 2030, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2030, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 119. Section 4061 of the Food and Agricultural Code is amended to read:

4061. (a) Notwithstanding any other law, a district agricultural association shall not be required to prepare or submit any written report to the Governor, the Legislature, or a state agency except as follows:

(1) The report is required by a court or under federal law.

(2) The report is required in the Budget Act.

(3) The report is required by the secretary.

(4) The Legislature expressly requires a district agricultural association to prepare and submit a report.

(5) The annual reporting of real property information required pursuant to Section 11011.15 of the Government Code.

(b) This section shall not be construed and is not intended to extend or limit the provisions of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

SEC. 120. Section 9269 of the Food and Agricultural Code is amended to read:

9269. (a) Except as provided in subdivision (b), all records held by the department relating to this chapter, including, but not limited to, records relating to applications, fees, or inspections required by this chapter, shall be confidential and not subject to disclosure under the California Public Records Act contained in Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code.

(b) Notwithstanding subdivision (a), records held by the department relating to this chapter shall be accessible to law enforcement officers with jurisdiction over any matter covered by this chapter.

SEC. 121. Section 13134 of the Food and Agricultural Code is amended to read:

13134. (a) The department, in cooperation with the State Department of Health Services, shall conduct an assessment of dietary risks associated with the consumption of produce and processed foods treated with pesticides. This assessment shall integrate adequate data on acute effects and the mandatory health effects studies specified in subdivision (c) of Section 13123, appropriate dietary consumption estimates, and relevant residue data based on the department's and the State Department of Health Services' monitoring data and appropriate field experimental and food technology information to quantify consumer risk. Differences in age, sex, ethnic, and regional consumption patterns shall be considered. The department shall submit each risk assessment to the State Department of Health Services, with necessary supporting documentation, for peer review, which shall consider the adequacy of public health protection. The State Department of

Health Services may provide comments to the department. The department shall formally respond to all of the comments made by the State Department of Health Services. The department shall modify the risk assessment to incorporate the comments as deemed appropriate by the director. All correspondence between the department and the State Department of Health Services in this matter shall be made available to any person, upon request, pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(b) The department shall consider those pesticides designated for priority food monitoring pursuant to Section 12535 and the results of the department's or the State Department of Health Services' monitoring in establishing priorities for the dietary risk assessments.

(c) (1) If the department lacks adequate data on the acute effects of pesticide active ingredients or mandatory health effects studies specified in subdivision (c) of Section 13123 necessary to accurately estimate dietary risk, the department shall require the appropriate data to be submitted by the registrant of products whose labels include food uses. This subdivision shall not be construed to affect the timeframes established pursuant to Section 13127.

(2) No applicant for registration, or current registrant, of a pesticide who proposes to purchase or purchases a registered pesticide from another producer in order to formulate the purchased pesticide into an end use product shall be required to submit or cite data pursuant to this section or offer to pay reasonable compensation for the use of that type of data if the producer is engaged in fulfilling the data requirements of this section.

(d) (1) If a registrant fails to submit the data requested by the director pursuant to this section within the time specified by the director, the director shall issue a notice of intent to suspend the registration of that pesticide. The director may include in the notice of intent to suspend any provisions that are deemed appropriate concerning the continued sale and use of existing stocks of that pesticide. Any proposed suspension shall become final and effective 30 days from the receipt by the registrant of the notice of intent to suspend, unless during that time a request for hearing is made by a person adversely affected by the notice or the registrant has satisfied the director that the registrant has complied fully with the requirements that served as a basis for the notice of intent to suspend. If a hearing is requested, a hearing shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The only matter for resolution at the hearing shall be whether the registrant has failed to take the action that served as the basis for the notice of intent to suspend the registration of the pesticide for which additional data is required and whether the director's determination with respect to the disposition of existing stocks is consistent with this subdivision.

(2) A hearing shall be held and a determination made within 75 days after receipt of a request for a hearing. The decision rendered after completion of the hearing shall be final. Any registration suspended shall be reinstated by the director if the director determines that the registrant has

complied fully with the requirements that served as a basis for the suspension of the registration.

(e) If the department finds that any pesticide use represents a dietary risk that is deleterious to the health of humans, the department shall prohibit or take action to modify that use or modify the tolerance pursuant to Section 12561, or both, as necessary to protect the public.

SEC. 122. Section 14022 of the Food and Agricultural Code is amended to read:

14022. (a) In consultation with the Office of Environmental Health Hazard Assessment and the State Air Resources Board, the director shall evaluate the health effects of pesticides that may be or are emitted into the ambient air of California and that may be determined to be a toxic air contaminant that poses a present or potential hazard to human health. Upon request of the State Air Resources Board, the director shall include a pesticide for evaluation.

(b) The director shall complete the evaluation of a pesticide within 90 days after receiving the scientific data specified in subdivision (c) from the Office of Environmental Health Hazard Assessment and the State Air Resources Board. The director may extend the 90-day deadline for a period not to exceed 30 days if the director transmits to the Assembly Committee on Rules and the Senate Committee on Rules, for transmittal to the appropriate standing, select, or joint committee of the Legislature, a statement of reasons for extension of the deadline.

(c) In conducting this evaluation, the director shall consider all available scientific data, including, but not limited to, relevant data provided by the Office of Environmental Health Hazard Assessment, the Occupational Safety and Health Division of the Department of Industrial Relations, international and federal health agencies, private industry, academic researchers, and public health and environmental organizations. At the request of the director, the State Air Resources Board shall document the level of airborne emissions and the Office of Environmental Health Hazard Assessment shall provide an assessment of related health effects of pesticides that may be determined to pose a present or potential hazard and each agency shall provide technical assistance to the department as it conducts its evaluation.

(d) The director may request, and any person shall provide, information on any substance that is or may be under evaluation and that is manufactured, distributed, or used by the person to whom the request is made, in order to carry out the director's responsibilities pursuant to this chapter. Any person providing information pursuant to this subdivision shall identify, at the request of the director, that portion of the information submitted to the department that is a trade secret and, upon the request of the director, shall provide documentation to support the claim of the trade secret. Information supplied that is a trade secret, as specified in Section 7924.510 of the Government Code, and that is so marked at the time of submission shall not be released to the public by the director, except in accordance with Section 1060 of the Evidence Code and Section 21160 of the Public Resources Code.

(e) The director shall give priority to the evaluation and regulation of substances based on factors related to the risk of harm to public health, amount or potential amount of emissions, manner of usage of the pesticide in California, persistence in the atmosphere, and ambient concentrations in the community.

SEC. 123. Section 14407 of the Food and Agricultural Code is amended to read:

14407. Notwithstanding the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), any information provided pursuant to this chapter and Section 14902.5 shall be held confidential, and shall not be disclosed to any person or governmental agency, other than the department or the Veterinary Medical Board, for the purposes of enforcing the Veterinary Medicine Practice Act (Chapter 11 (commencing with Section 4800) of Division 2 of the Business and Professions Code), unless the data is aggregated to prevent the identification of an individual farm or business. Information may be shared with federal agencies so long as it is protected by the federal Confidential Information Protection and Statistical Efficiency Act of 2002 (Public Law 107-347).

SEC. 124. Section 15205 of the Food and Agricultural Code is amended to read:

15205. (a) Each registered structural pest control company shall make all existing records pertaining to pesticide and device use available to the director, the Structural Pest Control Board, or commissioner upon demand at the headquarters of the business during normal business hours. A registered structural pest control company or licensee may not prohibit onsite inspection for compliance with the Business and Professions Code and this division regarding pesticides and structural pest control devices and regulations adopted pursuant thereto. Except as provided in Section 8505.5 of the Business and Professions Code, nothing in this section shall be construed as requiring a registered structural pest control company or licensee to provide advance notice of the date, time, location of the application, type of device or pesticide application, or any other related information unless the information is contained in existing records available to the registered company or licensee, in which case the director, the Structural Pest Control Board, or commissioner may require that this information be produced at the company's place of business.

(b) Information and documents gathered by the director, the Structural Pest Control Board, or the commissioner pursuant to this section that are protected from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) shall remain confidential while in the director's, the board's, or the commissioner's possession.

(c) (1) "Device," for purposes of this section, means any method, instrument, or contrivance intended to be used to prevent, eliminate, destroy, repel, attract, or mitigate any wood destroying pest, but does not include firearms, pesticides as defined in Section 12753, or equipment used for the application of pesticides when sold separately from a pesticide.

(2) "Wood destroying pest," for purposes of this section, includes, but is not limited to, insects such as wood borers and termites. "Wood destroying pest" does not include wood-decaying fungi, general household pests such as cockroaches, or vertebrate pests such as rats and mice.

SEC. 125. Section 29041 of the Food and Agricultural Code is amended to read:

29041. Notwithstanding the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), any information provided in accordance with this article, Section 29070, or Section 29070.5 shall be held confidential, and shall not be disclosed to any person or governmental agency, other than the department or a county department of agriculture. The information shall also be considered privileged under the provisions of Sections 1040 and 1060 of the Evidence Code, with the exception of the location of apiaries for disclosure to pesticide applicators pursuant to Section 29101.

SEC. 126. Section 46013.2 of the Food and Agricultural Code is amended to read:

46013.2. (a) To the extent feasible, the secretary, in consultation with the director, shall coordinate the registration and annual fee collection procedures of this section with similar licensing or registration procedures applicable to registrants.

(b) The secretary shall deny a registration submission that is incomplete or not in compliance with this act.

(c) A registrant shall, within a reasonable time, notify the secretary of any change in the information reported on the registration form and shall pay any additional fee owed if that change results in a higher fee owed than that previously paid.

(d) (1) At the request of any person, the secretary or county agricultural commissioner shall provide the following:

(A) The name and address of the registrant.

(B) The nature of the registrant's business.

(C) The names of all certification organizations or governmental entities, if any, providing certification pursuant to the NOP and this act.

(2) The secretary or county agricultural commissioner may charge a reasonable fee for the cost of reproducing this information. Except as provided in this subdivision, a registration form is exempt from Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code.

(e) The secretary, in consultation with the California Organic Products Advisory Committee, may suspend the registration program set forth in this section if the secretary determines that income derived from registration fees is insufficient to support a registration enforcement program.

(f) A registration is considered legal and valid until revoked, suspended, or until the expiration of the registration.

(g) The registration revocation process shall be in conjunction with other provisions of this act. The secretary or county agricultural commissioner's office may initiate the revocation process for failure to comply with the NOP or this act. Any person against whom the action is being taken shall

have the opportunity to appeal the action and be afforded the opportunity to be heard in an administrative appeal. This appeal shall be administered by either the state or county agricultural commissioner's office.

(h) If the registration fee is not paid within 60 days from the expiration date, the account shall be considered closed and the registration voided. A notification shall be sent to the registrant and the certifier, if applicable, notifying them the registrant is no longer able to market products as organic until the account is paid in full.

(i) Any producer, handler, processor, or certification agency subject to this chapter that does not pay the fee within 10 days of the date on which the fee is due and payable shall pay a penalty of 10 percent of the total amount determined to be due plus interest at the rate of 1.5 percent per month on the unpaid balance.

SEC. 127. Section 46014.1 of the Food and Agricultural Code is amended to read:

46014.1. (a) Any certification agency that certifies products in this state sold as organic shall register with the secretary and shall thereafter annually renew the registration, unless the organization is no longer engaged in the activities requiring the registration. Registration shall be on a form provided by the secretary and shall include a copy of accreditation by the USDA or proof of application, if applicable.

(b) Each certification agency shall pay to the secretary an annual registration fee of twenty-five dollars ($25) for each client they have certified in this state up to a maximum of five hundred dollars ($500). Any registration submitted by a certification agency shall be made available to the public for inspection and copying. The secretary may audit the agency's certification procedures and records at any time, but any records of the certification agency not otherwise required to be disclosed shall be kept confidential by the secretary.

(c) An accredited certifying agency may submit an annual registration fee and application on behalf of their client provided that all of the information required under Section 46013.1 is included when remitting applicable fees to the secretary.

(d) The secretary and the county agricultural commissioners under the supervision of the secretary shall, if requested by a sufficient number of persons to cover the costs of the program in a county as determined by the secretary, establish a certification program. This program shall meet all of the requirements of this act. In addition, this program shall meet all of the requirements of the federal certification program, including federal accreditation. The secretary shall establish a fee schedule for participants in this program that covers all of the secretary's reasonable costs of the program. A county agricultural commissioner that conducts a voluntary certification program pursuant to this section shall establish a fee schedule for participants in this program that covers all of the county's reasonable costs of the program. The secretary shall not expend funds obtained from registration fees collected under this chapter for the purposes of adopting or administering this program. The certification fee authorized by this

subdivision is due and payable on January 1 or may be prorated before the 10th day of the month following the month in which the decision to grant the certification is issued. Any person who does not pay the amount that is due within the required period shall pay the enforcement authority providing the certificate a penalty of 10 percent of the total amount determined to be due, plus interest at the rate of 1.5 percent per month on the unpaid balance.

(e) Notwithstanding any other law, any certification agency that certifies products in this state sold as organic shall immediately make the following records available for inspection by, and shall upon request within three business days of the request, or within a reasonable time exceeding three business days as determined by the secretary, provide a copy to, the secretary or county agricultural commissioner:

(1) Records obtained from applicants for certification and certified operations.

(2) Records created by the certifying agent regarding applicants for certification and certified operations.

(3) Any record required to be kept under the National Organic Program (Section 6517 of the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.) and 7 C.F.R. 205 et seq.), Article 7 (commencing with Section 110810) of Chapter 5 of Part 5 of Division 104 of the Health and Safety Code, and this act applicable to any person selling products as organic.

(f) Records acquired pursuant to this section shall not be public records as that term is defined in Section 7920.530 of the Government Code and shall not be subject to Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code.

SEC. 128. Section 46029 of the Food and Agricultural Code is amended to read:

46029. (a) Notwithstanding any other provision of law, any producer, handler, processor, or retailer of products sold as organic shall immediately make available for inspection by, and shall upon request, within 72 hours of the request, provide a copy to, the secretary, the Attorney General, any prosecuting attorney, any governmental agency responsible for enforcing laws related to the production or handling of products sold as organic, of any record required to be kept under this section for purposes of carrying out this act. Records acquired pursuant to this act shall not be public records as that term is defined in Section 7920.530 of the Government Code and shall not be subject to Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code.

(b) Upon written request of any person that establishes cause for the request, the secretary shall obtain and provide to the requesting party within 10 working days of the request a copy of any of the following records required to be kept under this act that pertain to a specific product sold or offered for sale, and that identify substances applied, administered, or added to that product, except that financial information about an operation or transaction, information regarding the quantity of a substance administered or applied, the date of each administration or application, information regarding the identity of suppliers or customers, and the quantity or price

of supplies purchased or products sold shall be removed before disclosure and shall not be released to any person other than persons and agencies authorized to acquire records under subdivision (a):

(1) Records of a producer, as described in Section 46028.

(2) Records of a handler, as described in Section 46028, records of previous handlers, if any, and producers as described in Section 46028 without identifying the previous handlers or producers, and, if applicable, records obtained as required in this act.

(3) (A) Records of a retailer, as described in Section 46028, records of previous handlers, if any, and producers as described in Section 46028 without identifying the previous processors, handlers, or producers, and, if applicable, records obtained as required in subdivision (d). This subdivision shall be the exclusive means of public access to records required to be kept by producers, processors, handlers, and retailers under this act.

(B) A person required to provide records pursuant to a request under this subdivision, may petition the secretary to deny the request based on a finding that the request is of a frivolous or harassing nature. The secretary may, upon the issuance of this finding, waive the information production requirements of this subdivision for the specific request for information that was the subject of the petition.

(c) Information specified in subdivision (b) that is required to be released upon request shall not be considered a "trade secret" under Section 110165, Section 1060 of the Evidence Code, or the Uniform Trade Secrets Act (Title 5 (commencing with Section 3426) of Part 1 of Division 4 of the Civil Code).

(d) The secretary may charge the person requesting records a reasonable fee to reimburse the secretary or the source of the records for the cost of reproducing the records requested.

(e) The secretary shall not be required to obtain records not in the secretary's possession in response to a subpoena. Prior to releasing records required to be kept pursuant to this act in response to a subpoena, the secretary shall delete any information regarding the identity of suppliers or customers and the quantity or price of supplies purchased or products sold.

SEC. 129. Section 55075 of the Food and Agricultural Code is amended to read:

55075. (a) Notwithstanding any other provision of law, any producer or handler of rice sold as a certified rice and any organization certifying rice for the commission shall immediately make available for inspection by, and shall within 72 hours of a request provide to, the commission a copy of any record required to be kept under this chapter. Records acquired pursuant to this section and any information marked trade secret or confidential acquired by the commission in carrying out its duties under this chapter shall not be public records as that term is defined in Section 7920.530 of the Government Code and shall not be subject to Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code.

(b) The commission shall not be required to obtain records not in its possession in response to a subpoena. Prior to releasing records required to

be kept pursuant to this chapter in response to a subpoena, the commission shall delete any financial information about any operation or transaction, information regarding the identity of suppliers or customers, the quantity or price of supplies purchased or products sold, and any information marked trade secret or confidential.

(c) Except for those records subject to public inspection pursuant to Sections 55071 and 55074, this section shall be the exclusive means of public access to records required to be kept or obtained by the commission pursuant to this chapter.

SEC. 130. Section 58577 of the Food and Agricultural Code is amended to read:

58577. (a) (1) The director, the Director of General Services, and the advisory committee shall take necessary precautions to assure the confidentiality of the information that is contained in proposals for project agreements, market development plans, progress reports, documents in support of claims for funding under a project agreement, and other pertinent information submitted by individual marketing organizations.

(2) This information is exempt from the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(b) Notwithstanding Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, the advisory committee may hold a closed meeting if an applicant requests that the submitted information not be discussed in an open meeting and the committee determines that it is in the best interest of the program to conduct a closed meeting for that purpose.

SEC. 131. Section 71089 of the Food and Agricultural Code is amended to read:

71089. (a) The commission and the secretary shall keep confidential and shall not disclose, except when required by court order after a hearing in a judicial proceeding, all lists in their possession of persons subject to this chapter. However, the commission shall establish procedures to provide access to communication with other producers and handlers regarding noncommercial matters affecting the commission and persons subject to its jurisdiction. The access shall not include the actual release of the list of the names and addresses of producers and handlers in the possession of the commission or the secretary. In addition, notwithstanding any other provision of law, all proprietary or trade secret information developed or gathered pursuant to this chapter, including, but not limited to, names and addresses of handlers, producers, processors, wholesalers, retailers, brokers, and shippers, individual quantities produced, handled, shipped, bought or sold, prices paid, and the products of research obtained by the commission, or by the department on behalf of the commission, from any source is confidential and shall not be considered a public record as that term is defined in Section 7920.530 of the Government Code.

(b) Upon receipt of a request for information from a person establishing cause for the request, the department shall direct the commission to provide

the requesting person any record in the commission's possession, except that any proprietary information shall be removed before disclosure.

SEC. 132. Section 77965 of the Food and Agricultural Code is amended to read:

77965. (a) To prevent unfair trade practices that are detrimental to California's cut flower industry, including, but not limited to, deception and misinformation, the commission shall annually specify the types and varieties of cut flowers for which it shall collect from producers who participate, and disseminate to these producers, market price information based on sales that have occurred.

(b) The identity of each producer reporting the information and the information reported pursuant to this section and the provisions listed in Section 7920.505 of the Government Code shall be kept confidential and not made public under any circumstances. Information that gives industry totals, averages, and other similar data may be disclosed by the commission.

(c) The procedure for the collection and dissemination of the information specified in this section shall be adopted by the commission and approved by the secretary.

SEC. 133. Section 78925 of the Food and Agricultural Code is amended to read:

78925. (a) All proprietary and trade secret information obtained by the commission from producers and vintners shall be confidential and shall not be disclosed except when required by a court order after a hearing in a judicial proceeding involving this chapter. The Legislature finds and declares that this provision is required to ensure that producer and vintner proprietary and trade secret information shall not be disclosed.

(b) In addition, and notwithstanding any other provision of law, all proprietary or trade secret information developed or gathered pursuant to this chapter by the commission, or by the department on behalf of the commission, from any source is confidential, shall not be considered a public record as that term is defined in Section 7920.530 of the Government Code, and shall not be disclosed by the commission or the secretary except when required by a court order after a hearing in a judicial proceeding involving this chapter.

(c) Information on volume shipments, crop value, and any other related information that is required for reports to governmental agencies, financial reports to the commission, or aggregate sales and inventory information, and other information that give only totals, but excludes individual information, may be disclosed by the commission.

(d) The commission shall determine whether information is proprietary or trade secret and not subject to disclosure. If the commission denies a request for disclosure of this information, the commission shall provide written justification for its decision to the person requesting the information who may appeal the decision of the commission to the secretary.

SEC. 134. Section 79505 of the Food and Agricultural Code is amended to read:

79505. (a) All information obtained by the commission or the secretary from producers and other persons required to keep and submit records pursuant to this article shall be confidential and shall not be disclosed except when required by a court order after a hearing in a judicial proceeding involving this chapter.

(b) In addition, and notwithstanding any other provision of law, all proprietary or trade secret information developed or gathered pursuant to this chapter, including, but not limited to, the names and addresses of persons subject to this chapter, individual quantities produced or sold, prices paid, and the products of research obtained by the commission, or by the department on behalf of the commission, from any source is confidential, shall not be considered a public record as that term is defined in Section 7920.530 of the Government Code, and shall not be disclosed by the commission or the secretary except when required by a court order after a hearing in a judicial proceeding involving this chapter.

(c) Information on volume shipments, crop value, and any other related information that is required for reports to governmental agencies, financial reports to the commission, or aggregate sales and inventory information, and any other information that gives only totals, but excludes individual information, may be disclosed by the commission in its sole discretion.

SEC. 135. Section 925.6 of the Government Code is amended to read:

925.6. (a) The Controller shall not draw the Controller's warrant for any claim until it has been audited by the Controller in conformity with law and the general rules and regulations adopted by the department, governing the presentation and audit of claims. Whenever the Controller is directed by law to draw the Controller's warrant for any purpose, the direction is subject to this section.

(b) Notwithstanding the provisions of subdivision (a), the Assembly Committee on Rules, the Senate Committee on Rules, and the Joint Rules Committee, in cooperation with the Controller, shall adopt rules and regulations to govern the presentation of claims of the committees to the Controller. The Controller, in cooperation with the committees, shall adopt rules and regulations governing the audit and recordkeeping of claims of the committees. All rules and regulations shall be adopted by January 31, 1990, shall be published in the Assembly and Senate Journals, and shall be made available to the public.

(c) Rules and regulations adopted pursuant to subdivision (b) shall not be subject to the review by or approval of the Office of Administrative Law.

(d) Records of claims kept by the Controller pursuant to subdivision (b) shall be open to public inspection as permitted by the California Public Records Act (Division 10 (commencing with Section 7920.000)).

SEC. 136. Section 1363 of the Government Code is amended to read:

1363. (a) Unless otherwise provided, every oath of office certified by the officer before whom it was taken shall be filed within the time required as follows:

(1) The oath of all officers whose authority is not limited to any particular county, in the office of the Secretary of State.

(2) The oath of all officers elected or appointed for any county, and, except as provided in paragraph (4), of all officers whose duties are local, or whose residence in any particular county is prescribed by law, in the office of the county clerk of their respective counties.

(3) Each judge of a superior court, the county clerk, the clerk of the court, the executive officer or court administrator of the superior court, and the recorder shall file a copy of that person's official oath, signed with that person's own proper signature, in the office of the Secretary of State as soon as that person has taken and subscribed the oath.

(4) The oath of all officers for any independent special district, as defined in Section 56044, in the office of the clerk or secretary of that district.

(b) (1) In its discretion, the board of supervisors of a county may require every elected or appointed officer or department head of that county who legally changes their name, delegated authority, or department, within 10 days from the date of the change, to file a new oath of office in the same manner as the original filing. The county may maintain a record of each person so required to file a new oath of office indicating whether or not the person has complied. Any record maintained pursuant to this paragraph is a public record subject to disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000)).

(2) Notwithstanding any other law, including, but not limited to, Sections 1368 and 1369, failure of an elected or appointed officer or department head of a county to file a new oath of office required by the board of supervisors pursuant to this subdivision shall not be punishable as a crime.

(c) Every oath of office filed pursuant to this section with the Secretary of State shall include the expiration date of the officer's term of office, if any. In the case of an oath of office for an appointed officer, if there is no expiration date set forth in the oath, or the officer leaves office before the expiration date, the appointing authority shall report in writing to the Secretary of State the officer's date of departure from office.

(d) The powers of an appointed officer of a county are no longer granted upon the officer's departure from office. In its discretion, the board of supervisors of a county may require the appointing authority to rescind these powers in writing by filing a revocation in the same manner as the oath of office was filed.

SEC. 137. Section 3105 of the Government Code is amended to read:

3105. (a) The oath or affirmation of any disaster service worker of the state shall be filed as prescribed by State Personnel Board rule within 30 days of the date on which it is taken and subscribed.

(b) The oath or affirmation of any disaster service worker of any county shall be filed in the office of the county clerk of the county or in the official department personnel file of the county employee who is designated as a disaster service worker.

(c) The oath or affirmation of any disaster service worker of any city shall be filed in the office of the city clerk of the city.

(d) The oath or affirmation of any disaster service worker of any other public agency, including any district, shall be filed with any officer or employee of the agency that may be designated by the agency.

(e) (1) In its discretion, the board of supervisors of a county may require every disaster service worker of that county who legally changes their name, within 10 days from the date of the change, to file a new oath or affirmation in the same manner as the original filing. The county may maintain a record of each person so required to file a new oath of office indicating whether or not the person has complied. Any record maintained pursuant to this paragraph is a public record subject to disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000)).

(2) Notwithstanding any other law, including, but not limited to, Sections 3108 and 3109, failure of a disaster service worker to file a new oath of office required by the board of supervisors pursuant to this subdivision shall not be punishable as a crime.

(f) The oath or affirmation of any disaster service worker may be destroyed without duplication five years after the termination of the disaster service worker's service or, in the case of a public employee, five years after the termination of the employee's employment.

SEC. 138. Section 3558 of the Government Code is amended to read:

3558. Subject to the exceptions provided here, the public employer shall provide the exclusive representative with the name, job title, department, work location, work, home, and personal cellular telephone numbers, personal email addresses on file with the employer, and home address of any newly hired employee within 30 days of the date of hire or by the first pay period of the month following hire, and the public employer shall also provide the exclusive representative with a list of that information for all employees in the bargaining unit at least every 120 days unless more frequent or more detailed lists are required by an agreement with the exclusive representative. The information identified in this section shall be provided to the exclusive representative regardless of whether the newly hired public employee was previously employed by the public employer. The information under this section shall be provided in a manner consistent with Section 7928.300 and in a manner consistent with Section 6207 for a participant in the address confidentiality program established pursuant to Chapter 3.1 (commencing with Section 6205) of Division 7. The provision of information under this section shall be consistent with the employee privacy requirements described in County of Los Angeles v. Los Angeles County Employee Relations Com. (2013) 56 Cal.4th 905. This section does not preclude a public employer and exclusive representative from agreeing to a different interval within which the public employer provides the exclusive representative with the name, job title, department, work location, work, home, and personal cellular telephone numbers, personal email addresses, and home address of any newly hired employee or member of the bargaining unit.

SEC. 139. Section 5872 of the Government Code is amended to read:

5872. (a) When an audit of a conduit financing provider's accounts and records is required by law, in addition to any other requirements, the audit shall include all of the following:

(1) A disclosure of fees imposed on borrowers by, or on behalf of, the conduit financing provider.

(2) A disclosure of expenditures related to those fees made by or on behalf of the conduit financing provider.

(3) The dollar amount and nature of these fees and expenses.

(4) A disclosure of the amount of bonds authorized but unsold at the end of the time period covered by the audit.

(5) A disclosure of the amount of debt the conduit financing provider has issued during the period covered by the audit and the amount of debt still outstanding at the end of the time period covered by the audit.

(b) An audit of a conduit financing provider's accounts and records shall be made publicly available pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000)).

(c) Notwithstanding any other reporting periods permitted pursuant to subdivision (f) of Section 6505, Section 26909, or any other provision of law, a conduit financing provider shall annually conduct an audit of its accounts and records and report the results of that audit to the Controller. The minimum requirements of the annual audit and report shall be prescribed by the Controller and conform to generally accepted auditing standards.

SEC. 140. Section 5976 of the Government Code is amended to read:

5976. (a) The city may contract and procure the project pursuant to this chapter.

(b) The city shall evaluate the project proposals it solicits and receives and choose the private entity or entities whose proposal is, or proposals are, judged as providing the best value in meeting the best interests of the city. The city may enter into a public-private partnership through a concession agreement, design-build agreement, design-build-finance agreement, project agreement, lease-leaseback, or other appropriate agreements combining one or more major elements of the foregoing agreements, with one or more private entities for delivery of the project. The city shall retain the right to terminate the project prior to project award should the city determine that the project is not in the best interests of the city or should the negotiations with the private entity or entities otherwise fail.

(c) The contract award for the project shall be made to the private entity or entities whose proposal or proposals are determined by the city, in writing, to be the most advantageous by providing the best value in meeting the best interests of the city.

(d) The negotiation process shall specifically prohibit practices that may result in unlawful activity, including, but not limited to, rebates, kickbacks, or other unlawful consideration, and shall specifically prohibit city employees from participating in the selection process when those employees have a relationship with a person or business entity seeking a contract under this chapter that would subject those employees to the prohibition of Section 87100.

(e) All documents related to the project shall be subject to disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000)), except those exempted from disclosure under that act.

SEC. 141. Section 6204 of the Government Code is amended to read:

6204. (a) For purposes of this chapter, the following definitions shall apply:

(1) "Archivist" means the Chief of Archives, as specified in Section 12227.

(2) "Record" has the same meaning as "public records" is defined in Section 7920.530, and includes, but is not limited to, any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by a state or local agency regardless of physical form or characteristics.

(3) "Secretary" means the Secretary of State.

(b) Whenever the secretary, in consultation with the archivist, has reasonable grounds to believe that a record belonging to the state or a local agency is in the possession of a person, organization, or institution not authorized by law to possess that record, the secretary may issue a written notice demanding that person, organization, or institution to do either of the following within 20 calendar days of receiving the notice:

(1) Return the record to the appropriate state or local agency.

(2) Respond in writing and declare why the record does not belong to the state or a local agency.

(c) The notice and demand issued pursuant to subdivision (b) shall identify the record claimed to belong to the state or local agency with reasonable specificity, and shall state that the secretary is authorized to take legal action to recover the record if the person, organization, or institution fails to respond in writing within the required time or does not adequately demonstrate that the record does not belong to the state or a local agency.

(d) The secretary shall send the notice and demand specified in subdivision (b) by certified or registered mail, return receipt requested.

(e) When a record is returned pursuant to paragraph (1) of subdivision (b), upon the request of the person, organization, or institution that returned the record, the secretary or a local agency that receives the record shall issue to that person, organization, or institution a copy or digital image of the record, which shall be certified as a true copy of the record that was returned to the state or local agency, and dated on the same day the record was returned.

SEC. 142. Section 6204.1 of the Government Code is amended to read:

6204.1. (a) If a person, organization, or institution that receives a written notice and demand from the secretary pursuant to Section 6204 does not deliver the described record, does not respond to the notice and demand within the required time, or does not adequately demonstrate that the record does not belong to the state or a local agency, the secretary may ask the Attorney General to petition the superior court in the county in which the records are located for an order requiring the return of the record.

(b) After a hearing, and upon a finding that the specified record is in the possession of a person, organization, or institution not authorized by law to possess the record, the court shall order the record to be delivered to the archivist or other government official designated by the court.

(c) The court may issue any order necessary to protect the record from destruction, alteration, transfer, conveyance, or alienation by the person, organization, or institution in possession of the record, and may order the record to be surrendered into the custody of the archivist pending the court's decision on the petition. The court may order the record to be available for public access under a request made pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000)).

SEC. 143. Section 6204.2 of the Government Code is amended to read:

6204.2. (a) If a local agency has reasonable grounds to believe that a record belonging to that local agency is in the possession of a person, organization, or institution not authorized by law to possess the record, it may request the secretary to act on its behalf pursuant to the procedures specified in Sections 6204 and 6204.1, or undertake on its own behalf the same procedure available to the secretary under those sections, subject to subdivisions (b), (c), and (d).

(b) If a person, organization, or institution that receives a written notice and demand from a local agency issued pursuant to this section does not deliver the described record, does not respond to the notice and demand within the required time, or does not adequately demonstrate that the record does not belong to the local agency, the local agency may request the county district attorney or, where applicable, the city attorney, to petition the superior court in the county in which the record is located for an order requiring the return of the record.

(c) After a hearing, and upon a finding that a specified record is in the possession of a person, organization, or institution not authorized by law to possess the record, the court shall order the record to be delivered to the local agency or a government official designated by the court.

(d) The court may issue any order necessary to protect the record from destruction, alteration, transfer, conveyance, or alienation by the person, organization, or institution in possession of the record, and may order the record to be surrendered into the custody of the local agency pending the court's decision on the petition. The court may order the record to be available for public access under a request made pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000)).

SEC. 144. Section 6204.3 of the Government Code is amended to read:

6204.3. (a) Notwithstanding any other provision of this chapter, an organization or institution having physical custody of a record shall be exempt from Sections 6204 to 6204.2, inclusive, if the organization or institution meets both of the following requirements:

(1) It follows professional practices recommended by the Society of American Archivists, as used by the archivist, for the management, care, and preservation of historical records.

(2) It requires that all records it receives or maintains are subject to inspection to the same extent that the records would be subject to inspection and not exempt from disclosure pursuant to Division 10 (commencing with Section 7920.000) if received or maintained by a public agency.

(b) If an organization or institution refuses public inspection of a record in its custody in violation of the requirements described in paragraph (2) of subdivision (a), the archivist or local agency, or a designated representative, shall contact the organization or institution to inform it of those requirements and, if appropriate, facilitate inspection of the record. If an organization or institution continues to deny public inspection consistent with paragraph (2) of subdivision (a), the secretary, on behalf of the archivist or the local agency may pursue recovery of the records under this chapter.

SEC. 145. Section 6527 of the Government Code is amended to read:

6527. (a) Notwithstanding any other provision of law, where two or more health care districts have joined together to pool their self-insurance claims or losses, a nonprofit corporation that provides health care services that may be carried out by a health care district may participate in the pool, provided that its participation in an existing joint powers agreement, as authorized by this section, shall be permitted only after the public agency members, or public agency representatives on the governing body of the joint powers entity make a finding, at a public meeting, that the agreement provides both of the following:

(1) The primary activities conducted under the joint powers agreement will be substantially related to and in furtherance of the governmental purposes of the public agency.

(2) The public agency participants will maintain control over the activities conducted under the joint powers agreement through public agency control over governance, management, or ownership of the joint powers authority.

(b) Any public agency or private entity entering into a joint powers agreement under this section shall establish or maintain a reserve fund to be used to pay losses incurred under the agreement. The reserve fund shall contain sufficient moneys to maintain the fund on an actuarially sound basis.

(c) In any risk pooling arrangement created under this section, the aggregate payments made under each program shall not exceed the amount available in the pool established for that program.

(d) A public meeting shall be held prior to the dissolution or termination of any enterprise operating under this section to consider the disposition, division, or distribution of any property acquired as a result of exercise of the joint exercise of powers.

(e) Nothing in this section shall be construed to do any of the following:

(1) Relieve a public benefit corporation that is a health facility from charitable trust obligations.

(2) Exempt a public benefit corporation that is a health facility from existing law governing joint ventures, or the sale, transfer, lease, exchange, option, conveyance, or other disposition of assets.

(3) Grant any power to any private, nonprofit hospital that participates in an agreement authorized under this section to levy any tax or assessment.

(4) Permit any entity, other than a private, nonprofit hospital corporation or a public agency, to participate as a party to an agreement authorized under this section.

(5) Permit an agency or entity created pursuant to a joint powers agreement entered into pursuant to this section to act in a manner inconsistent with the laws that apply to public agencies, including, but not limited to, the California Public Records Act (Division 10 (commencing with Section 7920.000)), the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5), and the Political Reform Act of 1974 (Title 9 (commencing with Section 81000)).

(f) Notwithstanding any other provision of law, the Self-Insurers' Security Fund established pursuant to Article 2.5 (commencing with Section 3740) of Chapter 4 of Part 1 of Division 4 of the Labor Code shall owe no duties or obligations to any entity that participates as a party to an agreement authorized pursuant to this section, or to its employees, and shall not be required, under any circumstances, to assume the workers' compensation liabilities of this entity if it becomes insolvent or otherwise unable to pay those liabilities.

(g) For purposes of this section, "self-insurance claims or losses" includes, but is not limited to, claims or losses incurred pursuant to Chapter 4 (commencing with Section 3700) of Part 1 of Division 4 of the Labor Code.

SEC. 146. Section 7283.1 of the Government Code is amended to read:

7283.1. (a) In advance of any interview between ICE and an individual in local law enforcement custody regarding civil immigration violations, the local law enforcement entity shall provide the individual with a written consent form that explains the purpose of the interview, that the interview is voluntary, and that the individual may decline to be interviewed or may choose to be interviewed only with the individual's attorney present. The written consent form shall be available in English, Spanish, Chinese, Tagalog, Vietnamese, and Korean. The written consent form shall also be available in any additional languages that meet the county threshold as defined in subdivision (d) of Section 128552 of the Health and Safety Code if certified translations in those languages are made available to the local law enforcement agency at no cost.

(b) Upon receiving any ICE hold, notification, or transfer request, the local law enforcement agency shall provide a copy of the request to the individual and inform the individual whether the law enforcement agency intends to comply with the request. If a local law enforcement agency provides ICE with notification that an individual is being, or will be, released on a certain date, the local law enforcement agency shall promptly provide the same notification in writing to the individual and to the individual's attorney or to one additional person who the individual shall be permitted to designate.

(c) All records relating to ICE access provided by local law enforcement agencies, including all communication with ICE, shall be public records for purposes of the California Public Records Act (Division 10 (commencing with Section 7920.000)), including the exemptions provided by that act and,

as permitted under that act, personal identifying information may be redacted prior to public disclosure. Records relating to ICE access include, but are not limited to, data maintained by the local law enforcement agency regarding the number and demographic characteristics of individuals to whom the agency has provided ICE access, the date ICE access was provided, and whether the ICE access was provided through a hold, transfer, or notification request or through other means.

(d) Beginning January 1, 2018, the local governing body of any county, city, or city and county in which a local law enforcement agency has provided ICE access to an individual during the last year shall hold at least one community forum during the following year, that is open to the public, in an accessible location, and with at least 30 days' notice to provide information to the public about ICE's access to individuals and to receive and consider public comment. As part of this forum, the local law enforcement agency may provide the governing body with data it maintains regarding the number and demographic characteristics of individuals to whom the agency has provided ICE access, the date ICE access was provided, and whether the ICE access was provided through a hold, transfer, or notification request or through other means. Data may be provided in the form of statistics or, if statistics are not maintained, individual records, provided that personally identifiable information shall be redacted.

SEC. 147. Section 7284.6 of the Government Code is amended to read:

7284.6. (a) California law enforcement agencies shall not:

(1) Use agency or department moneys or personnel to investigate, interrogate, detain, detect, or arrest persons for immigration enforcement purposes, including any of the following:

(A) Inquiring into an individual's immigration status.

(B) Detaining an individual on the basis of a hold request.

(C) Providing information regarding a person's release date or responding to requests for notification by providing release dates or other information unless that information is available to the public, or is in response to a notification request from immigration authorities in accordance with Section 7282.5. Responses are never required, but are permitted under this subdivision, provided that they do not violate any local law or policy.

(D) Providing personal information, as defined in Section 1798.3 of the Civil Code, about an individual, including, but not limited to, the individual's home address or work address unless that information is available to the public.

(E) Making or intentionally participating in arrests based on civil immigration warrants.

(F) Assisting immigration authorities in the activities described in Section 1357(a)(3) of Title 8 of the United States Code.

(G) Performing the functions of an immigration officer, whether pursuant to Section 1357(g) of Title 8 of the United States Code or any other law, regulation, or policy, whether formal or informal.

(2) Place peace officers under the supervision of federal agencies or employ peace officers deputized as special federal officers or special federal

deputies for purposes of immigration enforcement. All peace officers remain subject to California law governing conduct of peace officers and the policies of the employing agency.

(3) Use immigration authorities as interpreters for law enforcement matters relating to individuals in agency or department custody.

(4) Transfer an individual to immigration authorities unless authorized by a judicial warrant or judicial probable cause determination, or in accordance with Section 7282.5.

(5) Provide office space exclusively dedicated for immigration authorities for use within a city or county law enforcement facility.

(6) Contract with the federal government for use of California law enforcement agency facilities to house individuals as federal detainees for purposes of civil immigration custody, except pursuant to Chapter 17.8 (commencing with Section 7310).

(b) Notwithstanding the limitations in subdivision (a), this section does not prevent any California law enforcement agency from doing any of the following that does not violate any policy of the law enforcement agency or any local law or policy of the jurisdiction in which the agency is operating:

(1) Investigating, enforcing, or detaining upon reasonable suspicion of, or arresting for a violation of, Section 1326(a) of Title 8 of the United States Code that may be subject to the enhancement specified in Section 1326(b)(2) of Title 8 of the United States Code and that is detected during an unrelated law enforcement activity. Transfers to immigration authorities are permitted under this subsection only in accordance with paragraph (4) of subdivision (a).

(2) Responding to a request from immigration authorities for information about a specific person's criminal history, including previous criminal arrests, convictions, or similar criminal history information accessed through the California Law Enforcement Telecommunications System (CLETS), where otherwise permitted by state law.

(3) Conducting enforcement or investigative duties associated with a joint law enforcement task force, including the sharing of confidential information with other law enforcement agencies for purposes of task force investigations, so long as the following conditions are met:

(A) The primary purpose of the joint law enforcement task force is not immigration enforcement, as defined in subdivision (f) of Section 7284.4.

(B) The enforcement or investigative duties are primarily related to a violation of state or federal law unrelated to immigration enforcement.

(C) Participation in the task force by a California law enforcement agency does not violate any local law or policy to which it is otherwise subject.

(4) Making inquiries into information necessary to certify an individual who has been identified as a potential crime or trafficking victim for a T or U Visa pursuant to Section 1101(a)(15)(T) or 1101(a)(15)(U) of Title 8 of the United States Code or to comply with Section 922(d)(5) of Title 18 of the United States Code.

(5) Giving immigration authorities access to interview an individual in agency or department custody. All interview access shall comply with

requirements of the TRUTH Act (Chapter 17.2 (commencing with Section 7283)).

(c) (1) If a California law enforcement agency chooses to participate in a joint law enforcement task force, for which a California law enforcement agency has agreed to dedicate personnel or resources on an ongoing basis, it shall submit a report annually to the Department of Justice, as specified by the Attorney General. The law enforcement agency shall report the following information, if known, for each task force of which it is a member:

(A) The purpose of the task force.

(B) The federal, state, and local law enforcement agencies involved.

(C) The total number of arrests made during the reporting period.

(D) The number of people arrested for immigration enforcement purposes.

(2) All law enforcement agencies shall report annually to the Department of Justice, in a manner specified by the Attorney General, the number of transfers pursuant to paragraph (4) of subdivision (a), and the offense that allowed for the transfer pursuant to paragraph (4) of subdivision (a).

(3) All records described in this subdivision shall be public records for purposes of the California Public Records Act (Division 10 (commencing with Section 7920.000)), including the exemptions provided by that act and, as permitted under that act, personal identifying information may be redacted prior to public disclosure. To the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation, or would endanger the successful completion of the investigation or a related investigation, that information shall not be disclosed.

(4) If more than one California law enforcement agency is participating in a joint task force that meets the reporting requirement pursuant to this section, the joint task force shall designate a local or state agency responsible for completing the reporting requirement.

(d) The Attorney General, by March 1, 2019, and annually thereafter, shall report on the total number of arrests made by joint law enforcement task forces, and the total number of arrests made for the purpose of immigration enforcement by all task force participants, including federal law enforcement agencies. To the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation, or would endanger the successful completion of the investigation or a related investigation, that information shall not be included in the Attorney General's report. The Attorney General shall post the reports required by this subdivision on the Attorney General's internet website.

(e) This section does not prohibit or restrict any government entity or official from sending to, or receiving from, federal immigration authorities, information regarding the citizenship or immigration status, lawful or unlawful, of an individual, or from requesting from federal immigration authorities immigration status information, lawful or unlawful, of any individual, or maintaining or exchanging that information with any other federal, state, or local government entity, pursuant to Sections 1373 and 1644 of Title 8 of the United States Code.

(f) Nothing in this section shall prohibit a California law enforcement agency from asserting its own jurisdiction over criminal law enforcement matters.

SEC. 148. Section 7514.7 of the Government Code is amended to read:

7514.7. (a) Every public investment fund shall require each alternative investment vehicle in which it invests to make the following disclosures at least annually:

(1) The fees and expenses that the public investment fund pays directly to the alternative investment vehicle, the fund manager, or related parties.

(2) The public investment fund's pro rata share of fees and expenses not included in paragraph (1) that are paid from the alternative investment vehicle to the fund manager or related parties. The public investment fund may independently calculate this information based on information contractually required to be provided by the alternative investment vehicle to the public investment fund. If the public investment fund independently calculates this information, then the alternative investment vehicle shall not be required to provide the information identified in this paragraph.

(3) The public investment fund's pro rata share of carried interest distributed to the fund manager or related parties.

(4) The public investment fund's pro rata share of aggregate fees and expenses paid by all of the portfolio companies held within the alternative investment vehicle to the fund manager or related parties.

(5) Any additional information described in subdivision (c) of Section 7928.710.

(b) Every public investment fund shall disclose the information provided pursuant to subdivision (a) at least once annually in a report presented at a meeting open to the public. The public investment fund's report required pursuant to this subdivision shall also include the gross and net rate of return of each alternative investment vehicle, since inception, in which the public investment fund participates. The public investment fund may report the gross and net rate of return and information required by subdivision (a) based on its own calculations or based on calculations provided by the alternative investment vehicle.

(c) For purposes of this section:

(1) "Alternative investment" means an investment in a private equity fund, venture fund, hedge fund, or absolute return fund.

(2) "Alternative investment vehicle" means the limited partnership, limited liability company, or similar legal structure through which a public investment fund invests in an alternative investment.

(3) "Fund manager" means the general partner, managing manager, adviser, or other person or entity with primary investment decisionmaking authority over an alternative investment vehicle and related parties of the fund manager.

(4) "Carried interest" means any share of profits from an alternative investment vehicle that is distributed to a fund manager, general partner, or related parties, including allocations of alternative investment vehicle profits

received by a fund manager in consideration of having waived fees that it might otherwise have been entitled to receive.

(5) "Portfolio companies" means individual portfolio investments made by the alternative investment vehicle.

(6) "Gross rate of return" means the internal rate of return for the alternative investment vehicle prior to the reduction of fees and expenses described in subdivision (a).

(7) "Public investment fund" means any fund of any public pension or retirement system, including that of the University of California.

(8) "Operational person" means any operational partner, senior adviser, or other consultant or employee whose primary activity for a relevant entity is to provide operational or back office support to any portfolio company of any alternative investment vehicle, account, or fund managed by a related person.

(9) "Related person" means any current or former employee, manager, or partner of any related entity that is involved in the investment activities or accounting and valuation functions of the relevant entity or any of their respective family members.

(10) "Related party" means:

(A) Any related person.

(B) Any operational person.

(C) Any entity more than 10 percent of the ownership of which is held directly or indirectly, whether through other entities or trusts, by a related person or operational person regardless if the related person or operational person participates in the carried interest received by the general partner or the special limited partner.

(D) Any consulting, legal, or other service provider regularly engaged by portfolio companies of an alternative investment vehicle, account, or fund managed by a related person and that also provides advice or services to any related person or relevant entity.

(11) "Relevant entity" means the general partner, any separate carry vehicle, the investor adviser, any of the investment adviser's parent or subsidiary entities, or any similar entity related to any other alternative investment vehicle, account, or fund advised or managed by any current or former related person.

(d) (1) This section applies to all new contracts the public investment fund enters into on or after January 1, 2017, and to all existing contracts pursuant to which the public investment fund makes a new capital commitment on or after January 1, 2017.

(2) With respect to existing contracts not covered by paragraph (1), the public investment fund shall undertake reasonable efforts to obtain the information described in subdivision (a) and comply with the reporting requirements contained in subdivision (b) with respect to any information obtained after January 1, 2017.

SEC. 149. Section 8201.5 of the Government Code is amended to read:

8201.5. The Secretary of State shall require an applicant for appointment and commission as a notary public to complete an application form and

submit a photograph of their person as prescribed by the Secretary of State. Information on this form filed by an applicant with the Secretary of State, except for the applicant's name and address, is confidential and no individual record shall be divulged by an official or employee having access to it to any person other than the applicant, the applicant's authorized representative, or an employee or officer of the federal government, the state government, or a local agency, as defined in Section 7920.510 of the Government Code, acting in official capacity. That information shall be used by the Secretary of State for the sole purpose of carrying out the duties of this chapter.

SEC. 150. Section 8301.3 of the Government Code is amended to read:

8301.3. (a) For the purpose of carrying out the provisions of this chapter, the Task Force may do all of the following:

(1) Hold hearings and sit and act at any time and location in California.

(2) Request the attendance and testimony of witnesses.

(3) Request the production of books, records, correspondence, memoranda, papers, and documents.

(4) Seek an order from a superior court compelling testimony or compliance with a subpoena.

(b) Any subcommittee or member of the Task Force may, if authorized by the Task Force, take any action that the Task Force is authorized to take pursuant to this section.

(c) The Task Force may acquire directly from the head of any state agency available information that the Task Force considers useful in the discharge of its duties. All state agencies shall cooperate with the Task Force with respect to such information and shall furnish all information requested by the Task Force to the extent permitted by law. The Task Force shall keep confidential any information received from a state agency that is confidential or exempt from the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1).

SEC. 151. Section 8545 of the Government Code is amended to read:

8545. The California State Auditor shall not destroy any papers or memoranda used to support a completed audit sooner than three years after the audit report is released to the public. All books, papers, records, and correspondence of the office pertaining to its work are public records subject to Division 10 (commencing with Section 7920.000) of Title 1 and shall be filed at any of the regularly maintained offices of the California State Auditor, except that none of the following items or papers of which these items are a part shall be released to the public by the California State Auditor, employees of the California State Auditor, or members of the commission:

(a) Personal papers and correspondence of any person providing assistance to the California State Auditor when that person has requested in writing that the person's papers and correspondence be kept private and confidential. Those papers and correspondence shall become public records if the written request is withdrawn or upon the order of the California State Auditor.

(b) Papers, correspondence, memoranda, or any substantive information pertaining to any audit not completed.

(c) Papers, correspondence, or memoranda pertaining to any audit that has been completed, which papers, correspondence, or memoranda are not used in support of any report resulting from the audit.

(d) Any survey of public employees that the California State Auditor determines should be kept confidential because the employees have expressed fear of retaliation by their employer if they respond to the survey.

(e) In accordance with Section 8545.1 and subdivision (b) of Section 8545.2, any paper, correspondence, record, document, or information the disclosure of which is restricted from release to the public by a statutory or constitutional provision, a rule that is consistent with a provision of that type, or a rule adopted pursuant to subdivision (i) of Section 18 of Article VI of the California Constitution.

SEC. 152. Section 8585 of the Government Code is amended to read:

8585. (a) (1) There is in state government, within the office of the Governor, the Office of Emergency Services. The Office of Emergency Services shall be under the supervision of the Director of Emergency Services, who shall have all rights and powers of a head of an office as provided by this code, and shall be referred to as the Director of Emergency Services.

(2) Unless the context clearly requires otherwise, whenever the term "California Emergency Management Agency" appears in any statute, regulation, or contract, or in any other code, it shall be construed to refer to the Office of Emergency Services, and whenever the term "Secretary of Emergency Management" or the "Secretary of the Emergency Management Agency" appears in statute, regulation, or contract, or in any other code, it shall be construed to refer to the Director of Emergency Services.

(3) Unless the context clearly requires otherwise, whenever the term "Director of Homeland Security" or "Office of Homeland Security" appears in any statute, regulation, or contract, or in any other code, it shall be construed to refer to the Office of Emergency Services, and whenever the term "Director of Homeland Security" or "Director of the Office of Homeland Security" appears in any statute, regulation, or contract, or in any other code, it shall be construed to refer to the Director of Emergency Services.

(b) (1) The Office of Emergency Services and the Director of Emergency Services shall succeed to and are vested with all the duties, powers, purposes, responsibilities, and jurisdiction vested in the California Emergency Management Agency and the Secretary of Emergency Management, respectively.

(2) The Office of Emergency Services and the Director of Emergency Services shall succeed to and are vested with all the duties, powers, purposes, responsibilities, and jurisdiction vested in the Office of Homeland Security and the Director of Homeland Security, respectively.

(c) The Office of Emergency Services shall be considered a law enforcement organization as required for receipt of criminal intelligence information pursuant to Article 1 (commencing with Section 7923.600) of Chapter 1 of Part 5 of Division 10 of Title 1 by persons employed within

the office whose duties and responsibilities require the authority to access criminal intelligence information.

(d) Persons employed by the Office of Emergency Services whose duties and responsibilities require the authority to access criminal intelligence information shall be furnished state summary criminal history information as described in Section 11105 of the Penal Code, if needed in the course of their duties.

(e) The Office of Emergency Services shall be responsible for the state's emergency and disaster response services for natural, technological, or man-made disasters and emergencies, including responsibility for activities necessary to prevent, respond to, recover from, and mitigate the effects of emergencies and disasters to people and property.

(f) Notwithstanding any other law, nothing in this section shall authorize an employee of the Office of Emergency Services to access criminal intelligence information under subdivision (c) or (d) for the purpose of determining eligibility for, or providing access to, disaster-related assistance and services.

SEC. 153. Section 8587.11 of the Government Code is amended to read:

8587.11. (a) There is in state government, within the office, both of the following:

(1) The California Earthquake Early Warning Program.

(2) The California Earthquake Early Warning Advisory Board.

(b) The following definitions apply to this section and Section 8587.12:

(1) "Board" means the California Earthquake Early Warning Advisory Board.

(2) "Program" means the California Earthquake Early Warning Program.

(3) "System" means the statewide earthquake early warning system.

(c) (1) The board shall be composed of the following eight members:

(A) Seven voting members, as follows:

(i) The Secretary of the Natural Resources Agency, or designee.

(ii) The Secretary of California Health and Human Services, or designee.

(iii) The Secretary of Transportation, or designee.

(iv) The Secretary of Business, Consumer Services, and Housing, or designee.

(v) One member who is appointed by, and serves at the pleasure of, the Speaker of the Assembly and represents the interests of private businesses.

(vi) One member who is appointed by, and serves at the pleasure of, the Governor and represents the utilities industry.

(vii) One member who is appointed by, and serves at the pleasure of, the Senate Committee on Rules and represents county government.

(B) The Chancellor of the California State University, or designee, shall serve as a nonvoting member of the board.

(2) The President of the University of California, or designee, may serve as a nonvoting member of the board.

(3) The members of the board shall serve without compensation, but shall be reimbursed for actual and reasonable travel and meal expenses to attend board meetings.

(d) (1) The board shall convene periodically and advise the director on all aspects of the program, including, but not limited to, the following functional areas of the program:

(A) System operations.

(B) Research and development.

(C) Finance and investment.

(D) Training and education.

(2) The board shall utilize committees, groups, and organizations, including, but not limited to, the California Institute of Technology, the California Geological Survey, the University of California, the United States Geological Survey, and entities participating in the critical infrastructure sectors to fulfill the objectives of the program by supporting the functional areas of the system.

(3) The board shall inform the public regarding, and provide the public with the opportunity to engage the board on, the development and implementation of the system.

(4) The board shall consult with program participants, state agencies, departments, boards and commissions, private businesses, postsecondary educational institutions, and subject matter experts, as necessary, to advise the board on the development, implementation, and maintenance of the system.

(e) (1) Except as otherwise provided by law, the California Integrated Seismic Network shall be responsible for the generation of an earthquake early warning alert and related system operations.

(2) The board shall, in conjunction with the director, determine the appropriate methods to provide the public with an earthquake early warning alert.

(f) (1) The board shall comply with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3) and the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1).

(2) Notwithstanding any law, including, but not limited to, the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1), any information in a public record that is a trade secret, as that term is defined in Section 3426.1 of the Civil Code, of a private entity cooperating with the board or participating in the system or with the program is confidential and shall not be disclosed.

SEC. 154. Section 8589.5 of the Government Code is amended to read:

8589.5. (a) For the purposes of this section, "emergency action plan" means a written document that outlines actions to be undertaken during an emergency in order to minimize or eliminate the potential loss of life and property damage.

(b) An emergency action plan shall do all of the following:

(1) Be based upon an inundation map approved by the Department of Water Resources pursuant to Section 6161 of the Water Code.

(2) Be developed by the dam's owner in consultation with any local public safety agency that may be impacted by an incident involving the dam, to the extent a local public safety agency wishes to consult.

(3) Adhere to Federal Emergency Management Agency guidelines, and include, at a minimum, all of the following:

(A) Notification flowcharts and contact information.

(B) The response process.

(C) The roles and responsibilities of the dam owner and impacted jurisdictions following an incident involving the dam.

(D) Preparedness activities and exercise schedules.

(E) Inundation maps approved by the Department of Water Resources pursuant to Section 6161 of the Water Code.

(F) Any additional information that may impact life or property.

(c) At least once annually, an owner of a dam shall conduct an emergency action plan notification exercise with local public safety agencies, to the extent that a local public safety agency wishes to participate. This annual exercise is to ensure that emergency communications plans and processes are current and implemented effectively.

(d) (1) The appropriate public safety agencies of any city, county, or city and county, the territory of which includes any of those areas identified in an inundation map and the emergency action plan, may adopt emergency procedures for the evacuation and control of the potentially affected areas. The Office of Emergency Services may provide guidance to these agencies on incorporating the emergency action plan into the local all-hazard emergency response plans and local hazard mitigation plans.

(2) Local public safety agencies may adopt emergency procedures that incorporate the information contained in an emergency action plan in a manner that conforms to local needs, and that includes all of the following elements:

(A) Methods and procedures for alerting and warning the public.

(B) Delineation of the area to be evacuated.

(C) Routes to be used.

(D) Traffic control measures.

(E) Shelters to be activated for the care of the evacuees.

(F) Methods for the movement of people without their own transportation.

(G) Identification of particular areas or facilities in the flood zones that will not require evacuation because of their location on high ground or similar circumstances.

(H) Identification and development of procedures for the evacuation and care of people with access and functional needs and for the evacuation of specific facilities, such as schools, hospitals, skilled nursing facilities, and other facilities as deemed necessary.

(I) Procedures for the perimeter and interior security of the evacuated area.

(J) Procedures for the lifting of the evacuation and reentry of the area.

(K) Details as to which organizations are responsible for the functions described in this paragraph and the material and personnel resources required.

(3) Each agency that prepares emergency procedures may review and update these procedures in accordance with its established schedules.

(e) Nothing in Division 10 (commencing with Section 7920.000) of Title 1 shall be construed to require disclosure of an emergency action plan.

(f) The Office of Emergency Services may promulgate emergency regulations, as necessary, for the purpose of this section in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3). The adoption of these regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

SEC. 155. Section 8592.45 of the Government Code is amended to read:

8592.45. The information required by subdivisions (b) and (c) of Section 8592.35, the report required by subdivision (a) of Section 8592.40, the plan authorized by subdivision (b) of Section 8592.40, and any public records relating to any communication made pursuant to, or in furtherance of the purposes of, subdivision (c) of Section 8592.40 are confidential and shall not be disclosed pursuant to any state law, including, but not limited to, the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1).

SEC. 156. Section 11000.5 of the Government Code is amended to read:

11000.5. (a) A state agency shall not permit an evaluator to review a discretionary grant application submitted by an organization or a person for which the evaluator was a representative, voting member, or staff member within the two-year period preceding receipt of that application.

(b) For purposes of this section:

(1) "Organization" does not include a public agency as defined in Section 7920.525, an auxiliary organization as defined in Section 89901 of the Education Code, or an entity of the federal government.

(2) "Person" shall have the same meaning as defined in Section 7920.520.

(3) "Representative" does not include an unpaid volunteer.

(4) "Staff member" does not include an unpaid volunteer.

SEC. 157. Section 11015.5 of the Government Code is amended to read:

11015.5. (a) On or after July 1, 2001, unless otherwise authorized by the Department of Information Technology pursuant to Executive Order D-3-99, every state agency, including the California State University, that utilizes any method, device, identifier, or other database application on the internet to electronically collect personal information, as defined in subdivision (d), regarding any user shall prominently display the following in at least one anticipated initial point of communication with a potential user, to be determined by each agency, and in instances when the specified information would be collected:

(1) Notice to the user of the usage or existence of the information gathering method, device, identifier, or other database application.

(2) Notice to the user of the type of personal information that is being collected and the purpose for which the collected information will be used.

(3) Notice to the user of the length of time that the information gathering device, identifier, or other database application will exist in the user's hard drive, if applicable.

(4) Notice to the user that the user has the option of having the user's personal information discarded without reuse or distribution, provided that the appropriate agency official or employee is contacted after notice is given to the user.

(5) Notice to the user that any information acquired by the state agency, including the California State University, is subject to the limitations set forth in the Information Practices Act of 1977 (Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code).

(6) Notice to the user that state agencies shall not distribute or sell any electronically collected personal information, as defined in subdivision (d), about users to any third party without the permission of the user.

(7) Notice to the user that electronically collected personal information, as defined in subdivision (d), is exempt from requests made pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1).

(8) The title, business address, telephone number, and electronic mail address, if applicable, of the agency official who is responsible for records requests, as specified by subdivision (b) of Section 1798.17 of the Civil Code, or the agency employee designated pursuant to Section 1798.22 of that code, as determined by the agency, who is responsible for ensuring that the agency complies with requests made pursuant to this section.

(b) A state agency shall not distribute or sell any electronically collected personal information about users to any third party without prior written permission from the user, except as required to investigate possible violations of Section 502 of the Penal Code or as authorized under the Information Practices Act of 1977 (Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code). Nothing in this subdivision shall be construed to prohibit a state agency from distributing electronically collected personal information to another state agency or to a public law enforcement organization in any case where the security of a network operated by a state agency and exposed directly to the internet has been, or is suspected of having been, breached.

(c) A state agency shall discard without reuse or distribution any electronically collected personal information, as defined in subdivision (d), upon request by the user.

(d) For purposes of this section:

(1) "Electronically collected personal information" means any information that is maintained by an agency that identifies or describes an individual user, including, but not limited to, the user's name, social security number, physical description, home address, home telephone number, education, financial matters, medical or employment history, password, electronic mail address, and information that reveals any network location or identity, but excludes any information manually submitted to a state agency by a user, whether electronically or in written form, and information on or relating to

individuals who are users serving in a business capacity, including, but not limited to, business owners, officers, or principals of that business.

(2) "User" means an individual who communicates with a state agency or with an agency employee or official electronically.

(e) Nothing in this section shall be construed to permit an agency to act in a manner inconsistent with the standards and limitations adopted pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1) or the Information Practices Act of 1977 (Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code).

SEC. 158. Section 11018.5 of the Government Code is amended to read:

11018.5. (a) The Bureau of Real Estate, on or after July 1, 2001, unless otherwise authorized by the Department of Information Technology pursuant to Executive Order D-3-99, shall provide on the internet information regarding the status of every license issued by that entity in accordance with the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of this code) and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code), including information relative to suspensions and revocations of licenses issued by that state agency and other related enforcement action taken against persons, businesses, or facilities subject to licensure or regulation by a state agency.

(b) The Bureau of Real Estate shall disclose information on its licensees, including real estate brokers and agents, on the internet that is in compliance with the bureau's public record access guidelines. In instances where licensees use their home address as a mailing address, the bureau shall allow licensees to provide a post office box number or other alternate address where correspondence may be received. Notwithstanding the foregoing, real estate brokers shall provide the bureau with the actual address of their place or places of business as required by Section 10162 of the Business and Professions Code.

(c) "Internet" for the purposes of this section has the meaning set forth in paragraph (6) of subdivision (e) of Section 17538 of the Business and Professions Code.

SEC. 159. Section 11019.7 of the Government Code is amended to read:

11019.7. (a) A state agency shall not send any outgoing United States mail to an individual that contains personal information about that individual, including, but not limited to, the individual's social security number, telephone number, driver's license number, or credit card account number, unless that personal information is contained within sealed correspondence and cannot be viewed from the outside of that sealed correspondence.

(b) (1) Notwithstanding any other law, commencing on or before January 1, 2023, a state agency shall not send any outgoing United States mail to an individual that contains the individual's social security number unless the number is truncated to its last four digits, except in the following circumstances:

(A) Federal law requires inclusion of the social security number.

(B) The documents are mailed to a current or prospective state employee.

(C) An individual erroneously mailed a document containing a social security number to a state agency, and the state agency is returning the original document by certified or registered United States mail.

(D) The Controller is returning documents to an individual previously submitted by the individual pursuant to Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure.

(E) The document is sent in response to a valid request for access to personal information, pursuant to Section 1798.34 of the Civil Code.

(2) (A) On or before September 1, 2021, each state agency that mails an individual's full or truncated part of a social security number to that individual, other than as permitted by paragraph (1), shall report to the Legislature regarding when and why it does so.

(B) A state agency that, in its own estimation, is unable to comply with the requirements of paragraph (1) of this subdivision shall submit an annual corrective action plan to the Legislature until it is in compliance with that paragraph.

(C) A report required by subparagraph (A) of this paragraph or corrective action plan required by subparagraph (B) of this paragraph and communications made in connection with these documents that bear on what mailings do and do not contain an individual's social security number, are confidential and shall not be disclosed to the public pursuant to any state law, including, but not limited to, the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1).

(3) (A) The requirement for submitting a report imposed under subparagraph (A) of paragraph (2) is inoperative on January 1, 2024, pursuant to Section 10231.5.

(B) A report to be submitted pursuant to subparagraph (A) or (B) of paragraph (2) shall be submitted in compliance with Section 9795.

(c) "Outgoing United States mail" for the purposes of this section includes correspondence sent via a common carrier, including, but not limited to, a package express service and a courier service.

(d) Notwithstanding subdivision (a) of Section 11000, "state agency" includes the California State University.

SEC. 160. Section 11104.5 of the Government Code is amended to read:

11104.5. (a) Notwithstanding any other provision of law, any requirement that a state agency send material, information, notices, correspondence, or other communication through the United States mail shall be deemed to include the authority for the state agency to send that material, information, notice, correspondence, or other communication by electronic mail upon the request of the recipient, unless impracticable to do so, or unless contrary to state or federal law.

(b) Any state agency may require that direct costs incurred by the agency involving the electronic transmission of information be paid by the requester pursuant to this section and the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1).

(c) Nothing in this section shall be construed to permit an agency to act in a manner inconsistent with the standards adopted pursuant to the California

Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1) and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code).

SEC. 161. Section 11124.1 of the Government Code is amended to read:

11124.1. (a) Any person attending an open and public meeting of the state body shall have the right to record the proceedings with an audio or video recorder or a still or motion picture camera in the absence of a reasonable finding by the state body that the recording cannot continue without noise, illumination, or obstruction of view that constitutes, or would constitute, a persistent disruption of the proceedings.

(b) Any audio or video recording of an open and public meeting made for whatever purpose by or at the direction of the state body shall be subject to inspection pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1), but may be erased or destroyed 30 days after the recording. Any inspection of an audio or video recording shall be provided without charge on equipment made available by the state body.

(c) No state body shall prohibit or otherwise restrict the broadcast of its open and public meetings in the absence of a reasonable finding that the broadcast cannot be accomplished without noise, illumination, or obstruction of view that would constitute a persistent disruption of the proceedings.

SEC. 162. Section 11125.1 of the Government Code is amended to read:

11125.1. (a) Notwithstanding Section 7922.000 or any other provisions of law, agendas of public meetings and other writings, when distributed to all, or a majority of all, of the members of a state body by any person in connection with a matter subject to discussion or consideration at a public meeting of the body, are disclosable public records under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1), and shall be made available upon request without delay. However, this section shall not include any writing exempt from public disclosure under Section 7924.100, 7924.105, 7924.110, 7924.510, or 7924.700 of this code, any provision listed in Section 7920.505 of this code, or Section 489.1 or 583 of the Public Utilities Code.

(b) Writings that are public records under subdivision (a) and that are distributed to members of the state body prior to or during a meeting, pertaining to any item to be considered during the meeting, shall be made available for public inspection at the meeting if prepared by the state body or a member of the state body, or after the meeting if prepared by some other person. These writings shall be made available in appropriate alternative formats, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof, upon request by a person with a disability.

(c) In the case of the Franchise Tax Board, prior to that state body taking final action on any item, writings pertaining to that item that are public records under subdivision (a) that are prepared and distributed by the

Franchise Tax Board staff or individual members to members of the state body prior to or during a meeting shall be:

(1) Made available for public inspection at that meeting.

(2) Distributed to all persons who request notice in writing pursuant to subdivision (a) of Section 11125.

(3) Made available on the internet.

(d) Prior to the State Board of Equalization taking final action on any item that does not involve a named taxpayer or feepayer, writings pertaining to that item that are public records under subdivision (a) that are prepared and distributed by board staff or individual members to members of the state body prior to or during a meeting shall be:

(1) Made available for public inspection at that meeting.

(2) Distributed to all persons who request or have requested copies of these writings.

(3) Made available on the internet.

(e) Nothing in this section shall be construed to prevent a state body from charging a fee or deposit for a copy of a public record pursuant to Section 7922.530, except that no surcharge shall be imposed on persons with disabilities in violation of Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. The writings described in subdivision (b) are subject to the requirements of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1), and shall not be construed to limit or delay the public's right to inspect any record required to be disclosed by that act, or to limit the public's right to inspect any record covered by that act. This section shall not be construed to be applicable to any writings solely because they are properly discussed in a closed session of a state body. Nothing in this article shall be construed to require a state body to place any paid advertisement or any other paid notice in any publication.

(f) "Writing" for purposes of this section means "writing" as defined under Section 7920.545.

SEC. 163. Section 11126 of the Government Code is amended to read:

11126. (a) (1) Nothing in this article shall be construed to prevent a state body from holding closed sessions during a regular or special meeting to consider the appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against that employee by another person or employee unless the employee requests a public hearing.

(2) As a condition to holding a closed session on the complaints or charges to consider disciplinary action or to consider dismissal, the employee shall be given written notice of their right to have a public hearing, rather than a closed session, and that notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding a regular or special meeting. If notice is not given, any disciplinary or other action taken against any employee at the closed session shall be null and void.

(3) The state body also may exclude from any public or closed session, during the examination of a witness, any or all other witnesses in the matter being investigated by the state body.

(4) Following the public hearing or closed session, the body may deliberate on the decision to be reached in a closed session.

(b) For the purposes of this section, "employee" does not include any person who is elected to, or appointed to a public office by, any state body. However, officers of the California State University who receive compensation for their services, other than per diem and ordinary and necessary expenses, shall, when engaged in that capacity, be considered employees. Furthermore, for purposes of this section, the term employee includes a person exempt from civil service pursuant to subdivision (e) of Section 4 of Article VII of the California Constitution.

(c) Nothing in this article shall be construed to do any of the following:

(1) Prevent state bodies that administer the licensing of persons engaging in businesses or professions from holding closed sessions to prepare, approve, grade, or administer examinations.

(2) Prevent an advisory body of a state body that administers the licensing of persons engaged in businesses or professions from conducting a closed session to discuss matters that the advisory body has found would constitute an unwarranted invasion of the privacy of an individual licensee or applicant if discussed in an open meeting, provided the advisory body does not include a quorum of the members of the state body it advises. Those matters may include review of an applicant's qualifications for licensure and an inquiry specifically related to the state body's enforcement program concerning an individual licensee or applicant where the inquiry occurs prior to the filing of a civil, criminal, or administrative disciplinary action against the licensee or applicant by the state body.

(3) Prohibit a state body from holding a closed session to deliberate on a decision to be reached in a proceeding required to be conducted pursuant to Chapter 5 (commencing with Section 11500) or similar provisions of law.

(4) Grant a right to enter any correctional institution or the grounds of a correctional institution where that right is not otherwise granted by law, nor shall anything in this article be construed to prevent a state body from holding a closed session when considering and acting upon the determination of a term, parole, or release of any individual or other disposition of an individual case, or if public disclosure of the subjects under discussion or consideration is expressly prohibited by statute.

(5) Prevent any closed session to consider the conferring of honorary degrees, or gifts, donations, and bequests that the donor or proposed donor has requested in writing to be kept confidential.

(6) Prevent the Alcoholic Beverage Control Appeals Board or the Cannabis Control Appeals Panel from holding a closed session for the purpose of holding a deliberative conference as provided in Section 11125.

(7) (A) Prevent a state body from holding closed sessions with its negotiator prior to the purchase, sale, exchange, or lease of real property by

or for the state body to give instructions to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.

(B) However, prior to the closed session, the state body shall hold an open and public session in which it identifies the real property or real properties that the negotiations may concern and the person or persons with whom its negotiator may negotiate.

(C) For purposes of this paragraph, the negotiator may be a member of the state body.

(D) For purposes of this paragraph, "lease" includes renewal or renegotiation of a lease.

(E) Nothing in this paragraph shall preclude a state body from holding a closed session for discussions regarding eminent domain proceedings pursuant to subdivision (e).

(8) Prevent the California Postsecondary Education Commission from holding closed sessions to consider matters pertaining to the appointment or termination of the Director of the California Postsecondary Education Commission.

(9) Prevent the Council for Private Postsecondary and Vocational Education from holding closed sessions to consider matters pertaining to the appointment or termination of the Executive Director of the Council for Private Postsecondary and Vocational Education.

(10) Prevent the Franchise Tax Board from holding closed sessions for the purpose of discussion of confidential tax returns or information the public disclosure of which is prohibited by law, or from considering matters pertaining to the appointment or removal of the Executive Officer of the Franchise Tax Board.

(11) Require the Franchise Tax Board to notice or disclose any confidential tax information considered in closed sessions, or documents executed in connection therewith, the public disclosure of which is prohibited pursuant to Article 2 (commencing with Section 19542) of Chapter 7 of Part 10.2 of Division 2 of the Revenue and Taxation Code.

(12) Prevent the Corrections Standards Authority from holding closed sessions when considering reports of crime conditions under Section 6027 of the Penal Code.

(13) Prevent the State Air Resources Board from holding closed sessions when considering the proprietary specifications and performance data of manufacturers.

(14) Prevent the State Board of Education or the Superintendent of Public Instruction, or any committee advising the board or the Superintendent, from holding closed sessions on those portions of its review of assessment instruments pursuant to Chapter 5 (commencing with Section 60600) of Part 33 of Division 4 of Title 2 of the Education Code during which actual test content is reviewed and discussed. The purpose of this provision is to maintain the confidentiality of the assessments under review.

(15) Prevent the Department of Resources Recycling and Recovery or its auxiliary committees from holding closed sessions for the purpose of discussing confidential tax returns, discussing trade secrets or confidential

or proprietary information in its possession, or discussing other data, the public disclosure of which is prohibited by law.

(16) Prevent a state body that invests retirement, pension, or endowment funds from holding closed sessions when considering investment decisions. For purposes of consideration of shareholder voting on corporate stocks held by the state body, closed sessions for the purposes of voting may be held only with respect to election of corporate directors, election of independent auditors, and other financial issues that could have a material effect on the net income of the corporation. For the purpose of real property investment decisions that may be considered in a closed session pursuant to this paragraph, a state body shall also be exempt from the provisions of paragraph (7) relating to the identification of real properties prior to the closed session.

(17) Prevent a state body, or boards, commissions, administrative officers, or other representatives that may properly be designated by law or by a state body, from holding closed sessions with its representatives in discharging its responsibilities under Chapter 10 (commencing with Section 3500), Chapter 10.3 (commencing with Section 3512), Chapter 10.5 (commencing with Section 3525), or Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 as the sessions relate to salaries, salary schedules, or compensation paid in the form of fringe benefits. For the purposes enumerated in the preceding sentence, a state body may also meet with a state conciliator who has intervened in the proceedings.

(18) (A) Prevent a state body from holding closed sessions to consider matters posing a threat or potential threat of criminal or terrorist activity against the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body, where disclosure of these considerations could compromise or impede the safety or security of the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body.

(B) Notwithstanding any other law, a state body, at any regular or special meeting, may meet in a closed session pursuant to subparagraph (A) upon a two-thirds vote of the members present at the meeting.

(C) After meeting in closed session pursuant to subparagraph (A), the state body shall reconvene in open session prior to adjournment and report that a closed session was held pursuant to subparagraph (A), the general nature of the matters considered, and whether any action was taken in closed session.

(D) After meeting in closed session pursuant to subparagraph (A), the state body shall submit to the Legislative Analyst written notification stating that it held this closed session, the general reason or reasons for the closed session, the general nature of the matters considered, and whether any action was taken in closed session. The Legislative Analyst shall retain for no less than four years any written notification received from a state body pursuant to this subparagraph.

(19) Prevent the California Sex Offender Management Board from holding a closed session for the purpose of discussing matters pertaining to

the application of a sex offender treatment provider for certification pursuant to Sections 290.09 and 9003 of the Penal Code. Those matters may include review of an applicant's qualifications for certification.

(d) (1) Notwithstanding any other law, any meeting of the Public Utilities Commission at which the rates of entities under the commission's jurisdiction are changed shall be open and public.

(2) Nothing in this article shall be construed to prevent the Public Utilities Commission from holding closed sessions to deliberate on the institution of proceedings, or disciplinary actions against any person or entity under the jurisdiction of the commission.

(e) (1) Nothing in this article shall be construed to prevent a state body, based on the advice of its legal counsel, from holding a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the state body in the litigation.

(2) For purposes of this article, all expressions of the lawyer-client privilege other than those provided in this subdivision are hereby abrogated. This subdivision is the exclusive expression of the lawyer-client privilege for purposes of conducting closed session meetings pursuant to this article. For purposes of this subdivision, litigation shall be considered pending when any of the following circumstances exist:

(A) An adjudicatory proceeding before a court, an administrative body exercising its adjudicatory authority, a hearing officer, or an arbitrator, to which the state body is a party, has been initiated formally.

(B) (i) A point has been reached where, in the opinion of the state body on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the state body.

(ii) Based on existing facts and circumstances, the state body is meeting only to decide whether a closed session is authorized pursuant to clause (i).

(C) Based on existing facts and circumstances, the state body has decided to initiate or is deciding whether to initiate litigation.

(3) The legal counsel of the state body shall prepare and submit to it a memorandum stating the specific reasons and legal authority for the closed session. If the closed session is pursuant to subparagraph (A) of paragraph (2), the memorandum shall include the title of the litigation. If the closed session is pursuant to subparagraph (B) or (C) of paragraph (2), the memorandum shall include the existing facts and circumstances on which it is based. The legal counsel shall submit the memorandum to the state body prior to the closed session, if feasible, and in any case no later than one week after the closed session. The memorandum shall be exempt from disclosure pursuant to Section 7927.205.

(4) For purposes of this subdivision, "litigation" includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

(5) Disclosure of a memorandum required under this subdivision shall not be deemed as a waiver of the lawyer-client privilege, as provided for

under Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code.

(f) In addition to subdivisions (a), (b), and (c), nothing in this article shall be construed to do any of the following:

(1) Prevent a state body operating under a joint powers agreement for insurance pooling from holding a closed session to discuss a claim for the payment of tort liability or public liability losses incurred by the state body or any member agency under the joint powers agreement.

(2) Prevent the examining committee established by the State Board of Forestry and Fire Protection, pursuant to Section 763 of the Public Resources Code, from conducting a closed session to consider disciplinary action against an individual professional forester prior to the filing of an accusation against the forester pursuant to Section 11503.

(3) Prevent the enforcement advisory committee established by the California Board of Accountancy pursuant to Section 5020 of the Business and Professions Code from conducting a closed session to consider disciplinary action against an individual accountant prior to the filing of an accusation against the accountant pursuant to Section 11503. Nothing in this article shall be construed to prevent the qualifications examining committee established by the California Board of Accountancy pursuant to Section 5023 of the Business and Professions Code from conducting a closed hearing to interview an individual applicant or accountant regarding the applicant's qualifications.

(4) Prevent a state body, as defined in subdivision (b) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in closed session by the state body whose authority it exercises.

(5) Prevent a state body, as defined in subdivision (d) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in a closed session by the body defined as a state body pursuant to subdivision (a) or (b) of Section 11121.

(6) Prevent a state body, as defined in subdivision (c) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in a closed session by the state body it advises.

(7) Prevent the State Board of Equalization from holding closed sessions for either of the following:

(A) When considering matters pertaining to the appointment or removal of the Executive Secretary of the State Board of Equalization.

(B) For the purpose of hearing confidential taxpayer appeals or data, the public disclosure of which is prohibited by law.

(8) Require the State Board of Equalization to disclose any action taken in closed session or documents executed in connection with that action, the public disclosure of which is prohibited by law pursuant to Sections 15619 and 15641 of this code and Sections 833, 7056, 8255, 9255, 11655, 30455, 32455, 38705, 38706, 43651, 45982, 46751, 50159, 55381, and 60609 of the Revenue and Taxation Code.

(9) Prevent the California Earthquake Prediction Evaluation Council, or other body appointed to advise the Director of Emergency Services or the

Governor concerning matters relating to volcanic or earthquake predictions, from holding closed sessions when considering the evaluation of possible predictions.

(g) This article does not prevent either of the following:

(1) The Teachers' Retirement Board or the Board of Administration of the Public Employees' Retirement System from holding closed sessions when considering matters pertaining to the recruitment, appointment, employment, or removal of the chief executive officer or when considering matters pertaining to the recruitment or removal of the Chief Investment Officer of the State Teachers' Retirement System or the Public Employees' Retirement System.

(2) The Commission on Teacher Credentialing from holding closed sessions when considering matters relating to the recruitment, appointment, or removal of its executive director.

(h) This article does not prevent the Board of Administration of the Public Employees' Retirement System from holding closed sessions when considering matters relating to the development of rates and competitive strategy for plans offered pursuant to Chapter 15 (commencing with Section 21660) of Part 3 of Division 5 of Title 2.

(i) This article does not prevent the Managed Risk Medical Insurance Board from holding closed sessions when considering matters related to the development of rates and contracting strategy for entities contracting or seeking to contract with the board, entities with which the board is considering a contract, or entities with which the board is considering or enters into any other arrangement under which the board provides, receives, or arranges services or reimbursement, pursuant to Part 6.2 (commencing with Section 12693), former Part 6.3 (commencing with Section 12695), former Part 6.4 (commencing with Section 12699.50), former Part 6.5 (commencing with Section 12700), Part 6.6 (commencing with Section 12739.5), or Part 6.7 (commencing with Section 12739.70) of Division 2 of the Insurance Code.

(j) Nothing in this article shall be construed to prevent the board of the State Compensation Insurance Fund from holding closed sessions in the following:

(1) When considering matters related to claims pursuant to Chapter 1 (commencing with Section 3200) of Division 4 of the Labor Code, to the extent that confidential medical information or other individually identifiable information would be disclosed.

(2) To the extent that matters related to audits and investigations that have not been completed would be disclosed.

(3) To the extent that an internal audit containing proprietary information would be disclosed.

(4) To the extent that the session would address the development of rates, contracting strategy, underwriting, or competitive strategy, pursuant to the powers granted to the board in Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code, when discussion in open

session concerning those matters would prejudice the position of the State Compensation Insurance Fund.

(k) The State Compensation Insurance Fund shall comply with the procedures specified in Section 11125.4 of the Government Code with respect to any closed session or meeting authorized by subdivision (j), and in addition shall provide an opportunity for a member of the public to be heard on the issue of the appropriateness of closing the meeting or session.

SEC. 164. Section 11126.1 of the Government Code is amended to read:

11126.1. The state body shall designate a clerk or other officer or employee of the state body, who shall then attend each closed session of the state body and keep and enter in a minute book a record of topics discussed and decisions made at the meeting. The minute book made pursuant to this section is not a public record subject to inspection pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1), and shall be kept confidential. The minute book shall be available to members of the state body or, if a violation of this chapter is alleged to have occurred at a closed session, to a court of general jurisdiction. The minute book may, but need not, consist of a recording of the closed session.

SEC. 165. Section 11146.2 of the Government Code is amended to read:

11146.2. Each state agency shall maintain records indicating the specific attendees, each attendee's job title, and dates of their attendance for each orientation course offered pursuant to Section 11146.1 for a period of not less than five years after each course is given. These records shall be public records subject to inspection and copying consistent with Section 81008 and otherwise subject to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1).

SEC. 166. Section 11549.3 of the Government Code is amended to read:

11549.3. (a) The chief shall establish an information security program. The program responsibilities include, but are not limited to, all of the following:

(1) The creation, updating, and publishing of information security and privacy policies, standards, and procedures for state agencies in the State Administrative Manual.

(2) The creation, issuance, and maintenance of policies, standards, and procedures directing state agencies to effectively manage security and risk for both of the following:

(A) Information technology, which includes, but is not limited to, all electronic technology systems and services, automated information handling, system design and analysis, conversion of data, computer programming, information storage and retrieval, telecommunications, requisite system controls, simulation, electronic commerce, and all related interactions between people and machines.

(B) Information that is identified as mission critical, confidential, sensitive, or personal, as defined and published by the office.

(3) The creation, issuance, and maintenance of policies, standards, and procedures directing state agencies for the collection, tracking, and reporting of information regarding security and privacy incidents.

(4) The creation, issuance, and maintenance of policies, standards, and procedures directing state agencies in the development, maintenance, testing, and filing of each state agency's disaster recovery plan.

(5) Coordination of the activities of state agency information security officers, for purposes of integrating statewide security initiatives and ensuring compliance with information security and privacy policies and standards.

(6) Promotion and enhancement of the state agencies' risk management and privacy programs through education, awareness, collaboration, and consultation.

(7) Representing the state before the federal government, other state agencies, local government entities, and private industry on issues that have statewide impact on information security and privacy.

(b) All state entities defined in Section 11546.1 shall implement the policies and procedures issued by the office, including, but not limited to, performing both of the following duties:

(1) Comply with the information security and privacy policies, standards, and procedures issued pursuant to this chapter by the office.

(2) Comply with filing requirements and incident notification by providing timely information and reports as required by the office.

(c) (1) The office may conduct, or require to be conducted, an independent security assessment of every state agency, department, or office. The cost of the independent security assessment shall be funded by the state agency, department, or office being assessed.

(2) In addition to the independent security assessments authorized by paragraph (1), the office, in consultation with the Office of Emergency Services, shall perform all the following duties:

(A) Annually require no fewer than thirty-five (35) state entities to perform an independent security assessment, the cost of which shall be funded by the state agency, department, or office being assessed.

(B) Determine criteria and rank state entities based on an information security risk index that may include, but not be limited to, analysis of the relative amount of the following factors within state agencies:

(i) Personally identifiable information protected by law.

(ii) Health information protected by law.

(iii) Confidential financial data.

(iv) Self-certification of compliance and indicators of unreported noncompliance with security provisions in the following areas:

(I) Information asset management.

(II) Risk management.

(III) Information security program management.

(IV) Information security incident management.

(V) Technology recovery planning.

(C) Determine the basic standards of services to be performed as part of independent security assessments required by this subdivision.

(3) The Military Department may perform an independent security assessment of any state agency, department, or office, the cost of which shall be funded by the state agency, department, or office being assessed.

(d) State agencies and entities required to conduct or receive an independent security assessment pursuant to subdivision (c) shall transmit the complete results of that assessment and recommendations for mitigating system vulnerabilities, if any, to the office and the Office of Emergency Services.

(e) The office shall report to the Department of Technology and the Office of Emergency Services any state entity found to be noncompliant with information security program requirements.

(f) (1) Notwithstanding any other law, during the process of conducting an independent security assessment pursuant to subdivision (c), information and records concerning the independent security assessment are confidential and shall not be disclosed, except that the information and records may be transmitted to state employees and state contractors who have been approved as necessary to receive the information and records to perform that independent security assessment, subsequent remediation activity, or monitoring of remediation activity.

(2) The results of a completed independent security assessment performed pursuant to subdivision (c), and any related information shall be subject to all disclosure and confidentiality provisions pursuant to any state law, including, but not limited to, the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1), including, but not limited to, Section 7929.210.

(g) The office may conduct or require to be conducted an audit of information security to ensure program compliance, the cost of which shall be funded by the state agency, department, or office being audited.

(h) The office shall notify the Office of Emergency Services, Department of the California Highway Patrol, and the Department of Justice regarding any criminal or alleged criminal cyber activity affecting any state entity or critical infrastructure of state government.

SEC. 167. Section 12019.45 of the Government Code is amended to read:

12019.45. (a) The adviser and panel, with administrative support from the commission and in consultation with federally recognized tribes in California, shall develop a concise application form for one or more eligible tribes to apply for a grant.

(b) The application developed pursuant to subdivision (a) shall include, but not be limited to, all of the following:

(1) An identification of every eligible tribe applying for the grant and the name, signature, and contact information of every individual who is authorized by each eligible tribe's governing body to apply for the grant.

(2) A description of the purpose or project for which the grant is intended to be used.

(3) An assessment of the nature and extent of the potential benefits from the described purpose or project to each applying eligible tribe.

(4) The safeguards in place to ensure that the grant would be applied only to the described purpose or project.

(5) The amount and source of other moneys or in-kind services or goods, if any, that are available to be additionally applied to the described purpose or project and when those moneys or in-kind services or goods are intended to be applied.

(6) A list of every grant awarded or other distribution from the fund previously awarded or distributed to each eligible tribe applying for the grant and the results achieved as a result of those prior awards or distributions.

(7) A strategy for how the benefits from the described purpose or project will be sustainably maintained.

(8) A signed acceptance of the terms described in Section 12019.75 from an authorized representative of every eligible tribe applying in the application.

(9) Identification of the information provided in the application that each eligible tribe proposes is confidential and not subject to public disclosure pursuant to subdivision (a) of Section 12019.55, and a statement, in bold, that the panel may consider, but is not required to comply with, an eligible tribe's identification of information as confidential when responding to a request for public records pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1).

(10) Any other information the adviser and panel deem valuable to evaluating the merits of awarding a grant.

SEC. 168. Section 12019.55 of the Government Code is amended to read:

12019.55. (a) All information relating to the administration of this article that describes, directly or indirectly, the internal affairs of an eligible tribe, including, but not limited to, the finances and competitive business plans of an eligible tribe, is confidential and shall not be disclosed pursuant to any state law, including, but not limited to, the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1).

(b) The panel shall comply with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1), and shall do so in a manner that prevents the disclosure of information described in subdivision (a), including, but not limited to, holding, when necessary in a closed session, as authorized by Section 11126.4.5.

SEC. 169. Section 12172.5 of the Government Code is amended to read:

12172.5. (a) The Secretary of State is the chief elections officer of the state, and shall administer the provisions of the Elections Code. The Secretary of State shall see that elections are efficiently conducted and that state election laws are enforced. The Secretary of State may require elections officers to make reports concerning elections in their jurisdictions, which may include information about the identity of, and contact information for,

the elections official who is responsible for conducting elections in the jurisdiction.

(b) If, at any time, the Secretary of State concludes that state election laws are not being enforced, the Secretary of State shall call the violation to the attention of the district attorney of the county or to the Attorney General. In these instances, the Secretary of State may assist the county elections officer in discharging the officer's duties.

(c) In order to determine whether an elections law violation has occurred, the Secretary of State may examine voted, unvoted, spoiled, and canceled ballots, vote-counting computer programs, vote by mail ballot envelopes and applications, and supplies referred to in Section 14432 of the Elections Code. The Secretary of State may also examine any other records of elections officials as the Secretary of State finds necessary in making a determination under this subdivision, subject to the restrictions set forth in Article 2 (commencing with Section 7924.100) of Chapter 2 of Part 5 of Division 10 of Title 1.

(d) The Secretary of State may adopt regulations to ensure the uniform application and administration of state election laws.

SEC. 170. Section 12237 of the Government Code is amended to read:

12237. (a) Notwithstanding any provision of Division 10 (commencing with Section 7920.000) of Title 1, any provision of law that exempts from public disclosure any item in the custody of the State Archives shall not apply to that item 75 years after the item was created, irrespective of the origin of the item, the manner in which it was deposited with the State Archives, or any other condition or circumstance at the time the item was deposited.

(b) Subdivision (a) shall apply to any item currently in the custody of the State Archives and any item deposited in the State Archives after the effective date of this section.

(c) The State Archives shall notify any party who deposits any item in the State Archives after the effective date of this section of the provisions of subdivision (a).

(d) The Secretary of State's internet website shall include a public notice stating that on or after January 1, 2005, all items 75 years old or older that are on deposit in the State Archives shall be accessible to the public.

SEC. 171. Section 12271 of the Government Code is amended to read:

12271. For the purposes of this article, the following terms shall have the following meanings:

(a) "Acquire" includes acquisition by gift, purchase, lease, eminent domain, or otherwise.

(b) "Archival value" means the ongoing usefulness or significance of a record based on the administrative, legal, fiscal, evidential, or historical information it contains, justifying its permanent preservation.

(c) "Public record plant" means the plant, or any part thereof, or any record therein, of any person engaged in the business of searching or publishing public records or insuring or guaranteeing titles to real property, including copies of public records or abstracts and memoranda taken from

public records that are owned by or in possession of that person or that are used by that person in the person's business.

(d) "Public use form" means a form used by the state to obtain or to solicit facts, opinions, or other information from the public or a private citizen, partnership, corporation, organization, business trust, or nongovernmental entity or legal representative thereof.

(e) "Record" has the same meaning as "public records" as defined in Section 7920.530, and includes, but is not limited to, any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by a state or local agency regardless of physical form or characteristics. Library and museum materials made or acquired and preserved solely for reference or exhibition purposes and stocks of publications and of processed documents are not included within the definition of the term "record" as used in this article.

SEC. 172. Section 12274 of the Government Code is amended to read:

12274. The head of a state agency shall do all of the following:

(a) Establish and maintain an active, continuing program for the economical and efficient management of the records and information collection practices of the agency. The program shall ensure that the information needed by the agency may be obtained with a minimum burden upon individuals and businesses, especially small business enterprises and others required to furnish the information. Unnecessary duplication of efforts in obtaining information shall be eliminated as rapidly as practical. Information collected by the agency shall, as far as is expedient, be collected and tabulated in a manner that maximizes the usefulness of the information to other state agencies and the public.

(b) Determine, with the concurrence of the Secretary of State, records essential to the functioning of state government in the event of a major disaster.

(c) When requested by the Secretary of State, provide a written justification for storage or extension of scheduled retention of a record in the State Records Center for a period of 50 years or more. The Secretary of State shall review and approve any scheduled retention of a record in the State Records Center for a period of 50 years or more. A record deemed to have archival value shall be transferred to the State Archives. Upon transfer of a record of archival value to the State Archives, the head of the state agency shall notify the Secretary of State if the record contains information that is not subject to public disclosure or is restricted from disclosure for a period of time pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1), the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code), or other applicable federal or state law.

(d) Comply with the rules, regulations, standards, and procedures issued by the Secretary of State.

(e) Appoint a representative from the agency to serve as the Records Management Coordinator and notify the Secretary of State's California

Records and Information Management Program within 30 days of the appointment.

(f) Notify the Secretary of State when records are stored with a third-party vendor or digitized by a third-party vendor.

SEC. 173. Section 12419.10 of the Government Code is amended to read:

12419.10. (a) (1) The Controller shall, to the extent feasible, offset any amount overdue and unpaid for a fine, penalty, assessment, bail, vehicle parking penalty, or court-ordered reimbursement for court-related services, from a person or entity, against any amount owing the person or entity by a state agency on a claim for a refund from the Franchise Tax Board under the Personal Income Tax Law or the Bank and Corporation Tax Law, from winnings in the California State Lottery, or a cash payment of a claim for unclaimed property held by the state. Standards and procedures for submission of requests for offsets shall be as prescribed by the Controller. Neither the Controller nor the Franchise Tax Board shall condition a request for offset on the submission of a person's social security number. If sufficient funds are not available to satisfy an offset request, the Controller, after first applying the amounts available to any amount due a state agency, may allocate the balance among any other requests for offset.

(2) Any request for an offset for a vehicle parking penalty shall be submitted within three years of the date the penalty was incurred. This three-year maximum term for refund offsets for parking tickets applies to requests submitted to the Controller on or after January 1, 2004.

(b) Once an offset request for a vehicle parking penalty is made, a local agency may not accrue additional interest charges, collection charges, penalties, or other charges on or after the date that the offset request is made. Payment of an offset request for a vehicle parking penalty shall be made on the condition that it constitutes full and final payment of that offset.

(c) The Controller shall deduct and retain from any amount offset in favor of a city, county, city and county, court, or special district an amount sufficient to reimburse the Controller, the Franchise Tax Board, the California State Lottery, and the Department of Motor Vehicles for their administrative costs of processing the offset payment.

(d) If necessary to confirm the identity of a person before making an offset, the Franchise Tax Board may, upon paying any necessary fees, obtain a social security number from the Department of Motor Vehicles, as authorized by subdivision (f) of Section 1653.5 of the Vehicle Code.

(e) Notwithstanding Division 10 (commencing with Section 7920.000) of Title 1, or any other law, the social security number of a person obtained pursuant to Section 4150, 4150.2, or 12800 of the Vehicle Code is not a public record and shall only be provided by the Department of Motor Vehicles to an authorized agency for the sole purpose of making an offset pursuant to this section for an unpaid vehicle parking penalty or an unpaid fine, penalty, assessment, or bail of which the Department of Motor Vehicles has been notified pursuant to subdivision (a) of Section 40509 of the Vehicle Code or Section 1803 of the Vehicle Code, responding to information

requests from the Franchise Tax Board for the purpose of tax administration, and responding to requests for information from an agency, operating pursuant to and carrying out the provisions of Part A (Block Grants to States for Temporary Assistance for Needy Families), or Part D (Child Support and Establishment of Paternity) of Subchapter IV of Chapter 7 of Title 42 of the United States Code. As used in this section, "authorized agency" means the Controller, the Franchise Tax Board, or the California State Lottery Commission.

SEC. 174. Section 12525 of the Government Code is amended to read:

12525. In any case in which a person dies while in the custody of any law enforcement agency or while in custody in a local or state correctional facility in this state, the law enforcement agency or the agency in charge of the correctional facility shall report in writing to the Attorney General, within 10 days after the death, all facts in the possession of the law enforcement agency or agency in charge of the correctional facility concerning the death. These writings are public records within the meaning of Section 7920.530 of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1), and are open to public inspection pursuant to Sections 7922.500 to 7922.545, inclusive, 7923.000, and 7923.005. Nothing in this section shall permit the disclosure of confidential medical information that may have been submitted to the Attorney General's office in conjunction with the report except as provided in Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code.

SEC. 175. Section 12525.5 of the Government Code is amended to read:

12525.5. (a) (1) Each state and local agency that employs peace officers shall annually report to the Attorney General data on all stops conducted by that agency's peace officers for the preceding calendar year.

(2) Each agency that employs 1,000 or more peace officers shall begin collecting data on or before July 1, 2018, and shall issue its first round of reports on or before April 1, 2019. Each agency that employs 667 or more but less than 1,000 peace officers shall begin collecting data on or before January 1, 2019, and shall issue its first round of reports on or before April 1, 2020. Each agency that employs 334 or more but less than 667 peace officers shall begin collecting data on or before January 1, 2021, and shall issue its first round of reports on or before April 1, 2022. Each agency that employs one or more but less than 334 peace officers shall begin collecting data on or before January 1, 2022, and shall issue its first round of reports on or before April 1, 2023.

(b) The reporting shall include, at a minimum, the following information for each stop:

(1) The time, date, and location of the stop.

(2) The reason for the stop.

(3) The result of the stop, such as, no action, warning, citation, property seizure, or arrest.

(4) If a warning or citation was issued, the warning provided or violation cited.

(5) If an arrest was made, the offense charged.

(6) The perceived race or ethnicity, gender, and approximate age of the person stopped, provided that the identification of these characteristics shall be based on the observation and perception of the peace officer making the stop, and the information shall not be requested from the person stopped. For motor vehicle stops, this paragraph only applies to the driver, unless any actions specified under paragraph (7) apply in relation to a passenger, in which case the characteristics specified in this paragraph shall also be reported for that passenger.

(7) Actions taken by the peace officer during the stop, including, but not limited to, the following:

(A) Whether the peace officer asked for consent to search the person, and, if so, whether consent was provided.

(B) Whether the peace officer searched the person or any property, and, if so, the basis for the search and the type of contraband or evidence discovered, if any.

(C) Whether the peace officer seized any property and, if so, the type of property that was seized and the basis for seizing the property.

(c) If more than one peace officer performs a stop, only one officer is required to collect and report to the officer's agency the information specified under subdivision (b).

(d) State and local law enforcement agencies shall not report the name, address, social security number, or other unique personal identifying information of persons stopped, searched, or subjected to a property seizure, for purposes of this section. Notwithstanding any other law, the data reported shall be available to the public, except for the badge number or other unique identifying information of the peace officer involved. Law enforcement agencies are solely responsible for ensuring that personally identifiable information of the individual stopped or any other information that is exempt from disclosure pursuant to this section is not transmitted to the Attorney General in an open text field.

(e) Not later than January 1, 2018, the Attorney General, in consultation with stakeholders, including the Racial and Identity Profiling Advisory Board (RIPA) established pursuant to paragraph (1) of subdivision (j) of Section 13519.4 of the Penal Code, federal, state, and local law enforcement agencies and community, professional, academic, research, and civil and human rights organizations, shall issue regulations for the collection and reporting of data required under subdivision (b). The regulations shall specify all data to be reported, and provide standards, definitions, and technical specifications to ensure uniform reporting practices across all reporting agencies. To the best extent possible, the regulations should be compatible with any similar federal data collection or reporting program.

(f) All data and reports made pursuant to this section are public records within the meaning of Section 7920.530 and are open to public inspection pursuant to Sections 7922.500 to 7922.545, inclusive, 7923.000, and 7923.005.

(g) (1) For purposes of this section, "peace officer," as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code,

is limited to members of the California Highway Patrol, a city or county law enforcement agency, and California state or university educational institutions. "Peace officer," as used in this section, does not include probation officers and officers in a custodial setting.

(2) For purposes of this section, "stop" means any detention by a peace officer of a person, or any peace officer interaction with a person in which the peace officer conducts a search, including a consensual search, of the person's body or property in the person's possession or control.

SEC. 176. Section 12811.3 of the Government Code is amended to read:

12811.3. (a) Notwithstanding any other provision of law and subject to the provisions of subdivision (i), any employee of a department, board, or commission under the jurisdiction of the Department of Corrections and Rehabilitation, who is designated as a peace officer described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, may transfer from the employee's current position to another department, board, or commission under the jurisdiction of the Department of Corrections and Rehabilitation.

(b) Any peace officer who desires to transfer to another department, board, or commission pursuant to subdivision (a), and who is prohibited from carrying a firearm pursuant to state or federal law shall not transfer to a department, board, or commission that requires the use of a firearm.

(c) Any peace officer who desires to transfer to another department, board, or commission pursuant to subdivision (a) to a position requiring the ability to carry a firearm, as determined by the department, board, or commission, and who has not completed the required training pursuant to Section 832 of the Penal Code, shall successfully complete the required training before appointment to a new peace officer position.

(d) (1) Any peace officer who desires to transfer shall not be required to undergo a psychological screening pursuant to subdivision (f) of Section 1031 of this code or subdivision (a) of Section 13601 of the Penal Code, unless the Secretary of the Department of Corrections and Rehabilitation, or the secretary's designee, makes a determination that a peace officer is required to undergo all or a portion of a psychological screening as described in subdivision (f) of Section 1031 of this code or subdivision (a) of Section 13601 of the Penal Code.

(2) The Secretary of the Department of Corrections and Rehabilitation shall promulgate emergency regulations in order to implement paragraph (1). Notwithstanding subdivision (b) of Section 11346.1, no showing of an emergency shall be necessary in order to adopt, amend, or repeal the emergency regulations required by this paragraph.

(e) Any peace officer who has successfully completed a course of training pursuant to Section 13602 of the Penal Code and who transfers to another department, board, or commission pursuant to subdivision (a) shall not be required to complete a new course of training pursuant to Section 13602 of the Penal Code. However, each department, board, or commission may prescribe additional training to be provided to an employee who transfers

pursuant to subdivision (a) and shall provide that training within the first six months of appointment to a new peace officer position.

(f) Any peace officer who desires to transfer to another department, board, or commission pursuant to subdivision (a) shall not be required to undergo a new background investigation pursuant to Section 1029.1.

(g) Nothing in this section shall affect an employee's seniority calculation as provided for under current law or any memorandum of understanding between the state and any applicable bargaining unit agreement in effect upon the effective date of this section.

(h) The provisions of the Unit 6 Memorandum of Understanding, which expires July 2, 2006, as modified by the ratified addendum dated June 30, 2004, relating to the release of copies of video recorded incidents, shall be subject to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1).

(i) This section shall become operative only when the Secretary of the Department of Corrections and Rehabilitation certifies in writing that it is necessary to prevent or minimize employment actions, including, but not limited to, layoffs, demotions, reductions in time base, or involuntary transfers of employees. In addition, the Secretary of the Department of Corrections and Rehabilitation shall have the sole authority to designate any or all departments, boards, or commissions eligible to have its peace officer employees transfer pursuant to subdivision (a) and any or all departments, boards, or commissions that shall accept peace officer employees under this section.

SEC. 177. Section 12894.5 of the Government Code is amended to read:

12894.5. (a) The Legislature finds and declares both of the following:

(1) California's participation in the Western Climate Initiative, Incorporated, requires that its sole purpose be to provide operational and technical support to California in its implementation of Division 25.5 (commencing with Section 38500) of the Health and Safety Code and to provide support to the greenhouse gas emissions reduction programs of other jurisdictions. Given its limited scope of activities, the Western Climate Initiative, Incorporated, does not have the authority to create policy with respect to any existing or future program or regulation undertaken pursuant to Division 25.5 (commencing with Section 38500) of the Health and Safety Code.

(2) The state recognizes the ongoing efforts of the Western Climate Initiative, Incorporated, have resulted in policies that are consistent with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2) and the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1), as well as bylaws that meet the requirements of this section.

(b) The California membership of the Board of Directors of the Western Climate Initiative, Incorporated, as established pursuant to Section 12894, shall participate on the board so long as the Western Climate Initiative, Incorporated, maintains policies and bylaws according to all of the following:

(1) An open meetings policy that is and remains consistent with the general policies of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1) and affords the public the greatest possible access consistent with the other duties of the Western Climate Initiative, Incorporated.

(2) A records availability policy that is and remains consistent with the general policies of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1) and affords the public access to corporate records consistent with the operating needs and other duties of the Western Climate Initiative, Incorporated, and all applicable legal privileges.

(3) Bylaws that limit the activities of the Western Climate Initiative, Incorporated, to the technical and operational support of the greenhouse gas emissions reduction programs of California and other jurisdictions. These bylaws shall not allow the Western Climate Initiative, Incorporated, to have policymaking authority with respect to these programs.

(c) The State Air Resources Board shall provide notice to the Joint Legislative Budget Committee for all procurements over one hundred fifty thousand dollars ($150,000) proposed by the Western Climate Initiative, Incorporated, that are expected to result in a contract no later than 30 days prior to the execution of those contracts.

(d) Commencing January 1, 2014, the State Air Resources Board shall include information on all proposed expenditures and allocations of moneys to the Western Climate Initiative, Incorporated, in the Governor's Budget.

SEC. 178. Section 12999 of the Government Code is amended to read:

12999. (a) On or before March 31, 2021, and on or before March 31 each year thereafter, a private employer that has 100 or more employees and who is required to file an annual Employer Information Report (EEO-1) pursuant to federal law shall submit a pay data report to the department covering the prior calendar year, which, for purposes of this section, shall be referred to as the "Reporting Year." The department shall make the reports available to the Division of Labor Standards Enforcement upon request.

(b) The pay data report shall include the following information:

(1) The number of employees by race, ethnicity, and sex in each of the following job categories:

(A) Executive or senior level officials and managers.

(B) First or mid-level officials and managers.

(C) Professionals.

(D) Technicians.

(E) Sales workers.

(F) Administrative support workers.

(G) Craft workers.

(H) Operatives.

(I) Laborers and helpers.

(J) Service workers.

(2) The number of employees by race, ethnicity, and sex, whose annual earnings fall within each of the pay bands used by the United States Bureau of Labor Statistics in the Occupational Employment Statistics survey.

(3) For purposes of establishing the numbers required to be reported under paragraph (1), an employer shall create a "snapshot" that counts all of the individuals in each job category by race, ethnicity, and sex, employed during a single pay period of the employer's choice between October 1 and December 31 of the "Reporting Year."

(4) For purposes of establishing the numbers to be reported under paragraph (2), the employer shall calculate the total earnings, as shown on the Internal Revenue Service Form W-2, for each employee in the "snapshot," for the entire "Reporting Year," regardless of whether or not an employee worked for the full calendar year. The employer shall tabulate and report the number of employees whose W-2 earnings during the "Reporting Year" fell within each pay band.

(c) The employer shall include in the report the total number of hours worked by each employee counted in each pay band during the "Reporting Year."

(d) For employers with multiple establishments, the employer shall submit a report for each establishment and a consolidated report that includes all employees. The report shall include the employer's North American Industry Classification System (NAICS) code.

(e) The report shall include a section for employers to provide clarifying remarks regarding any of the information provided. An employer is not required to provide clarifying remarks.

(f) The information required by this section shall be made available in a format that allows the department to search and sort the information using readily available software.

(g) If an employer submits to the department a copy of the employer's Employer Information Report, otherwise known as an EEO-1 Report, containing the same or substantially similar pay data information required under this section, then the employer is in compliance with this section.

(h) If the department does not receive the required report from an employer, the department may seek an order requiring the employer to comply with these requirements and shall be entitled to recover the costs associated with seeking the order for compliance.

(i) It shall be unlawful for any officer or employee of the department or the Division of Labor Standards Enforcement to make public in any manner whatever any individually identifiable information obtained pursuant to their authority under this section prior to the institution of an investigation or enforcement proceeding by the Division of Labor Standards Enforcement or the department under Section 1197.5 of the Labor Code or Section 12940 involving that information, and only to the extent necessary for purposes of the enforcement proceeding. For the purposes of this section, "individually identifiable information" means data submitted pursuant to this section that is associated with a specific person or business.

(j) Any individually identifiable information submitted to the department pursuant to this section shall be considered confidential information and not subject to disclosure pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1).

(k) Notwithstanding subdivision (i), the department may develop, publish on an annual basis, and publicize aggregate reports based on the data obtained pursuant to their authority under this section, provided that the aggregate reports are reasonably calculated to prevent the association of any data with any individual business or person.

(*l*) The department shall maintain pay data reports for not less than 10 years.

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

(1) "Employee" means an individual on an employer's payroll, including a part-time individual, whom the employer is required to include in an EEO-1 Report and for whom the employer is required to withhold federal social security taxes from that individual's wages.

(2) "Establishment" means an economic unit producing goods or services.

(n) Upon request by the department, no later than 60 days from the date of the request, the Employment Development Department shall provide the department with the names and addresses of all businesses with 100 or more employees in order to ensure compliance with this section.

SEC. 179. Section 13073.6 of the Government Code is amended to read:

13073.6. Notwithstanding subdivision (g) of Section 1798.24 of the Civil Code, data collected, received, or prepared by the Demographic Research Unit for purposes specified in Section 13073.5 that contains personal information, as defined by subdivision (a) of Section 1798.3 of the Civil Code, shall be exempt from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1).

SEC. 180. Section 14462 of the Government Code is amended to read:

14462. (a) The Inspector General may gain access to confidential records or property that are obtained in connection with any audit, evaluation, investigation, or review conducted pursuant to Section 14461 unless a law specifically refers to and precludes the Inspector General from accessing, examining, and reproducing any record or property pursuant to Section 14461. Information or documents obtained in connection with any audit, evaluation, investigation, or review conducted by the Inspector General are subject to any limitations on release of the information or documents as may apply to an employee or officer of the department or external entity subject to this chapter that provided the information or documents. Providing confidential information pursuant to this section, including, but not limited to, confidential information that is subject to a privilege, shall not constitute a waiver of that privilege.

(b) For purposes of this section, "confidential records or property" means records or property that may lawfully be kept confidential as a result of a statutory or common law privilege or any other law.

(c) The Independent Office of Audits and Investigations shall not destroy any papers or memoranda used to support a completed audit sooner than three years after the audit report is released to the public. All books, papers, records, and correspondence of the office pertaining to its work are public records subject to Division 10 (commencing with Section 7920.000) of Title 1 and shall be filed at any of the regularly maintained offices of the Inspector General, except that none of the following items or papers of which these items are a part shall be released to the public by the Inspector General or the employees of the Inspector General:

(1) Personal papers and correspondence of any person providing assistance to the Inspector General when that person has requested in writing that their papers and correspondence be kept private and confidential. Those papers and correspondence shall become public records if the written request is withdrawn, or upon the order of the Inspector General.

(2) Papers, correspondence, memoranda, or any substantive information pertaining to any audit not completed.

(3) Papers, correspondence, or memoranda pertaining to any audit that has been completed, which papers, correspondence, or memoranda are not used in support of any report resulting from the audit.

(4) Any survey of public employees that the Inspector General determines should be kept confidential to deter retaliation if the public employees respond to the survey.

(5) Any record of an investigation, including, but not limited to, all investigative files and work product, except that the Inspector General, whenever the Inspector General determines it necessary to serve the interests of the state, may issue a public report of an investigation that has substantiated an improper governmental activity, as defined in Section 8547.2, keeping confidential the identity of the employee or employees involved. The Inspector General may also release any findings or evidence supporting any findings resulting from an investigation conducted pursuant to this chapter whenever the Inspector General determines it necessary to serve the interests of the state.

SEC. 181. Section 15570.42 of the Government Code is amended to read:

15570.42. Pursuant to Article 1 (commencing with Section 7922.630) of Chapter 2 of Part 3 of Division 10 of Title 1, the department shall adopt regulations to establish procedures and guidelines to access public records. These regulations shall facilitate maximum public accessibility to the department's public records. These regulations shall specifically identify and describe the types of public records pertaining to the tax and the fee programs administered by the department.

SEC. 182. Section 15650 of the Government Code is amended to read:

15650. For purposes of this chapter, "public record" means any public record as defined in Section 7920.530.

SEC. 183. Section 15652 of the Government Code is amended to read:

15652. Pursuant to Article 1 (commencing with Section 7922.630) of Chapter 2 of Part 3 of Division 10 of Title 1, the State Board of Equalization

shall adopt regulations to establish procedures and guidelines to access public records. These regulations shall facilitate maximum public accessibility to the board's public records. These regulations shall specifically identify and describe the types of public records pertaining to the tax and the fee programs maintained by the board.

SEC. 184. Section 15705 of the Government Code is amended to read:

15705. Notwithstanding any other provision of law, unless prohibited by federal law, the Franchise Tax Board shall truncate social security numbers on lien abstracts and any other records created by the board that are disclosable under Division 10 (commencing with Section 7920.000) of Title 1 before disclosing the record to the public. For purposes of this section, "truncate" means to redact the first five digits of a social security number.

SEC. 185. Section 20057 of the Government Code is amended to read:

20057. "Public agency" also includes the following:

(a) The Commandant, Veterans' Home of California, with respect to employees of the Veterans' Home Exchange and other post fund activities whose compensation is paid from the post fund of the Veterans' Home of California.

(b) Any auxiliary organization operating pursuant to Chapter 7 (commencing with Section 89900) of Part 55 of Division 8 of Title 3 of the Education Code and in conformity with regulations adopted by the Trustees of the California State University and any auxiliary organization operating pursuant to Article 6 (commencing with Section 72670) of Chapter 6 of Part 45 of Division 7 of Title 3 of the Education Code and in conformity with regulations adopted by the Board of Governors of the California Community Colleges.

(c) Any student body or nonprofit organization composed exclusively of students of the California State University or community college or of members of the faculty of the California State University or community college, or both, and established for the purpose of providing essential activities related to, but not normally included as a part of, the regular instructional program of the California State University or community college.

(d) A state organization of governing boards of school districts, the primary purpose of which is the advancing of public education through research and investigation.

(e) Any nonprofit corporation whose membership is confined to public agencies as defined in Section 20056.

(f) A section of the California Interscholastic Federation.

(g) Any credit union incorporated under Division 5 (commencing with Section 14000) of the Financial Code, or incorporated pursuant to federal law, with 95 percent of its membership limited to employees who are members of or retired members of this system or the State Teachers' Retirement Plan, and their immediate families, and employees of any credit union. For the purposes of this subdivision, "immediate family" means those persons related by blood or marriage who reside in the household of a member of the credit union who is a member of or retired member of this

system or the State Teachers' Retirement Plan. The credit union shall pay any costs that are in addition to the normal charges required to enter into a contract with the board. All the payments made by the credit union that are in addition to the normal charges required shall be added to the total amount appropriated by the Budget Act for the administrative expense of this system. For purposes of this subdivision, a credit union is not deemed to be a public agency unless it has entered into a contract with the board pursuant to Chapter 5 (commencing with Section 20460) prior to January 1, 1988. After January 1, 1988, the board may not enter into a contract with any credit union as a public agency.

(h) Any county superintendent of schools that was a contracting agency on July 1, 1983, and any school district or community college district that was a contracting agency with respect to local police officers, as defined in Section 20430, on July 1, 1983.

(i) Any school district or community college district that has established a police department, pursuant to Section 38000 or 72330 of the Education Code, and has entered into a contract with the board on or after January 1, 1990, for school safety members, as defined in Section 20444.

(j) A nonprofit corporation formed for the primary purpose of assisting the development and expansion of the educational, research, and scientific activities of a district agricultural association formed pursuant to Part 3 (commencing with Section 3801) of Division 3 of the Food and Agricultural Code, and the nonprofit corporation described in the California State Exposition and Fair Law (former Article 3 (commencing with Section 3551) of Chapter 3 of Part 2 of Division 3 of the Food and Agricultural Code, as added by Chapter 15 of the Statutes of 1967).

(k) (1) A public or private nonprofit corporation that operates a regional center for the developmentally disabled in accordance with Chapter 5 (commencing with Section 4620) of Division 4.5 of the Welfare and Institutions Code.

(2) A public or private nonprofit corporation, exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, that operates a rehabilitation facility for the developmentally disabled and provides services under a contract with either (A) a regional center for the developmentally disabled, pursuant to paragraph (3) of subdivision (a) of Section 4648 of the Welfare and Institutions Code, or (B) the Department of Rehabilitation, pursuant to Chapter 4.5 (commencing with Section 19350) of Part 2 of Division 10 of the Welfare and Institutions Code, upon obtaining a written advisory opinion from the United States Department of Labor as described in Section 20057.1.

(3) A public or private nonprofit corporation described in this subdivision shall be deemed a "public agency" only for purposes of this part and only with respect to the employees of the regional center or the rehabilitation facility described in this subdivision. Notwithstanding any other provision of this part, the agency may elect by appropriate provision or amendment of its contract not to provide credit for service prior to the effective date of its contract.

(*l*) Independent data-processing centers formed pursuant to former Article 2 (commencing with Section 10550) of Chapter 6 of Part 7 of the Education Code, as it read on December 31, 1990. An agency included pursuant to this subdivision shall only provide benefits that are identical to those provided to a school member.

(m) Any local agency formation commission.

(n) A nonprofit corporation organized for the purpose of and engaged in conducting a citrus fruit fair as defined in Section 4603 of the Food and Agricultural Code.

(o) (1) A public or private nonprofit corporation that operates an independent living center providing services to severely handicapped people and established pursuant to federal Public Law 93-112, that receives the approval of the board, and that provides at least three of the following services:

(A) Assisting severely handicapped people to obtain personal attendants who provide in-home supportive services.

(B) Locating and distributing information about housing in the community usable by severely handicapped people.

(C) Providing information about financial resources available through federal, state, and local government, and private and public agencies to pay all or part of the cost of the in-home supportive services and other services needed by severely handicapped people.

(D) Counseling by people with similar disabilities to aid the adjustment of severely handicapped people to handicaps.

(E) Operation of vans or buses equipped with wheelchair lifts to provide accessible transportation to otherwise unreachable locations in the community where services are available to severely handicapped people.

(2) A public or private nonprofit corporation described in this subdivision shall be deemed a "public agency" only for purposes of this part and only with respect to the employees of the independent living center.

(3) Notwithstanding any other provisions of this part, the public or private nonprofit corporation may elect by appropriate provision or amendment of its contract not to provide credit for service prior to the effective date of its contract.

(p) A hospital that is managed by a city legislative body in accordance with Article 8 (commencing with Section 37650) of Chapter 5 of Part 2 of Division 3 of Title 4.

(q) The Tahoe Transportation District that is established by Article IX of Section 66801.

(r) The California Firefighter Joint Apprenticeship Program formed pursuant to Chapter 4 (commencing with Section 3070) of Division 3 of the Labor Code.

(s) A public health department or district that is managed by the governing body of a county of the 15th class, as defined by Sections 28020 and 28036, as amended by Chapter 1204 of the Statutes of 1971.

(t) A nonprofit corporation or association conducting an agricultural fair pursuant to Section 25905 may enter into a contract with the board for the

participation of its employees as members of this system, upon obtaining a written advisory opinion from the United States Department of Labor as described in Section 20057.1. The nonprofit corporation or association shall be deemed a "public agency" only for this purpose.

(u) An auxiliary organization established pursuant to Article 2.5 (commencing with Section 69522) of Chapter 2 of Part 42 of Division 5 of Title 3 of the Education Code upon obtaining a written advisory opinion from the United States Department of Labor as described in Section 20057.1. The auxiliary organization is a "public agency" only for this purpose.

(v) The Western Association of Schools and Colleges upon obtaining a written advisory opinion from the United States Department of Labor as described in Section 20057.1. The association shall be deemed a "public agency" only for this purpose.

(w) The State Assistance Fund for Enterprise, Business and Industrial Development Corporation upon obtaining a written opinion from the United States Department of Labor as described in Section 20057.1.

(x) (1) A private nonprofit area agency on aging as described in Section 9006 of the Welfare and Institutions Code upon obtaining a written advisory opinion from the United States Department of Labor as described in Section 20057.1.

(2) The area agency on aging shall be deemed a "public agency" only for purposes of this part and only with respect to the employees of the agency.

(3) Notwithstanding any other provision of this part, the area agency on aging may elect by appropriate provision or amendment of its contract not to provide credit for service prior to the effective date of its contract.

(y) (1) A nonprofit mutual water company operating pursuant to Chapter 1 (commencing with Section 14300) of Part 7 of Division 3 of Title 1 of the Corporations Code, upon obtaining a written advisory opinion from the United States Department of Labor as described in Section 20057.1, if both of the following requirements are satisfied:

(A) More than 50 percent of the company's shares are owned by a municipality.

(B) The governing body of the company is a local public agency, as defined in Section 7920.510 and subdivision (a) of Section 7920.525, and a legislative body, as defined in Section 54952.

(2) A nonprofit mutual water company that meets the requirements specified in paragraph (1) shall be deemed a "public agency" only for the purposes of this part and only with respect to the employees of the agency.

(3) A nonprofit mutual water company that meets the requirements specified in paragraph (1) shall be deemed a "public agency" for purposes of this part only if it complies with the provisions of Division 10 (commencing with Section 7920.000) of Title 1 and Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5.

SEC. 186. Section 22854.5 of the Government Code is amended to read:

22854.5. (a) A health benefit plan or contractor, or an entity offering services relating to the administration of health benefit plans to members

and annuitants, shall disclose to the board, staff, and any contractor or consultant of the system, the cost, utilization, actual claim payments, and contract allowance amounts for health care services rendered by participating hospitals to each member and annuitant.

(b) The information specified in subdivision (a) shall be deemed confidential information and protected in accordance with the federal Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Sec. 300gg), the final regulations issued pursuant to the act by the United States Department of Health and Human Services (45 C.F.R. Parts 160 and 164), and the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code). Information provided to the board, staff, and any contractor or consultant of the system shall not include individual member or annuitant identifying information.

(c) The information specified in subdivision (a) shall be deemed to be confidential trade secret information in accordance with subdivision (d) of Section 3426.1 of the Civil Code and Section 1060 of the Evidence Code.

(d) The board shall not disclose the information specified in subdivision (a) in either individual or aggregated form to any other health care service plan or insurer or any entity offering services relating to the administration of health benefit plans, and shall not make this information available to the public, including, but not limited to, any summaries, compilations, or rankings derived from this information. This information shall be used only to make decisions that materially affect the members and annuitants of the health benefits program established by the board.

(e) Any staff, contractor, or consultant to whom information is disclosed pursuant to subdivision (a) shall be subject to all the restrictions in this section regarding the confidentiality and nondisclosure of that information.

(f) The information specified in subdivision (a), in either individual or aggregated form, shall be exempt from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1) pursuant to Section 7927.705.

(g) Upon request from a hospital, the board shall, on an annual basis, provide the hospital a reasonable opportunity to validate the data that has been provided to the board by a health insurer, health care service plan, or entity pursuant to subdivision (a).

(h) For purposes of this section:

(1) "Actual claim payment" means the actual amount paid by the health care plan or administrator to the participating hospital for a health care service rendered to a member or annuitant, exclusive of member or annuitant cost sharing and any other payment adjustments.

(2) "Contract allowance amounts" means the negotiated rate that the participating hospital agrees to accept as payment for a health care service rendered to a member or annuitant under the provider agreement between the health plan or administrator and the participating hospital.

(3) "Cost" means the full amount billed by the participating hospital for a health care service rendered to a member or annuitant.

SEC. 187. Section 24102 of the Government Code is amended to read:

24102. (a) An appointee shall not act as deputy until:

(1) A written appointment by the deputy's principal is filed with the county clerk.

(2) A copy of the appointment is filed with the county auditor, if the auditor has so requested.

(3) The deputy has taken the oath of office.

(b) In its discretion, the board of supervisors of a county may require every appointed deputy of that county who legally changes their name, delegated authority, or department, within 10 days from the date of the change, to file a new appointment in the same manner as the original filing. The county may maintain a record of each person so required to file a new oath of office indicating whether or not the person has complied. Any record maintained pursuant to this subdivision is a public record subject to disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1).

(c) A revocation of the appointment of any deputy shall be made and filed in the same manner as the appointment.

(d) Five years after the date of revocation of appointment of a deputy, the written oath of office subscribed to by the deputy may be destroyed and no reproduction thereof need be made or preserved.

SEC. 188. Section 25124 of the Government Code is amended to read:

25124. (a) Except as provided in subdivision (c), within 15 days after the passage of an ordinance it shall be published once, with the names of the members voting for and against the ordinance, in a newspaper published in the county if there is one, and if there is no newspaper published in the county, the ordinance shall be posted in a prominent location at the board of supervisors' chambers within the 15-day period and remain posted thereafter for at least one week. The local agency, at its option, may include in an ordinance reclassifying land either a brief description accompanied by a map of the boundaries of the property, as recited in the notice of hearing, or a complete metes and bounds description accompanied by a map depicting the reclassified property and adjacent properties. Except for maps, any exhibit attached to and incorporated by reference in an ordinance need not be published in its entirety if the publication lists all those exhibits by title or description and includes a notation that a complete copy of each exhibit is on file with the clerk of the board of supervisors and is available for public inspection and copying in that office in accordance with the California Public Records Act, Division 10 (commencing with Section 7920.000) of Title 1. A certificate of the clerk of the board of supervisors or order entered in the minutes of the board that the ordinance has been duly published or posted is prima facie proof of the publication or posting.

(b) The publication or posting of ordinances, as required by subdivision (a), may be satisfied by either of the following actions:

(1) The county board of supervisors may publish a summary of a proposed ordinance or proposed amendment to an existing ordinance. The summary shall be prepared by an official designated by the board of supervisors. A summary shall be published and a certified copy of the full text of the

proposed ordinance or proposed amendment shall be made available to the public upon request by the clerk of the legislative body at least five days prior to the board of supervisors meeting at which the proposed ordinance or amendment or alteration thereto is to be adopted. The clerk also shall either post a copy of the full text of the ordinance or amendment on the county's internet website or post a certified copy of the full text in the office of the clerk five days prior to the board of supervisors meeting at which the proposed ordinance or amendment or alteration is to be adopted. Within 15 days after adoption of the ordinance or amendment, the board of supervisors shall publish a summary of the ordinance or amendment with the names of those supervisors voting for and against the matter and the clerk shall make available to the public, upon request, a certified copy of the full text of the adopted ordinance or amendment along with the names of those supervisors voting for and against the ordinance or amendment. The clerk of the board of supervisors shall also either post a copy of the full text of the ordinance or amendment and the names of those supervisors voting for and against the ordinance or amendment on the county's internet website or shall post in the office of the clerk of the board of supervisors a certified copy of the full text of the ordinance or amendment along with the vote information specified in this paragraph.

(2) If the county official designated by the board of supervisors determines that it is not feasible to prepare a fair and adequate summary of the proposed or adopted ordinance or amendment, and if the board of supervisors so orders, a display advertisement of at least one-quarter of a page in a newspaper of general circulation in the county shall be published at least five days prior to the board of supervisors meeting at which the proposed ordinance or amendment or alteration thereto is to be adopted. Within 15 days after adoption of the ordinance or amendment, a display advertisement of at least one-quarter of a page shall be published. The advertisement shall indicate the general nature of, and provide information about, the proposed or adopted ordinance or amendment, including information sufficient to enable the public to obtain copies of the complete text of the ordinance or amendment, and the names of those supervisors voting for and against the ordinance or amendment.

(c) If the clerk of the board of supervisors fails to publish an ordinance within 15 days after the date of adoption, the ordinance shall not take effect until 30 days after the date of publication.

SEC. 189. Section 26908.5 of the Government Code is amended to read:

26908.5. (a) As used in this section "auditor" includes an elected or appointed officer or full-time employee of a county or a special district who is compensated, but does not include an independent contractor.

(b) All books, papers, records, and correspondence of an auditor pertaining to the auditor's work are public records subject to Division 10 (commencing with Section 7920.000) of Title 1 and shall be filed at any of the regularly maintained offices of the auditor. However, none of the following items or papers of which these items are a part may be released to the public by the auditor or the auditor's employees:

(1) Personal papers and correspondence of any person providing assistance to the auditor when that person has requested in writing that the person's papers and correspondence be kept private and confidential. Those papers and that correspondence shall become public records if the written request is withdrawn or upon the order of the auditor.

(2) Papers, correspondence, memoranda, or any substantive information pertaining to any audit not completed.

(3) Papers, correspondence, or memoranda pertaining to any audit that has been completed, which papers, correspondence, or memoranda are not used in support of any report resulting from the audit.

SEC. 190. Section 27394 of the Government Code is amended to read:

27394. (a) To be eligible to establish an electronic recording delivery system, a county recorder shall contract with, and obtain a report from, a computer security auditor selected from a list of computer security auditors approved by the Attorney General.

(b) The Attorney General shall approve computer security auditors on the basis of significant experience in the evaluation and analysis of internet security design, the conduct of security testing procedures, and specific experience performing internet penetration studies. The Attorney General shall complete the approval of security auditors within 90 days of a request from a county recorder. The list shall be a public record.

(c) An electronic recording delivery system shall be audited, at least once during the first year of operation and periodically thereafter, as set forth in regulation and in the system certification, by a computer security auditor. The computer security auditor shall conduct security testing of the electronic recording delivery system. The reports of the computer security auditor shall include, but not be limited to, all of the following considerations:

(1) Safety and security of the system, including the vulnerability of the electronic recording delivery system to fraud or penetration.

(2) Results of testing of the system's protections against fraud or intrusion, including security testing and penetration studies.

(3) Recommendations for any additional precautions needed to ensure that the system is secure.

(d) Upon completion, the reports and any response to any recommendations shall be transmitted to the board of supervisors, the county recorder, the county district attorney, and the Attorney General. These reports shall be exempt from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1).

(e) A computer security auditor shall have access to any aspect of an electronic recording delivery system, in any form requested. Computer security auditor access shall include, but not be limited to, permission for a thorough examination of source code and the associated approved escrow facility, and necessary authorization and assistance for a penetration study of that system.

(f) If the county recorder, a computer security auditor, a district attorney for a county participating in the electronic recording delivery system, or the Attorney General reasonably believes that an electronic recording delivery

system is vulnerable to fraud or intrusion, the county recorder, the board of supervisors, the district attorney, and the Attorney General shall be immediately notified. The county recorder shall immediately take the necessary steps to guard against any compromise of the electronic recording delivery system, including, if necessary, the suspension of an authorized submitter or of the electronic recording delivery system.

SEC. 191. Section 36525 of the Government Code is amended to read:

36525. (a) As used in this section "city auditor" includes an elected or appointed officer or full-time employee of the city who is compensated, but does not include an independent contractor.

(b) All books, papers, records, and correspondence of the city auditor pertaining to the auditor's work are public records subject to Division 10 (commencing with Section 7920.000) of Title 1 and shall be filed at any of the regularly maintained offices of the city auditor. However, none of the following items or papers of which these items are a part may be released to the public by the city auditor, or the auditor's employees:

(1) Personal papers and correspondence of any person providing assistance to the city auditor when that person has requested in writing that the person's papers and correspondence be kept private and confidential. Those papers and that correspondence shall become public records if the written request is withdrawn or upon the order of the city auditor.

(2) Papers, correspondence, memoranda, or any substantive information pertaining to any audit not completed.

(3) Papers, correspondence, or memoranda pertaining to any audit that has been completed, which papers, correspondence, or memoranda are not used in support of any report resulting from the audit.

SEC. 192. Section 52054 of the Government Code is amended to read:

52054. The records of the authority shall be open to public inspection pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1).

SEC. 193. Section 53087.8 of the Government Code is amended to read:

53087.8. (a) (1) Except as provided in subdivision (b), beginning on January 1, 2020, every independent special district, as defined in Section 56044, shall maintain an internet website.

(2) The internet website required by paragraph (1) shall conform to any other provisions of law applicable to the internet website of the district, including, but not limited to, Sections 53893, 53908, and 54954.2 of this code, Article 3 (commencing with Section 7922.700) of Chapter 2 of Part 3 of Division 10 of Title 1 of this code, and Section 32139 of the Health and Safety Code.

(3) The internet website required by paragraph (1) shall clearly list contact information for the independent special district.

(b) (1) An independent special district shall be exempt from subdivision (a) if, pursuant to a majority vote of its governing body at a regular meeting, the district adopts a resolution declaring its determination that a hardship exists that prevents the district from establishing or maintaining an internet website.

(2) A resolution adopted pursuant to this subdivision shall include detailed findings, based upon evidence set forth in the minutes of the meeting, supporting the board's determination that a hardship prevents the district from establishing or maintaining an internet website. The findings may include, but shall not be limited to, inadequate access to broadband communications network facilities that enable high-speed internet access, significantly limited financial resources, or insufficient staff resources.

(3) A resolution adopted pursuant to this subdivision shall be valid for one year. In order to continue to be exempt from subdivision (a), the governing body of an independent special district shall adopt a resolution pursuant to this subdivision annually so long as the hardship exists.

SEC. 194. Section 53170 of the Government Code is amended to read:

53170. (a) Information or documents obtained by a city, county, or other local agency for the purpose of issuing a local identification card shall be used only for the purposes of administering the identification card program or policy. This information, including the name and address of any person who applies for or is issued a local identification card, is exempt from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), shall not be open to the public for inspection, and shall not be disclosed except as required to administer the program, or as otherwise required by California law, any local law governing the identification card program, or court order. This section does not prohibit the disclosure of aggregate data if it is disclosed in a manner that would prevent it from being used to determine the identities of the persons upon whom the data is based.

(b) The Legislature hereby finds and declares that protecting the privacy of the residents of this state is an important matter of statewide concern. This section shall therefore apply equally to all cities and counties in this state, including charter cities and charter counties.

SEC. 195. Section 53232.3 of the Government Code is amended to read:

53232.3. (a) If a local agency reimburses members of a legislative body for actual and necessary expenses incurred in the performance of official duties, then a local agency shall provide expense report forms to be filed by the members of the legislative body for reimbursement for actual and necessary expenses incurred on behalf of the local agency in the performance of official duties. Reimbursable expenses shall include, but not be limited to, meals, lodging, and travel.

(b) Expense reports shall document that expenses meet the existing policy, adopted pursuant to Section 53232.2, for expenditure of public resources.

(c) Members of a legislative body shall submit expense reports within a reasonable time after incurring the expense, as determined by the legislative body, and the reports shall be accompanied by the receipts documenting each expense.

(d) Members of a legislative body shall provide brief reports on meetings attended at the expense of the local agency at the next regular meeting of the legislative body.

(e) All documents related to reimbursable agency expenditures are public records subject to disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1).

SEC. 196. Section 53235.2 of the Government Code is amended to read:

53235.2. (a) A local agency that requires its local agency officials to complete the ethical training prescribed by this article shall maintain records indicating both of the following:

(1) The dates that local officials satisfied the requirements of this article.

(2) The entity that provided the training.

(b) Notwithstanding any other provision of law, a local agency shall maintain these records for at least five years after local officials receive the training. These records are public records subject to disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1).

SEC. 197. Section 53237.2 of the Government Code is amended to read:

53237.2. (a) A local agency that requires its local agency officials or employees to complete the sexual harassment prevention training and education prescribed by this article shall maintain records indicating both of the following:

(1) The dates that local agency officials or employees satisfied the requirements of this article.

(2) The entity that provided the training.

(b) Notwithstanding any other law, a local agency shall maintain these records for at least five years after local agency officials or employees receive the training. These records are public records subject to disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1).

SEC. 198. Section 53359.7 of the Government Code is amended to read:

53359.7. Current information on the items listed in Section 53359.5 is a matter of public record, within the meaning of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1) even if the information is physically held by an agent or trustee of the public agency. Neither the legislative body, nor any of its officers, agents, or trustees shall be liable in any way for making that financial information available to anyone requesting it or for otherwise making it available to the public.

SEC. 199. Section 53398.51.1 of the Government Code is amended to read:

53398.51.1. (a) The public financing authority shall have a membership consisting of one of the following, as appropriate:

(1) If a district has only one participating affected taxing entity, the public financing authority's membership shall consist of three members of the legislative body of the participating entity, and two members of the public chosen by the legislative body. The appointment of the public members shall be subject to the provisions of Section 54974.

(2) If a district has two or more participating affected taxing entities, the public financing authority's membership shall consist of a majority of

members from the legislative bodies of the participating entities, and a minimum of two members of the public chosen by the legislative bodies of the participating entities. The appointment of the public members shall be subject to the provisions of Section 54974.

(b) The legislative body shall ensure the public financing authority is established at the same time that it adopts a resolution of intention pursuant to Section 53398.59.

(c) Members of the public financing authority established pursuant to this chapter shall not receive compensation but may receive reimbursement for actual and necessary expenses incurred in the performance of official duties pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2.

(d) Members of the public financing authority are subject to Article 2.4 (commencing with Section 53234) of Chapter 2.

(e) The public financing authority created pursuant to this chapter shall be a local public agency subject to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950)), the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1), and the Political Reform Act of 1974 (Title 9 (commencing with Section 81000)).

SEC. 200. Section 53753 of the Government Code is amended to read:

53753. (a) The notice, protest, and hearing requirements imposed by this section supersede any statutory provisions applicable to the levy of a new or increased assessment that is in existence on the effective date of this section, whether or not that provision is in conflict with this article. Any agency that complies with the notice, protest, and hearing requirements of this section shall not be required to comply with any other statutory notice, protest, and hearing requirements that would otherwise be applicable to the levy of a new or increased assessment, with the exception of Division 4.5 (commencing with Section 3100) of the Streets and Highways Code. If the requirements of that division apply to the levy of a new or increased assessment, the levying agency shall comply with the notice, protest, and hearing requirements imposed by this section as well as with the requirements of that division.

(b) Prior to levying a new or increased assessment, or an existing assessment that is subject to the procedures and approval process set forth in Section 4 of Article XIII D of the California Constitution, an agency shall give notice by mail to the record owner of each identified parcel. Each notice shall include the total amount of the proposed assessment chargeable to the entire district, the amount chargeable to the record owner's parcel, the duration of the payments, the reason for the assessment and the basis upon which the amount of the proposed assessment was calculated, and the date, time, and location of a public hearing on the proposed assessment. Each notice shall also include, in a conspicuous place thereon, a summary of the procedures for the completion, return, and tabulation of the assessment ballots required pursuant to subdivision (c), including a statement that the assessment shall not be imposed if the ballots submitted in opposition to the assessment exceed the ballots submitted in favor of the assessment, with

ballots weighted according to the proportional financial obligation of the affected property. An agency shall give notice by mail at least 45 days prior to the date of the public hearing upon the proposed assessment. On the face of the envelope mailed to the record owner, in which the notice and ballot are enclosed, there shall appear in substantially the following form in no smaller than 16-point bold type: "OFFICIAL BALLOT ENCLOSED." An agency may additionally place the phrase "OFFICIAL BALLOT ENCLOSED" on the face of the envelope mailed to the record owner, in which the notice and ballot are enclosed, in a language or languages other than English.

(c) Each notice given pursuant to subdivision (b) shall contain an assessment ballot that includes the agency's address for receipt of the ballot and a place where the person returning the assessment ballot may indicate the person's name, a reasonable identification of the parcel, and the person's support or opposition to the proposed assessment. Each assessment ballot shall be in a form that conceals its contents once it is sealed by the person submitting the assessment ballot. Each assessment ballot shall be signed and either mailed or otherwise delivered to the address indicated on the assessment ballot. Regardless of the method of delivery, all assessment ballots shall be received at the address indicated, or the site of the public testimony, in order to be included in the tabulation of a majority protest pursuant to subdivision (e). Assessment ballots shall remain sealed until the tabulation of ballots pursuant to subdivision (e) commences, provided that an assessment ballot may be submitted, or changed, or withdrawn by the person who submitted the ballot prior to the conclusion of the public testimony on the proposed assessment at the hearing required pursuant to subdivision (d). An agency may provide an envelope for the return of the assessment ballot, provided that if the return envelope is opened by the agency prior to the tabulation of ballots pursuant to subdivision (e), the enclosed assessment ballot shall remain sealed as provided in this section.

(d) At the time, date, and place stated in the notice mailed pursuant to subdivision (b), the agency shall conduct a public hearing upon the proposed assessment. At the public hearing, the agency shall consider all objections or protests, if any, to the proposed assessment. At the public hearing, any person shall be permitted to present written or oral testimony. The public hearing may be continued from time to time.

(e) (1) At the conclusion of the public hearing conducted pursuant to subdivision (d), an impartial person designated by the agency who does not have a vested interest in the outcome of the proposed assessment shall tabulate the assessment ballots submitted, and not withdrawn, in support of or opposition to the proposed assessment. For the purposes of this section, an impartial person includes, but is not limited to, the clerk of the agency. If the agency uses agency personnel for the ballot tabulation, or if the agency contracts with a vendor for the ballot tabulation and the vendor or its affiliates participated in the research, design, engineering, public education, or promotion of the assessment, the ballots shall be unsealed and tabulated

in public view at the conclusion of the hearing so as to permit all interested persons to meaningfully monitor the accuracy of the tabulation process.

(2) The governing body of the agency may, if necessary, continue the tabulation at a different time or location accessible to the public, provided the governing body announces the time and location at the hearing. The impartial person may use technological methods of tabulating the assessment ballots, including, but not limited to, punchcard or optically readable (bar-coded) assessment ballots. During and after the tabulation, the assessment ballots and the information used to determine the weight of each ballot shall be treated as disclosable public records, as defined in Section 7920.530, and equally available for inspection by the proponents and the opponents of the proposed assessment. The ballots shall be preserved for a minimum of two years, after which they may be destroyed as provided in Sections 26202, 34090, and 60201.

(3) In the event that more than one of the record owners of an identified parcel submits an assessment ballot, the amount of the proposed assessment to be imposed upon the identified parcel shall be allocated to each ballot submitted in proportion to the respective record ownership interests or, if the ownership interests are not shown on the record, as established to the satisfaction of the agency by documentation provided by those record owners.

(4) A majority protest exists if the assessment ballots submitted, and not withdrawn, in opposition to the proposed assessment exceed the assessment ballots submitted, and not withdrawn, in its favor, weighting those assessment ballots by the amount of the proposed assessment to be imposed upon the identified parcel for which each assessment ballot was submitted.

(5) If there is a majority protest against the imposition of a new assessment, or the extension of an existing assessment, or an increase in an existing assessment, the agency shall not impose, extend, or increase the assessment.

(6) The majority protest proceedings described in this subdivision shall not constitute an election or voting for purposes of Article II of the California Constitution or of the Elections Code.

SEC. 201. Section 53755.5 of the Government Code is amended to read:

53755.5. When an agency proposes to impose or increase any fee or charge subject to Section 6 of Article XIII D of the California Constitution that is not exempt from the requirements of subdivision (c) of Section 6 of Article XIII D of the California Constitution, the following procedures, in addition to any other procedures adopted by the agency pursuant to subdivision (c) of Section 6 of Article XIII D of the California Constitution, shall apply to the election:

(a) If the agency opts to submit the proposed fee or charge for approval by a two-thirds vote of the registered voters residing in the affected area, the election shall be conducted by the agency's elections official or that official's designee. If the election is conducted by the county elections official, the agency, if other than the county, shall reimburse the county for

the actual and reasonable costs incurred by the county elections official in conducting the election.

(b) If the agency opts to submit the proposed fee or charge for approval by a majority vote of the property owners who will be subject to the fee or charge, then in addition to the procedures set forth in Section 6 of Article XIII D of the California Constitution, the following procedures shall apply to the election:

(1) On the face of the envelope in which the notice of election and ballot are mailed, there shall appear in substantially the following form in no smaller than 16-point bold type: "OFFICIAL BALLOT ENCLOSED." Below that, an agency may repeat the phrase "OFFICIAL BALLOT ENCLOSED" in a language or languages other than English.

(2) The ballot shall include the agency's address for return of the ballot, the date and location where the ballots will be tabulated, and a place where the person returning it may indicate the person's name, a reasonable identification of the parcel, and the person's support or opposition to the proposed fee. The ballots shall be tabulated in a location accessible to the public. The ballot shall be in a form that conceals its content once it is sealed by the person submitting it. The ballot shall remain sealed until the ballot tabulation pursuant to paragraph (3) commences.

(3) An impartial person designated by the agency who does not have a vested interest in the outcome of the proposed fee shall tabulate the ballots submitted in support of or opposition to the proposed fee. For the purposes of this section, an impartial person includes, but is not limited to, the clerk of the agency. If the agency uses agency personnel for the ballot tabulation, or if the agency contracts with a vendor for the ballot tabulation and the vendor or its affiliates participated in the research, design, engineering, public education, or promotion of the fee, the ballots shall be unsealed and tabulated in public view to permit all interested persons to meaningfully monitor the accuracy of the tabulation process.

(4) The ballot tabulation may be continued to a different time or different location accessible to the public, provided that the time and location are announced at the location at which the tabulation commenced and posted by the agency in a location accessible to the public. The impartial person may use technological methods to tabulate the ballots, including, but not limited to, punchcard or optically readable (bar-coded) ballots. During and after the tabulation, the ballots and, if applicable, the information used to determine the weight of each ballot, shall be treated as public records, as defined in Section 7920.530, subject to public disclosure and made available for inspection by any interested person. The ballots shall be preserved for a minimum of two years, after which they may be destroyed as provided in Sections 26202, 34090, and 60201.

(c) The proceedings described in subdivision (b) shall not constitute an election or voting for purposes of Article II of the California Constitution or of the Elections Code.

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

SEC. 202. Section 53760.9 of the Government Code is amended to read:

53760.9. (a) Notwithstanding any other law, including, but not limited to, the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1), except as provided in subdivision (c), a local public entity shall provide the name and mailing address of each retired employee, or the beneficiary receiving the retired employee's retirement benefit, in list form, to any organization that is incorporated as a California nonprofit mutual benefit corporation pursuant to Part 3 (commencing with Section 7110) of Division 2 of Title 1 of the Corporations Code and qualified pursuant to Section 501(c)(3), 501(c)(4), or 501(c)(5) of Title 26 of the Internal Revenue Code for the purpose of representing retired employees of the local public entity, upon that organization's request, if any of the following occur:

(1) The local public entity began the process of participating in a neutral evaluation process pursuant to Section 53760.3.

(2) The local public entity declared a fiscal emergency and adopted a resolution by a majority vote of the governing board pursuant to Section 53760.5.

(3) The local public entity filed a petition pursuant to applicable federal bankruptcy law on or before December 31, 2011.

(b) (1) An organization receiving a list with the name and mailing address of a retired employee or the beneficiary receiving the retired employee's retirement benefit pursuant to subdivision (a) shall use that information only for the purpose of representing the retired employee or the retired employee's beneficiary as a member of the organization as an interested party in a neutral evaluation process pursuant to Section 53760.3, the declaration of a fiscal emergency and adoption of a resolution pursuant to Section 53760.5, or a bankruptcy proceeding.

(2) An organization that violates paragraph (1) by misusing the information in the list provided shall be subject to a civil penalty in the amount of twenty-five thousand dollars ($25,000).

(c) Upon written request of any retired employee, or the beneficiary receiving the retired employee's retirement benefit, a local public entity shall not disclose the name and home address of the retired employee, or the beneficiary receiving the retired employee's retirement benefit, and shall remove the retired employee, or the beneficiary receiving the retired employee's retirement benefit, from any mailing list created by that local public entity for compliance with subdivision (a).

(d) This section shall not affect or limit the disclosure or nondisclosure of public records pursuant to any other statute or decisional law.

SEC. 203. Section 54230.5 of the Government Code is amended to read:

54230.5. (a) (1) A local agency that disposes of land in violation of this article after receiving a notification from the Department of Housing and Community Development pursuant to subdivision (b) that the local agency is in violation of this article shall be liable for a penalty of 30 percent of the final sale price of the land sold in violation of this article for a first violation and 50 percent for any subsequent violation. An entity identified in Section 54222 or a person who would have been eligible to apply for

residency in any affordable housing developed or a housing organization as defined in Section 65589.5, or any beneficially interested person or entity may bring an action to enforce this section. A local agency shall have 60 days to cure or correct an alleged violation before an action may be brought to enforce this section, unless the local agency disposes of the land before curing or correcting the alleged violation, or the department deems the alleged violation not to be a violation in less than 60 days.

(2) A penalty assessed pursuant to this subdivision shall, except as otherwise provided, be deposited into a local housing trust fund. The local agency may elect to instead deposit the penalty moneys into the Building Homes and Jobs Trust Fund or the Housing Rehabilitation Loan Fund. Penalties shall not be paid out of funds already dedicated to affordable housing, including, but not limited to, Low and Moderate Income Housing Asset Funds, funds dedicated to housing for very low, low-, and moderate-income households, and federal HOME Investment Partnerships Program and Community Development Block Grant Program funds. The local agency shall commit and expend the penalty moneys deposited into the local housing trust fund within five years of deposit for the sole purpose of financing newly constructed housing units that are affordable to extremely low, very low, or low-income households.

(3) Five years after deposit of the penalty moneys into the local housing trust fund, if the funds have not been expended, the funds shall revert to the state and be deposited in the Building Homes and Jobs Trust Fund or the Housing Rehabilitation Loan Fund for the sole purpose of financing newly constructed housing units located in the same jurisdiction as the surplus land and that are affordable to extremely low, very low, or low-income households. Expenditure of any penalty moneys deposited into the Building Homes and Jobs Trust Fund or the Housing Rehabilitation Loan Fund pursuant to this subdivision shall be subject to appropriation by the Legislature.

(b) (1) Prior to agreeing to terms for the disposition of surplus land, a local agency shall provide to the Department of Housing and Community Development a description of the notices of availability sent, and negotiations conducted with any responding entities, in regard to the disposal of the parcel of surplus land and a copy of any restrictions to be recorded against the property pursuant to Section 54233 or 54233.5, whichever is applicable, in a form prescribed by the Department of Housing and Community Development. A local agency may submit this information after it has sent notices of availability required by Section 54222 and concluded negotiations with any responding agencies. A local agency shall not be liable for the penalty imposed by subdivision (a) if the Department of Housing and Community Development does not notify the agency that the agency is in violation of this article within 30 days of receiving the description.

(2) The Department of Housing and Community Development shall do all of the following:

(A) Make available educational resources and materials that inform each agency of its obligations under this article and that provide guidance on how to comply with its provisions.

(B) Review information submitted pursuant to paragraph (1).

(C) Submit written findings to the local agency within 30 days of receipt of the description required by paragraph (1) from the local agency if the proposed disposal of the land will violate this article.

(D) Review, adopt, amend, or repeal guidelines to establish uniform standards to implement this section. The guidelines adopted pursuant to this subdivision are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

(E) Provide the local agency reasonable time, but not less than 60 days, to respond to the findings before taking any other action authorized by this section.

(3) (A) The local agency shall consider findings made by the Department of Housing and Community Development pursuant to subparagraph (B) of paragraph (2) and shall do one of the following:

(i) Correct any issues identified by the Department of Housing and Community Development.

(ii) Provide written findings explaining the reason its process for disposing of surplus land complies with this article and addressing the Department of Housing and Community Development's findings.

(B) If the local agency does not correct issues identified by the Department of Housing and Community Development, does not provide findings explaining the reason its process for disposing of surplus land complies with this article and addressing the Department of Housing and Community Development's findings, or if the Department of Housing and Community Development finds that the local agency's findings are deficient in addressing the issues identified by the Department of Housing and Community Development, the Department of Housing and Community Development shall notify the local agency, and may notify the Attorney General, that the local agency is in violation of this article.

(c) The Department of Housing and Community Development shall implement the changes in this section made by the act adding this subdivision commencing on January 1, 2021.

(d) Notwithstanding subdivision (c), this section shall not be construed to limit any other remedies authorized under law to enforce this article including public records act requests pursuant to Division 10 (commencing with Section 7920.000) of Title 1.

SEC. 204. Section 54953 of the Government Code is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or

proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides

a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

SEC. 205. Section 54953.5 of the Government Code is amended to read:

54953.5. (a) Any person attending an open and public meeting of a legislative body of a local agency shall have the right to record the proceedings with an audio or video recorder or a still or motion picture camera in the absence of a reasonable finding by the legislative body of the local agency that the recording cannot continue without noise, illumination, or obstruction of view that constitutes, or would constitute, a persistent disruption of the proceedings.

(b) Any audio or video recording of an open and public meeting made for whatever purpose by or at the direction of the local agency shall be subject to inspection pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1), but, notwithstanding Section 34090, may be erased or destroyed 30 days after the recording. Any inspection of an audio or video recording shall be provided without charge on equipment made available by the local agency.

SEC. 206. Section 54956.9 of the Government Code is amended to read:

54956.9. (a) Nothing in this chapter shall be construed to prevent a legislative body of a local agency, based on advice of its legal counsel, from holding a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the local agency in the litigation.

(b) For purposes of this chapter, all expressions of the lawyer-client privilege other than those provided in this section are hereby abrogated. This section is the exclusive expression of the lawyer-client privilege for purposes of conducting closed-session meetings pursuant to this chapter.

(c) For purposes of this section, "litigation" includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

(d) For purposes of this section, litigation shall be considered pending when any of the following circumstances exist:

(1) Litigation, to which the local agency is a party, has been initiated formally.

(2) A point has been reached where, in the opinion of the legislative body of the local agency on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the local agency.

(3) Based on existing facts and circumstances, the legislative body of the local agency is meeting only to decide whether a closed session is authorized pursuant to paragraph (2).

(4) Based on existing facts and circumstances, the legislative body of the local agency has decided to initiate or is deciding whether to initiate litigation.

(e) For purposes of paragraphs (2) and (3) of subdivision (d), "existing facts and circumstances" shall consist only of one of the following:

(1) Facts and circumstances that might result in litigation against the local agency but which the local agency believes are not yet known to a potential plaintiff or plaintiffs, which facts and circumstances need not be disclosed.

(2) Facts and circumstances, including, but not limited to, an accident, disaster, incident, or transactional occurrence that might result in litigation against the agency and that are known to a potential plaintiff or plaintiffs, which facts or circumstances shall be publicly stated on the agenda or announced.

(3) The receipt of a claim pursuant to the Government Claims Act (Division 3.6 (commencing with Section 810) of Title 1 of the Government Code) or some other written communication from a potential plaintiff threatening litigation, which claim or communication shall be available for public inspection pursuant to Section 54957.5.

(4) A statement made by a person in an open and public meeting threatening litigation on a specific matter within the responsibility of the legislative body.

(5) A statement threatening litigation made by a person outside an open and public meeting on a specific matter within the responsibility of the legislative body so long as the official or employee of the local agency receiving knowledge of the threat makes a contemporaneous or other record of the statement prior to the meeting, which record shall be available for public inspection pursuant to Section 54957.5. The records so created need not identify the alleged victim of unlawful or tortious sexual conduct or anyone making the threat on their behalf, or identify a public employee who is the alleged perpetrator of any unlawful or tortious conduct upon which a threat of litigation is based, unless the identity of the person has been publicly disclosed.

(f) Nothing in this section shall require disclosure of written communications that are privileged and not subject to disclosure pursuant

to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1).

(g) Prior to holding a closed session pursuant to this section, the legislative body of the local agency shall state on the agenda or publicly announce the paragraph of subdivision (d) that authorizes the closed session. If the session is closed pursuant to paragraph (1) of subdivision (d), the body shall state the title of or otherwise specifically identify the litigation to be discussed, unless the body states that to do so would jeopardize the agency's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

(h) A local agency shall be considered to be a "party" or to have a "significant exposure to litigation" if an officer or employee of the local agency is a party or has significant exposure to litigation concerning prior or prospective activities or alleged activities during the course and scope of that office or employment, including litigation in which it is an issue whether an activity is outside the course and scope of the office or employment.

SEC. 207. Section 54957.2 of the Government Code is amended to read:

54957.2. (a) The legislative body of a local agency may, by ordinance or resolution, designate a clerk or other officer or employee of the local agency who shall then attend each closed session of the legislative body and keep and enter in a minute book a record of topics discussed and decisions made at the meeting. The minute book made pursuant to this section is not a public record subject to inspection pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1), and shall be kept confidential. The minute book shall be available only to members of the legislative body or, if a violation of this chapter is alleged to have occurred at a closed session, to a court of general jurisdiction wherein the local agency lies. The minute book may, but need not, consist of a recording of the closed session.

(b) An elected legislative body of a local agency may require that each legislative body all or a majority of whose members are appointed by or under the authority of the elected legislative body keep a minute book as prescribed under subdivision (a).

SEC. 208. Section 54957.5 of the Government Code is amended to read:

54957.5. (a) Notwithstanding Section 7922.000 or any other law, agendas of public meetings and any other writings, when distributed to all, or a majority of all, of the members of a legislative body of a local agency by any person in connection with a matter subject to discussion or consideration at an open meeting of the body, are disclosable public records under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1), and shall be made available upon request without delay. However, this section shall not include any writing exempt from public disclosure under Section 7924.100, 7924.105, 7924.110, 7924.510, 7924.700, 7926.205, 7927.410, 7927.605, 7928.300, or 7928.710, or any provision listed in Section 7920.505.

(b) (1) If a writing that is a public record under subdivision (a), and that relates to an agenda item for an open session of a regular meeting of the legislative body of a local agency, is distributed less than 72 hours prior to that meeting, the writing shall be made available for public inspection pursuant to paragraph (2) at the time the writing is distributed to all, or a majority of all, of the members of the body.

(2) A local agency shall make any writing described in paragraph (1) available for public inspection at a public office or location that the agency shall designate for this purpose. Each local agency shall list the address of this office or location on the agendas for all meetings of the legislative body of that agency. The local agency also may post the writing on the local agency's internet website in a position and manner that makes it clear that the writing relates to an agenda item for an upcoming meeting.

(3) This subdivision shall become operative on July 1, 2008.

(c) Writings that are public records under subdivision (a) and that are distributed during a public meeting shall be made available for public inspection at the meeting if prepared by the local agency or a member of its legislative body, or after the meeting if prepared by some other person. These writings shall be made available in appropriate alternative formats upon request by a person with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

(d) This chapter shall not be construed to prevent the legislative body of a local agency from charging a fee or deposit for a copy of a public record pursuant to Section 7922.530, except that a surcharge shall not be imposed on persons with disabilities in violation of Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

(e) This section shall not be construed to limit or delay the public's right to inspect or obtain a copy of any record required to be disclosed under the requirements of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1).This chapter shall not be construed to require a legislative body of a local agency to place any paid advertisement or any other paid notice in any publication.

SEC. 209. Section 60201 of the Government Code is amended to read:

60201. (a) For purposes of this section, "record" means any record consisting of a "writing," as defined by Section 7920.545.

(b) The legislative body of a district may destroy or dispose of any record that is not expressly required by law to be filed and preserved through either of the following procedures:

(1) The legislative body may authorize the destruction or disposition of any category of records if it does both of the following:

(A) Adopts a resolution finding that destruction or disposition of this category of records will not adversely affect any interest of the district or of the public.

(B) Maintains a list, by category, of the types of records destroyed or disposed of that reasonably identifies the information contained in the records in each category.

(2) The legislative body may, by resolution, adopt and comply with a record retention schedule that complies with guidelines provided by the Secretary of State pursuant to Section 12236, that classifies all of the district's records by category, and that establishes a standard protocol for destruction or disposition of records.

(c) A district is not required to photograph, reproduce, microfilm, or make a copy of any record that is destroyed or disposed of pursuant to this section.

(d) Notwithstanding any other provision of this section or other provision of law, a district may not destroy or dispose of any record that is any of the following:

(1) Relates to formation, change of organization, or reorganization of the district.

(2) An ordinance adopted by the district. However, an ordinance that has been repealed or is otherwise invalid or unenforceable may be destroyed or disposed of pursuant to this section five years after it was repealed or became invalid or unenforceable.

(3) Minutes of any meeting of the legislative body of the district.

(4) Relates to any pending claim or litigation or any settlement or other disposition of litigation within the past two years.

(5) Is the subject of any pending request made pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1), whether or not the district maintains that the record is exempt from disclosure, until the request has been granted or two years have elapsed since the district provided written notice to the requester that the request has been denied.

(6) Relates to any pending construction that the district has not accepted or as to which a stop notice claim legally may be presented.

(7) Relates to any nondischarged debt of the district.

(8) Relates to the title to real property in which the district has an interest.

(9) Relates to any nondischarged contract to which the district is a party.

(10) Has not fulfilled the administrative, fiscal, or legal purpose for which it was created or received.

(11) Is an unaccepted bid or proposal, which is less than two years old, for the construction or installation of any building, structure, or other public work.

(12) Specifies the amount of compensation paid to district employees or officers or to independent contractors providing personal or professional services to the district, or relates to expense reimbursement to district officers or employees or to the use of district paid credit cards or any travel compensation mechanism. However, a record described in this paragraph may be destroyed or disposed of pursuant to this section seven years after the date of payment.

SEC. 210. Section 62001 of the Government Code is amended to read:

62001. (a) A community revitalization and investment authority is a public body, corporate and politic, with jurisdiction to carry out a community revitalization plan within a community revitalization and investment area. The authority shall be deemed to be the "agency" described in subdivision (b) of Section 16 of Article XVI of the California Constitution for purposes of receiving tax increment revenues. The authority shall have only those powers and duties specifically set forth in Section 62002.

(b) (1) An authority may be created in any one of the following ways:

(A) A city, county, or city and county may adopt a resolution creating an authority. The composition of the governing board shall be comprised as set forth in subdivision (c).

(B) A city, county, city and county, and special district, as special district is defined in subdivision (m) of Section 95 of the Revenue and Taxation Code, or any combination thereof, may create an authority by entering into a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1.

(2) (A) A school entity, as defined in subdivision (f) of Section 95 of the Revenue and Taxation Code, may not participate in an authority created pursuant to this part.

(B) A successor agency, as defined in subdivision (j) of Section 34171 of the Health and Safety Code, may not participate in an authority created pursuant to this part, and an entity created pursuant to this part shall not receive any portion of the property tax revenues or other moneys distributed pursuant to Section 34188 of the Health and Safety Code.

(3) An authority formed by a city or county that created a redevelopment agency that was dissolved pursuant to Part 1.85 (commencing with Section 34170) of Division 24 of the Health and Safety Code shall not become effective until the successor agency or designated local authority for the former redevelopment agency has adopted findings of fact stating all of the following:

(A) The agency has received a finding of completion from the Department of Finance pursuant to Section 34179.7 of the Health and Safety Code.

(B) Former redevelopment agency assets that are the subject of litigation against the state, where the city or county or its successor agency or designated local authority are a named plaintiff, have not been or will not be used to benefit any efforts of an authority formed under this part unless the litigation has been resolved by entry of a final judgment by any court of competent jurisdiction and any appeals have been exhausted.

(C) The agency has complied with all orders of the Controller pursuant to Section 34167.5 of the Health and Safety Code.

(c) (1) The governing board of an authority created pursuant to subparagraph (A) of paragraph (1) of subdivision (b) shall be appointed by the legislative body of the city, county, or city and county that created the authority and shall include three members of the legislative body of the city, county, or city and county that created the authority and two public members. The appointment of the two public members shall be subject to Section

54974. The two public members shall live or work within the community revitalization and investment area.

(2) The governing body of the authority created pursuant to subparagraph (B) of paragraph (1) of subdivision (b) shall be comprised of a majority of members from the legislative bodies of the public agencies that created the authority and a minimum of two public members who live or work within the community revitalization and investment area. The majority of the board shall appoint the public members to the governing body. The appointment of the public members shall be subject to Section 54974.

(d) An authority may carry out a community revitalization plan within a community revitalization and investment area. Not less than 80 percent of the land calculated by census tracts, census block groups, as defined by the United States Census Bureau, or any combination of both within the area shall be characterized by both of the following conditions:

(1) An annual median household income that is less than, at the option of the authority, 80 percent of the statewide, countywide, or citywide annual median income.

(2) Three of the following four conditions:

(A) An unemployment rate that is at least 3 percentage points higher than the statewide average annual unemployment rate, as defined by the report on labor market information published by the Employment Development Department in March of the year in which the community revitalization plan is prepared. In determining the unemployment rate within the community revitalization and investment area, an authority may use unemployment data from the periodic American Community Survey published by the United States Census Bureau.

(B) Crime rates, as documented by records maintained by the law enforcement agency that has jurisdiction in the proposed plan area for violent or property crime offenses, that are at least 5 percent higher than the statewide average crime rate for violent or property crime offenses, as defined by the most recent annual report of the Criminal Justice Statistics Center within the Department of Justice, when data is available on the Attorney General's internet website. The crime rate shall be calculated by taking the local crime incidents for violent or property crimes, or any offense within those categories, for the most recent calendar year for which the Department of Justice maintains data, divided by the total population of the proposed plan area, multiplied by 100,000. If the local crime rate for the proposed plan area exceeds the statewide average rate for either violent or property crime, or any offense within these categories, by more than 5 percent, then the condition described in this subparagraph shall be met.

(C) Deteriorated or inadequate infrastructure, including streets, sidewalks, water supply, sewer treatment or processing, and parks.

(D) Deteriorated commercial or residential structures.

(e) As an alternative to subdivision (d), an authority may also carry out a community revitalization plan within a community revitalization and investment area if it meets either of the following conditions:

(1) The area is established within a former military base that is principally characterized by deteriorated or inadequate infrastructure and structures. Notwithstanding subdivision (c), the governing board of an authority established within a former military base shall include a member of the military base closure commission as a public member.

(2) The census tracts or census block groups, as defined by the United States Census Bureau, within the area are situated within a disadvantaged community as described in Section 39711 of the Health and Safety Code.

(f) An authority created pursuant to this part shall be a local public agency subject to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5), the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1), and the Political Reform Act of 1974 (Title 9 (commencing with Section 81000)).

(g) (1) At any time after the authority is authorized to transact business and exercise its powers, the legislative body or bodies of the local government or governments that created the authority may appropriate the amounts the legislative body or bodies deem necessary for the administrative expenses and overhead of the authority.

(2) The money appropriated may be paid to the authority as a grant to defray the expenses and overhead, or as a loan to be repaid upon the terms and conditions as the legislative body may provide. If appropriated as a loan, the property owners and residents within the plan area shall be made third-party beneficiaries of the repayment of the loan. In addition to the common understanding and usual interpretation of the term, "administrative expense" includes, but is not limited to, expenses of planning and dissemination of information.

SEC. 211. Section 62262 of the Government Code is amended to read:

62262. An authority created pursuant to this division shall be a local public agency subject to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5), the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1), and the Political Reform Act of 1974 (Title 9 (commencing with Section 81000)).

SEC. 212. Section 63048.63 of the Government Code is amended to read:

63048.63. (a) The Legislature hereby finds and declares:

(1) The financial and legal records of California Indian tribes and tribal business enterprises are records of a sovereign nation and are not subject to disclosure by private citizens or the state. This is explicitly recognized in amendments to tribal-state gaming compacts ratified by the Legislature, which provide for the securitization of annual payments to be received from the tribes by the state or by an agency, trust, fund, or entity specified by the state.

(2) In order to review the records of any Indian tribe relative to this securitization, the compacts require the execution of nondisclosure agreements.

(3) State entities statutorily charged with participating in the bond sale cannot perform those duties in the absence of that agreement, and the Legislature hereby acknowledges and agrees that documents containing tribal information are not public records, shall not be discussed in an open meeting, and that state officials privy to that information may execute nondisclosure agreements.

(b) Nothing in Division 10 (commencing with Section 7920.000) of Title 1 or any other provision of law shall permit the disclosure of any records of an Indian tribe received by the state, or by an agency, trust fund, or entity specified by the state, in connection with the sale of any portions of the designated tribal-state gaming compact assets or the issuance of bonds, or any summaries or analyses thereof. The transmission of the records, or the information contained in those records in an alternative form, to the state or the special purpose trust shall not constitute a waiver of exemption from disclosure, and the records and information once transmitted to the state or special purpose trust shall be subject to this same exemption from disclosure.

(c) The state and the special purpose trust are authorized to enter into nondisclosure agreements with Indian tribes agreeing not to disclose the materials described in subdivision (b).

(d) The nondisclosure agreements may include provisions limiting the representatives of the state and the special purpose trust authorized to review or receive records of the Indian tribe to those individuals directly working on the sale of portions of the designated compact assets or the issuance of the bonds.

(e) Nothing in Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code shall be construed to prevent the bank from conducting a closed session to consider any records or information of an Indian tribe or any summaries or analyses thereof received by the state in connection with the sale of any portion of the compact assets or the issuance of bonds.

SEC. 213. Section 64511 of the Government Code is amended to read:

64511. (a) (1) The executive board shall review and approve the regional expenditure plan required pursuant to paragraph (5) of subdivision (d) of Section 64650 and projects authorized by this chapter before review, approval, and allocation by the authority.

(2) (A) The executive board and the authority board shall form an advisory committee composed of nine representatives with knowledge and experience in the areas of affordable housing finance and development, tenant protection, and housing preservation. The advisory committee shall assist in the development of funding guidelines and the overall implementation of the program.

(B) Consistent with the provisions of this chapter, the advisory committee shall provide consultation and make recommendations to the executive board and the authority board. The advisory committee will meet as necessary to fulfill their roles and responsibilities.

(b) (1) A member of the authority board may receive a per diem for each board meeting that the member attends. The authority board shall set the

amount of that per diem for a member's attendance, but that amount shall not exceed one hundred dollars ($100) per meeting. A member shall not receive a payment for more than two meetings in a calendar month.

(2) A member may waive a payment of per diem authorized by this subdivision.

(c) (1) Five years after the voters approve an initial ballot measure pursuant to Section 64521, the authority and the executive board shall review the implementation of the measure. The review shall include the following:

(A) An analysis of the expenditures to date.

(B) The number of affordable housing units produced and preserved at different household income levels.

(C) The tenant protection services provided, and the roles of the executive board and the authority.

(2) The executive board and the authority board may, upon mutual concurrence, as a part of the review described in this subdivision elect to transfer or delegate a responsibility authorized in this title to the executive board or the authority, as applicable, except for the provisions of Article 3 (commencing with Section 64630) of Chapter 2 of Part 2.

(d) (1) Members of the authority board are subject to Article 2.4 (commencing with Section 53234) of Chapter 2 of Part 1 of Division 2 of Title 5.

(2) The authority shall be subject to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5), the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1), and the Political Reform Act of 1974 (Title 9 (commencing with Section 81000)).

(e) In addition to the requirements under subdivision (d), the authority shall engage in public participation processes, which shall include the following:

(1) Outreach efforts to encourage the active participation of a broad range of stakeholder groups in the planning process, including, but not limited to, affordable housing and homelessness advocates, nonprofit developers, neighborhood and community groups, environmental advocates, equity organizations, home builder representatives, and business organizations.

(2) Holding at least one public meeting regarding any relevant plan or proposals being considered by the authority. The authority shall hold any such meeting at a time and a location convenient for members of the public. The authority shall place each plan or proposal under consideration on a meeting agenda of the authority board for discussion at least 30 days before the authority board takes action.

(3) A process for enabling members of the public to provide a single request to receive authority notices, information, and updates.

SEC. 214. Section 64626 of the Government Code is amended to read:

64626. (a) In any judicial action or proceeding to validate, attack, review, set aside, void, or annul any resolution providing for the establishment, increase, or imposition of a commercial linkage fee pursuant to this article in which there is an issue whether the fee is a special tax within the meaning

of Section 50076, the executive board and the authority shall have the burden of producing evidence to establish that the commercial linkage fee does not exceed the reasonable cost of providing the housing necessitated by the commercial development project for which the commercial linkage fee is imposed, as determined in the regional nexus study pursuant to subdivision (b) of Section 64621.

(b) A party may only initiate an action or proceeding pursuant to subdivision (a) if both of the following requirements are met:

(1) The commercial linkage fee was directly imposed on the party as a condition of project approval, as provided in Section 64624.

(2) At least 30 days before initiating the action or proceeding, the party requests that the executive board and the authority provide a copy of the documents, including, but not limited to, the regional nexus study prepared pursuant to subdivision (b) of Section 64621, that establish that the commercial linkage fee does not exceed the reasonable cost of providing the housing necessitated by the commercial development project for which the commercial linkage fee is imposed. In accordance with subdivision (a) of Section 7922.530, the executive board and the authority may charge a fee for copying the documents requested pursuant to this paragraph.

(c) For purposes of this section, costs shall be determined in accordance with fundamental fairness and consistency of method as to the allocation of costs, expenses, revenues, and other items included in the calculation.

SEC. 215. Section 65913.4 of the Government Code is amended to read:

65913.4. (a) A development proponent may submit an application for a development that is subject to the streamlined, ministerial approval process provided by subdivision (c) and is not subject to a conditional use permit if the development complies with subdivision (b) and satisfies all of the following objective planning standards:

(1) The development is a multifamily housing development that contains two or more residential units.

(2) The development and the site on which it is located satisfy all of the following:

(A) It is a legal parcel or parcels located in a city if, and only if, the city boundaries include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel or parcels wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

(B) At least 75 percent of the perimeter of the site adjoins parcels that are developed with urban uses. For the purposes of this section, parcels that are only separated by a street or highway shall be considered to be adjoined.

(C) It is zoned for residential use or residential mixed-use development, or has a general plan designation that allows residential use or a mix of residential and nonresidential uses, and at least two-thirds of the square footage of the development is designated for residential use. Additional density, floor area, and units, and any other concession, incentive, or waiver of development standards granted pursuant to the Density Bonus Law in Section 65915 shall be included in the square footage calculation. The square

footage of the development shall not include underground space, such as basements or underground parking garages.

(3) (A) The development proponent has committed to record, prior to the issuance of the first building permit, a land use restriction or covenant providing that any lower or moderate-income housing units required pursuant to subparagraph (B) of paragraph (4) shall remain available at affordable housing costs or rent to persons and families of lower or moderate income for no less than the following periods of time:

(i) Fifty-five years for units that are rented.

(ii) Forty-five years for units that are owned.

(B) The city or county shall require the recording of covenants or restrictions implementing this paragraph for each parcel or unit of real property included in the development.

(4) The development satisfies subparagraphs (A) and (B) below:

(A) Is located in a locality that the department has determined is subject to this subparagraph on the basis that the number of units that have been issued building permits, as shown on the most recent production report received by the department, is less than the locality's share of the regional housing needs, by income category, for that reporting period. A locality shall remain eligible under this subparagraph until the department's determination for the next reporting period.

(B) The development is subject to a requirement mandating a minimum percentage of below market rate housing based on one of the following:

(i) The locality did not submit its latest production report to the department by the time period required by Section 65400, or that production report reflects that there were fewer units of above moderate-income housing issued building permits than were required for the regional housing needs assessment cycle for that reporting period. In addition, if the project contains more than 10 units of housing, the project does either of the following:

(I) The project dedicates a minimum of 10 percent of the total number of units to housing affordable to households making at or below 80 percent of the area median income. However, if the locality has adopted a local ordinance that requires that greater than 10 percent of the units be dedicated to housing affordable to households making below 80 percent of the area median income, that local ordinance applies.

(II) (ia) If the project is located within the San Francisco Bay area, the project, in lieu of complying with subclause (I), dedicates 20 percent of the total number of units to housing affordable to households making below 120 percent of the area median income with the average income of the units at or below 100 percent of the area median income. However, a local ordinance adopted by the locality applies if it requires greater than 20 percent of the units be dedicated to housing affordable to households making at or below 120 percent of the area median income, or requires that any of the units be dedicated at a level deeper than 120 percent. In order to comply with this subclause, the rent or sale price charged for units that are dedicated to housing affordable to households between 80 percent and 120 percent of

the area median income shall not exceed 30 percent of the gross income of the household.

(ib) For purposes of this subclause, "San Francisco Bay area" means the entire area within the territorial boundaries of the Counties of Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara, Solano, and Sonoma, and the City and County of San Francisco.

(ii) The locality's latest production report reflects that there were fewer units of housing issued building permits affordable to either very low income or low-income households by income category than were required for the regional housing needs assessment cycle for that reporting period, and the project seeking approval dedicates 50 percent of the total number of units to housing affordable to households making at or below 80 percent of the area median income. However, if the locality has adopted a local ordinance that requires that greater than 50 percent of the units be dedicated to housing affordable to households making at or below 80 percent of the area median income, that local ordinance applies.

(iii) The locality did not submit its latest production report to the department by the time period required by Section 65400, or if the production report reflects that there were fewer units of housing affordable to both income levels described in clauses (i) and (ii) that were issued building permits than were required for the regional housing needs assessment cycle for that reporting period, the project seeking approval may choose between utilizing clause (i) or (ii).

(C) (i) A development proponent that uses a unit of affordable housing to satisfy the requirements of subparagraph (B) may also use that unit to satisfy any other local or state requirement for affordable housing, including local ordinances or the Density Bonus Law in Section 65915, provided that the development proponent complies with the applicable requirements in the state or local law.

(ii) A development proponent that uses a unit of affordable housing to satisfy any other state or local affordability requirement may also use that unit to satisfy the requirements of subparagraph (B), provided that the development proponent complies with applicable requirements of subparagraph (B).

(iii) A development proponent may satisfy the affordability requirements of subparagraph (B) with a unit that is restricted to households with incomes lower than the applicable income limits required in subparagraph (B).

(5) The development, excluding any additional density or any other concessions, incentives, or waivers of development standards granted pursuant to the Density Bonus Law in Section 65915, is consistent with objective zoning standards, objective subdivision standards, and objective design review standards in effect at the time that the development is submitted to the local government pursuant to this section, or at the time a notice of intent is submitted pursuant to subdivision (b), whichever occurs earlier. For purposes of this paragraph, "objective zoning standards," "objective subdivision standards," and "objective design review standards" mean standards that involve no personal or subjective judgment by a public

official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official before submittal. These standards may be embodied in alternative objective land use specifications adopted by a city or county, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances, subject to the following:

(A) A development shall be deemed consistent with the objective zoning standards related to housing density, as applicable, if the density proposed is compliant with the maximum density allowed within that land use designation, notwithstanding any specified maximum unit allocation that may result in fewer units of housing being permitted.

(B) In the event that objective zoning, general plan, subdivision, or design review standards are mutually inconsistent, a development shall be deemed consistent with the objective zoning and subdivision standards pursuant to this subdivision if the development is consistent with the standards set forth in the general plan.

(C) It is the intent of the Legislature that the objective zoning standards, objective subdivision standards, and objective design review standards described in this paragraph be adopted or amended in compliance with the requirements of Chapter 905 of the Statutes of 2004.

(D) The amendments to this subdivision made by Chapter 840 of the Statutes of 2018 do not constitute a change in, but are declaratory of, existing law.

(6) The development is not located on a site that is any of the following:

(A) A coastal zone, as defined in Division 20 (commencing with Section 30000) of the Public Resources Code.

(B) Either prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction.

(C) Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

(D) Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code. This subparagraph does not apply to sites excluded from the specified hazard zones by a local agency, pursuant to subdivision (b) of Section 51179, or sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.

(E) A hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances

Control pursuant to Section 25356 of the Health and Safety Code, unless the State Department of Public Health, State Water Resources Control Board, or Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses.

(F) Within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2.

(G) Within a special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, a local government shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by that local government that is applicable to that site. A development may be located on a site described in this subparagraph if either of the following are met:

(i) The site has been subject to a Letter of Map Revision prepared by the Federal Emergency Management Agency and issued to the local jurisdiction.

(ii) The site meets Federal Emergency Management Agency requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program pursuant to Part 59 (commencing with Section 59.1) and Part 60 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.

(H) Within a regulatory floodway as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency, unless the development has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, a local government shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by that local government that is applicable to that site.

(I) Lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code), habitat conservation plan pursuant to the federal

Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural resource protection plan.

(J) Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).

(K) Lands under conservation easement.

(7) The development is not located on a site where any of the following apply:

(A) The development would require the demolition of the following types of housing:

(i) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.

(ii) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.

(iii) Housing that has been occupied by tenants within the past 10 years.

(B) The site was previously used for housing that was occupied by tenants that was demolished within 10 years before the development proponent submits an application under this section.

(C) The development would require the demolition of a historic structure that was placed on a national, state, or local historic register.

(D) The property contains housing units that are occupied by tenants, and units at the property are, or were, subsequently offered for sale to the general public by the subdivider or subsequent owner of the property.

(8) The development proponent has done both of the following, as applicable:

(A) Certified to the locality that either of the following is true, as applicable:

(i) The entirety of the development is a public work for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(ii) If the development is not in its entirety a public work, that all construction workers employed in the execution of the development will be paid at least the general prevailing rate of per diem wages for the type of work and geographic area, as determined by the Director of Industrial Relations pursuant to Sections 1773 and 1773.9 of the Labor Code, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate. If the development is subject to this subparagraph, then for those portions of the development that are not a public work all of the following shall apply:

(I) The development proponent shall ensure that the prevailing wage requirement is included in all contracts for the performance of the work.

(II) All contractors and subcontractors shall pay to all construction workers employed in the execution of the work at least the general prevailing rate of per diem wages, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate.

(III) Except as provided in subclause (V), all contractors and subcontractors shall maintain and verify payroll records pursuant to Section 1776 of the Labor Code and make those records available for inspection and copying as provided therein.

(IV) Except as provided in subclause (V), the obligation of the contractors and subcontractors to pay prevailing wages may be enforced by the Labor Commissioner through the issuance of a civil wage and penalty assessment pursuant to Section 1741 of the Labor Code, which may be reviewed pursuant to Section 1742 of the Labor Code, within 18 months after the completion of the development, by an underpaid worker through an administrative complaint or civil action, or by a joint labor-management committee through a civil action under Section 1771.2 of the Labor Code. If a civil wage and penalty assessment is issued, the contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages pursuant to Section 1742.1 of the Labor Code.

(V) Subclauses (III) and (IV) shall not apply if all contractors and subcontractors performing work on the development are subject to a project labor agreement that requires the payment of prevailing wages to all construction workers employed in the execution of the development and provides for enforcement of that obligation through an arbitration procedure. For purposes of this clause, "project labor agreement" has the same meaning as set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

(VI) Notwithstanding subdivision (c) of Section 1773.1 of the Labor Code, the requirement that employer payments not reduce the obligation to pay the hourly straight time or overtime wages found to be prevailing shall not apply if otherwise provided in a bona fide collective bargaining agreement covering the worker. The requirement to pay at least the general prevailing rate of per diem wages does not preclude use of an alternative workweek schedule adopted pursuant to Section 511 or 514 of the Labor Code.

(B) (i) For developments for which any of the following conditions apply, certified that a skilled and trained workforce shall be used to complete the development if the application is approved:

(I) On and after January 1, 2018, until December 31, 2021, the development consists of 75 or more units with a residential component that is not 100 percent subsidized affordable housing and will be located within a jurisdiction located in a coastal or bay county with a population of 225,000 or more.

(II) On and after January 1, 2022, until December 31, 2025, the development consists of 50 or more units with a residential component that

is not 100 percent subsidized affordable housing and will be located within a jurisdiction located in a coastal or bay county with a population of 225,000 or more.

(III) On and after January 1, 2018, until December 31, 2019, the development consists of 75 or more units with a residential component that is not 100 percent subsidized affordable housing and will be located within a jurisdiction with a population of fewer than 550,000 and that is not located in a coastal or bay county.

(IV) On and after January 1, 2020, until December 31, 2021, the development consists of more than 50 units with a residential component that is not 100 percent subsidized affordable housing and will be located within a jurisdiction with a population of fewer than 550,000 and that is not located in a coastal or bay county.

(V) On and after January 1, 2022, until December 31, 2025, the development consists of more than 25 units with a residential component that is not 100 percent subsidized affordable housing and will be located within a jurisdiction with a population of fewer than 550,000 and that is not located in a coastal or bay county.

(ii) For purposes of this section, "skilled and trained workforce" has the same meaning as provided in Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code.

(iii) If the development proponent has certified that a skilled and trained workforce will be used to complete the development and the application is approved, the following shall apply:

(I) The applicant shall require in all contracts for the performance of work that every contractor and subcontractor at every tier will individually use a skilled and trained workforce to complete the development.

(II) Every contractor and subcontractor shall use a skilled and trained workforce to complete the development.

(III) Except as provided in subclause (IV), the applicant shall provide to the locality, on a monthly basis while the development or contract is being performed, a report demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code. A monthly report provided to the locality pursuant to this subclause shall be a public record under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1) and shall be open to public inspection. An applicant that fails to provide a monthly report demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code shall be subject to a civil penalty of ten thousand dollars ($10,000) per month for each month for which the report has not been provided. Any contractor or subcontractor that fails to use a skilled and trained workforce shall be subject to a civil penalty of two hundred dollars ($200) per day for each worker employed in contravention of the skilled and trained workforce requirement. Penalties may be assessed by the Labor Commissioner within 18 months of completion of the development using the same procedures for issuance of civil wage and penalty assessments pursuant to Section 1741 of the Labor Code, and

may be reviewed pursuant to the same procedures in Section 1742 of the Labor Code. Penalties shall be paid to the State Public Works Enforcement Fund.

(IV) Subclause (III) shall not apply if all contractors and subcontractors performing work on the development are subject to a project labor agreement that requires compliance with the skilled and trained workforce requirement and provides for enforcement of that obligation through an arbitration procedure. For purposes of this subparagraph, "project labor agreement" has the same meaning as set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

(C) Notwithstanding subparagraphs (A) and (B), a development that is subject to approval pursuant to this section is exempt from any requirement to pay prevailing wages or use a skilled and trained workforce if it meets both of the following:

(i) The project includes 10 or fewer units.

(ii) The project is not a public work for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(9) The development did not or does not involve a subdivision of a parcel that is, or, notwithstanding this section, would otherwise be, subject to the Subdivision Map Act (Division 2 (commencing with Section 66410)) or any other applicable law authorizing the subdivision of land, unless the development is consistent with all objective subdivision standards in the local subdivision ordinance, and either of the following apply:

(A) The development has received or will receive financing or funding by means of a low-income housing tax credit and is subject to the requirement that prevailing wages be paid pursuant to subparagraph (A) of paragraph (8).

(B) The development is subject to the requirement that prevailing wages be paid, and a skilled and trained workforce used, pursuant to paragraph (8).

(10) The development shall not be upon an existing parcel of land or site that is governed under the Mobilehome Residency Law (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code), the Recreational Vehicle Park Occupancy Law (Chapter 2.6 (commencing with Section 799.20) of Title 2 of Part 2 of Division 2 of the Civil Code), the Mobilehome Parks Act (Part 2.1 (commencing with Section 18200) of Division 13 of the Health and Safety Code), or the Special Occupancy Parks Act (Part 2.3 (commencing with Section 18860) of Division 13 of the Health and Safety Code).

(b) (1) (A) (i) Before submitting an application for a development subject to the streamlined, ministerial approval process described in subdivision (c), the development proponent shall submit to the local government a notice of its intent to submit an application. The notice of intent shall be in the form of a preliminary application that includes all of the information described in Section 65941.1, as that section read on January 1, 2020.

(ii) Upon receipt of a notice of intent to submit an application described in clause (i), the local government shall engage in a scoping consultation regarding the proposed development with any California Native American tribe that is traditionally and culturally affiliated with the geographic area, as described in Section 21080.3.1 of the Public Resources Code, of the proposed development. In order to expedite compliance with this subdivision, the local government shall contact the Native American Heritage Commission for assistance in identifying any California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed development.

(iii) The timeline for noticing and commencing a scoping consultation in accordance with this subdivision shall be as follows:

(I) The local government shall provide a formal notice of a development proponent's notice of intent to submit an application described in clause (i) to each California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed development within 30 days of receiving that notice of intent. The formal notice provided pursuant to this subclause shall include all of the following:

(ia) A description of the proposed development.

(ib) The location of the proposed development.

(ic) An invitation to engage in a scoping consultation in accordance with this subdivision.

(II) Each California Native American tribe that receives a formal notice pursuant to this clause shall have 30 days from the receipt of that notice to accept the invitation to engage in a scoping consultation.

(III) If the local government receives a response accepting an invitation to engage in a scoping consultation pursuant to this subdivision, the local government shall commence the scoping consultation within 30 days of receiving that response.

(B) The scoping consultation shall recognize that California Native American tribes traditionally and culturally affiliated with a geographic area have knowledge and expertise concerning the resources at issue and shall take into account the cultural significance of the resource to the culturally affiliated California Native American tribe.

(C) The parties to a scoping consultation conducted pursuant to this subdivision shall be the local government and any California Native American tribe traditionally and culturally affiliated with the geographic area of the proposed development. More than one California Native American tribe traditionally and culturally affiliated with the geographic area of the proposed development may participate in the scoping consultation. However, the local government, upon the request of any California Native American tribe traditionally and culturally affiliated with the geographic area of the proposed development, shall engage in a separate scoping consultation with that California Native American tribe. The development proponent and its consultants may participate in a scoping consultation process conducted pursuant to this subdivision if all of the following conditions are met:

(i) The development proponent and its consultants agree to respect the principles set forth in this subdivision.

(ii) The development proponent and its consultants engage in the scoping consultation in good faith.

(iii) The California Native American tribe participating in the scoping consultation approves the participation of the development proponent and its consultants. The California Native American tribe may rescind its approval at any time during the scoping consultation, either for the duration of the scoping consultation or with respect to any particular meeting or discussion held as part of the scoping consultation.

(D) The participants to a scoping consultation pursuant to this subdivision shall comply with all of the following confidentiality requirements:

(i) Section 7927.000.

(ii) Section 7927.005.

(iii) Subdivision (c) of Section 21082.3 of the Public Resources Code.

(iv) Subdivision (d) of Section 15120 of Title 14 of the California Code of Regulations.

(v) Any additional confidentiality standards adopted by the California Native American tribe participating in the scoping consultation.

(E) The California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) shall not apply to a scoping consultation conducted pursuant to this subdivision.

(2) (A) If, after concluding the scoping consultation, the parties find that no potential tribal cultural resource would be affected by the proposed development, the development proponent may submit an application for the proposed development that is subject to the streamlined, ministerial approval process described in subdivision (c).

(B) If, after concluding the scoping consultation, the parties find that a potential tribal cultural resource could be affected by the proposed development and an enforceable agreement is documented between the California Native American tribe and the local government on methods, measures, and conditions for tribal cultural resource treatment, the development proponent may submit the application for a development subject to the streamlined, ministerial approval process described in subdivision (c). The local government shall ensure that the enforceable agreement is included in the requirements and conditions for the proposed development.

(C) If, after concluding the scoping consultation, the parties find that a potential tribal cultural resource could be affected by the proposed development and an enforceable agreement is not documented between the California Native American tribe and the local government regarding methods, measures, and conditions for tribal cultural resource treatment, the development shall not be eligible for the streamlined, ministerial approval process described in subdivision (c).

(D) For purposes of this paragraph, a scoping consultation shall be deemed to be concluded if either of the following occur:

(i) The parties to the scoping consultation document an enforceable agreement concerning methods, measures, and conditions to avoid or address potential impacts to tribal cultural resources that are or may be present.

(ii) One or more parties to the scoping consultation, acting in good faith and after reasonable effort, conclude that a mutual agreement on methods, measures, and conditions to avoid or address impacts to tribal cultural resources that are or may be present cannot be reached.

(E) If the development or environmental setting substantially changes after the completion of the scoping consultation, the local government shall notify the California Native American tribe of the changes and engage in a subsequent scoping consultation if requested by the California Native American tribe.

(3) A local government may only accept an application for streamlined, ministerial approval pursuant to this section if one of the following applies:

(A) A California Native American tribe that received a formal notice of the development proponent's notice of intent to submit an application pursuant to subclause (I) of clause (iii) of subparagraph (A) of paragraph (1) did not accept the invitation to engage in a scoping consultation.

(B) The California Native American tribe accepted an invitation to engage in a scoping consultation pursuant to subclause (II) of clause (iii) of subparagraph (A) of paragraph (1) but substantially failed to engage in the scoping consultation after repeated documented attempts by the local government to engage the California Native American tribe.

(C) The parties to a scoping consultation pursuant to this subdivision find that no potential tribal cultural resource will be affected by the proposed development pursuant to subparagraph (A) of paragraph (2).

(D) A scoping consultation between a California Native American tribe and the local government has occurred in accordance with this subdivision and resulted in agreement pursuant to subparagraph (B) of paragraph (2).

(4) A project shall not be eligible for the streamlined, ministerial process described in subdivision (c) if any of the following apply:

(A) There is a tribal cultural resource that is on a national, state, tribal, or local historic register list located on the site of the project.

(B) There is a potential tribal cultural resource that could be affected by the proposed development and the parties to a scoping consultation conducted pursuant to this subdivision do not document an enforceable agreement on methods, measures, and conditions for tribal cultural resource treatment, as described in subparagraph (C) of paragraph (2).

(C) The parties to a scoping consultation conducted pursuant to this subdivision do not agree as to whether a potential tribal cultural resource will be affected by the proposed development.

(5) (A) If, after a scoping consultation conducted pursuant to this subdivision, a project is not eligible for the streamlined, ministerial process described in subdivision (c) for any or all of the following reasons, the local government shall provide written documentation of that fact, and an explanation of the reason for which the project is not eligible, to the

development proponent and to any California Native American tribe that is a party to that scoping consultation:

(i) There is a tribal cultural resource that is on a national, state, tribal, or local historic register list located on the site of the project, as described in subparagraph (A) of paragraph (4).

(ii) The parties to the scoping consultation have not documented an enforceable agreement on methods, measures, and conditions for tribal cultural resource treatment, as described in subparagraph (C) of paragraph (2) and subparagraph (B) of paragraph (4).

(iii) The parties to the scoping consultation do not agree as to whether a potential tribal cultural resource will be affected by the proposed development, as described in subparagraph (C) of paragraph (4).

(B) The written documentation provided to a development proponent pursuant to this paragraph shall include information on how the development proponent may seek a conditional use permit or other discretionary approval of the development from the local government.

(6) This section is not intended, and shall not be construed, to limit consultation and discussion between a local government and a California Native American tribe pursuant to other applicable law, confidentiality provisions under other applicable law, the protection of religious exercise to the fullest extent permitted under state and federal law, or the ability of a California Native American tribe to submit information to the local government or participate in any process of the local government.

(7) For purposes of this subdivision:

(A) "Consultation" means the meaningful and timely process of seeking, discussing, and considering carefully the views of others, in a manner that is cognizant of all parties' cultural values and, where feasible, seeking agreement. Consultation between local governments and Native American tribes shall be conducted in a way that is mutually respectful of each party's sovereignty. Consultation shall also recognize the tribes' potential needs for confidentiality with respect to places that have traditional tribal cultural importance. A lead agency shall consult the tribal consultation best practices described in the "State of California Tribal Consultation Guidelines: Supplement to the General Plan Guidelines" prepared by the Office of Planning and Research.

(B) "Scoping" means the act of participating in early discussions or investigations between the local government and California Native American tribe, and the development proponent if authorized by the California Native American tribe, regarding the potential effects a proposed development could have on a potential tribal cultural resource, as defined in Section 21074 of the Public Resources Code, or California Native American tribe, as defined in Section 21073 of the Public Resources Code.

(8) This subdivision shall not apply to any project that has been approved under the streamlined, ministerial approval process provided under this section before the effective date of the act adding this subdivision.

(c) (1) If a local government determines that a development submitted pursuant to this section is in conflict with any of the objective planning

standards specified in subdivision (a), it shall provide the development proponent written documentation of which standard or standards the development conflicts with, and an explanation for the reason or reasons the development conflicts with that standard or standards, as follows:

(A) Within 60 days of submittal of the development to the local government pursuant to this section if the development contains 150 or fewer housing units.

(B) Within 90 days of submittal of the development to the local government pursuant to this section if the development contains more than 150 housing units.

(2) If the local government fails to provide the required documentation pursuant to paragraph (1), the development shall be deemed to satisfy the objective planning standards specified in subdivision (a).

(3) For purposes of this section, a development is consistent with the objective planning standards specified in subdivision (a) if there is substantial evidence that would allow a reasonable person to conclude that the development is consistent with the objective planning standards.

(d) (1) Any design review or public oversight of the development may be conducted by the local government's planning commission or any equivalent board or commission responsible for review and approval of development projects, or the city council or board of supervisors, as appropriate. That design review or public oversight shall be objective and be strictly focused on assessing compliance with criteria required for streamlined projects, as well as any reasonable objective design standards published and adopted by ordinance or resolution by a local jurisdiction before submission of a development application, and shall be broadly applicable to development within the jurisdiction. That design review or public oversight shall be completed as follows and shall not in any way inhibit, chill, or preclude the ministerial approval provided by this section or its effect, as applicable:

(A) Within 90 days of submittal of the development to the local government pursuant to this section if the development contains 150 or fewer housing units.

(B) Within 180 days of submittal of the development to the local government pursuant to this section if the development contains more than 150 housing units.

(2) If the development is consistent with the requirements of subparagraph (A) or (B) of paragraph (9) of subdivision (a) and is consistent with all objective subdivision standards in the local subdivision ordinance, an application for a subdivision pursuant to the Subdivision Map Act (Division 2 (commencing with Section 66410)) shall be exempt from the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) and shall be subject to the public oversight timelines set forth in paragraph (1).

(e) (1) Notwithstanding any other law, a local government, whether or not it has adopted an ordinance governing automobile parking requirements in multifamily developments, shall not impose automobile parking standards

for a streamlined development that was approved pursuant to this section in any of the following instances:

(A) The development is located within one-half mile of public transit.

(B) The development is located within an architecturally and historically significant historic district.

(C) When on-street parking permits are required but not offered to the occupants of the development.

(D) When there is a car share vehicle located within one block of the development.

(2) If the development does not fall within any of the categories described in paragraph (1), the local government shall not impose automobile parking requirements for streamlined developments approved pursuant to this section that exceed one parking space per unit.

(f) (1) If a local government approves a development pursuant to this section, then, notwithstanding any other law, that approval shall not expire if the project includes public investment in housing affordability, beyond tax credits, where 50 percent of the units are affordable to households making at or below 80 percent of the area median income.

(2) (A) If a local government approves a development pursuant to this section and the project does not include 50 percent of the units affordable to households making at or below 80 percent of the area median income, that approval shall remain valid for three years from the date of the final action establishing that approval, or if litigation is filed challenging that approval, from the date of the final judgment upholding that approval. Approval shall remain valid for a project provided that vertical construction of the development has begun and is in progress. For purposes of this subdivision, "in progress" means one of the following:

(i) The construction has begun and has not ceased for more than 180 days.

(ii) If the development requires multiple building permits, an initial phase has been completed, and the project proponent has applied for and is diligently pursuing a building permit for a subsequent phase, provided that once it has been issued, the building permit for the subsequent phase does not lapse.

(B) Notwithstanding subparagraph (A), a local government may grant a project a one-time, one-year extension if the project proponent can provide documentation that there has been significant progress toward getting the development construction ready, such as filing a building permit application.

(3) If a local government approves a development pursuant to this section, that approval shall remain valid for three years from the date of the final action establishing that approval and shall remain valid thereafter for a project so long as vertical construction of the development has begun and is in progress. Additionally, the development proponent may request, and the local government shall have discretion to grant, an additional one-year extension to the original three-year period. The local government's action and discretion in determining whether to grant the foregoing extension shall be limited to considerations and processes set forth in this section.

(g) (1) (A) A development proponent may request a modification to a development that has been approved under the streamlined, ministerial approval process provided in subdivision (b) if that request is submitted to the local government before the issuance of the final building permit required for construction of the development.

(B) Except as provided in paragraph (3), the local government shall approve a modification if it determines that the modification is consistent with the objective planning standards specified in subdivision (a) that were in effect when the original development application was first submitted.

(C) The local government shall evaluate any modifications requested pursuant to this subdivision for consistency with the objective planning standards using the same assumptions and analytical methodology that the local government originally used to assess consistency for the development that was approved for streamlined, ministerial approval pursuant to subdivision (b).

(D) A guideline that was adopted or amended by the department pursuant to subdivision (j) after a development was approved through the streamlined ministerial approval process described in subdivision (b) shall not be used as a basis to deny proposed modifications.

(2) Upon receipt of the developmental proponent's application requesting a modification, the local government shall determine if the requested modification is consistent with the objective planning standard and either approve or deny the modification request within 60 days after submission of the modification, or within 90 days if design review is required.

(3) Notwithstanding paragraph (1), the local government may apply objective planning standards adopted after the development application was first submitted to the requested modification in any of the following instances:

(A) The development is revised such that the total number of residential units or total square footage of construction changes by 15 percent or more.

(B) The development is revised such that the total number of residential units or total square footage of construction changes by 5 percent or more and it is necessary to subject the development to an objective standard beyond those in effect when the development application was submitted in order to mitigate or avoid a specific, adverse impact, as that term is defined in subparagraph (A) of paragraph (1) of subdivision (j) of Section 65589.5, upon the public health or safety and there is no feasible alternative method to satisfactorily mitigate or avoid the adverse impact.

(C) Objective building standards contained in the California Building Standards Code (Title 24 of the California Code of Regulations), including, but not limited to, building plumbing, electrical, fire, and grading codes, may be applied to all modifications.

(4) The local government's review of a modification request pursuant to this subdivision shall be strictly limited to determining whether the modification, including any modification to previously approved density bonus concessions or waivers, modify the development's consistency with

the objective planning standards and shall not reconsider prior determinations that are not affected by the modification.

(h) (1) A local government shall not adopt or impose any requirement, including, but not limited to, increased fees or inclusionary housing requirements, that applies to a project solely or partially on the basis that the project is eligible to receive ministerial or streamlined approval pursuant to this section.

(2) A local government shall issue a subsequent permit required for a development approved under this section if the application substantially complies with the development as it was approved pursuant to subdivision (c). Upon receipt of an application for a subsequent permit, the local government shall process the permit without unreasonable delay and shall not impose any procedure or requirement that is not imposed on projects that are not approved pursuant to this section. Issuance of subsequent permits shall implement the approved development, and review of the permit application shall not inhibit, chill, or preclude the development. For purposes of this paragraph, a "subsequent permit" means a permit required subsequent to receiving approval under subdivision (c), and includes, but is not limited to, demolition, grading, encroachment, and building permits and final maps, if necessary.

(3) (A) If a public improvement is necessary to implement a development that is subject to the streamlined, ministerial approval pursuant to this section, including, but not limited to, a bicycle lane, sidewalk or walkway, public transit stop, driveway, street paving or overlay, a curb or gutter, a modified intersection, a street sign or street light, landscape or hardscape, an above-ground or underground utility connection, a water line, fire hydrant, storm or sanitary sewer connection, retaining wall, and any related work, and that public improvement is located on land owned by the local government, to the extent that the public improvement requires approval from the local government, the local government shall not exercise its discretion over any approval relating to the public improvement in a manner that would inhibit, chill, or preclude the development.

(B) If an application for a public improvement described in subparagraph (A) is submitted to a local government, the local government shall do all of the following:

(i) Consider the application based upon any objective standards specified in any state or local laws that were in effect when the original development application was submitted.

(ii) Conduct its review and approval in the same manner as it would evaluate the public improvement if required by a project that is not eligible to receive ministerial or streamlined approval pursuant to this section.

(C) If an application for a public improvement described in subparagraph (A) is submitted to a local government, the local government shall not do either of the following:

(i) Adopt or impose any requirement that applies to a project solely or partially on the basis that the project is eligible to receive ministerial or streamlined approval pursuant to this section.

(ii) Unreasonably delay in its consideration, review, or approval of the application.

(i) (1) This section does not affect a development proponent's ability to use any alternative streamlined by right permit processing adopted by a local government, including the provisions of subdivision (i) of Section 65583.2.

(2) This section does not prevent a development from also qualifying as a housing development project entitled to the protections of Section 65589.5. This paragraph does not constitute a change in, but is declaratory of, existing law.

(j) The California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) does not apply to actions taken by a state agency, local government, or the San Francisco Bay Area Rapid Transit District to:

(1) Lease, convey, or encumber land owned by the local government or the San Francisco Bay Area Rapid Transit District or to facilitate the lease, conveyance, or encumbrance of land owned by the local government, or for the lease of land owned by the San Francisco Bay Area Rapid Transit District in association with an eligible TOD project, as defined pursuant to Section 29010.1 of the Public Utilities Code, nor to any decisions associated with that lease, or to provide financial assistance to a development that receives streamlined approval pursuant to this section that is to be used for housing for persons and families of very low, low, or moderate income, as defined in Section 50093 of the Health and Safety Code.

(2) Approve improvements located on land owned by the local government or the San Francisco Bay Area Rapid Transit District that are necessary to implement a development that receives streamlined approval pursuant to this section that is to be used for housing for persons and families of very low, low, or moderate income, as defined in Section 50093 of the Health and Safety Code.

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

(1) "Affordable housing cost" has the same meaning as set forth in Section 50052.5 of the Health and Safety Code.

(2) "Affordable rent" has the same meaning as set forth in Section 50053 of the Health and Safety Code.

(3) "Department" means the Department of Housing and Community Development.

(4) "Development proponent" means the developer who submits an application for streamlined approval pursuant to this section.

(5) "Completed entitlements" means a housing development that has received all the required land use approvals or entitlements necessary for the issuance of a building permit.

(6) "Locality" or "local government" means a city, including a charter city, a county, including a charter county, or a city and county, including a charter city and county.

(7) "Moderate income housing units" means housing units with an affordable housing cost or affordable rent for persons and families of moderate income, as that term is defined in Section 50093 of the Health and Safety Code.

(8) "Production report" means the information reported pursuant to subparagraph (H) of paragraph (2) of subdivision (a) of Section 65400.

(9) "State agency" includes every state office, officer, department, division, bureau, board, and commission, but does not include the California State University or the University of California.

(10) "Subsidized" means units that are price or rent restricted such that the units are affordable to households meeting the definitions of very low and lower income, as defined in Sections 50079.5 and 50105 of the Health and Safety Code.

(11) "Reporting period" means either of the following:

(A) The first half of the regional housing needs assessment cycle.

(B) The last half of the regional housing needs assessment cycle.

(12) "Urban uses" means any current or former residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses.

(*l*) The department may review, adopt, amend, and repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, or standards set forth in this section. Any guidelines or terms adopted pursuant to this subdivision shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(m) The determination of whether an application for a development is subject to the streamlined ministerial approval process provided by subdivision (c) is not a "project" as defined in Section 21065 of the Public Resources Code.

(n) It is the policy of the state that this section be interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, increased housing supply.

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

SEC. 216. Section 66024 of the Government Code is amended to read:

66024. (a) In any judicial action or proceeding to validate, attack, review, set aside, void, or annul any ordinance or resolution providing for the imposition of a development fee by any city, county, or district in which there is at issue whether the development fee is a special tax within the meaning of Section 50076, the city, county, or district has the burden of producing evidence to establish that the development fee does not exceed the cost of the service, facility, or regulatory activity for which it is imposed.

(b) No party may initiate any action or proceeding pursuant to subdivision (a) unless both of the following requirements are met:

(1) The development fee was directly imposed on the party as a condition of project approval.

(2) At least 30 days prior to initiating the action or proceeding, the party requests the city, county, or district to provide a copy of the documents that establish that the development fee does not exceed the cost of the service, facility, or regulatory activity for which it is imposed. In accordance with subdivision (a) of Section 7922.530, the city, county, or district may charge a fee for copying the documents requested pursuant to this paragraph.

(c) For purposes of this section, costs shall be determined in accordance with fundamental fairness and consistency of method as to the allocation of costs, expenses, revenues, and other items included in the calculation.

SEC. 217. Section 66201 of the Government Code is amended to read:

66201. (a) A city, county, or city and county, upon receipt of preliminary approval by the department pursuant to Section 66202, may establish by ordinance a housing sustainability district in accordance with this chapter. The city, county, or city and county shall adopt the ordinance in accordance with the requirements of Chapter 4 (commencing with Section 65800).

(b) An area proposed to be designated a housing sustainability district pursuant to this chapter shall satisfy all of the following requirements:

(1) The area is an eligible location, including any adjacent area served by existing infrastructure and utilities.

(2) The area is zoned to permit residential use through the ministerial issuance of a permit. Other uses may be permitted by conditional use or other discretionary permit, provided that the use is consistent with residential use.

(3) Density ranges for multifamily housing for which the minimum densities shall not be less than those deemed appropriate to accommodate housing for lower income households as set forth in subparagraph (B) of paragraph (3) of subdivision (c) of Section 65583.2, and a density range for single-family attached or detached housing for which the minimum densities shall not be less than 10 units to the acre. A density range shall provide the minimum dwelling units per acre and the maximum dwelling units per acre.

(4) The development of housing is permitted, consistent with neighborhood building and use patterns and any applicable building codes.

(5) Limitations or moratoriums on residential use do not apply to any of the area, other than any limitation or moratorium imposed by court order.

(6) The area is not subject to any general age or other occupancy restrictions, except that the city, county, or city and county may allow for the development of specific projects exclusively for the elderly or the disabled or for assisted living.

(7) Housing units comply with all applicable federal, state, and local fair housing laws.

(8) The area of the proposed housing sustainability district does not exceed 15 percent of the total land area under the jurisdiction of the city, county, or city and county unless the department approves a larger area in furtherance of the purposes of this chapter.

(9) The total area of all housing sustainability districts within the city, county, or city and county does not exceed 30 percent of the total land area under the jurisdiction of the city, county, or city and county.

(10) The housing sustainability district ordinance provides for the manner of review by an approving authority, as designated by the ordinance, pursuant to Section 66205 and in accordance with the rules and regulations adopted by the department.

(11) Development projects in the area comply with the requirements of Section 66208, regarding the replacement of affordable housing units affected by the development.

(c) The city, county, or city and county may apply uniform development policies or standards that will apply to all projects within the housing sustainability district, including parking ordinances, public access ordinances, grading ordinances, hillside development ordinances, flood plain ordinances, habitat or conservation ordinances, view protection ordinances, and requirements for reducing greenhouse gas emissions.

(d) The city, county, or city and county may provide for mixed-use development within the housing sustainability district.

(e) An amendment or repeal of a housing sustainability district ordinance shall not become effective unless the department provides written approval to the city, county, or city and county. The city, county, or city and county may request approval of a proposed amendment or repeal by submitting a written request to the department. The department shall evaluate the proposed amendment or repeal for the effect of that amendment or repeal on the city's, county's, or city and county's housing element. If the department does not respond to a written request for amendment or repeal of an ordinance within 60 days of receipt of that request, the request shall be deemed approved.

(f) The housing sustainability district ordinance shall do all of the following:

(1) Provide for an approving authority to review permit applications for development within the housing sustainability district in accordance with Section 66205.

(2) (A) Subject to subparagraph (B), require that at least 20 percent of the residential units constructed within the housing sustainability district be affordable to very low, low-, and moderate-income households and subject to a recorded affordability restriction for at least 55 years. A development that is affordable to persons and families whose income exceeds the income limit for persons and families of moderate income shall include no less than 10 percent of the units for lower income households at affordable housing cost, as defined by Section 50052.5 of the Health and Safety Code, unless the city, county, or city and county has adopted a local ordinance that requires that a greater percentage of the units be for lower income households, in which case that ordinance shall apply.

(B) For a city, county, or city and county that includes its entire regional housing needs allocation pursuant to Section 65584 within the housing sustainability district, the percentages of the total units constructed or substantially rehabilitated within the housing sustainability district shall match the percentages in each income category of the city's, county's, or city and county's regional housing need allocation.

(C) This section does not expand or contract the authority of a local government to adopt an ordinance, charter amendment, general plan amendment, specific plan, resolution, or other land use policy or regulation requiring that any housing development contain a fixed percentage of affordable housing units.

(3) Specify that a project is not deemed to be for residential use if it is infeasible for actual use as a single or multifamily residence.

(4) Require that an applicant for a permit for a project within the housing sustainability district do the following, as applicable:

(A) Certify to the approving authority that either of the following is true, as applicable:

(i) That the entirety of the project is a public work for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(ii) If the project is not in its entirety a public work, that all construction workers employed in the execution of the project will be paid at least the general prevailing rate of per diem wages for the type of work and geographic area, as determined by the Director of Industrial Relations pursuant to Sections 1773 and 1773.9 of the Labor Code, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate. If the approving authority approves the application, then for those portions of the project that are not a public work all of the following shall apply:

(I) The applicant shall include the prevailing wage requirement in all contracts for the performance of the work.

(II) All contractors and subcontractors shall pay to all construction workers employed in the execution of the work at least the general prevailing rate of per diem wages, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate.

(III) Except as provided in subclause (V), all contractors and subcontractors shall maintain and verify payroll records pursuant to Section 1776 of the Labor Code and make those records available for inspection and copying as provided therein.

(IV) Except as provided in subclause (V), the obligation of the contractors and subcontractors to pay prevailing wages may be enforced by the Labor Commissioner through the issuance of a civil wage and penalty assessment pursuant to Section 1741 of the Labor Code, which may be reviewed pursuant to Section 1742 of the Labor Code, within 18 months after the completion of the project, by an underpaid worker through an administrative complaint or civil action, or by a joint labor-management committee through a civil action under Section 1771.2 of the Labor Code. If a civil wage and penalty assessment is issued, the contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages pursuant to Section 1742.1 of the Labor Code.

(V) Subclauses (III) and (IV) do not apply if all contractors and subcontractors performing work on the project are subject to a project labor agreement that requires the payment of prevailing wages to all construction workers employed in the execution of the project and provides for enforcement of that obligation through an arbitration procedure. For purposes of this subclause, "project labor agreement" has the same meaning as set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

(VI) Notwithstanding subdivision (c) of Section 1773.1 of the Labor Code, the requirement that employer payments not reduce the obligation to pay the hourly straight time or overtime wages found to be prevailing shall not apply if otherwise provided in a bona fide collective bargaining agreement covering the worker. The requirement to pay at least the general prevailing rate of per diem wages does not preclude use of an alternative workweek schedule adopted pursuant to Section 511 or 514 of the Labor Code.

(B) (i) For projects for which any of the following conditions apply, certify to the approving authority that a skilled and trained workforce will be used to complete the project if the approving authority approves the project application:

(I) On and after January 1, 2018, until December 31, 2021, the project consists of 75 or more units that are not 100 percent subsidized affordable housing and will be located within a jurisdiction located in a coastal or bay county with a population of 225,000 or more.

(II) On and after January 1, 2022, until December 31, 2025, the project consists of 50 or more units that are not 100 percent subsidized affordable housing and will be located within a jurisdiction located in a coastal or bay county with a population of 225,000 or more.

(III) On and after January 1, 2018, until December 31, 2019, the project consists of 75 or more units that are not 100 percent subsidized affordable housing and will be located within a jurisdiction with a population of fewer than 550,000 and that is not located in a coastal or bay county.

(IV) On and after January 1, 2020, until December 31, 2021, the project consists of more than 50 units and will be located within a jurisdiction with a population of fewer than 550,000 and that is not located in a coastal or bay county.

(V) On and after January 1, 2022, until December 31, 2025, the project consists of more than 25 units and will be located within a jurisdiction with a population of fewer than 550,000 and that is not located in a coastal or bay county.

(ii) For purposes of this section, "skilled and trained workforce" has the same meaning as provided in Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code.

(iii) If the applicant has certified that a skilled and trained workforce will be used to complete the development and the application is approved, the following shall apply:

(I) The applicant shall require in all contracts for the performance of work that every contractor and subcontractor at every tier will individually use a skilled and trained workforce to complete the project.

(II) Every contractor and subcontractor shall use a skilled and trained workforce to complete the project.

(III) Except as provided in subclause (IV), the applicant shall provide to the approving authority, on a monthly basis while the project or contract is being performed, a report demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code. A monthly report provided to the approving authority pursuant to this subclause is a public record under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1) and shall be open to public inspection. An applicant that fails to provide a monthly report demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code is subject to a civil penalty of ten thousand dollars ($10,000) per month for each month for which the report has not been provided. Any contractor or subcontractor that fails to use a skilled and trained workforce is subject to a civil penalty of two hundred dollars ($200) per day for each worker employed in contravention of the skilled and trained workforce requirement. Penalties may be assessed by the Labor Commissioner within 18 months of completion of the project using the same procedures for issuance of civil wage and penalty assessments pursuant to Section 1741 of the Labor Code, and may be reviewed pursuant to the same procedures in Section 1742 of the Labor Code. Penalties shall be paid to the State Public Works Enforcement Fund.

(IV) Subclause (III) does not apply if all contractors and subcontractors performing work on the project are subject to a project labor agreement that requires compliance with the skilled and trained workforce requirement and provides for enforcement of that obligation through an arbitration procedure. For purposes of this subparagraph, "project labor agreement" has the same meaning as set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

(C) Notwithstanding subparagraphs (A) and (B), a project within a housing sustainability district that is subject to approval by the approving authority is exempt from any requirement to pay prevailing wages or use a skilled and trained workforce if it meets both of the following:

(i) The project includes 10 or fewer units.

(ii) The project is not a public work for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(5) Provide that a project is not eligible for approval from the approving authority if it involved or involves a subdivision that is, or, notwithstanding this chapter, would otherwise be, subject to the Subdivision Map Act (Division 2 (commencing with Section 66410)) or any other applicable law authorizing the subdivision of land, unless either of the following apply:

(A) The project has received or will receive financing or funding by means of a low-income housing tax credit and is subject to the requirement

that prevailing wages be paid pursuant to subparagraph (A) of paragraph (4).

(B) The project is subject to the requirement that prevailing wages be paid, and a skilled and trained workforce used, pursuant to paragraph (4).

(6) Provide for relocation assistance for persons and families displaced from their residences due to development within the housing sustainability district.

(g) A housing sustainability district ordinance adopted pursuant to this section shall remain in effect for no more than 10 years, except that the city, county, or city and county may renew the housing sustainability district ordinance, for an additional period not exceeding 10 years, before the date upon which it would otherwise be repealed pursuant to this subdivision.

(h) This section shall not be construed to affect the authority of a city, county, or city and county to amend its zoning regulations pursuant to Chapter 4 (commencing with Section 65800), except to the extent that an amendment affects a housing sustainability district.

(i) The city, county, or city and county shall comply with Chapter 4.3 (commencing with Section 21155.10) of Division 13 of the Public Resources Code.

SEC. 218. Section 66704.3 of the Government Code is amended to read:

66704.3. All records prepared, owned, used, or retained by the authority are public records for purposes of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

SEC. 219. Section 100508 of the Government Code is amended to read:

100508. (a) Notwithstanding subdivision (b), records of the Exchange that reveal either of the following shall be exempt from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1):

(1) The deliberative processes, discussions, communications, or any other portion of the negotiations with entities contracting or seeking to contract with the Exchange, entities with which the Exchange is considering a contract, or entities with which the Exchange is considering or enters into any other arrangement under which the Exchange provides, receives, or arranges services or reimbursement.

(2) Records that reveal claims data, encounter data, cost detail, information about payment methods, contracted rates paid by qualified health plans to providers, and enrollee coinsurance or other cost sharing that can be used to determine contracted rates paid by plans to providers.

(b) Subject to subdivision (a), the following records of the Exchange shall be exempt from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1) as follows:

(1) Contracts with participating carriers entered into pursuant to this title on or after October 1, 2013, shall be open to inspection one year after the effective dates of the contracts.

(2) If contracts with participating carriers entered into pursuant to this title are amended, the amendments shall be open to inspection one year after the effective date of the amendments.

(c) Notwithstanding any other law, entire contracts with participating carriers or amendments to contracts with participating carriers shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments until the contracts or amendments to a contract are open to inspection pursuant to subdivision (b).

SEC. 220. Section 1255.7 of the Health and Safety Code is amended to read:

1255.7. (a) (1) For purposes of this section, "safe-surrender site" means either of the following:

(A) A location designated by the board of supervisors of a county or by a local fire agency, upon the approval of the appropriate local governing body of the agency, to be responsible for accepting physical custody of a minor child who is 72 hours old or younger from a parent or individual who has lawful custody of the child and who surrenders the child pursuant to Section 271.5 of the Penal Code. Before designating a location as a safe-surrender site pursuant to this subdivision, the designating entity shall consult with the governing body of a city, if the site is within the city limits, and with representatives of a fire department and a child welfare agency that may provide services to a child who is surrendered at the site, if that location is selected.

(B) A location within a public or private hospital that is designated by that hospital to be responsible for accepting physical custody of a minor child who is 72 hours old or younger from a parent or individual who has lawful custody of the child and who surrenders the child pursuant to Section 271.5 of the Penal Code.

(2) For purposes of this section, "parent" means a birth parent of a minor child who is 72 hours old or younger.

(3) For purposes of this section, "personnel" means a person who is an officer or employee of a safe-surrender site or who has staff privileges at the site.

(4) A hospital and a safe-surrender site designated by the county board of supervisors or by a local fire agency, upon the approval of the appropriate local governing body of the agency, shall post a sign displaying a statewide logo that has been adopted by the State Department of Social Services that notifies the public of the location where a minor child 72 hours old or younger may be safely surrendered pursuant to this section.

(b) Personnel on duty at a safe-surrender site shall accept physical custody of a minor child 72 hours old or younger pursuant to this section if a parent or other individual having lawful custody of the child voluntarily surrenders physical custody of the child to personnel who are on duty at the safe-surrender site. Safe-surrender site personnel shall ensure that a qualified person does all of the following:

(1) Places a coded, confidential ankle bracelet on the child.

(2) Provides, or makes a good faith effort to provide, to the parent or other individual surrendering the child a copy of a unique, coded, confidential ankle bracelet identification in order to facilitate reclaiming the child pursuant to subdivision (f). However, possession of the ankle bracelet identification, in and of itself, does not establish parentage or a right to custody of the child.

(3) Provides, or makes a good faith effort to provide, to the parent or other individual surrendering the child a medical information questionnaire, which may be declined, voluntarily filled out and returned at the time the child is surrendered, or later filled out and mailed in the envelope provided for this purpose. This medical information questionnaire shall not require identifying information about the child or the parent or individual surrendering the child, other than the identification code provided in the ankle bracelet placed on the child. Every questionnaire provided pursuant to this section shall begin with the following notice in no less than 12-point type:

"NOTICE: THE BABY YOU HAVE BROUGHT IN TODAY MAY HAVE SERIOUS MEDICAL NEEDS IN THE FUTURE THAT WE DON'T KNOW ABOUT TODAY. SOME ILLNESSES, INCLUDING CANCER, ARE BEST TREATED WHEN WE KNOW ABOUT FAMILY MEDICAL HISTORIES. IN ADDITION, SOMETIMES RELATIVES ARE NEEDED FOR LIFE-SAVING TREATMENTS. TO MAKE SURE THIS BABY WILL HAVE A HEALTHY FUTURE, YOUR ASSISTANCE IN COMPLETING THIS QUESTIONNAIRE FULLY IS ESSENTIAL. THANK YOU."

(c) Personnel of a safe-surrender site that has physical custody of a minor child pursuant to this section shall ensure that a medical screening examination and any necessary medical care is provided to the minor child. Notwithstanding any other provision of law, the consent of the parent or other relative shall not be required to provide that care to the minor child.

(d) (1) As soon as possible, but in no event later than 48 hours after the physical custody of a child has been accepted pursuant to this section, personnel of the safe-surrender site that has physical custody of the child shall notify child protective services or a county agency providing child welfare services pursuant to Section 16501 of the Welfare and Institutions Code, that the safe-surrender site has physical custody of the child pursuant to this section. In addition, medical information pertinent to the child's health, including, but not limited to, information obtained pursuant to the medical information questionnaire described in paragraph (3) of subdivision (b) that has been received by or is in the possession of the safe-surrender site shall be provided to that child protective services or county agency.

(2) Any personal identifying information that pertains to a parent or individual who surrenders a child that is obtained pursuant to the medical information questionnaire is confidential and shall be exempt from disclosure by the child protective services or county agency under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1

of the Government Code). Personal identifying information that pertains to a parent or individual who surrenders a child shall be redacted from any medical information provided to child protective services or the county agency providing child welfare services.

(e) Child protective services or the county agency providing child welfare services pursuant to Section 16501 of the Welfare and Institutions Code shall assume temporary custody of the child pursuant to Section 300 of the Welfare and Institutions Code immediately upon receipt of notice under subdivision (d). Child protective services or the county agency providing child welfare services pursuant to Section 16501 of the Welfare and Institutions Code shall immediately investigate the circumstances of the case and file a petition pursuant to Section 311 of the Welfare and Institutions Code. Child protective services or the county agency providing child welfare services pursuant to Section 16501 of the Welfare and Institutions Code shall immediately notify the State Department of Social Services of each child to whom this subdivision applies upon taking temporary custody of the child pursuant to Section 300 of the Welfare and Institutions Code. As soon as possible, but no later than 24 hours after temporary custody is assumed, child protective services or the county agency providing child welfare services pursuant to Section 16501 of the Welfare and Institutions Code shall report all known identifying information concerning the child, except personal identifying information pertaining to the parent or individual who surrendered the child, to the California Missing Children Clearinghouse and to the National Crime Information Center.

(f) If, prior to the filing of a petition under subdivision (e), a parent or individual who has voluntarily surrendered a child pursuant to this section requests that the safe-surrender site that has physical custody of the child pursuant to this section return the child and the safe-surrender site still has custody of the child, personnel of the safe-surrender site shall either return the child to the parent or individual or contact a child protective agency if any personnel at the safe-surrender site knows or reasonably suspects that the child has been the victim of child abuse or neglect. The voluntary surrender of a child pursuant to this section is not in and of itself a sufficient basis for reporting child abuse or neglect. The terms “child abuse,” “child protective agency,” “mandated reporter,” “neglect,” and “reasonably suspects” shall be given the same meanings as in Article 2.5 (commencing with Section 11164) of Title 1 of Part 4 of the Penal Code.

(g) Subsequent to the filing of a petition under subdivision (e), if, within 14 days of the voluntary surrender described in this section, the parent or individual who surrendered custody returns to claim physical custody of the child, the child welfare agency shall verify the identity of the parent or individual, conduct an assessment of that person’s circumstances and ability to parent, and request that the juvenile court dismiss the petition for dependency and order the release of the child, if the child welfare agency determines that none of the conditions described in subdivisions (a) to (d), inclusive, of Section 319 of the Welfare and Institutions Code currently exist.

(h) A safe-surrender site, or the personnel of a safe-surrender site, shall not have liability of any kind for a surrendered child prior to taking actual physical custody of the child. A safe-surrender site, or personnel of the safe-surrender site, that accepts custody of a surrendered child pursuant to this section shall not be subject to civil, criminal, or administrative liability for accepting the child and caring for the child in the good faith belief that action is required or authorized by this section, including, but not limited to, instances where the child is older than 72 hours or the parent or individual surrendering the child did not have lawful physical custody of the child. A safe-surrender site, or the personnel of a safe-surrender site, shall not be subject to civil, criminal, or administrative liability for a surrendered child prior to the time that the site or its personnel know, or should know, that the child has been surrendered. This subdivision does not confer immunity from liability for personal injury or wrongful death, including, but not limited to, injury resulting from medical malpractice.

(i) (1) In order to encourage assistance to persons who voluntarily surrender physical custody of a child pursuant to this section or Section 271.5 of the Penal Code, no person who, without compensation and in good faith, provides assistance for the purpose of effecting the safe surrender of a minor 72 hours old or younger shall be civilly liable for injury to or death of the minor child as a result of the person's acts or omissions. This immunity does not apply to an act or omission constituting gross negligence, recklessness, or willful misconduct.

(2) For purposes of this section, "assistance" means transporting the minor child to the safe-surrender site as a person with lawful custody, or transporting or accompanying the parent or person with lawful custody at the request of that parent or person to effect the safe surrender, or performing any other act in good faith for the purpose of effecting the safe surrender of the minor.

(j) For purposes of this section, "lawful custody" means physical custody of a minor 72 hours old or younger accepted by a person from a parent of the minor, who the person believes in good faith is the parent of the minor, with the specific intent and promise of effecting the safe surrender of the minor.

(k) Any identifying information that pertains to a parent or individual who surrenders a child pursuant to this section, that is obtained as a result of the questionnaire described in paragraph (3) of subdivision (b) or in any other manner, is confidential, shall be exempt from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), and shall not be disclosed by any personnel of a safe-surrender site that accepts custody of a child pursuant to this section.

SEC. 221. Section 1280.20 of the Health and Safety Code is amended to read:

1280.20. Notwithstanding any other law, the director may send a recommendation for further investigation of, or discipline for, a potential violation of the licensee's relevant licensing authority. The recommendation

shall include all documentary evidence collected by the director in evaluating whether or not to make that recommendation. The recommendation and accompanying evidence shall be deemed in the nature of an investigative communication and be protected by the provisions listed in Section 7920.505 of the Government Code. The licensing authority of the provider of health care shall review all evidence submitted by the director and may take action for further investigation or discipline of the licensee.

SEC. 222. Section 1324.22 of the Health and Safety Code is amended to read:

1324.22. (a) The quality assurance fee, as calculated pursuant to Section 1324.21, shall be paid by the provider to the department for deposit in the State Treasury on a monthly basis on or before the last day of the month following the month for which the fee is imposed, except as provided in subdivision (e) of Section 1324.21.

(b) On or before the last day of each calendar month or quarter, as determined by the department, each skilled nursing facility shall file a report with the department, in a prescribed form, showing the facility's total resident days for the preceding quarter and payments made. If it is determined that a lesser amount was paid to the department, the facility shall pay the amount owed in the preceding quarter to the department with the report. Any amount determined to have been paid in excess to the department during the previous quarter shall be credited to the amount owed in the following quarter.

(c) On or before August 31 of each year, each skilled nursing facility subject to an assessment pursuant to Section 1324.21 shall report to the department, in a prescribed form, the facility's total resident days and total payments made for the preceding state fiscal year. If it is determined that a lesser amount was paid to the department during the previous year, the facility shall pay the amount owed to the department with the report.

(d) (1) A newly licensed skilled nursing facility shall complete all requirements of subdivision (a) for any portion of the year in which it commences operations and of subdivision (b) for any portion of the calendar month or quarter in which it commences operations.

(2) For purposes of this subdivision, "newly licensed skilled nursing facility" means a location that has not been previously licensed as a skilled nursing facility.

(e) (1) If a skilled nursing facility fails to pay all or part of the quality assurance fee within 60 days of the date that payment is due, the department shall assess interest at the rate of 7 percent per annum on any unpaid amount due, beginning on the 61st calendar day from the date the payment is due, until the unpaid amount due, plus any interest, is paid in full.

(2) (A) When a skilled nursing facility fails to pay all or part of the quality assurance fee within 60 days of the date that payment is due, the department may deduct any unpaid assessment, including any interest and penalties owed, from any Medi-Cal payments to the facility until the full amount is recovered. Any deduction shall be made only after written notice to the facility and may be taken over a period of time taking into account the financial condition of the facility.

(B) Notwithstanding any other law, for the rate period from August 1, 2020, to December 31, 2020, and every subsequent calendar year thereafter, the department may deduct any unpaid assessments, including any interest and penalties owed, attributable to a debtor facility from any Medi-Cal payments made to a related facility or entity by common ownership or control to the debtor facility within the meaning of Section 413.17(b) of Title 42 of the Code of Federal Regulations. If the department deducts any unpaid assessments from the Medi-Cal payments to a related facility or entity, the department shall provide prior written notice to both the debtor facility and the related facility or entity, and, in taking into account the financial condition of the related facility, may apply that deduction over a period of time.

(3) In addition to the requirements specified in this subdivision and subdivision (h), any unpaid quality assurance fee, including any interest and penalties owed, assessed by this article shall constitute a debt due to the state and may be collected pursuant to Section 12419.5 of the Government Code.

(f) (1) Notwithstanding any other law, the department shall continue to assess and collect the quality assurance fee, including any previously unpaid quality assurance fee, and any interest or penalties owed, from each skilled nursing facility, irrespective of any changes in ownership or ownership interest or control or the transfer of any portion of the assets of the facility to another owner.

(2) Notwithstanding any other law, in the event of a merger, acquisition, or change of ownership involving a skilled nursing facility that has outstanding quality assurance fee payment obligations pursuant to this article, including any interest and penalty amounts owed, the successor skilled nursing facility shall be responsible for paying to the department the full amount of outstanding quality assurance fee payments, including any interest and penalties, attributable to the skilled nursing facility for which it was assessed, upon the effective date of that transaction. An entity considering a merger, acquisition, or similar transaction involving a skilled nursing facility may submit a request to the department pursuant to Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code to ascertain the outstanding quality assurance fee payment obligations of the skilled nursing facility pursuant to this article as of the date of the department's response to that request.

(g) During the time period in which a temporary manager is appointed to a facility pursuant to Section 1325.5 or during which a receiver is appointed by a court pursuant to Section 1327, the State Department of Public Health shall not be responsible for any unpaid quality assurance fee assessed before the time period of the temporary manager or receiver. This subdivision shall not affect the responsibility of the facility to make all payments of unpaid or current quality assurance fees, including any interest and penalty amounts, as required by this section and Section 1324.21.

(h) If all or any part of the quality assurance fee remains unpaid, the department may take any or all of the following actions against the debtor

facility, in addition to assessing interest pursuant to paragraph (1) of subdivision (e):

(1) Assess a penalty of up to 50 percent of the total unpaid fee amounts, and any interest assessed pursuant to paragraph (1) of subdivision (e) in each applicable rate or calendar year.

(2) Recommend to the State Department of Public Health that license or Medi-Cal certification renewal or approval of a change of ownership application be delayed until the full amount of the quality assurance fee, penalties, and interest is recovered.

(3) (A) In the event of a merger, acquisition, or change of ownership involving a skilled nursing facility as described in paragraph (2) of subdivision (f), the department may delay approval of a new Medi-Cal provider agreement or a transfer of an existing Medi-Cal provider agreement to a successor skilled nursing facility until the full amount of the quality assurance fees, penalties, and interest owed by the successor or previous facility owner is recovered in full, or until the successor skilled nursing facility has entered into an alternative payment agreement with the department for the outstanding quality assurance fees, penalties, and interest owed that takes into account the financial situation of the facility and the potential impact on delivery of services to Medi-Cal beneficiaries.

(B) In addition to subparagraph (A), as a condition of approving a new Medi-Cal provider agreement or a transfer of an existing Medi-Cal provider agreement to a successor skilled nursing facility, the department may require either or both of the following:

(i) The successor skilled nursing facility to enter into an agreement with the department to be financially responsible to the department for the outstanding quality assurance fees, penalties, and interest owed by the previous facility owner.

(ii) The successor facility owner to enter into an agreement with the department to pay outstanding quality assurance fees, penalties, and interest owed by the successor facility owner on an alternative payment schedule developed by the department that takes into account the financial situation of the facility and the potential impact on delivery of services to Medi-Cal beneficiaries.

(i) In accordance with the Medicaid State Plan, the payment of the quality assurance fee shall be considered as an allowable cost for Medi-Cal reimbursement purposes.

(j) The assessment process pursuant to this section shall become operative not later than 60 days from receipt of federal approval of the quality assurance fee, unless extended by the department. The department may assess fees and collect payment in accordance with subdivision (e) of Section 1324.21 to provide retroactive payments for any rate increase authorized under this article.

(k) The amendments made to subdivision (d) and the addition of subdivision (f) by the act that added this subdivision are not substantive changes, but are merely clarifying existing law.

(*l*) (1) Notwithstanding any other law, for the 2011–12 rate year, the department may waive the actions provided under subdivision (h), or may allow a freestanding pediatric subacute care facility to delay payments for up to six months, to ensure the facility has the financial stability required to pay the fee.

(2) For the purposes of this article, "freestanding pediatric subacute care facility" has the same meaning as defined in Section 51215.8 of Title 22 of the California Code of Regulations.

(m) (1) Subject to paragraph (2), the department may waive a portion or all of either the interest or penalties, or both, assessed under this article with respect to a petitioning skilled nursing facility if the department determines, in its sole discretion, that the facility has demonstrated that imposing the full amount of fees under this article has a high likelihood of creating an undue financial hardship for the facility or creates a significant financial difficulty in providing services to Medi-Cal beneficiaries. A waiver pursuant to this subdivision may include, but need not be limited to, interest or penalties, or both, that accrue or are assessed with respect to a facility during the time period for which a change of ownership is pending, or for which a change of ownership is being contemplated, as determined by the department in its sole discretion.

(2) The department's waiver of some or all of the interest or penalties shall be conditioned on the skilled nursing facility's agreement to pay outstanding fee amounts on an alternative schedule developed by the department that takes into account the financial situation of the facility and the potential impact on delivery of services to Medi-Cal beneficiaries.

(3) The department shall post on its internet website a list of all skilled nursing facilities that received a waiver for payment of interest or penalties, including the amount of interest or penalty that was waived.

SEC. 223. Section 1339.88 of the Health and Safety Code is amended to read:

1339.88. (a) The office shall convene a hospital diversity commission comprised of the public and health care, diversity, and procurement stakeholders, as set forth in this section.

(b) The hospital diversity commission shall be comprised of the following commissioners who are appointed by the director:

(1) One commissioner who is a member of the public and shall serve as the chair of the commission.

(2) Two commissioners who are representatives of the hospital industry who, at the time of appointment, serve as practitioners in the field of supplier diversity.

(3) Two commissioners who are representatives of a minority business enterprise.

(4) Two commissioners who are representatives of a women business enterprise.

(5) One commissioner who is a representative of a disabled veteran business enterprise.

(6) One commissioner who is a representative of an LGBT business enterprise.

(7) Two commissioners with expertise in the field of supplier diversity.

(c) (1) The initial terms of the commissioners shall be established to create staggered terms of office by drawing lots at the first meeting of the commission. Six of the commissioners shall serve a two-year term, and five of the commissioners shall serve a one-year term.

(2) After an initial term of office is complete, a commissioner shall serve a two-year term.

(3) The director shall fill a vacancy in the term of a commissioner.

(d) The hospital diversity commission shall do all of the following:

(1) Advise and provide recommendations to the director and the hospital industry on the best methods to increase procurement with diverse suppliers within the hospital industry.

(2) Meet quarterly or as deemed necessary by the director.

(3) Promote and provide outreach to hospitals that are actively engaged in supplier diversity issues.

(e) On or before July 1, 2020, the hospital diversity commission shall hold an initial meeting with all commissioners.

(f) The commissioners shall not receive compensation for their services, but the office may reimburse the commissioners for their actual and necessary expenses incurred in connection with attending a meeting of the commission.

(g) The office shall review and revise, if necessary, the office's conflicts of interest regulations to ensure that each commissioner is required to disclose conflicts of interest to the public.

(h) The hospital diversity commission shall comply with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code) and the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

SEC. 224. Section 1368 of the Health and Safety Code is amended to read:

1368. (a) Every plan shall do all of the following:

(1) Establish and maintain a grievance system approved by the department under which enrollees may submit their grievances to the plan. Each system shall provide reasonable procedures in accordance with department regulations that shall ensure adequate consideration of enrollee grievances and rectification when appropriate.

(2) Inform its subscribers and enrollees upon enrollment in the plan and annually thereafter of the procedure for processing and resolving grievances. The information shall include the location and telephone number where grievances may be submitted.

(3) Provide forms for grievances to be given to subscribers and enrollees who wish to register written grievances. The forms used by plans licensed pursuant to Section 1353 shall be approved by the director in advance as to format.

(4) (A) Provide for a written acknowledgment within five calendar days of the receipt of a grievance, except as noted in subparagraph (B). The acknowledgment shall advise the complainant of the following:

(i) That the grievance has been received.

(ii) The date of receipt.

(iii) The name of the plan representative and the telephone number and address of the plan representative who may be contacted about the grievance.

(B) (i) Grievances received by telephone, by facsimile, by email, or online through the plan's internet website pursuant to Section 1368.015, that are not coverage disputes, disputed health care services involving medical necessity, or experimental or investigational treatment and that are resolved by the next business day following receipt are exempt from the requirements of subparagraph (A) and paragraph (5). The plan shall maintain a log of all these grievances. The log shall be periodically reviewed by the plan and shall include the following information for each complaint:

(I) The date of the call.

(II) The name of the complainant.

(III) The complainant's member identification number.

(IV) The nature of the grievance.

(V) The nature of the resolution.

(VI) The name of the plan representative who took the call and resolved the grievance.

(ii) For health plan contracts in the individual, small group, or large group markets, a health care service plan's response to grievances subject to Section 1367.24 shall also comply with subdivision (c) of Section 156.122 of Title 45 of the Code of Federal Regulations. This paragraph shall not apply to Medi-Cal managed care health care service plan contracts or any entity that enters into a contract with the State Department of Health Care Services pursuant to Chapter 7 (commencing with Section 14000), Chapter 8 (commencing with Section 14200), or Chapter 8.75 (commencing with Section 14591) of Part 3 of Division 9 of the Welfare and Institutions Code.

(5) Provide subscribers and enrollees with written responses to grievances, with a clear and concise explanation of the reasons for the plan's response. For grievances involving the delay, denial, or modification of health care services, the plan response shall describe the criteria used and the clinical reasons for its decision, including all criteria and clinical reasons related to medical necessity. If a plan, or one of its contracting providers, issues a decision delaying, denying, or modifying health care services based in whole or in part on a finding that the proposed health care services are not a covered benefit under the contract that applies to the enrollee, the decision shall clearly specify the provisions in the contract that exclude that coverage.

(6) For grievances involving the cancellation, rescission, or nonrenewal of a health care service plan contract, the health care service plan shall continue to provide coverage to the enrollee or subscriber under the terms of the health care service plan contract until a final determination of the enrollee's or subscriber's request for review has been made by the health care service plan or the director pursuant to Section 1365 and this section.

This paragraph shall not apply if the health care service plan cancels or fails to renew the enrollee's or subscriber's health care service plan contract for nonpayment of premiums pursuant to paragraph (1) of subdivision (a) of Section 1365.

(7) Keep in its files all copies of grievances, and the responses thereto, for a period of five years.

(b) (1) (A) After either completing the grievance process described in subdivision (a), or participating in the process for at least 30 days, a subscriber or enrollee may submit the grievance to the department for review. In any case determined by the department to be a case involving an imminent and serious threat to the health of the patient, including, but not limited to, severe pain, the potential loss of life, limb, or major bodily function, cancellations, rescissions, or the nonrenewal of a health care service plan contract, or in any other case where the department determines that an earlier review is warranted, a subscriber or enrollee shall not be required to complete the grievance process or to participate in the process for at least 30 days before submitting a grievance to the department for review.

(B) A grievance may be submitted to the department for review and resolution prior to any arbitration.

(C) Notwithstanding subparagraphs (A) and (B), the department may refer any grievance that does not pertain to compliance with this chapter to the State Department of Public Health, the California Department of Aging, the federal Health Care Financing Administration, or any other appropriate governmental entity for investigation and resolution.

(2) If the subscriber or enrollee is a minor, or is incompetent or incapacitated, the parent, guardian, conservator, relative, or other designee of the subscriber or enrollee, as appropriate, may submit the grievance to the department as the agent of the subscriber or enrollee. Further, a provider may join with, or otherwise assist, a subscriber or enrollee, or the agent, to submit the grievance to the department. In addition, following submission of the grievance to the department, the subscriber or enrollee, or the agent, may authorize the provider to assist, including advocating on behalf of the subscriber or enrollee. For purposes of this section, a "relative" includes the parent, stepparent, spouse, adult son or daughter, grandparent, brother, sister, uncle, or aunt of the subscriber or enrollee.

(3) The department shall review the written documents submitted with the subscriber's or the enrollee's request for review, or submitted by the agent on behalf of the subscriber or enrollee. The department may ask for additional information, and may hold an informal meeting with the involved parties, including providers who have joined in submitting the grievance or who are otherwise assisting or advocating on behalf of the subscriber or enrollee. If after reviewing the record, the department concludes that the grievance, in whole or in part, is eligible for review under the independent medical review system established pursuant to Article 5.55 (commencing with Section 1374.30), the department shall immediately notify the subscriber or enrollee, or agent, of that option and shall, if requested orally or in writing,

assist the subscriber or enrollee in participating in the independent medical review system.

(4) If after reviewing the record of a grievance, the department concludes that a health care service eligible for coverage and payment under a health care service plan contract has been delayed, denied, or modified by a plan, or by one of its contracting providers, in whole or in part due to a determination that the service is not medically necessary, and that determination was not communicated to the enrollee in writing along with a notice of the enrollee's potential right to participate in the independent medical review system, as required by this chapter, the director shall, by order, assess administrative penalties. A proceeding for the issuance of an order assessing administrative penalties shall be subject to appropriate notice of, and the opportunity for, a hearing with regard to the person affected in accordance with Section 1397. The administrative penalties shall not be deemed an exclusive remedy available to the director. These penalties shall be paid to the Managed Care Administrative Fines and Penalties Fund and shall be used for the purposes specified in Section 1341.45.

(5) The department shall send a written notice of the final disposition of the grievance, and the reasons therefor, to the subscriber or enrollee, the agent, to any provider that has joined with or is otherwise assisting the subscriber or enrollee, and to the plan, within 30 calendar days of receipt of the request for review unless the director, in the director's discretion, determines that additional time is reasonably necessary to fully and fairly evaluate the relevant grievance. In any case not eligible for the independent medical review system established pursuant to Article 5.55 (commencing with Section 1374.30), the department's written notice shall include, at a minimum, the following:

(A) A summary of its findings and the reasons why the department found the plan to be, or not to be, in compliance with any applicable laws, regulations, or orders of the director.

(B) A discussion of the department's contact with any medical provider, or any other independent expert relied on by the department, along with a summary of the views and qualifications of that provider or expert.

(C) If the enrollee's grievance is sustained in whole or in part, information about any corrective action taken.

(6) In any department review of a grievance involving a disputed health care service, as defined in subdivision (b) of Section 1374.30, that is not eligible for the independent medical review system established pursuant to Article 5.55 (commencing with Section 1374.30), in which the department finds that the plan has delayed, denied, or modified health care services that are medically necessary, based on the specific medical circumstances of the enrollee, and those services are a covered benefit under the terms and conditions of the health care service plan contract, the department's written notice shall do either of the following:

(A) Order the plan to promptly offer and provide those health care services to the enrollee.

(B) Order the plan to promptly reimburse the enrollee for any reasonable costs associated with urgent care or emergency services, or other extraordinary and compelling health care services, when the department finds that the enrollee's decision to secure those services outside of the plan network was reasonable under the circumstances.

The department's order shall be binding on the plan.

(7) Distribution of the written notice shall not be deemed a waiver of any exemption or privilege under existing law, including, but not limited to, Section 7921.505 of the Government Code, for any information in connection with and including the written notice, nor shall any person employed or in any way retained by the department be required to testify as to that information or notice.

(8) The director shall establish and maintain a system of aging of grievances that are pending and unresolved for 30 days or more that shall include a brief explanation of the reasons each grievance is pending and unresolved for 30 days or more.

(9) A subscriber or enrollee, or the agent acting on behalf of a subscriber or enrollee, may also request voluntary mediation with the plan prior to exercising the right to submit a grievance to the department. The use of mediation services shall not preclude the right to submit a grievance to the department upon completion of mediation. In order to initiate mediation, the subscriber or enrollee, or the agent acting on behalf of the subscriber or enrollee, and the plan shall voluntarily agree to mediation. Expenses for mediation shall be borne equally by both sides. The department shall have no administrative or enforcement responsibilities in connection with the voluntary mediation process authorized by this paragraph.

(c) The plan's grievance system shall include a system of aging of grievances that are pending and unresolved for 30 days or more. The plan shall provide a quarterly report to the director of grievances pending and unresolved for 30 or more days with separate categories of grievances for Medicare enrollees and Medi-Cal enrollees. The plan shall include with the report a brief explanation of the reasons each grievance is pending and unresolved for 30 days or more. The plan may include the following statement in the quarterly report that is made available to the public by the director:

> "Under Medicare and Medi-Cal law, Medicare enrollees and Medi-Cal enrollees each have separate avenues of appeal that are not available to other enrollees. Therefore, grievances pending and unresolved may reflect enrollees pursuing their Medicare or Medi-Cal appeal rights."

If requested by a plan, the director shall include this statement in a written report made available to the public and prepared by the director that describes or compares grievances that are pending and unresolved with the plan for 30 days or more. Additionally, the director shall, if requested by a plan, append to that written report a brief explanation, provided in writing by the plan, of the reasons why grievances described in that written report are

pending and unresolved for 30 days or more. The director shall not be required to include a statement or append a brief explanation to a written report that the director is required to prepare under this chapter, including Sections 1380 and 1397.5.

(d) Subject to subparagraph (C) of paragraph (1) of subdivision (b), the grievance or resolution procedures authorized by this section shall be in addition to any other procedures that may be available to any person, and failure to pursue, exhaust, or engage in the procedures described in this section shall not preclude the use of any other remedy provided by law.

(e) Nothing in this section shall be construed to allow the submission to the department of any provider grievance under this section. However, as part of a provider's duty to advocate for medically appropriate health care for the provider's patients pursuant to Sections 510 and 2056 of the Business and Professions Code, nothing in this subdivision shall be construed to prohibit a provider from contacting and informing the department about any concerns the provider has regarding compliance with or enforcement of this chapter.

(f) To the extent required by Section 2719 of the federal Public Health Service Act (42 U.S.C. Sec. 300gg-19) and any subsequent rules or regulations, there shall be an independent external review pursuant to the standards required by the United States Secretary of Health and Human Services of a health care service plan's cancellation, rescission, or nonrenewal of an enrollee's or subscriber's coverage.

SEC. 225. Section 1371.31 of the Health and Safety Code is amended to read:

1371.31. (a) (1) For services rendered subject to Section 1371.9, effective July 1, 2017, unless otherwise agreed to by the noncontracting individual health professional and the plan, the plan shall reimburse the greater of the average contracted rate or 125 percent of the amount Medicare reimburses on a fee-for-service basis for the same or similar services in the general geographic region in which the services were rendered. For the purposes of this section, "average contracted rate" means the average of the contracted commercial rates paid by the health plan or delegated entity for the same or similar services in the geographic region. This subdivision does not apply to subdivision (c) of Section 1371.9 or subdivision (b) of this section.

(2) (A) By July 1, 2017, each health care service plan and its delegated entities shall provide to the department all of the following:

(i) Data listing its average contracted rates for the plan for services most frequently subject to Section 1371.9 in each geographic region in which the services are rendered for the calendar year 2015.

(ii) Its methodology for determining the average contracted rate for the plan for services subject to Section 1371.9. The methodology to determine an average contracted rate shall ensure that the plan includes the highest and lowest contracted rates for the calendar year 2015.

(iii) The policies and procedures used to determine the average contracted rates under this subdivision.

(B) For each calendar year after the plan's initial submission of the average contracted rate as specified in subparagraph (A) and until the standardized methodology under paragraph (3) is specified, a health care service plan and the plan's delegated entities shall adjust the rate initially established pursuant to this subdivision by the Consumer Price Index for Medical Care Services, as published by the United States Bureau of Labor Statistics.

(3) (A) By January 1, 2019, the department shall specify a methodology that plans and delegated entities shall use to determine the average contracted rates for services most frequently subject to Section 1371.9. This methodology shall take into account, at a minimum, information from the independent dispute resolution process, the specialty of the individual health professional, and the geographic region in which the services are rendered. The methodology to determine an average contracted rate shall ensure that the plan includes the highest and lowest contracted rates.

(B) Health care service plans and delegated entities shall provide to the department the policies and procedures used to determine the average contracted rates in compliance with subparagraph (A).

(C) If, based on the health care service plan's model, a health care service plan does not pay a statistically significant number or dollar amount of claims for services covered under Section 1371.9, the health care service plan shall demonstrate to the department that it has access to a statistically credible database reflecting rates paid to noncontracting individual health professionals for services provided in a geographic region and shall use that database to determine an average contracted rate required pursuant to paragraph (1).

(D) The department shall review the information filed pursuant to this subdivision as part of its examination of fiscal and administrative affairs pursuant to Section 1382.

(E) The average contracted rate data submitted pursuant to this section shall be confidential and not subject to disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(F) In developing the standardized methodology under this subdivision, the department shall consult with interested parties throughout the process of developing the standards, including the Department of Insurance, representatives of health plans, insurers, health care providers, hospitals, consumer advocates, and other stakeholders it deems appropriate. The department shall hold the first stakeholder meeting no later than July 1, 2017.

(4) A health care service plan shall include in its reports submitted to the department pursuant to Section 1367.035 and regulations adopted pursuant to that section, in a manner specified by the department, the number of payments made to noncontracting individual health professionals for services at a contracting health facility and subject to Section 1371.9, as well as other data sufficient to determine the proportion of noncontracting individual health professionals to contracting individual health professionals at

contracting health facilities, as defined in subdivision (f) of Section 1371.9. The department shall include a summary of this information in its January 1, 2019, report required pursuant to subdivision (k) of Section 1371.30 and its findings regarding the impact of the act that added this section on health care service plan contracting and network adequacy.

(5) A health care service plan that provides services subject to Section 1371.9 shall meet the network adequacy requirements set forth in this chapter, including, but not limited to, subdivisions (d) and (e) of Section 1367 of this code and in Exhibits (H) and (I) of subdivision (d) of Section 1300.51 of, and Sections 1300.67.2 and 1300.67.2.1 of, Title 28 of the California Code of Regulations, including, but not limited to, inpatient hospital services and specialist physician services, and if necessary, the department may adopt additional regulations related to those services. This section shall not be construed to limit the director's authority under this chapter.

(6) For purposes of this section for Medicare fee-for-service reimbursement, geographic regions shall be the geographic regions specified for physician reimbursement for Medicare fee-for-service by the United States Department of Health and Human Services.

(7) A health care service plan shall authorize and permit assignment of the enrollee's right, if any, to any reimbursement for health care services covered under the plan contract to a noncontracting individual health professional who furnishes the health care services rendered subject to Section 1371.9. Lack of assignment pursuant to this paragraph shall not be construed to limit the applicability of this section, Section 1371.30, or Section 1371.9.

(8) A noncontracting individual health professional, health care service plan, or health care service plan's delegated entity who disputes the claim reimbursement under this section shall utilize the independent dispute resolution process described in Section 1371.30.

(b) If nonemergency services are provided by a noncontracting individual health professional consistent with subdivision (c) of Section 1371.9 to an enrollee who has voluntarily chosen to use the enrollee's out-of-network benefit for services covered by a plan that includes coverage for out-of-network benefits, unless otherwise agreed to by the plan and the noncontracting individual health professional, the amount paid by the health care service plan shall be the amount set forth in the enrollee's evidence of coverage. This payment is not subject to the independent dispute resolution process described in Section 1371.30.

(c) If a health care service plan delegates the responsibility for payment of claims to a contracted entity, including, but not limited to, a medical group or independent practice association, then the entity to which that responsibility is delegated shall comply with the requirements of this section.

(d) (1) A payment made by the health care service plan to the noncontracting health care professional for nonemergency services as required by Section 1371.9 and this section, in addition to the applicable cost sharing owed by the enrollee, shall constitute payment in full for

nonemergency services rendered unless either party uses the independent dispute resolution process or other lawful means pursuant to Section 1371.30.

(2) Notwithstanding any other law, the amounts paid by a plan for services under this section shall not constitute the prevailing or customary charges, the usual fees to the general public, or other charges for other payers for an individual health professional.

(3) This subdivision shall not preclude the use of the independent dispute resolution process pursuant to Section 1371.30.

(e) This section shall not apply to a Medi-Cal managed health care service plan or any other entity that enters into a contract with the State Department of Health Care Services pursuant to Chapter 7 (commencing with Section 14000), Chapter 8 (commencing with Section 14200), and Chapter 8.75 (commencing with Section 14591) of Part 3 of Division 9 of the Welfare and Institutions Code.

(f) This section shall not apply to emergency services and care, as defined in Section 1317.1.

(g) The definitions in subdivision (f) of Section 1371.9 shall apply for purposes of this section.

(h) This section shall not be construed to alter a health care service plan's obligations pursuant to Sections 1371 and 1371.4.

SEC. 226. Section 1380 of the Health and Safety Code is amended to read:

1380. (a) The department shall conduct periodically an onsite medical survey of the health delivery system of each plan. The survey shall include a review of the procedures for obtaining health services, the procedures for regulating utilization, peer review mechanisms, internal procedures for assuring quality of care, and the overall performance of the plan in providing health care benefits and meeting the health needs of the subscribers and enrollees.

(b) The survey shall be conducted by a panel of qualified health professionals experienced in evaluating the delivery of prepaid health care. The department shall be authorized to contract with professional organizations or outside personnel to conduct medical surveys and these contracts shall be on a noncompetitive bid basis and shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code. These organizations or personnel shall have demonstrated the ability to objectively evaluate the delivery of health care by plans or health maintenance organizations.

(c) Surveys performed pursuant to this section shall be conducted as often as deemed necessary by the director to assure the protection of subscribers and enrollees, but not less frequently than once every three years. Nothing in this section shall be construed to require the survey team to visit each clinic, hospital office, or facility of the plan. To avoid duplication, the director shall employ, but is not bound by, the following:

(1) For hospital-based health care service plans, to the extent necessary to satisfy the requirements of this section, the findings of inspections conducted pursuant to Section 1279.

(2) For health care service plans contracting with the State Department of Health Services pursuant to the Waxman-Duffy Prepaid Health Plan Act, the findings of reviews conducted pursuant to Section 14456 of the Welfare and Institutions Code.

(3) To the extent feasible, reviews of providers conducted by professional standards review organizations, and surveys and audits conducted by other governmental entities.

(d) Nothing in this section shall be construed to require the medical survey team to review peer review proceedings and records conducted and compiled under Section 1370 or medical records. However, the director shall be authorized to require onsite review of these peer review proceedings and records or medical records where necessary to determine that quality health care is being delivered to subscribers and enrollees. Where medical record review is authorized, the survey team shall insure that the confidentiality of physician-patient relationship is safeguarded in accordance with existing law and neither the survey team nor the director or the director's staff may be compelled to disclose this information except in accordance with the physician-patient relationship. The director shall ensure that the confidentiality of the peer review proceedings and records is maintained. The disclosure of the peer review proceedings and records to the director or the medical survey team shall not alter the status of the proceedings or records as privileged and confidential communications pursuant to Sections 1370 and 1370.1.

(e) The procedures and standards utilized by the survey team shall be made available to the plans prior to the conducting of medical surveys.

(f) During the survey the members of the survey team shall examine the complaint files kept by the plan pursuant to Section 1368. The survey report issued pursuant to subdivision (i) shall include a discussion of the plan's record for handling complaints.

(g) During the survey the members of the survey team shall offer advice and assistance to the plan as deemed appropriate.

(h) (1) Survey results shall be publicly reported by the director as quickly as possible but no later than 180 days following the completion of the survey unless the director determines, in the director's discretion, that additional time is reasonably necessary to fully and fairly report the survey results. The director shall provide the plan with an overview of survey findings and notify the plan of deficiencies found by the survey team at least 90 days prior to the release of the public report.

(2) Reports on all surveys, deficiencies, and correction plans shall be open to public inspection except that no surveys, deficiencies, or correction plans shall be made public unless the plan has had an opportunity to review the report and file a response within 45 days of the date that the department provided the report to the plan. After reviewing the plan's response, the director shall issue a final report that excludes any survey information and legal findings and conclusions determined by the director to be in error, describes compliance efforts, identifies deficiencies that have been corrected by the plan by the time of the director's receipt of the plan's 45-day response,

and describes remedial actions for deficiencies requiring longer periods to the remedy required by the director or proposed by the plan.

(3) The final report shall not include a description of "acceptable" or of "compliance" for any uncorrected deficiency.

(4) Upon making the final report available to the public, a single copy of a summary of the final report's findings shall be made available free of charge by the department to members of the public, upon request. Additional copies of the summary may be provided at the department's cost. The summary shall include a discussion of compliance efforts, corrected deficiencies, and proposed remedial actions.

(5) If requested by the plan, the director shall append the plan's response to the final report issued pursuant to paragraph (2), and shall append to the summary issued pursuant to paragraph (4) a brief statement provided by the plan summarizing its response to the report. The plan may modify its response or statement at any time and provide modified copies to the department for public distribution no later than 10 days from the date of notification from the department that the final report will be made available to the public. The plan may file an addendum to its response or statement at any time after the final report has been made available to the public. The addendum to the response or statement shall also be made available to the public.

(6) Any information determined by the director to be confidential pursuant to statutes relating to the disclosure of records, including the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), shall not be made public.

(i) (1) The director shall give the plan a reasonable time to correct deficiencies. Failure on the part of the plan to comply to the director's satisfaction shall constitute cause for disciplinary action against the plan.

(2) No later than 18 months following release of the final report required by subdivision (h), the department shall conduct a follow-up review to determine and report on the status of the plan's efforts to correct deficiencies. The department's follow-up report shall identify any deficiencies reported pursuant to subdivision (h) that have not been corrected to the satisfaction of the director.

(3) If requested by the plan, the director shall append the plan's response to the follow-up report issued pursuant to paragraph (2). The plan may modify its response at any time and provide modified copies to the department for public distribution no later than 10 days from the date of notification from the department that the follow-up report will be made available to the public. The plan may file an addendum to its response at any time after the follow-up report has been made available to the public. The addendum to the response or statement shall also be made available to the public.

(j) The director shall provide to the plan and to the executive officer of the Board of Dental Examiners a copy of information relating to the quality of care of any licensed dental provider contained in any report described in subdivisions (h) and (i) that, in the judgment of the director, indicates clearly

excessive treatment, incompetent treatment, grossly negligent treatment, repeated negligent acts, or unnecessary treatment. Any confidential information provided by the director shall not be made public pursuant to this subdivision. Notwithstanding any other provision of law, the disclosure of this information to the plan and to the executive officer shall not operate as a waiver of confidentiality. There shall be no liability on the part of, and no cause of action of any nature shall arise against, the State of California, the Department of Managed Health Care, the Director of the Department of Managed Health Care, the Board of Dental Examiners, or any officer, agent, employee, consultant, or contractor of the state or the department or the board for the release of any false or unauthorized information pursuant to this section, unless the release of that information is made with knowledge and malice.

(k) Nothing in this section shall be construed as affecting the director's authority pursuant to Article 7 (commencing with Section 1386) or Article 8 (commencing with Section 1390) of this chapter.

SEC. 227. Section 1382 of the Health and Safety Code is amended to read:

1382. (a) The director shall conduct an examination of the fiscal and administrative affairs of any health care service plan, and each person with whom the plan has made arrangements for administrative, management, or financial services, as often as deemed necessary to protect the interest of subscribers or enrollees, but not less frequently than once every five years.

(b) The expense of conducting any additional or nonroutine examinations pursuant to this section, and the expense of conducting any additional or nonroutine medical surveys pursuant to Section 1380 shall be charged against the plan being examined or surveyed. The amount shall include the actual salaries or compensation paid to the persons making the examination or survey, the expenses incurred in the course thereof, and overhead costs in connection therewith as fixed by the director. In determining the cost of examinations or surveys, the director may use the estimated average hourly cost for all persons performing examinations or surveys of plans for the fiscal year. The amount charged shall be remitted by the plan to the director. If recovery of these costs cannot be made from the plan, these costs may be added to, but subject to the limitation of, the assessment provided for in subdivision (b) of Section 1356.

(c) Reports of all examinations shall be open to public inspection, except that no examination shall be made public, unless the plan has had an opportunity to review the examination report and file a statement or response within 45 days of the date that the department provided the report to the plan. After reviewing the plan's response, the director shall issue a final report that excludes any survey information, legal findings, or conclusions determined by the director to be in error, describes compliance efforts, identifies deficiencies that have been corrected by the plan on or before the time the director receives the plan's response, and describes remedial actions for deficiencies requiring longer periods for the remedy required by the director or proposed by the plan.

(d) If requested in writing by the plan, the director shall append the plan's response to the final report issued pursuant to subdivision (c). The plan may modify its response or statement at any time and provide modified copies to the department for public distribution not later than 10 days from the date of notification from the department that the final report will be made available to the public. The addendum to the response or statement shall also be made available to the public.

(e) Notwithstanding subdivision (c), any health care service plan that contracts with the State Department of Health Services to provide service to Medi-Cal beneficiaries pursuant to Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code may make a written request to the director to permit the State Department of Health Services to review its examination report.

(f) Upon receipt of the written request described in subdivision (e), the director may, consistent with Section 7921.505 of the Government Code, permit the State Department of Health Services to review the plan's examination report.

(g) Nothing in this section shall be construed as affecting the director's authority pursuant to Article 7 (commencing with Section 1386) or Article 8 (commencing with Section 1390).

SEC. 228. Section 1385.07 of the Health and Safety Code is amended to read:

1385.07. (a) Notwithstanding Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code, all information submitted under this article shall be made publicly available by the department except as provided in subdivision (b).

(b) (1) The contracted rates between a health care service plan and a provider shall be deemed confidential information that shall not be made public by the department and are exempt from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code). The contracted rates between a health care service plan and a provider shall not be disclosed by a health care service plan to a large group purchaser that receives information pursuant to Section 1385.10.

(2) The contracted rates between a health care service plan, including those submitted to the department pursuant to Section 1385.046, and a large group shall be deemed confidential information that shall not be made public by the department and are exempt from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code). Information provided to a large group purchaser pursuant to Section 1385.10 shall be deemed confidential information that shall not be made public by the department and shall be exempt from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(c) All information submitted to the department under this article shall be submitted electronically in order to facilitate review by the department and the public.

(d) In addition, the department and the health care service plan shall, at a minimum, make the following information readily available to the public on their internet websites in plain language and in a manner and format specified by the department, except as provided in subdivision (b). For individual and small group health care service plan contracts, the information shall be made public for 120 days prior to the implementation of the rate increase. For large group health care service plan contracts, the information shall be made public for 60 days prior to the implementation of the rate increase. The information shall include:

(1) Justifications for any unreasonable rate increases, including all information and supporting documentation as to why the rate increase is justified.

(2) A plan's overall annual medical trend factor assumptions in each rate filing for all benefits.

(3) A health care service plan's actual costs, by aggregate benefit category to include hospital inpatient, hospital outpatient, physician services, prescription drugs and other ancillary services, laboratory, and radiology.

(4) The amount of the projected trend attributable to the use of services, price inflation, or fees and risk for annual plan contract trends by aggregate benefit category, such as hospital inpatient, hospital outpatient, physician services, prescription drugs and other ancillary services, laboratory, and radiology.

SEC. 229. Section 1397.5 of the Health and Safety Code is amended to read:

1397.5. (a) The director shall make and file annually with the Department of Managed Health Care as a public record, an aggregate summary of grievances against plans filed with the director by enrollees or subscribers. This summary shall include at least all of the following information:

(1) The total number of grievances filed.

(2) The types of grievances.

(b) The summary set forth in subdivision (a) shall include the following disclaimer:

"THIS INFORMATION IS PROVIDED FOR STATISTICAL PURPOSES ONLY. THE DIRECTOR OF THE DEPARTMENT OF MANAGED CARE HAS NEITHER INVESTIGATED NOR DETERMINED WHETHER THE GRIEVANCES COMPILED WITHIN THIS SUMMARY ARE REASONABLE OR VALID."

(c) Nothing in this section shall require or authorize the disclosure of grievances filed with or received by the director and made confidential pursuant to any other provision of law including, but not limited to, the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) and the Information Practices

Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). Nothing in this section shall affect any other provision of law including, but not limited to, the California Public Records Act and the Information Practices Act of 1977.

SEC. 230. Section 1399.72 of the Health and Safety Code is amended to read:

1399.72. (a) Any health care service plan that intends to convert from nonprofit to for-profit status, as defined in subdivision (b), shall, prior to the conversion, secure approval from the director.

(b) For the purposes of this section, a "conversion" or "convert" by a nonprofit health care service plan means the transformation of the plan from nonprofit to for-profit status, as determined by the director.

(c) Prior to approving a conversion, the director shall find that the conversion proposal meets all of the following charitable trust requirements:

(1) The fair market value of the nonprofit plan is set aside for appropriate charitable purposes. In determining fair market value, the director shall consider, but not be bound by, any market-based information available concerning the plan.

(2) The set-aside shall be dedicated and transferred to one or more existing or new tax-exempt charitable organizations operating pursuant to Section 501(c)(3) (26 U.S.C. Sec. 501(c)(3)) of the federal Internal Revenue Code. The director shall consider requiring that a portion of the set-aside include equity ownership in the plan. Further, the director may authorize the use of a federal Internal Revenue Code Section 501(c)(4) organization (26 U.S.C. Sec. 501(c)(4)) if, in the director's view, it is necessary to ensure effective management and monetization of equity ownership in the plan and if the plan agrees that the Section 501(c)(4) organization will be limited exclusively to these functions, that funds generated by the monetization shall be transferred to the Section 501(c)(3) organization except to the extent necessary to fund the level of activity of the Section 501(c)(4) organization as may be necessary to preserve the organization's tax status, that no funds or other resources controlled by the Section 501(c)(4) organization shall be expended for campaign contributions, lobbying, or other political activities, and that the Section 501(c)(4) organization shall comply with reporting requirements that are applicable to Section 501(c)(3) organizations, and that the 501(c)(4) organization shall be subject to any other requirements imposed upon 501(c)(3) organizations that the director determines to be appropriate.

(3) Each 501(c)(3) or 501(c)(4) organization receiving a set-aside, its directors and officers, and its assets including any plan stock, shall be independent of any influence or control by the health care service plan and its directors, officers, subsidiaries, or affiliates.

(4) The charitable mission and grant-making functions of the charitable organization receiving any set-aside shall be dedicated to serving the health care needs of the people of California.

(5) Every 501(c)(3) or 501(c)(4) organization that receives a set-aside under this section shall have in place procedures and policies to prohibit conflicts of interest, including those associated with grant-making activities

that may benefit the plan, including the directors, officers, subsidiaries, or affiliates of the plan.

(6) Every 501(c)(3) or 501(c)(4) organization that receives a set-aside under this section shall demonstrate that its directors and officers have sufficient experience and judgment to administer grant-making and other charitable activities to serve the state's health care needs.

(7) Every 501(c)(3) or 501(c)(4) organization that receives a set-aside under this section shall provide the director and the Attorney General with an annual report that includes a detailed description of its grant-making and other charitable activities related to its use of the set-aside received from the health care service plan. The annual report shall be made available by the director and the Attorney General for public inspection, notwithstanding the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code). Each organization shall submit the annual report for its immediately preceding fiscal year within 120 days after the close of that fiscal year. When requested by the director or the Attorney General, the organization shall promptly supplement the report to include any additional information that the director or the Attorney General deems necessary to ascertain compliance with this article.

(8) The plan has satisfied the requirements of this chapter, and a disciplinary action pursuant to Section 1386 is not warranted against the plan.

(d) The plan shall not file any forms or documents required by the Secretary of State in connection with any conversion or restructuring until the plan has received an order of the director approving the conversion or restructuring, or unless authorized to do so by the director.

SEC. 231. Section 1399.74 of the Health and Safety Code is amended to read:

1399.74. (a) By July 1, 1996, the director shall adopt regulations, on an emergency basis, that specify the application procedures and requirements for the restructuring or conversion of nonprofit health care service plans. This subdivision shall not be construed to limit or otherwise restrict the director's authority to adopt regulations under Section 1344, including, but not limited to, any additional regulations to implement this article.

(b) Upon receiving an application to restructure or convert, the director shall publish a notice in one or more newspapers of general circulation in the plan's service area describing the name of the applicant, the nature of the application, and the date of receipt of the application. The notice shall indicate that the director will be soliciting public comments and will hold a public hearing on the application. The director shall require the plan to publish a written notice concerning the application pursuant to conditions imposed by rule or order.

(c) Any applications, reports, plans, or other documents under this article shall be public records, subject to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) and regulations adopted by the director thereunder. The director shall provide the public with prompt and reasonable access to public

records relating to the restructuring and conversion of health care service plans. Access to public records covered by this section shall be made available no later than one month prior to any solicitation for public comments or public hearing scheduled pursuant to this article.

(d) Prior to approving any conversion or restructuring, the director shall solicit public comments in written form and shall hold at least one public hearing concerning the plan's proposal to comply with the set-aside and other conditions required under this article.

(e) The director may disapprove any application to restructure or convert if the application does not meet the requirements of this chapter or of the Nonprofit Corporation Law (Div. 2 (commencing with Sec. 5000), Title 1, Corp. C.), including any requirements imposed by rule or order of the director.

SEC. 232. Section 1416.28 of the Health and Safety Code is amended to read:

1416.28. (a) Notwithstanding any other law, the program shall at the time of application, issuance, or renewal of a nursing home administrator license require that the applicant or licensee provide the federal employer identification number or social security number of the applicant or licensee.

(b) Any applicant or licensee failing to provide a federal identification number or social security number shall be reported by the program to the Franchise Tax Board and, if failing to provide after notification pursuant to paragraph (1) of subdivision (b) of Section 19528 of the Revenue and Taxation Code, shall be subject to the penalty provided in paragraph (2) of subdivision (b) of Section 19528 of the Revenue and Taxation Code.

(c) In addition to the penalty specified in subdivision (b), the program may not process any application, original license, or renewal of a license unless the applicant or licensee provides a federal employer identification number or social security number where requested on the application.

(d) The program shall, upon request of the Franchise Tax Board, furnish to the Franchise Tax Board the following information with respect to every licensee:

(1) Name.
(2) Address or addresses of record.
(3) Federal employer identification number or social security number.
(4) Type of license.
(5) Effective date of license or renewal.
(6) Expiration date of license.
(7) Whether license is active or inactive, if known.
(8) Whether license is new or a renewal.

(e) The reports required under this section shall be filed on magnetic media or in other machine-readable form, according to standards furnished by the Franchise Tax Board.

(f) The program shall provide to the Franchise Tax Board the information required by this section at a time that the Franchise Tax Board may require.

(g) Notwithstanding Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code, the social security number and federal

employer identification number furnished pursuant to this section shall not be deemed to be a public record and shall not be open to the public for inspection.

(h) Any deputy, agent, clerk, officer, or employee of the program described in this chapter, any former officer or employee, or other individual who in the course of employment or duty has or has had access to the information required to be furnished under this chapter, may not disclose or make known in any manner that information, except as provided in this section to the Franchise Tax Board or as provided in subdivision (j).

(i) It is the intent of the Legislature in enacting this section to utilize the social security account number or federal employer identification number for the purpose of establishing the identification of persons affected by state tax laws and for purposes of compliance with Section 17520 of the Family Code and, to that end, the information furnished pursuant to this section shall be used exclusively for those purposes.

(j) If the program utilizes a national examination to issue a license, and if a reciprocity agreement or comity exists between California and the state requesting release of the social security number, any deputy, agent, clerk, officer, or employee of the program described in this chapter may release a social security number to an examination or licensing entity, only for the purpose of verification of licensure or examination status.

SEC. 233. Section 1439 of the Health and Safety Code is amended to read:

1439. Any writing received, owned, used, or retained by the state department in connection with the provisions of this chapter is a public record within the meaning of Section 7920.530 of the Government Code, and, as a public record, is open to public inspection pursuant to Sections 7922.500 to 7922.545, inclusive, 7923.000, and 7923.005 of the Government Code. However, the names of any persons contained in those records, except the names of duly authorized officers, employees, or agents of the state department conducting an investigation or inspection in response to a complaint filed pursuant to this chapter, shall not be open to public inspection and copies of the records provided for public inspection shall have those names deleted.

SEC. 234. Section 1457 of the Health and Safety Code is amended to read:

1457. (a) The State Department of Health Services, with the advice of the State Department of Social Services, shall prescribe the records to be kept by county hospitals of persons received into or discharged from these institutions, including, but not limited to, records for the admission and processing of county hospital patients.

(b) The records shall be preserved and maintained pursuant to regulations adopted by the department, or at the request of the county physician or other person in charge of the county hospital, the board of supervisors of the county may authorize the destruction of any record, paper, or document prescribed by the department following compliance with the conditions prescribed in Section 26205 of the Government Code.

(c) (1) Notwithstanding any other provision of law, those records of a hospital, or any other county medical facility, subject to this chapter that reveal the rates of payment for health care services rendered by or purchased by the hospital or other medical facility, or the deliberative processes, discussions, communications, or any other portion or aspect of the negotiations leading to those payment rates, shall not be considered public records subject to disclosure pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), nor shall they be subject to public disclosure pursuant to any other law requiring the disclosure of records, for a period of three years following execution of a related contract establishing rates of payment.

(2) Notwithstanding paragraph (1), public disclosure or nondisclosure of records relating to any matters or activities connected with selective provider contracts entered into pursuant to Article 2.6 (commencing with Section 14081) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code shall be determined pursuant to Article 2.6 (commencing with Section 14081) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code and Section 7926.220 of the Government Code, and other applicable provisions of Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code.

SEC. 235. Section 1536 of the Health and Safety Code is amended to read:

1536. (a) (1) At least annually, the department shall publish and make available to interested persons a list or lists covering all licensed community care facilities and the services for which each facility has been licensed or issued a special permit.

(2) For a group home, transitional housing placement provider, community treatment facility, youth homelessness prevention center, temporary shelter care facility, transitional shelter care facility, or short-term residential therapeutic program, the list shall include both of the following:

(A) The number of licensing complaints, types of complaints, and outcomes of complaints, including citations, fines, exclusion orders, license suspensions, revocations, and surrenders.

(B) The number, types, and outcomes of law enforcement contacts made by the facility staff or children, as reported pursuant to subdivision (a) of Section 1538.7.

(3) This subdivision does not apply to foster family homes or the certified family homes or resource families of foster family agencies.

(b) Subject to subdivision (c), to protect the personal privacy of foster family homes and the certified family homes and resource families of foster family agencies, and to preserve the security and confidentiality of the placements in the homes, the names, addresses, and other identifying information of facilities licensed as foster family homes and certified family homes and resource families of foster family agencies shall be considered personal information for purposes of the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). This information shall not be disclosed by any state

or local agency pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), except as necessary for administering the licensing program, facilitating the placement of children in these facilities, and providing names and addresses, upon request, only to bona fide professional foster parent organizations and to professional organizations educating foster parents, including the Foster and Kinship Care Education Program of the California Community Colleges.

(c) (1) Notwithstanding subdivision (b), the department, a county, or a foster family agency may request information from, or divulge information to, the department, a county, or a foster family agency, regarding a prospective certified parent, foster parent, or relative caregiver for the purpose of, and as necessary to, conduct a reference check to determine whether it is safe and appropriate to license, certify, or approve an applicant to be a certified parent, foster parent, or relative caregiver.

(2) This subdivision shall apply only to applications received on or before December 31, 2016, in accordance with Section 1517 or 1517.1 of this code or Section 16519.5 of the Welfare and Institutions Code.

(d) The department may issue a citation and, after the issuance of that citation, may assess a civil penalty of fifty dollars ($50) per day for each instance of a foster family agency's failure to provide the department with a log of certified and decertified homes or a log of resource families that were approved or had approval rescinded during the month by the 10th day of the following month.

(e) The Legislature encourages the department, if funds are available for this purpose, to develop a database that would include all of the following information:

(1) Monthly reports by a foster family agency regarding certified family homes and resource families.

(2) A log of certified and decertified family homes, approved resource families, and resource families for which approval was rescinded, provided by a foster family agency to the department.

(3) Notification by a foster family agency to the department informing the department of a foster family agency's determination to decertify a certified family home or rescind the approval of a resource family due to any of the following actions by the certified family parent or resource family:

(A) Violating licensing rules and regulations.

(B) Aiding, abetting, or permitting the violation of licensing rules and regulations.

(C) Conducting oneself in a way that is inimical to the health, morals, welfare, or safety of a child placed in that certified family home, or for a resource family, engaging in conduct that poses a risk or threat to the health and safety, protection, or well-being of a child or nonminor dependent.

(D) Being convicted of a crime while a certified family parent or resource family.

(E) Knowingly allowing any child to have illegal drugs or alcohol.

(F) Committing an act of child abuse or neglect or an act of violence against another person.

(f) At least annually, the department shall post on its internet website a statewide summary of the information gathered pursuant to Sections 1538.8 and 1538.9. The summary shall include only deidentified and aggregate information that does not violate the confidentiality of a child's identity and records.

SEC. 236. Section 1776.6 of the Health and Safety Code is amended to read:

1776.6. (a) Pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code), the following documents are public information and shall be provided by the department upon request: audited financial statements, annual reports and accompanying documents, compliance or noncompliance with reserve requirements, whether an application for a permit to accept deposits and certificate of authority has been filed, whether a permit or certificate has been granted or denied, and the type of care offered by the provider.

(b) The department shall regard resident data used in the calculation of reserves as confidential.

SEC. 237. Section 1798.200 of the Health and Safety Code is amended to read:

1798.200. (a) (1) (A) Except as provided in paragraph (2), an employer of an EMT-I or EMT-II may conduct investigations, as necessary, and take disciplinary action against an EMT-I or EMT-II who is employed by that employer for conduct in violation of subdivision (c). The employer shall notify the medical director of the local EMS agency that has jurisdiction in the county in which the alleged violation occurred within three days when an allegation has been validated as a potential violation of subdivision (c).

(B) Each employer of an EMT-I or EMT-II employee shall notify the medical director of the local EMS agency that has jurisdiction in the county in which a violation related to subdivision (c) occurred within three days after the EMT-I or EMT-II is terminated or suspended for a disciplinary cause, the EMT-I or EMT-II resigns following notification of an impending investigation based upon evidence that would indicate the existence of a disciplinary cause, or the EMT-I or EMT-II is removed from EMT-related duties for a disciplinary cause after the completion of the employer's investigation.

(C) At the conclusion of an investigation, the employer of an EMT-I or EMT-II may develop and implement, in accordance with the guidelines for disciplinary orders, temporary suspensions, and conditions of probation adopted pursuant to Section 1797.184, a disciplinary plan for the EMT-I or EMT-II. Upon adoption of the disciplinary plan, the employer shall submit that plan to the local EMS agency within three working days. The employer's disciplinary plan may include a recommendation that the medical director of the local EMS agency consider taking action against the holder's certificate pursuant to paragraph (3).

(2) If an EMT-I or EMT-II is not employed by an ambulance service licensed by the Department of the California Highway Patrol or a public safety agency or if that ambulance service or public safety agency chooses not to conduct an investigation pursuant to paragraph (1) for conduct in violation of subdivision (c), the medical director of a local EMS agency shall conduct the investigations, and, upon a determination of disciplinary cause, take disciplinary action as necessary against the EMT-I or EMT-II. At the conclusion of these investigations, the medical director shall develop and implement, in accordance with the recommended guidelines for disciplinary orders, temporary orders, and conditions of probation adopted pursuant to Section 1797.184, a disciplinary plan for the EMT-I or EMT-II. The medical director's disciplinary plan may include action against the holder's certificate pursuant to paragraph (3).

(3) The medical director of the local EMS agency may, upon a determination of disciplinary cause and in accordance with regulations for disciplinary processes adopted pursuant to Section 1797.184, deny, suspend, or revoke any EMT-I or EMT-II certificate issued under this division, or may place any EMT-I or EMT-II certificate holder on probation, upon the finding by that medical director of the occurrence of any of the actions listed in subdivision (c) and the occurrence of one of the following:

(A) The EMT-I or EMT-II employer, after conducting an investigation, failed to impose discipline for the conduct under investigation, or the medical director makes a determination that the discipline imposed was not according to the guidelines for disciplinary orders and conditions of probation and the conduct of the EMT-I or EMT-II certificate holder constitutes grounds for disciplinary action against the certificate.

(B) Either the employer of an EMT-I or EMT-II further determines, after an investigation conducted under paragraph (1), or the medical director determines, after an investigation conducted under paragraph (2), that the conduct requires disciplinary action against the certificate.

(4) The medical director of the local EMS agency, after consultation with the employer of an EMT-I or EMT-II, may temporarily suspend, prior to a hearing, any EMT-I or EMT-II certificate or both EMT-I and EMT-II certificates upon a determination that both of the following conditions have been met:

(A) The certificate holder has engaged in acts or omissions that constitute grounds for revocation of the EMT-I or EMT-II certificate.

(B) Permitting the certificate holder to continue to engage in the certified activity without restriction would pose an imminent threat to the public health or safety.

(5) If the medical director of the local EMS agency temporarily suspends a certificate, the local EMS agency shall notify the certificate holder that the holder's EMT-I or EMT-II certificate is suspended and shall identify the reasons therefor. Within three working days of the initiation of the suspension by the local EMS agency, the agency and employer shall jointly investigate the allegation in order for the agency to make a determination of the continuation of the temporary suspension. All investigatory

information not otherwise protected by law held by the agency and employer shall be shared between the parties via facsimile transmission or overnight mail relative to the decision to temporarily suspend. The local EMS agency shall decide, within 15 calendar days, whether to serve the certificate holder with an accusation pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. If the certificate holder files a notice of defense, the hearing shall be held within 30 days of the local EMS agency's receipt of the notice of defense. The temporary suspension order shall be deemed vacated if the local EMS agency fails to make a final determination on the merits within 15 days after the administrative law judge renders the proposed decision.

(6) The medical director of the local EMS agency shall refer, for investigation and discipline, any complaint received on an EMT-I or EMT-II to the relevant employer within three days of receipt of the complaint, pursuant to subparagraph (A) of paragraph (1) of subdivision (a).

(b) The authority may deny, suspend, or revoke any EMT-P license issued under this division, or may place any EMT-P license issued under this division, or may place any EMT-P licenseholder on probation upon the finding by the director of the occurrence of any of the actions listed in subdivision (c). Proceedings against any EMT-P license or licenseholder shall be held in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) Any of the following actions shall be considered evidence of a threat to the public health and safety and may result in the denial, suspension, or revocation of a certificate or license issued under this division, or in the placement on probation of a certificate holder or licenseholder under this division:

(1) Fraud in the procurement of any certificate or license under this division.

(2) Gross negligence.

(3) Repeated negligent acts.

(4) Incompetence.

(5) The commission of any fraudulent, dishonest, or corrupt act that is substantially related to the qualifications, functions, and duties of prehospital personnel.

(6) Conviction of any crime that is substantially related to the qualifications, functions, and duties of prehospital personnel. The record of conviction or a certified copy of the record shall be conclusive evidence of the conviction.

(7) Violating or attempting to violate directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this division or the regulations adopted by the authority pertaining to prehospital personnel.

(8) Violating or attempting to violate any federal or state statute or regulation that regulates narcotics, dangerous drugs, or controlled substances.

(9) Addiction to, the excessive use of, or the misuse of, alcoholic beverages, narcotics, dangerous drugs, or controlled substances.

(10) Functioning outside the supervision of medical control in the field care system operating at the local level, except as authorized by any other license or certification.

(11) Demonstration of irrational behavior or occurrence of a physical disability to the extent that a reasonable and prudent person would have reasonable cause to believe that the ability to perform the duties normally expected may be impaired.

(12) Unprofessional conduct exhibited by any of the following:

(A) The mistreatment or physical abuse of any patient resulting from force in excess of what a reasonable and prudent person trained and acting in a similar capacity while engaged in the performance of that person's duties would use if confronted with a similar circumstance. Nothing in this section shall be deemed to prohibit an EMT-I, EMT-II, or EMT-P from assisting a peace officer, or a peace officer who is acting in the dual capacity of peace officer and EMT-I, EMT-II, or EMT-P, from using that force that is reasonably necessary to effect a lawful arrest or detention.

(B) The failure to maintain confidentiality of patient medical information, except as disclosure is otherwise permitted or required by law in Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code.

(C) The commission of any sexually related offense specified under Section 290 of the Penal Code.

(d) The information shared among EMT-I, EMT-II, and EMT-P employers, medical directors of local EMS agencies, the authority, and EMT-I and EMT-II certifying entities shall be deemed to be an investigative communication that is exempt from public disclosure as a public record pursuant to Article 1 (commencing with Section 7923.600) of Chapter 1 of Part 5 of Division 10 of Title 1 of the Government Code. A formal disciplinary action against an EMT-I, EMT-II, or EMT-P shall be considered a public record available to the public, unless otherwise protected from disclosure pursuant to state or federal law.

(e) For purposes of this section, "disciplinary cause" means an act that is substantially related to the qualifications, functions, and duties of an EMT-I, EMT-II, or EMT-P and is evidence of a threat to the public health and safety described in subdivision (c).

SEC. 238. Section 1798.201 of the Health and Safety Code is amended to read:

1798.201. (a) When information comes to the attention of the medical director of the local EMS agency that an EMT-P licenseholder has committed any act or omission that appears to constitute grounds for disciplinary action under this division, the medical director of the local EMS agency may evaluate the information to determine if there is reason to believe that disciplinary action may be necessary.

(b) If the medical director sends a recommendation to the authority for further investigation or discipline of the licenseholder, the recommendation shall include all documentary evidence collected by the medical director in evaluating whether or not to make that recommendation. The recommendation and accompanying evidence shall be deemed in the nature

of an investigative communication and be protected by the provisions listed in Section 7920.505 of the Government Code. In deciding what level of disciplinary action is appropriate in the case, the authority shall consult with the medical director of the local EMS agency.

SEC. 239. Section 1799.112 of the Health and Safety Code is amended to read:

1799.112. (a) EMT-P employers shall report in writing to the local EMS agency medical director and the authority and provide all supporting documentation within 30 days of whenever any of the following actions are taken:

(1) An EMT-P is terminated or suspended for disciplinary cause or reason.

(2) An EMT-P resigns following notice of an impending investigation based upon evidence indicating disciplinary cause or reason.

(3) An EMT-P is removed from paramedic duties for disciplinary cause or reason following the completion of an internal investigation.

(b) The reporting requirements of subdivision (a) do not require or authorize the release of information or records of an EMT-P who is also a peace officer protected by Section 832.7 of the Penal Code.

(c) For purposes of this section, "disciplinary cause or reason" means only an action that is substantially related to the qualifications, functions, and duties of a paramedic and is considered evidence of a threat to the public health and safety as identified in subdivision (c) of Section 1798.200.

(d) Pursuant to subdivision (i) of Section 1798.24 of the Civil Code, upon notification to the paramedic, the authority may share the results of its investigation into a paramedic's misconduct with the paramedic's employer, prospective employer when requested in writing as part of a preemployment background check, and the local EMS agency.

(e) The information reported or disclosed in this section shall be deemed in the nature of an investigative communication and is exempt from disclosure as a public record by Article 1 (commencing with Section 7923.600) of Chapter 1 of Part 5 of Division 10 of Title 1 of the Government Code.

(f) A paramedic applicant or licensee to whom the information pertains may view the contents, as set forth in subdivision (a) of Section 1798.24 of the Civil Code, of a closed investigation file upon request during the regular business hours of the authority.

SEC. 240. Section 11605 of the Health and Safety Code is amended to read:

11605. (a) Commencing with the 1991–92 fiscal year, the Attorney General, in consultation with the Governor's Policy Council on Alcohol and Drug Abuse, shall conduct a biennial survey of drug and alcohol use among pupils enrolled in grades 7, 9, and 11. The survey shall assess all of the following:

(1) The frequency and type of substance abuse.

(2) The age of first use and intoxication.

(3) Pertinent attitudes and experiences of pupils.

(4) The experience of pupils with school-based drug and alcohol prevention programs.

(5) As an optional component, the survey may examine the risk factors associated with school dropouts.

(b) The biennial survey shall be based on a statewide sample of pupils enrolled in grades 7, 9, and 11 and shall be consistent with the surveys conducted by the office of the Attorney General in the 1985–86, 1987–88, and 1989–90 fiscal years.

(c) The Attorney General shall release the findings of the survey on or before May of each even-numbered year and shall prepare and distribute a report on the survey to the Legislature, the Governor, the Superintendent of Public Instruction, law enforcement agencies, school districts, and interested members of the general public.

(d) In conducting the survey, the Attorney General shall ensure that the confidentiality of participating school districts and pupils shall be maintained. Pupil questionnaires and answer sheets shall be exempt from the public disclosure requirements prescribed by Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code.

(e) Persons reporting data pursuant to the requirements of this article shall not be liable for damages in any action based upon the use or misuse of pupil surveys that are mailed or otherwise transmitted to the Attorney General, or the Attorney General's designee.

(f) The requirements prescribed by this article shall continue to be funded with the existing resources of the Attorney General.

SEC. 241. Section 25152.5 of the Health and Safety Code is amended to read:

25152.5. (a) For purposes of this section, the following definitions apply:

(1) "Unusual circumstances" means only the following:

(A) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.

(B) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request.

(C) The need to consult with another agency having a substantial interest in the determination of whether to respond to the request.

(2) "Public records" means any public record, as defined in Section 7920.530 of the Government Code, of the department relating to this chapter, Chapter 6.7 (commencing with Section 25280), or Chapter 6.8 (commencing with Section 25300). "Public records" includes unprinted information relating to this chapter, Chapter 6.7 (commencing with Section 25280), or Chapter 6.8 (commencing with Section 25300) that is stored in data or word processing equipment either owned by an employee and located on premises under control of the department or owned by the department.

(b) Notwithstanding any other provision of law, the department shall not limit the hours during the normal working day or limit the number of working days during which public records are open for inspection.

(c) (1) Notwithstanding any other provision of law, the department shall make public records that are not exempt from disclosure by law, including Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code, promptly available to any person, within the time limits specified in subdivision (a) of Section 7922.535 of the Government Code, upon payment of a fee established by the department to cover the direct costs of duplication, as specified in subdivision (f). In addition, a person requesting copies by mail may be required to pay the mailing costs.

(2) If any portion of a record is exempt from disclosure, the part that is not exempt shall be provided as prescribed in this section.

(d) Any person may request access to, or copies of, public records of the department in person or by mail. A request shall reasonably describe an identifiable record or information to be produced therefrom.

(e) If the department determines that an unusual circumstance exists, the department shall comply with the notification procedures and the time limits specified in subdivisions (b) and (c) of Section 7922.535 of the Government Code.

(f) The department shall, upon request, provide any person with the facts upon which it bases its determination of the direct costs of copying for each page that is requested. The department shall not impose a minimum fee for a copy of a public record that is greater than its direct per page copying costs and the department shall not impose limits on the types or amounts of public records that the department will provide to persons requesting these records, upon payment of any fees covering the direct costs of duplication by the department.

(g) This section does not authorize the department, or any employee of the department, to delay access for purposes of inspecting or obtaining copies of public records, unless there are unusual circumstances.

(h) Any denial of a request for records shall set forth in writing the reasons for the denial and the names and titles or positions of each person responsible for the denial. This written response shall be provided to the requester within five working days of the denial.

SEC. 242. Section 25186.5 of the Health and Safety Code is amended to read:

25186.5. (a) In making a determination pursuant to Section 25186, the director may contact the district attorney, local agencies, the Attorney General, the United States Department of Justice, the Environmental Protection Agency, or other agencies outside of the state that have, or have had, regulatory or enforcement jurisdiction over the applicant in connection with any hazardous waste or hazardous materials activities.

(b) Every hazardous waste licenseholder or applicant, other than a federal, state, or local agency, who is not otherwise required to file a disclosure statement on or before January 1, 1989, shall file a disclosure statement with the department on or before January 1, 1989.

(c) If changes or additions of information regarding majority ownership, the business name, or the information required by paragraphs (6) and (8) of subdivision (a) of Section 25112.5 occur after the filing of the statement, the licenseholder or applicant shall provide that information to the department, in writing, within 30 days of the change or addition.

(d) Any person submitting a disclosure statement shall pay a fee set by the department in an amount adequate to defray the costs of implementing this section, per person, officer, director, or partner required to be listed in the disclosure statement, in addition to any other fees required. The department shall deposit these fees in the Hazardous Waste Control Account. The fees shall be made available, upon appropriation by the Legislature, to cover the costs of conducting the necessary background searches.

(e) Any person who knowingly makes any false statement or misrepresentation in a disclosure statement filed pursuant to the requirements of this chapter is, upon conviction, subject to the penalties specified in Sections 25189 and 25189.2 and subdivision (a) of Section 25191.

(f) The disclosure statement submitted pursuant to subdivision (b) is exempt from the requirements of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

SEC. 243. Section 25200.3 of the Health and Safety Code is amended to read:

25200.3. (a) A generator who uses the following methods for treating RCRA or non-RCRA hazardous waste in tanks or containers, which is generated onsite, and which do not require a hazardous waste facilities permit under the federal act, shall, for those activities, be deemed to be operating pursuant to a grant of conditional authorization without obtaining a hazardous waste facilities permit or other grant of authorization and a generator is deemed to be granted conditional authorization pursuant to this section, upon compliance with the notification requirements specified in subdivision (e), if the treatment complies with the applicable requirements of this section:

(1) The treatment of aqueous wastes that are hazardous solely due to the presence of inorganic constituents, except asbestos, listed in subparagraph (B) of paragraph (1) and subparagraph (A) of paragraph (2) of subdivision (a) of Section 66261.24 of Title 22 of the California Code of Regulations, and that contain not more than 1400 ppm total of these constituents, using the following treatment technologies:

(A) Phase separation, including precipitation, by filtration, centrifugation, or gravity settling, including the use of demulsifiers and flocculants in those processes.

(B) Ion exchange, including metallic replacement.

(C) Reverse osmosis.

(D) Adsorption.

(E) pH adjustment of aqueous waste with a pH of between 2.0 and 12.5.

(F) Electrowinning of solutions, if those solutions do not contain hydrochloric acid.

(G) Reduction of solutions that are hazardous solely due to the presence of hexavalent chromium, to trivalent chromium with sodium bisulfite, sodium metabisulfite, sodium thiosulfite, ferrous chloride, ferrous sulfate, ferrous sulfide, or sulfur dioxide, provided that the solution contains less than 750 ppm of hexavalent chromium.

(2) Treatment of aqueous wastes that are hazardous solely due to the presence of organic constituents listed in subparagraph (B) of paragraph (1), or subparagraph (B) of paragraph (2), of subdivision (a) of Section 66261.24 of Title 22 of the California Code of Regulations and that contain not more than 750 ppm total of those constituents, using either of the following treatment technologies:

(A) Phase separation by filtration, centrifugation, or gravity settling, but excluding supercritical fluid extraction.

(B) Adsorption.

(3) Treatment of wastes that are sludges resulting from wastewater treatment, solid metal objects, and metal workings that contain or are contaminated with, and are hazardous solely due to the presence of, constituents, except asbestos, listed in subparagraph (B) of paragraph (1) of, and subparagraph (A) of paragraph (2) of, subdivision (a) of Section 66261.24 of Title 22 of the California Code of Regulations, or treatment of wastes that are dusts that contain, or are contaminated with, and are hazardous solely due to the presence of, not more than 750 ppm total of those constituents, except asbestos, listed in subparagraph (B) of paragraph (1) of, and subparagraph (A) of paragraph (2) of, subdivision (a) of Section 66261.24 of Title 22 of the California Code of Regulations, using any of the following treatment technologies:

(A) Physical processes that constitute treatment only because they change the physical properties of the waste, such as filtration, centrifugation, gravity settling, grinding, shredding, crushing, or compacting.

(B) Drying to remove water.

(C) Separation based on differences in physical properties, such as size, magnetism, or density.

(4) Treatment of alum, gypsum, lime, sulfur, or phosphate sludges, using either of the following treatment technologies:

(A) Drying to remove water.

(B) Phase separation by filtration, centrifugation, or gravity settling.

(5) Treatment of wastes listed in Section 66261.120 of Title 22 of the California Code of Regulations, which meet the criteria and requirements for special waste classification in Section 66261.122 of Title 22 of the California Code of Regulations, using any of the following treatment technologies, if the waste is hazardous solely due to the presence of constituents, except asbestos, listed in subparagraph (B) of paragraph (1) of, and subparagraph (A) of paragraph (2) of, subdivision (a) of Section 66261.24 of Title 22 of the California Code of Regulations and the waste contains not more than 750 ppm total of those constituents:

(A) Drying to remove water.

(B) Phase separation by filtration, centrifugation, or gravity settling.

(C) Screening to separate components based on size.

(D) Separation based on differences in physical properties, such as size, magnetism, or density.

(6) Treatment of wastes, except asbestos, that have been classified by the department as special wastes pursuant to Section 66261.24 of Title 22 of the California Code of Regulations, using any of the following treatment technologies, if the waste is hazardous solely due to the presence of constituents, except asbestos, listed in subparagraph (B) of paragraph (1) of, and subparagraph (A) of paragraph (2) of, subdivision (a) of Section 66261.24 of Title 22 of the California Code of Regulations and the waste contains not more than 750 ppm of those constituents:

(A) Drying to remove water.

(B) Phase separation by filtration, centrifugation, or gravity settling.

(C) Magnetic separation.

(7) Treatment of soils that are hazardous solely due to the presence of metals listed in subparagraph (A) of paragraph (2) of subdivision (a) of Section 66261.24 of Title 22 of the California Code of Regulations, using either of the following treatment technologies:

(A) Screening to separate components based on size.

(B) Magnetic separation.

(8) Except as provided in Section 25201.5, treatment of oil mixed with water and oil/water separation sludges, using any of the following treatment technologies:

(A) Phase separation by filtration, centrifugation, or gravity settling, but excluding supercritical fluid extraction. This phase separation may include the use of demulsifiers and flocculants in those processes, even if the processes involve the application of heat, if the heat is applied in totally enclosed tanks and containers, and if it does not exceed 160 degrees Fahrenheit, or any lower temperature that may be set by the department.

(B) Separation based on differences in physical properties, such as size, magnetism, or density.

(C) Reverse osmosis.

(9) Neutralization of acidic or alkaline wastes that are hazardous only due to corrosivity or toxicity that results only from the acidic or alkaline material, in elementary neutralization units, as defined in Section 66260.10 of Title 22 of the California Code of Regulations, if the wastes contain less than 10 percent acid or base constituents by weight, and are treated in tanks or containers and piping, constructed of materials compatible with the range of temperatures and pH levels, and subject to appropriate pH and temperature controls. If the waste contains more than 10 percent acid or base constituents by weight, the volume treated in a single batch at any one time shall not exceed 500 gallons.

(10) Treatment of spent cleaners and conditioners that are hazardous solely due to the presence of copper or copper compounds, subject to the following:

(A) The following requirements are met, in addition to all other requirements of this section:

(i) The waste stream does not contain more than 5000 ppm total copper.

(ii) The generator does not generate for treatment any more than 1000 gallons of the waste stream per month.

(iii) The treatment technologies employed are limited to those set forth in paragraph (1) for metallic wastes.

(iv) The generator keeps records documenting compliance with this subdivision, including records indicating the volume and concentration of wastes treated, and the management of related solutions that are not cleaners or conditioners.

(B) Cleaners and conditioners, for purposes of this paragraph, are solutions containing surfactants and detergents to remove dirt and foreign objects. Cleaners and conditioners do not include microetch, etchant, plating, or metal stripping solutions or solutions containing oxidizers, or any cleaner based on organic solvents.

(C) A grant of conditional authorization under this paragraph shall expire on January 1, 1998, unless extended by the department pursuant to this section.

(D) The department shall evaluate the treatment activities described in this paragraph and shall designate, by regulation, not later than January 1, 1997, those activities eligible for conditional authorization and those activities subject to permit-by-rule. In adopting regulations under this subparagraph, the department shall consider all of the following:

(i) The volume of waste being treated.

(ii) The concentration of the hazardous waste constituents.

(iii) The characteristics of the hazardous waste being treated.

(iv) The risks of the operation, and breakdown, of the treatment process.

(11) Any waste stream technology combination certified by the department, pursuant to Section 25200.1.5, as suitable for authorization pursuant to this section, that operates pursuant to the conditions imposed on that certification.

(b) Any treatment performed pursuant to this section shall comply with all of the following, except as to generators, who are treating hazardous waste pursuant to paragraph (11) of subdivision (a), who shall also comply with any additional conditions of the specified certification if those conditions are different from those set forth in this subdivision:

(1) The total volume of hazardous waste treated in the unit in any calendar month shall not exceed 5,000 gallons or 45,000 pounds, whichever is less, unless the waste is a dilute aqueous waste described in paragraph (1), (2), or (9) of subdivision (a) or oily wastes as described in paragraph (8) of subdivision (a). The department may, by regulation, impose volume limitations on wastes that have no limitations under this section, as may be necessary to protect human health and safety or the environment.

(2) The treatment is conducted in tanks or containers.

(3) The treatment does not consist of the use of any of the following:

(A) Chemical additives, except for pH adjustment, chrome reduction, oil/water separation, and precipitation with the use of flocculants, as allowed by this section.

(B) Radiation.

(C) Electrical current except in the use of electrowinning, as allowed by this section.

(D) Pressure, except for reverse osmosis, filtration, and crushing, as allowed by this section.

(E) Application of heat, except for drying to remove water or demulsification, as allowed by this section.

(4) All treatment residuals and effluents are managed and disposed of in accordance with applicable federal, state, and local requirements.

(5) The treatment process does not do either of the following:

(A) Result in the release of hazardous waste into the environment as a means of treatment or disposal.

(B) Result in the emission of volatile hazardous waste constituents or toxic air contaminants, unless the emission is in compliance with the rules and regulations of the air pollution control district or air quality management district.

(6) The generator unit complies with any additional requirements set forth in regulations adopted pursuant to this section.

(c) A generator operating pursuant to subdivision (a) shall comply with all of the following requirements:

(1) Except as provided in paragraph (4), the generator shall comply with the standards applicable to generators specified in Chapter 12 (commencing with Section 66262.10) of Division 4.5 of Title 22 of the California Code of Regulations and with the applicable requirements in Sections 66265.12, 66265.14, and 66265.17 of Title 22 of the California Code of Regulations.

(2) The generator shall comply with Section 25202.9 by making an annual waste minimization certification.

(3) The generator shall comply with the environmental assessment procedures required pursuant to subdivisions (a) to (e), inclusive, of Section 25200.14. If that assessment reveals that there is contamination resulting from the release of hazardous waste or constituents from a solid waste management unit or a hazardous waste management unit at the generator's facility, regardless of the time at which the waste was released, the generator shall take every action necessary to expeditiously remediate that contamination, if the contamination presents a substantial hazard to human health and safety or the environment or if the generator is required to take corrective action by the department. If a facility is remediating the contamination pursuant to, and in compliance with the provisions of, an order issued by a California regional water quality control board or other state or federal environmental enforcement agency, that remediation shall be adequate for the purposes of complying with this section, as the remediation pertains to the jurisdiction of the ordering agency. This paragraph does not limit the authority of the department or a unified program agency pursuant to Section 25187 as may be necessary to protect human health and safety or the environment.

(4) The generator unit shall comply with container and tank standards applicable to non-RCRA wastes, unless otherwise required by federal law,

specified in subdivisions (a) and (b) of Section 66264.175 of Title 22 of the California Code of Regulations, as the standards apply to container storage and transfer activities, and to Article 9 (commencing with Section 66265.170) and Article 10 (commencing with Section 66265.190) of Chapter 15 of Division 4.5 of Title 22 of the California Code of Regulations, except for Section 66265.197 of Title 22 of the California Code of Regulations.

(A) Unless otherwise required by federal law, ancillary equipment for a tank or container treating hazardous wastes solely pursuant to this section, is not subject to Section 66265.193 of Title 22 of the California Code of Regulations, if the ancillary equipment's integrity is attested to, pursuant to Section 66265.191 of Title 22 of the California Code of Regulations, every two years from the date that retrofitting requirements would otherwise apply.

(B) (i) The Legislature hereby finds and declares that in the case of underground, gravity-pressured sewer systems, integrity testing is often not feasible.

(ii) The best feasible leak detection measures that are sufficient to ensure that underground gravity-pressured sewer systems, for which it is not feasible to conduct integrity testing, do not leak.

(iii) If it is not feasible for an operator's ancillary equipment, or a portion thereof, to undergo integrity testing, the operator shall not be subject to Section 66265.193 of Title 22 of the California Code of Regulations, if the operator implements the best feasible leak detection measures that are determined to be sufficient by the department in those regulations, and those leak detection measures do not reveal any leaks emanating from the operator's ancillary equipment. Any ancillary equipment found to leak shall be retrofitted by the operator to meet the secondary containment standards of Section 66265.196 of Title 22 of the California Code of Regulations.

(5) The generator shall prepare and maintain a written inspection schedule and a log of inspections conducted.

(6) The generator shall prepare and maintain written operating instructions and a record of the dates, concentrations, amounts, and types of waste treated. Records maintained to comply with the state, federal, or local programs may be used to satisfy this requirement, to the extent that those documents substantially comply with the requirements of this section. The operating instructions shall include, but not be limited to, directions regarding all of the following:

(A) How to operate the treatment unit and carry out waste treatment.

(B) How to recognize potential and actual process upsets and respond to them.

(C) When to implement the contingency plan.

(D) How to determine if the treatment has been efficacious.

(E) How to address the residuals of waste treatment.

(7) The generator shall maintain adequate records to demonstrate to the department and the unified program agency that the requirements and conditions of this section are met, including compliance with all applicable pretreatment standards and with all applicable industrial waste discharge

requirements issued by the agency operating the publicly owned treatment works into which the wastes are discharged. The records shall be maintained onsite for a period of five years.

(8) The generator shall treat only hazardous waste that is generated onsite. For purposes of this chapter, a residual material from the treatment of a hazardous waste generated offsite is not a waste that has been generated onsite.

(9) Except as provided in Section 25404.5, the generator shall submit a fee to the State Board of Equalization in the amount required by Section 25205.14, unless the generator is subject to a fee under a permit-by-rule. The generator shall submit that fee within 30 days of the date that the fee is assessed by the State Board of Equalization.

(d) Notwithstanding any other provision of law, the following activities are ineligible for conditional authorization:

(1) Treatment in any of the following units:

(A) Landfills.

(B) Surface impoundments.

(C) Injection wells.

(D) Waste piles.

(E) Land treatment units.

(2) Commingling of hazardous waste with any hazardous waste that exceeds the concentration limits or pH limits specified in subdivision (a), or diluting hazardous waste in order to meet the concentration limits or pH limits specified in subdivision (a).

(3) Treatment using a treatment process not specified in subdivision (a).

(4) Pretreatment or posttreatment activities not specified in subdivision (a).

(5) Treatment of any waste that is reactive or extremely hazardous.

(e) (1) Not less than 60 days prior to commencing the first treatment of hazardous waste under this section, the generator shall submit a notification, in person or by certified mail, with return receipt requested, to the department and to one of the following:

(A) The CUPA, if the generator is under the jurisdiction of a CUPA.

(B) If the generator is not under the jurisdiction of a CUPA, the notification shall be submitted to the officer or agency authorized, pursuant to subdivision (f) of Section 25404.3, to implement and enforce the requirements of this chapter listed in paragraph (1) of subdivision (c) of Section 25404.

(2) Upon demonstration of good cause by the generator, the department may allow a shorter time period, than the 60 days required by paragraph (1), between notification and commencement of hazardous waste treatment pursuant to this section.

(3) Each notification submitted pursuant to this subdivision shall be completed, dated, and signed according to the requirements of Section 66270.11 of Title 22 of the California Code of Regulations, as those requirements that were in effect on January 1, 1996, and apply to hazardous waste facilities permit applications, shall be on a form prescribed by the

department, and shall include, but not be limited to, all of the following information:

(A) The name, identification number, site address, mailing address, and telephone number of the generator to whom the conditional authorization is granted.

(B) A description of the physical characteristics and chemical composition of the hazardous waste to which the conditional authorization applies.

(C) A description of the hazardous waste treatment activity to which the conditional authorization applies, including the basis for determining that a hazardous waste facilities permit is not required under the federal act.

(D) A description of the characteristics and management of any treatment residuals.

(E) Documentation of any convictions, judgments, settlements, or orders resulting from an action by any local, state, or federal environmental or public health enforcement agency concerning the operation of the facility within the last three years, as the documents would be available under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) or the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of the Civil Code). For purposes of this paragraph, a notice of violation for any local, state, or federal agency does not constitute an order and a generator is not required to report the notice unless the violation is not corrected and the notice becomes a final order.

(f) Any generator operating pursuant to a grant of conditional authorization shall comply with all regulations adopted by the department relating to generators of hazardous waste.

(g) (1) Upon terminating operation of any treatment process or unit conditionally authorized pursuant to this section, the generator conducting treatment pursuant to this section shall remove or decontaminate all waste residues, containment system components, soils, and structures or equipment contaminated with hazardous waste from the unit. The removal of the unit from service shall be conducted in a manner that does both of the following:

(A) Minimizes the need for further maintenance.

(B) Eliminates the escape of hazardous waste, hazardous constituents, leachate, contaminated runoff, or waste decomposition products to the environment after the treatment process is no longer in operation.

(2) Any generator conducting treatment pursuant to this section who permanently ceases operation of a treatment process or unit that is conditionally authorized pursuant to this section shall, upon completion of all activities required under this subdivision, provide written notification, in person or by certified mail, with return receipt requested, to the department and to one of the following:

(A) The CUPA, if the generator is under the jurisdiction of a CUPA.

(B) If the generator is not under the jurisdiction of a CUPA, the notification shall be submitted to the officer or agency authorized, pursuant to subdivision (f) of Section 25404.3, to implement and enforce the

requirements of this chapter listed in paragraph (1) of subdivision (c) of Section 25404.

(h) In adopting regulations pursuant to this section, the department may impose any further restrictions or limitations consistent with the conditionally authorized status conferred by this section that are necessary to protect human health and safety and the environment.

(i) The department may revoke any conditional authorization granted pursuant to this section. The department shall base a revocation on any one of the causes set forth in subdivision (a) of Section 66270.43 of Title 22 of the California Code of Regulations or in Section 25186, or upon a finding that operation of the facility in question will endanger human health and safety, domestic livestock, wildlife, or the environment. The department shall conduct the revocation of a conditional authorization granted pursuant to this section in accordance with Chapter 21 (commencing with Section 66271.1) of Division 4.5 of Title 22 of the California Code of Regulations and as specified in Section 25186.7.

(j) A generator who would otherwise be subject to this section may contract with the operator of a transportable treatment unit who is operating pursuant to a permit-by-rule, a standardized permit, or a full state hazardous waste facilities permit to treat the generator's waste. If treatment of the generator's waste takes place under that type of contract, the generator is not otherwise subject to the requirements of this section, but shall comply with all other requirements of this chapter that apply to generators. The operator of the transportable treatment unit that performs onsite treatment pursuant to this subdivision shall comply with all requirements applicable to transportable treatment units operating pursuant to a permit-by-rule, as set forth in the regulations adopted by the department.

(k) (1) Within 30 days of any change in operation that necessitates modifying any of the information submitted in the notification required pursuant to subdivision (e), a generator shall submit an amended notification, in person or by certified mail, with return receipt requested, to the department and to one of the following:

(A) The CUPA, if the generator is under the jurisdiction of a CUPA.

(B) If the generator is not under the jurisdiction of a CUPA, the notification shall be submitted to the officer or agency authorized, pursuant to subdivision (f) of Section 25404.3, to implement and enforce the requirements of this chapter listed in paragraph (1) of subdivision (c) of Section 25404.

(2) Each amended notification shall be completed, dated, and signed in accordance with the requirements of Section 66270.11 of Title 22 of the California Code of Regulations, as those requirements apply to hazardous waste facilities permit applications.

(*l*) A person who has submitted a notification to the department pursuant to subdivision (e) shall be deemed to be operating pursuant to this section, and, except as provided in Section 25404.5, shall be subject to the fee set forth in subdivision (a) of Section 25205.14 until that person submits a certification that the generator has ceased all treatment activities of hazardous

waste streams authorized pursuant to this section in accordance with the requirements of subdivision (g). The certification required by this subdivision shall be submitted, in person or by certified mail, with return receipt requested, to the department and to one of the following:

(1) The CUPA, if the generator is under the jurisdiction of a CUPA.

(2) If the generator is not under the jurisdiction of a CUPA, the notification shall be submitted to the officer or agency authorized, pursuant to subdivision (f) of Section 25404.3, to implement and enforce the requirements of this chapter listed in paragraph (1) of subdivision (c) of Section 25404.

(m) The development and publication of the notification form specified in subdivision (e) is not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The department shall hold at least one public workshop concerning the development of the notification form.

SEC. 244. Section 25201.10 of the Health and Safety Code is amended to read:

25201.10. Any information that a generator is required to provide to the department or to a local agency pursuant to Section 25200.3, 25200.14, or 25201.5 or to regulations adopted by the department related to operation under a permit-by-rule shall be available to the public pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

SEC. 245. Section 25201.11 of the Health and Safety Code is amended to read:

25201.11. (a) Copyright protection and all other rights and privileges provided pursuant to Title 17 of the United States Code are available to the department to the fullest extent authorized by law, and the department may sell, lease, or license for commercial or noncommercial use any work, including, but not limited to, video recordings, audio recordings, books, pamphlets, and computer software as that term is defined in Section 7922.585 of the Government Code, that the department produces whether the department is entitled to that copyright protection or not.

(b) Any royalties, fees, or compensation of any type that is paid to the department to make use of a work entitled to copyright protection shall be deposited in the Hazardous Waste Control Account.

(c) Nothing in this section is intended to limit any powers granted to the department pursuant to Section 7922.585 of the Government Code or any other provision of law.

SEC. 246. Section 25205.13 of the Health and Safety Code is amended to read:

25205.13. (a) Notwithstanding any other provision of law or regulation, for the 1993 reporting period, the deadline for submitting permit-by-rule fixed treatment unit facility-specific notifications and unit-specific notifications is April 1, 1993, or 60 days prior to commencing the first treatment of that waste, whichever date is later.

(b) The development and publication of the notification form for a fixed or transportable treatment unit operating pursuant to a permit-by-rule, as specified in subdivisions (a) and (b) of Section 67450.2 of Title 22 of the California Code of Regulations, is not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The department shall hold at least one public workshop concerning the development of the notification form.

(c) A facility or transportable treatment unit operating pursuant to a permit-by-rule shall provide the following information with the notifications required pursuant to subdivisions (a) and (b) of Section 67450.2 of Title 22 of the California Code of Regulations:

(1) The basis for determining that a hazardous waste facility permit is not required under the federal act.

(2) Documentation of any convictions, judgments, settlements, or orders resulting from an action by any local, state, or federal environmental or public health enforcement agency concerning the operation of the facility within the last three years, as the documents would be available under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) or the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of the Civil Code).

(3) A waste minimization certificate, as specified in Section 25202.9.

(d) The facility or transportable treatment unit operating pursuant to a permit-by-rule shall treat only waste that is generated onsite.

SEC. 247. Section 25214 of the Health and Safety Code is amended to read:

25214. The department shall make information available upon request regarding the implementation of this article, including, but not limited to, the list of persons notified pursuant to subdivision (a) of Section 25213, the list of persons identified pursuant to paragraph (1) of subdivision (b) of Section 25213, information on inspection and enforcement, and other information pertaining to the record of compliance with this article, subject to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

SEC. 248. Section 25214.8.5 of the Health and Safety Code is amended to read:

25214.8.5. (a) A product containing a mercury switch or a mercury relay is exempt from subdivision (a) of Section 25214.8.4, if the manufacturer of the product, or a trade group representing the manufacture, has obtained an exemption, pursuant to the process described in subdivision (b), for the product. An exemption granted under subdivision (b) may apply to all or only to limited uses of the product. An exemption granted under subdivision (b) also applies to the sale to the product manufacturer of the mercury switch or relay to be contained in the product covered by the exemption.

(b) The department shall grant, or renew, an exemption from subdivision (a) of Section 25214.8.4 for a period of three years only if all of the following conditions are met:

(1) The manufacturer of the product, or a trade group representing the manufacturer, submits a request for an initial or renewed exemption to the department that specifies the use or uses of the product for which an exemption is requested along with supporting information that complies with the requirements set forth in subdivision (c). A manufacturer or trade group may submit a request only for a product and use for which there is no technical feasible alternative, available at a reasonable cost, to the use of the mercury switch or mercury relay in the product for purposes of that use.

(2) The supporting information submitted by the manufacturer or trade group demonstrates that the product is eligible for the exemption.

(3) The manufacturer or trade group requesting the exemption enters into a cost reimbursement agreement with the department, pursuant to subdivision (d), and complies with the terms of that agreement.

(c) The supporting information that a manufacturer or trade group submits to the department, before the department may grant an exemption pursuant to subdivision (b), shall include all of the following:

(1) The name of the manufacturer, or the trade group and the manufacturers represented by the trade group, requesting the exemption and the name, position, and contact information for the person who is the manufacturer's or trade group's contact person on all matters concerning the exemption.

(2) An identification and description of the product, and the use or uses of the product, for which the exemption is requested.

(3) An identification and description of the mercury switch or mercury relay, including identification of the manufacturer of the switch or relay, and an explanation of the need for, and functioning of, the mercury switch or mercury relay in the product.

(4) For each use for which an exemption is requested, information that fully and clearly demonstrates that there is no technically feasible alternative, available at a reasonable cost, to the use of the mercury switch or mercury relay in the product for purposes of that use. This shall include, but is not limited to, a description of past, current, and planned future efforts to seek or develop those alternatives, and a description of all alternatives that have been considered and an explanation of the technical or economic reasons as to why each alternative is not satisfactory.

(5) Information that fully and clearly demonstrates that the switch or relay or the product is constructed so as to prevent the release of mercury to the environment.

(6) A feasible, effective, detailed and complete plan for the proper collection, transportation, and management of the product at the end of its useful life, including removal and proper management of the mercury switch or mercury relay contained in the product, and information fully and clearly demonstrating that the manufacturer, individually, or in conjunction with

an industry or trade group, is committed to and capable of implementing the plan. The plan shall include an education and outreach component to ensure that users of the product are aware of available collection opportunities and legal requirements for management of the product once it becomes a waste. An exemption granted pursuant to subdivision (b) shall become null and void if the manufacturer, individually, or in conjunction with an industry or trade group, has not implemented the plan submitted in support of the exemption request within six months of the effective date of the exemption.

(7) A copy of all similar exemption requests, including supporting documentation, submitted by the applicant to another state, and a copy of that state's response to the exemption request.

(d) A manufacturer or trade group that requests an exemption, or an exemption renewal, pursuant to subdivision (b) shall enter into a written agreement with the department pursuant to the procedures set forth in Article 9.2 (commencing with Section 25206.1), for reimbursement of all costs incurred by the department in processing and responding to the request.

(e) Trade secrets, as defined in Section 25173, that are identified at the time of submission by a manufacturer or trade group, shall be treated as confidential as required by department procedures established pursuant to Section 25173. Any information that is not a trade secret, as defined in Section 25173, or that has not been identified by the manufacturer as a trade secret, shall be made available to the public upon request pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(f) (1) The department shall grant or deny an exemption requested pursuant to subdivision (b) no later than 180 calendar days after receiving the exemption request and all information determined by the department to be necessary to determine if all of the conditions specified in subdivision (b) are met.

(2) An exemption shall not be deemed to be granted if the department fails to grant or deny the exemption request within the time limit specified in paragraph (1)

(3) Nothing in this subdivision shall preclude the applicant and the department from mutually agreeing to an extension of the time limit specified in paragraph (1).

SEC. 249. Section 25214.17 of the Health and Safety Code is amended to read:

25214.17. (a) Except as provided in subdivision (b), the department, pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), shall provide the public with access to all information relating to a package or packaging component that has been submitted to the department by a manufacturer or supplier of a package or packaging component pursuant to this article.

(b) (1) The department shall keep confidential any information identified by the manufacturer or supplier, pursuant to paragraph (2), as a trade secret, as defined in Section 25173, in accordance with departmental procedures

that have been adopted pursuant to Section 25173, if the department determines that this information meets that definition of a trade secret.

(2) A manufacturer or supplier providing information to the department pursuant to this article shall, at the time of submission, identify all information that the manufacturer or supplier believes is a trade secret. The department shall make available to the public any information that is not a trade secret.

SEC. 250. Section 25215.51 of the Health and Safety Code is amended to read:

25215.51. (a) The department shall establish a Lead-Acid Battery Recycling Facility Investigation and Cleanup Program, or LABRIC Program, which shall be responsible for identifying areas of the state that are eligible for expenditure of moneys from the Lead-Acid Battery Cleanup Fund pursuant to subparagraphs (A) and (B) of paragraph (1) of subdivision (b) of Section 25215.5.

(b) The LABRIC Program shall provide public notice of the initiation of the investigation or site evaluation of any area reasonably suspected to have been contaminated by the operation of a lead-acid battery recycling facility. The public notice shall provide a summary of the information relied on by the department, including, but not limited to, copies of any information or documents currently in the department's possession that indicate that the facility might not be a lead-acid battery recycling facility, if subject to disclosure pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code). The department shall accept comments or information that the public submits within 90 days after issuance of the public notice required by this subdivision and, before the department completes its investigation pursuant to subdivision (c), shall review and provide written responses to any comments or information submitted.

(c) (1) Upon completion of an investigation or site evaluation conducted pursuant to subdivision (b), the department, consistent with procedures included within the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), shall provide notice and an opportunity for comment on the proposed designation of a site as determined with reasonable certainty to have been contaminated by releases from the operation of a lead-acid battery recycling facility. Reasonable certainty shall be established based on all reasonably available information, including information provided by the public, to conclude that the contamination in a specific area was from the lead-acid battery recycling facility.

(2) Any proposed designation, as described in paragraph (1), shall include an explanation of the basis for the department's designation, a summary of the evidence relied on by the department in reaching the proposed designation, including the assumptions and methodologies the department used to attribute any contamination to the lead-acid battery recycling facility, and including information indicating that the facility may not be a lead-acid battery recycling facility, and copies of any information or documents relied

on during the investigation and evaluation of the site, if subject to disclosure pursuant to the California Public Records Act.

(3) The department shall accept comments from the public consistent with the procedures included within the Administrative Procedure Act. The department shall evaluate, investigate, if appropriate, and respond to any reliable information provided by the public indicating that the area was not contaminated by the operation of a lead-acid battery recycling facility, or that the facility in question was not involved in the recycling of lead-acid batteries.

(4) A site designation shall be considered a final action, subject to judicial review in the same manner as provided pursuant to the Administrative Procedure Act.

(d) (1) If, within two years of a public notice required by subdivision (b), the department is unable to designate a site as determined with reasonable certainty to have been contaminated by releases from the operation of a lead-acid battery recycling facility, the public notice shall be deemed to have been withdrawn and expenditure pursuant to subparagraph (A) of paragraph (1) of subdivision (b) of Section 25215.5 for purposes of further investigation or evaluation for the site shall no longer be authorized, except as provided in paragraph (3).

(2) No less than 30 days before the deadline established pursuant to paragraph (1), the department may extend the deadline for the completion of an investigation initiated pursuant to subdivision (b), with good cause shown and adequate public notice of the basis for that extension, by up to three months, and may extend the deadline additional times in increments of up to three months, not to exceed one year after the deadline established pursuant to paragraph (1) in total.

(3) The department may, within its discretion, issue a new public notice pursuant to subdivision (b) for a site if the department determines that new evidence warrants continued or renewed investigation or evaluation of the site.

(e) Information regarding the department's progress in implementing this section shall be included in the report required by subdivision (c) of Section 25215.5.

SEC. 251. Section 25257 of the Health and Safety Code is amended to read:

25257. (a) A person providing information pursuant to this article may, at the time of submission, identify a portion of the information submitted to the department as a trade secret and, upon the written request of the department, shall provide support for the claim that the information is a trade secret. Except as provided in subdivision (d), a state agency shall not release to the public, subject information supplied pursuant to this article that is a trade secret, and that is so identified at the time of submission, in accordance with Sections 7924.510 and 7924.700 of the Government Code and Section 1060 of the Evidence Code.

(b) This section does not prohibit the exchange of a properly designated trade secret between public agencies, if the trade secret is relevant and

necessary to the exercise of the agency's jurisdiction and the public agency exchanging the trade secrets complies with this section. An employee of the department that has access to a properly designated trade secret shall maintain the confidentiality of that trade secret by complying with this section.

(c) Information not identified as a trade secret pursuant to subdivision (a) shall be available to the public unless exempted from disclosure by other provisions of law. The fact that information is claimed to be a trade secret is public information.

(d) (1) Upon receipt of a request for the release of information that has been claimed to be a trade secret, the department shall immediately notify the person who submitted the information. Based on the request, the department shall determine whether or not the information claimed to be a trade secret is to be released to the public.

(2) The department shall make the determination specified in paragraph (1), no later than 60 days after the date the department receives the request for disclosure, but not before 30 days following the notification of the person who submitted the information.

(3) If the department decides that the information requested pursuant to this subdivision should be made public, the department shall provide the person who submitted the information 30 days' notice prior to public disclosure of the information, unless, prior to the expiration of the 30-day period, the person who submitted the information obtains an action in an appropriate court for a declaratory judgment that the information is subject to protection under this section or for a preliminary injunction prohibiting disclosure of the information to the public and promptly notifies the department of that action.

(e) This section does not authorize a person to refuse to disclose to the department information required to be submitted to the department pursuant to this article.

(f) This section does not apply to hazardous trait submissions for chemicals and chemical ingredients pursuant to this article.

SEC. 252. Section 25358.7 of the Health and Safety Code is amended to read:

25358.7. (a) The department or the regional board, as appropriate, shall take the actions specified in this section to provide an opportunity for meaningful public participation in response actions undertaken for sites listed pursuant to Section 25356.

(b) The department, or the regional board, as appropriate, shall inform the public, and in particular, persons living in close proximity to a hazardous substance release site listed pursuant to Section 25356, of the existence of the site and the department's or regional board's intention to conduct a response action at the site, and shall conduct a baseline community survey to determine the level of public interest and desire for involvement in the department's or regional board's activities, and to solicit concerns and information regarding the site from the affected community. Based on the results of the baseline survey, the department or regional board shall develop

a public participation plan that shall establish appropriate communication and outreach measures commensurate with the level of interest expressed by survey respondents. The public participation plan shall be updated as necessary to reflect any significant changes in the degree of public interest as the site investigation and cleanup process moves toward completion.

(c) The department or regional board shall provide any person affected by a response action undertaken for sites listed pursuant to Section 25356 with the opportunity to participate in the department's or regional board's decisionmaking process regarding that action by taking all of the following actions:

(1) Provide access to information that the department or regional board is required to release pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), relating to the action, except for the following:

(A) Trade secrets, as defined in subdivision (a) of Section 25358.2.

(B) Business financial data and information, as specified in subdivision (c) of Section 25358.6.

(C) Information that the department or regional board is prohibited from releasing pursuant to any state or federal law.

(2) Provide factsheets, based on the expressed level of public interest, regarding plans to conduct the major elements of the site investigation and response actions. The factsheets shall present the relevant information in nontechnical language and shall be detailed enough to provide interested persons with a good understanding of the planned activities. The factsheets shall be made available in languages other than English if appropriate.

(3) Provide notification, upon request, of any public meetings held by the department or regional board concerning the action.

(4) Provide the opportunity to attend and to participate at those public meetings.

(5) Based on the results of the baseline community survey, provide opportunities for public involvement at key stages of the response action process, including the health risk assessment, the preliminary assessment, the site inspection, the remedial investigation, and the feasibility study stages of the process. If the department or regional board determines that public meetings or other opportunities for public comment are not appropriate at any of the stages listed in this section, the department or regional board shall provide notice of that decision to the affected community.

(d) The department or regional board shall develop and make available to the public a schedule of activities for each site for which remedial action is expected to be taken by the department or regional board pursuant to this chapter and shall make available to the public any plan provided to the department or regional board by any responsible party, unless the department is prohibited from releasing the information pursuant to any state or federal law.

(e) In making decisions regarding the methods to be used for removal or remedial actions taken pursuant to this chapter, the department or regional

board shall incorporate or respond in writing to the advice of persons affected by the actions.

(f) This section does not apply to emergency actions taken pursuant to Section 25354.

SEC. 253. Section 25501 of the Health and Safety Code is amended to read:

25501. Unless the context indicates otherwise, the following definitions govern the construction of this article:

(a) "Agricultural handler" means a business operating a farm that is subject to the exemption specified in Section 25507.1.

(b) "Area plan" means a plan established pursuant to Section 25503 by a unified program agency for emergency response to a release or threatened release of a hazardous material within a city or county.

(c) "Business" means all of the following:

(1) An employer, self-employed individual, trust, firm, joint stock company, corporation, partnership, limited liability partnership or company, or other business entity.

(2) A business organized for profit and a nonprofit business.

(3) The federal government, to the extent authorized by law.

(4) An agency, department, office, board, commission, or bureau of state government, including, but not limited to, the campuses of the California Community Colleges, the California State University, and the University of California.

(5) An agency, department, office, board, commission, or bureau of a city, county, or district.

(6) A handler that operates or owns a unified program facility.

(d) "Business plan" means a separate plan for each unified program facility, site, or branch of a business that meets the requirements of Section 25505.

(e) (1) "Certified unified program agency" or "CUPA" means the agency certified by the secretary to implement the unified program specified in Chapter 6.11 (commencing with Section 25404) within a jurisdiction.

(2) "Participating agency" or "PA" means an agency that has a written agreement with the CUPA pursuant to subdivision (d) of Section 25404.3, and is approved by the secretary, to implement or enforce one or more of the unified program elements specified in paragraphs (4) and (5) of subdivision (c) of Section 25404, in accordance with Sections 25404.1 and 25404.2.

(3) "Unified program agency" or "UPA" means the CUPA, or its participating agencies to the extent each PA has been designated by the CUPA, pursuant to a written agreement, to implement or enforce a particular unified program element specified in paragraphs (4) and (5) of subdivision (c) of Section 25404. For purposes of this article and Article 2 (commencing with Section 25531), the UPAs have the responsibility and authority, to the extent provided by this article and Article 2 (commencing with Section 25531) and Sections 25404.1 and 25404.2, to implement and enforce only

those requirements of this article and Article 2 (commencing with Section 25531) listed in paragraphs (4) and (5) of subdivision (c) of Section 25404.

(4) The UPAs also have the responsibility and authority, to the extent provided by this article and Article 2 (commencing with Section 25531) and Sections 25404.1 and 25404.2, to implement and enforce the regulations adopted to implement the requirements of this article and Article 2 (commencing with Section 25531) listed in paragraphs (4) and (5) of subdivision (c) of Section 25404. After a CUPA has been certified by the secretary, the unified program agencies shall be the only local agencies authorized to enforce the requirements of this article and Article 2 (commencing with Section 25531) listed in paragraphs (4) and (5) of subdivision (c) of Section 25404 within the jurisdiction of the CUPA.

(f) "City" includes any city and county.

(g) "Chemical name" means the scientific designation of a substance in accordance with the nomenclature system developed by the International Union of Pure and Applied Chemistry or the system developed by the Chemical Abstracts Service.

(h) "Common name" means any designation or identification, such as a code name, code number, trade name, or brand name, used to identify a substance by other than its chemical name.

(i) "Compressed gas" means a material, or mixture of materials, that meets either of the following:

(1) The definition of compressed gas or cryogenic fluid found in the California Fire Code.

(2) Compressed gas that is regulated pursuant to Part 1 (commencing with Section 6300) of Division 5 of the Labor Code.

(j) "Consumer product" means a commodity used for personal, family, or household purposes, or is present in the same form, concentration, and quantity as a product prepackaged for distribution to and use by the general public.

(k) "Emergency response personnel" means a public employee, including, but not limited to, a firefighter or emergency rescue personnel, as defined in Section 245.1 of the Penal Code, or personnel of a local emergency medical services (EMS) agency, as designated pursuant to Section 1797.200, who is responsible for response, mitigation, or recovery activities in a medical, fire, or hazardous material incident, or natural disaster where public health, public safety, or the environment may be impacted.

(*l*) "Handle" means all of the following:

(1) (A) To use, generate, process, produce, package, treat, store, emit, discharge, or dispose of a hazardous material in any fashion.

(B) For purposes of subparagraph (A), "store" does not include the storage of hazardous materials incidental to transportation, as defined in Title 49 of the Code of Federal Regulations, with regard to the inventory requirements of Section 25506.

(2) (A) The use or potential use of a quantity of hazardous material by the connection of a marine vessel, tank vehicle, tank car, or container to a system or process for any purpose.

(B) For purposes of subparagraph (A), the use or potential use does not include the immediate transfer to or from an approved atmospheric tank or approved portable tank that is regulated as loading or unloading incidental to transportation by Title 49 of the Code of Federal Regulations.

(m) "Handler" means a business that handles a hazardous material.

(n) (1) "Hazardous material" means a material listed in paragraph (2) that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment, or a material specified in an ordinance adopted pursuant to paragraph (3).

(2) Hazardous materials include all of the following:

(A) A substance or product for which the manufacturer or producer is required to prepare a material safety data sheet pursuant to the Hazardous Substances Information and Training Act (Chapter 2.5 (commencing with Section 6360) of Part 1 of Division 5 of the Labor Code) or pursuant to any applicable federal law or regulation.

(B) A substance listed as a radioactive material in Appendix B of Part 30 (commencing with Section 30.1) of Title 10 of the Code of Federal Regulations, as maintained and updated by the Nuclear Regulatory Commission.

(C) A substance listed pursuant to Title 49 of the Code of Federal Regulations.

(D) A substance listed in Section 339 of Title 8 of the California Code of Regulations.

(E) A material listed as a hazardous waste, as defined by Sections 25115, 25117, and 25316.

(3) The governing body of a unified program agency may adopt an ordinance that provides that, within the jurisdiction of the unified program agency, a material not listed in paragraph (2) is a hazardous material for purposes of this article if a handler has a reasonable basis for believing that the material would be injurious to the health and safety of persons or harmful to the environment if released into the workplace or the environment, and requests the governing body of the unified program agency to adopt that ordinance, or if the governing body of the unified program agency has a reasonable basis for believing that the material would be injurious to the health and safety of persons or harmful to the environment if released into the workplace or the environment. The handler or the unified program agency shall notify the secretary no later than 30 days after the date an ordinance is adopted pursuant to this paragraph.

(o) "Office" means the Office of Emergency Services.

(p) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, unless permitted or authorized by a regulatory agency.

(q) "Retail establishment" means a business that sells consumer products prepackaged for distribution to, and intended for use by, the general public. A retail establishment may include storage areas or storerooms in

establishments that are separated from shelves for display areas but maintained within the physical confines of the retail establishments. A retail establishment does not include a pest control dealer, as defined in Section 11407 of the Food and Agricultural Code.

(r) "Secretary" means the Secretary for Environmental Protection.

(s) "Statewide information management system" means the statewide information management system established pursuant to subdivision (e) of Section 25404 that provides for the combination of state and local information management systems for the purposes of managing unified program data.

(t) "Threatened release" means a condition, circumstance, or incident making it necessary to take immediate action to prevent, reduce, or mitigate a release with the potential to cause damage or harm to persons, property, or the environment.

(u) "Trade secret" means trade secrets as defined in either subdivision (f) of Section 7924.510 of the Government Code or Section 1061 of the Evidence Code.

(v) "Unified program facility" means all contiguous land and structures, other appurtenances, and improvements on the land that are subject to the requirements of paragraphs (4) and (5) of subdivision (c) of Section 25404. For purposes of this article, "facility" has the same meaning as unified program facility.

SEC. 254. Section 25512 of the Health and Safety Code is amended to read:

25512. (a) As used in this section, "trade secret" means a trade secret as defined in either subdivision (f) of Section 7924.510 of the Government Code or Section 1061 of the Evidence Code.

(b) (1) If a business believes that the inventory required by this article involves the release of a trade secret, the business shall nevertheless provide this information to the unified program agency, and shall notify the unified program agency in writing of that belief on the inventory form.

(2) Subject to subdivisions (d) and (e), the unified program agency shall protect from disclosure any information designated as a trade secret by the business pursuant to paragraph (1).

(c) (1) Upon the receipt of a request for the release of information to the public that includes information that the business has notified the unified program agency is a trade secret pursuant to paragraph (1) of subdivision (b), the unified program agency shall notify the business in writing of the request by certified mail, return receipt requested.

(2) The unified program agency shall release the requested information to the public 30 days or more after the date of mailing to the business the notice of the request for information, unless, prior to the expiration of the 30-day period, the business files an action in an appropriate court for a declaratory judgment that the information is subject to protection under subdivision (b) or for an injunction prohibiting disclosure of the information to the public, and promptly notifies the unified program agency of that action.

(3) This subdivision does not permit a business to refuse to disclose the information required pursuant to this section to the unified program agency.

(d) Except as provided in subdivision (c), any information that has been designated as a trade secret by a business is confidential information for purposes of this section and shall not be disclosed to anyone except the following:

(1) An officer or employee of the county, city, state, or the United States, in connection with the official duties of that officer or employee under any law for the protection of health, or contractors with the county, city, or state and their employees if, in the opinion of the unified program agency, disclosure is necessary and required for the satisfactory performance of a contract, for performance of work, or to protect the health and safety of the employees of the contractor.

(2) A physician if the physician certifies in writing to the unified program agency that the information is necessary to the medical treatment of the physician's patient.

(e) A physician who, by virtue of having obtained possession of, or access to, confidential information, and who, knowing that disclosure of the information to the general public is prohibited by this section, knowingly and willfully discloses the information in any manner to a person not entitled to receive it, is guilty of a misdemeanor.

(f) An officer or employee of the county or city, or former officer or employee who, by virtue of that employment or official position, has possession of, or has access to, confidential information, and who, knowing that disclosure of the information to the general public is prohibited by this section, knowingly and willfully discloses the information in any manner to a person not entitled to receive it, is guilty of a misdemeanor. A contractor with the county or city and an employee of the contractor, who has been furnished information as authorized by this section, shall be considered an employee of the county or city for purposes of this section.

SEC. 255. Section 25538 of the Health and Safety Code is amended to read:

25538. (a) If a stationary source believes that any information required to be reported, submitted, or otherwise provided to the administering agency pursuant to this article involves the release of a trade secret, the stationary source shall provide the information to the administering agency and shall notify the administering agency in writing of that belief. Upon receipt of a claim of trade secret related to an RMP, the administering agency shall review the claim and shall segregate properly substantiated trade secret information from information that shall be made available to the public upon request in accordance with the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code). As used in this section, "trade secret" has the same meaning as in subdivision (f) of Section 7924.510 of the Government Code and Section 1060 of the Evidence Code.

(b) Except as otherwise specified in this section, the administering agency may not disclose any properly substantiated trade secret that is so designated by the owner or operator of a stationary source.

(c) The administering agency may disclose trade secrets received by the administering agency pursuant to this article to authorized officers or employees of other governmental agencies only in connection with the official duties of that officer or employee pursuant to any law for the protection of health and safety.

(d) Any officer or employee or former officer or employee of the administering agency or any other government agency who, because of that employment or official position, has possession of or access to information designated as a trade secret pursuant to this section shall not knowingly and willfully disclose the information in any manner to any person not authorized to receive the information pursuant to this section. Notwithstanding Section 25515, any person who violates this subdivision, and who knows that disclosure of this information to the general public is prohibited by the section, shall, upon conviction, be punished by imprisonment in the county jail for not more than six months or by a fine of not more than one thousand dollars ($1,000), or by both that fine and imprisonment.

(e) Any information prohibited from disclosure pursuant to any federal statute or regulation shall not be disclosed.

(f) This section does not authorize any stationary source to refuse to disclose to the administering agency any information required pursuant to this article.

(g) (1) Upon receipt of a request for the release of information to the public that includes information that the stationary source has notified the administering agency is a trade secret pursuant to subdivision (a), the administering agency shall notify the stationary source in writing of the request by certified mail, return receipt requested. The owner or operator of the stationary source shall have 30 days from receipt of the notification to provide the administering agency with any materials or information intended to supplement the information submitted pursuant to subdivision (a) and needed to substantiate the claim of trade secret. The administering agency shall review the claim of trade secret and shall determine whether the claim is properly substantiated.

(2) The administering agency shall inform the stationary source in writing, by certified mail, return receipt requested, of any determination by the administering agency that some, or all, of a claim of trade secret has not been substantiated. Not earlier than 30 days after the receipt by a stationary source of notice of the determination, the administering agency shall release the information to the public, unless, prior to the expiration of the 30-day period, the stationary source files an action in an appropriate court for a declaratory judgment that the information is subject to protection under subdivision (b) or for an injunction prohibiting disclosure of the information to the public, and promptly notifies the administering agency of that action.

SEC. 256. Section 25968 of the Health and Safety Code is amended to read:

25968. (a) The State Department of Health Services shall annually obtain from the federal Food and Drug Administration any condom testing data, developed under Compliance Policy Guide 7124.21, which is publicly available.

(b) The state department shall make this information available pursuant to the provisions of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

SEC. 257. Section 34191.55 of the Health and Safety Code is amended to read:

34191.55. (a) A beneficiary district shall comply with the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code) and the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(b) When a beneficiary district ceases to exist pursuant to subdivision (b) of Section 34191.35, a public record of the beneficiary district shall be the property of the city or county that rejected its distributions of property tax revenues pursuant to Section 34191.45.

SEC. 258. Section 39660 of the Health and Safety Code is amended to read:

39660. (a) Upon the request of the state board, the office, in consultation with and with the participation of the state board, shall evaluate the health effects of and prepare recommendations regarding substances, other than pesticides in their pesticidal use, which may be or are emitted into the ambient air of California and that may be determined to be toxic air contaminants.

(b) In conducting this evaluation, the office shall consider all available scientific data, including, but not limited to, relevant data provided by the state board, the State Department of Health Services, the Occupational Safety and Health Division of the Department of Industrial Relations, the Department of Pesticide Regulation, international and federal health agencies, private industry, academic researchers, and public health and environmental organizations. The evaluation shall be performed using current principles, practices, and methods used by public health professionals who are experienced practitioners in the fields of epidemiology, human health effects assessment, risk assessment, and toxicity.

(c) (1) The evaluation shall assess the availability and quality of data on health effects, including potency, mode of action, and other relevant biological factors, of the substance, and shall, to the extent that information is available, assess all of the following:

(A) Exposure patterns among infants and children that are likely to result in disproportionately high exposure to ambient air pollutants in comparison to the general population.

(B) Special susceptibility of infants and children to ambient air pollutants in comparison to the general population.

(C) The effects on infants and children of exposure to toxic air contaminants and other substances that have a common mechanism of toxicity.

(D) The interaction of multiple air pollutants on infants and children, including the interaction between criteria air pollutants and toxic air contaminants.

(2) The evaluation shall also contain an estimate of the levels of exposure that may cause or contribute to adverse health effects. If it can be established that a threshold of adverse health effects exists, the estimate shall include both of the following factors:

(A) The exposure level below which no adverse health effects are anticipated.

(B) An ample margin of safety that accounts for the variable effects that heterogeneous human populations exposed to the substance under evaluation may experience, the uncertainties associated with the applicability of the data to human beings, and the completeness and quality of the information available on potential human exposure to the substance. In cases in which there is no threshold of significant adverse health effects, the office shall determine the range of risk to humans resulting from current or anticipated exposure to the substance.

(3) The scientific basis or scientific portion of the method used by the office to assess the factors set forth in this subdivision shall be reviewed in a manner consistent with this chapter by the Scientific Review Panel on Toxic Air Contaminants established pursuant to Article 5 (commencing with Section 39670). Any person may submit any information for consideration by the panel, which may receive oral testimony.

(d) The office shall submit its written evaluation and recommendations to the state board within 90 days after receiving the request of the state board pursuant to subdivision (a). The office may, however, petition the state board for an extension of the deadline, not to exceed 30 days, setting forth its statement of the reasons that prevent the office from completing its evaluation and recommendations within 90 days. Upon receipt of a request for extension of, or noncompliance with, the deadline contained in this section, the state board shall immediately transmit to the Assembly Committee on Rules and the Senate Committee on Rules, for transmittal to the appropriate standing, select, or joint committee of the Legislature, a statement of reasons for extension of the deadline, along with copies of the office's statement of reasons that prevent it from completing its evaluation and recommendations in a timely manner.

(e) (1) The state board or a district may request, and any person shall provide, information on any substance that is or may be under evaluation and that is manufactured, distributed, emitted, or used by the person of whom the request is made, in order to carry out its responsibilities pursuant to this chapter. To the extent practical, the state board or a district may collect the information in aggregate form or in any other manner designed to protect trade secrets.

(2) Any person providing information pursuant to this subdivision may, at the time of submission, identify a portion of the information submitted to the state board or a district as a trade secret and shall support the claim of a trade secret, upon the written request of the state board or district board. Subject to Section 1060 of the Evidence Code, information supplied that is a trade secret, as specified in Section 7924.510 of the Government Code, and that is so marked at the time of submission, shall not be released to any member of the public. This section does not prohibit the exchange of properly designated trade secrets between public agencies when those trade secrets are relevant and necessary to the exercise of their jurisdiction if the public agencies exchanging those trade secrets preserve the protections afforded that information by this paragraph.

(3) Any information not identified as a trade secret shall be available to the public unless exempted from disclosure by other provisions of law. The fact that information is claimed to be a trade secret is public information. Upon receipt of a request for the release of information that has been claimed to be a trade secret, the state board or district shall immediately notify the person who submitted the information, and shall determine whether or not the information claimed to be a trade secret is to be released to the public. The state board or district board, as the case may be, shall make its determination within 60 days after receiving the request for disclosure, but not before 30 days following the notification of the person who submitted the information. If the state board or district decides to make the information public, it shall provide the person who submitted the information 10 days' notice prior to public disclosure of the information.

(f) The office and the state board shall give priority to the evaluation and regulation of substances based on factors related to the risk of harm to public health, amount or potential amount of emissions, manner of, and exposure to, usage of the substance in California, persistence in the atmosphere, and ambient concentrations in the community. In determining the importance of these factors, the office and the state board shall consider all of the following information, to the extent that it is available:

(1) Research and monitoring data collected by the state board and the districts pursuant to Sections 39607, 39617.5, 39701, and 40715, and by the United States Environmental Protection Agency pursuant to paragraph (2) of subsection (k) of Section 112 of the federal act (42 U.S.C. Sec. 7412(k)(2)).

(2) Emissions inventory data reported for substances subject to Part 6 (commencing with Section 44300) and the risk assessments prepared for those substances.

(3) Toxic chemical release data reported to the state emergency response commission pursuant to Section 313 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. Sec. 11023) and Section 6607 of the Pollution Prevention Act of 1990 (42 U.S.C. Sec. 13106).

(4) Information on estimated actual exposures to substances based on geographic and demographic data and on data derived from analytical

methods that measure the dispersion and concentrations of substances in ambient air.

SEC. 259. Section 40440.5 of the Health and Safety Code is amended to read:

40440.5. (a) Notice of the time and place of a public hearing of the south coast district board to adopt, amend, or repeal any rule or regulation relating to an air quality objective shall be given not less than 30 days prior thereto and, notwithstanding subdivision (b) of Section 40725, shall be published in each county in the south coast district in accordance with the requirements of Section 6061 of the Government Code. The period of notice shall commence on the first day of publication.

(b) In addition to the requirements of subdivision (b) of Section 40725, notice shall be mailed to every person who filed a written request for notice of proposed regulatory action with the south coast district, every person who requested notice for, or registered at, the workshop, if any, held in connection with the development of the proposed rule or regulation, and any person the south coast district believes to be interested in the proposed rule or regulation. The inadvertent failure to mail notice to any particular person as provided in this subdivision shall not invalidate any action taken by the south coast district board.

(c) In addition to the summary description of the effect of the proposal, as required by subdivision (b) of Section 40725, the notice shall include the following:

(1) A description of the air quality objective that the proposed rule or regulation is intended to achieve and the reason or reasons for the proposed rule or regulation.

(2) A list of supporting information, documents, and other materials relevant to the proposed rule or regulation, prepared by the south coast district or at its direction, any environmental assessment, and the name, address, and telephone number of the district officer or employee from whom copies of the materials may be obtained.

(3) A statement that a staff report on the proposed rule or regulation has been prepared, and the name, address, and telephone number of the district officer or employee from whom a copy of the report may be obtained. Whenever the proposed rule or regulation will significantly affect air quality or emissions limitations, the staff report shall include the full text of the proposed rule or regulation, an analysis of alternative control measures, a list of reference materials used in developing the proposed rule or regulation, an environmental assessment, exhibits, and draft findings for consideration by the south coast district board pursuant to Section 40727. Further, if an environmental assessment is prepared, the staff report shall also include social, economic, and public health analyses.

(d) Regardless of whether a workshop was previously conducted on the subject of the proposed rule or regulation, the south coast district may conduct one or more supplemental workshops prior to the public hearing on the proposed rule or regulation.

(e) If the south coast district board makes changes in the text of the proposed rule or regulation that was the subject of notice given pursuant to this section, further consideration of the rule or regulation shall be governed by Section 40726.

(f) This section is not intended to change, and shall not be construed as changing, any entitlement or protection conferred by the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

SEC. 260. Section 40440.7 of the Health and Safety Code is amended to read:

40440.7. (a) Whenever the south coast district intends to propose the adoption, amendment, or repeal of a rule or regulation that will significantly affect air quality or emissions limitations, the south coast district shall conduct one or more public workshops.

(b) Notice of the time and place of the first workshop shall be given not less than 75 days prior to the meeting at which the south coast district board will consider the proposed rule or regulation by publication in each county in the south coast district pursuant to Section 6061 of the Government Code and by mail to every person who filed a written request for notice of proposed regulatory action with the south coast district and any person the south coast district believes to be interested in attending the workshop.

(c) The notice shall include at least the following:

(1) A description of the air quality objective to be discussed.

(2) A statement that the workshop is being held for the purposes of soliciting information and suggestions from the public on achieving the air quality objective.

(3) A request for submittal of any documents, studies, and reports that may be relevant to the subject of the workshop, and the name, address, and telephone number of the district officer or employee to whom they should be sent.

(4) A list of supporting information and documents, including a preliminary staff report, prepared by the south coast district or at its direction, and other materials relevant to the subject of the workshop that are available, and the name, address, and telephone number of the district officer or employee from whom copies of the materials may be obtained.

(d) If the south coast district thereafter proposes the adoption, amendment, or repeal of a rule or regulation that was the subject of a workshop, the south coast district shall respond to all written comments submitted during the workshop in preparing the environmental assessment on the proposed rule or regulation.

(e) The time and place for a workshop shall be selected on the basis of affording an opportunity to participate to the greatest number of persons expected to be interested in the workshop.

(f) The requirements of this section are not intended to restrict the south coast district in conducting other public workshops and other meetings for the exchange of information under circumstances not specifically addressed in this section.

(g) A workshop or other meeting shall not constitute consideration of a "regulatory measure" within the meaning of Section 40923.

(h) This section is not intended to change, and shall not be construed as changing, any entitlement or protection conferred by the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

SEC. 261. Section 42303.2 of the Health and Safety Code is amended to read:

42303.2. (a) (1) An air pollution control officer, at any time, may, for the purpose of permitting or enforcement actions, require from the in-state or out-of-state supplier, wholesaler, or distributor of volatile organic compounds or chemical substances the use of which results in air contaminants subject to regulation or enforcement by the district, customer lists and chemical types and quantities of those compounds and substances as specified by the district pursuant to subdivision (b) that are purchased by, or on order for, a specified source operator within the district.

(2) The supplier, wholesaler, or distributor shall disclose the information required pursuant to this section to the district.

(b) Prior to implementing subdivision (a), an air pollution control officer shall prepare a comprehensive list of volatile organic compounds or chemical substances, the use of which results in the emission of air contaminants that are subject to regulation or enforcement by the district.

(c) (1) Any officer or employee of the district or of a district contractor, or former officer or employee, who, by virtue of that employment or official position has possession of, or has access to, any confidential information that is a trade secret, customer list, or supplier name acquired pursuant to this section, and who, knowing that the disclosure of the information to the general public is prohibited by this section, knowingly and willfully discloses the information in any manner to any person not entitled to receive it, is guilty of a misdemeanor punishable by a six month county jail term and a fine not to exceed one thousand dollars ($1,000).

(2) Any officer or employee of the district or of a district contractor, or former officer or employee, who, by virtue of that employment or official position has possession of, or has access to, any other confidential information acquired pursuant to this section, and who, knowing that the disclosure of the information to the general public is prohibited by this section, knowingly and willfully discloses the information in any manner to any person not entitled to receive it, is guilty of a misdemeanor punishable by a 10-day county jail term or a fine not to exceed five hundred dollars ($500).

(d) The penalties provided in subdivision (c) shall be in addition to any existing civil penalties and remedies available under the law.

(e) Except for the purposes of any enforcement or permit action, and except for information obtained from an independent source, all information received or compiled by an air pollution control officer from a supplier, wholesaler, or distributor pursuant to subdivision (a) is confidential for the

purposes of Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code, and shall not be disclosed.

SEC. 262. Section 44346 of the Health and Safety Code is amended to read:

44346. (a) If an operator believes that any information required in the facility diagram specified pursuant to subdivision (b) of Section 44342 involves the release of a trade secret, the operator shall nevertheless make the disclosure to the district, and shall notify the district in writing of that belief in the report.

(b) Subject to this section, the district shall protect from disclosure any trade secret designated as a trade secret by the operator, if that trade secret is not a public record.

(c) Upon receipt of a request for the release of information to the public that includes information that the operator has notified the district is a trade secret and that is not a public record, the following procedure applies:

(1) The district shall notify the operator of the request in writing by certified mail, return receipt requested.

(2) The district shall release the information to the public, but not earlier than 30 days after the date of mailing the notice of the request for information, unless, prior to the expiration of the 30-day period, the operator obtains an action in an appropriate court for a declaratory judgment that the information is subject to protection under this section or for a preliminary injunction prohibiting disclosure of the information to the public and promptly notifies the district of that action.

(d) This section does not permit an operator to refuse to disclose the information required pursuant to this part to the district.

(e) Any information determined by a court to be a trade secret, and not a public record pursuant to this section, shall not be disclosed to anyone except an officer or employee of the district, the state, or the United States, in connection with the official duties of that officer or employee under any law for the protection of health, or to contractors with the district or the state and its employees if, in the opinion of the district or the state, disclosure is necessary and required for the satisfactory performance of a contract, for performance of work, or to protect the health and safety of the employees of the contractor.

(f) Any officer or employee of the district or former officer or employee who, by virtue of that employment or official position, has possession of, or has access to, any trade secret subject to this section, and who, knowing that disclosure of the information to the general public is prohibited by this section, knowingly and willfully discloses the information in any manner to any person not entitled to receive it is guilty of a misdemeanor. Any contractor of the district and any employee of the contractor, who has been furnished information as authorized by this section, shall be considered an employee of the district for purposes of this section.

(g) Information certified by appropriate officials of the United States as necessary to be kept secret for national defense purposes shall be accorded

the full protections against disclosure as specified by those officials or in accordance with the laws of the United States.

(h) As used in this section, "trade secret" and "public record" have the meanings and protections given to them by Sections 7924.510 and 7924.700 of the Government Code and Section 1060 of the Evidence Code. All information collected pursuant to this chapter, except for data used to calculate emissions data required in the facility diagram, shall be considered "air pollution emission data," for the purposes of this section.

SEC. 263. Section 50220.6 of the Health and Safety Code is amended to read:

50220.6. (a) Notwithstanding any law, a recipient that enters into an agreement as set forth in paragraph (10) of subdivision (a) of Section 50219 and paragraph (7) of subdivision (b) of Section 50220.5 shall provide data elements, including, but not limited to, health information, in a manner consistent with federal law, to the statewide Homeless Management Information System when the system becomes available.

(b) (1) The council shall specify the form and substance of the required data elements.

(2) The council may, as required by operational necessity, amend or modify data elements, disclosure formats, or disclosure frequency.

(c) Any health information provided to, or maintained within, the statewide Homeless Management Information System shall not be subject to public inspection or disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(d) For purposes of this paragraph, "health information" means "protected health information," as defined in Part 160.103 of Title 45 of the Code of Federal Regulations, and "medical information," as defined in subdivision (j) of Section 56.05 of the Civil Code.

SEC. 264. Section 50222 of the Health and Safety Code is amended to read:

50222. (a) Beginning in 2021, in addition to the data required on the report under Section 50221, applicants shall provide the following information for both rounds of program allocations through a data collection, reporting, performance monitoring, and accountability framework, as established by the council:

(1) Data collection shall include, but not be limited to, information regarding individuals and families served, including demographic information, information regarding partnerships among entities or lack thereof, and participant and regional outcomes.

(2) The performance monitoring and accountability framework shall include clear metrics, which may include, but are not limited to, the following:

(A) The number of individual exits to permanent housing, as defined by the United States Department of Housing and Urban Development, from unsheltered environments and interim housing resulting from this funding.

(B) Racial equity, as defined by the council in consultation with representatives of state and local agencies, service providers, the Legislature, and other stakeholders.

(C) Any other metrics deemed appropriate by the council and developed in coordination with representatives of state and local agencies, advocates, service providers, and the Legislature.

(3) Data collection and reporting requirements shall support the efficient and effective administration of the program and enable the monitoring of jurisdiction performance and program outcomes.

(b) Based on the data collection, reporting, performance monitoring, and accountability framework established by the council pursuant to subdivision (a), all recipients of a program allocation, no later than January 1 of the year following receipt of funds, and annually on that date thereafter until all funds have been expended, shall submit a report to the council in a format provided by the council.

(c) No later than January 1, 2027, each recipient that receives a round 2 program allocation shall submit to the council a final report in a format provided by the council, as well as detailed uses of all program funds.

(d) Data collection and data sharing pursuant to this chapter shall be conducted and maintained in accordance with all applicable state and federal privacy and confidentiality laws and regulations.

(e) The client information and records of services provided pursuant to this chapter shall be subject to the requirements of Section 10850 of the Welfare and Institutions Code and shall be exempt from inspection under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Part 1 of the Government Code).

(f) Notwithstanding any other law, data collected through the administration and operation of this chapter shall be captured based on the Homeless Management Information System data standards set forth by the United States Department of Housing and Urban Development and by any other means specified by the council, and may be shared with other programs to maximize the efficient and effective provision of public benefits and services, and to evaluate this chapter or its impact on other public benefit and services programs.

SEC. 265. Section 51615 of the Health and Safety Code is amended to read:

51615. (a) Division 10 (commencing with Section 7920.000) of Title 1 of, and Article 9 (commencing with Section 11120) of Chapter 1 of, Chapter 3.5 (commencing with Section 11340) of, Chapter 4 (commencing with Section 11370) of, and Chapter 5 (commencing with Section 11500) of, Part 1 of Division 3 of Title 2 of, the Government Code shall apply to the agency with respect to the administration of the insurance fund.

(b) Notwithstanding subdivision (a), the provisions described in that subdivision shall not apply to any of the following:

(1) The agency's activities and records relating to establishing rates and premiums.

(2) Bids or contracts for insurance, coinsurance, and reinsurance.

(3) Other matters necessary to maintain the competitiveness of the agency in the mortgage insurance industry, including, but not limited to, the development of financial products.

SEC. 266. Section 57020 of the Health and Safety Code is amended to read:

57020. (a) Notwithstanding Sections 7924.510 and 7924.700 of the Government Code, if a manufacturer believes that information provided to a state agency pursuant to Section 57019 involves the release of a trade secret, the manufacturer shall make the disclosure to the state agency and notify the state agency in writing of that belief. In its written notice, the manufacturer shall identify the portion of the information submitted to the state agency that it believes is a trade secret and provide documentation supporting its conclusion.

(b) Subject to this section, the state agency shall protect from disclosure a trade secret designated as a trade secret by the manufacturer, if that trade secret is not a public record.

(c) Upon receipt of a request for the release of information to the public that includes information that the manufacturer has notified the state agency is a trade secret and that is not a public record, the following procedure applies:

(1) The state agency shall notify the manufacturer that disclosed the information to the state agency of the request, in writing by certified mail, return receipt requested.

(2) The state agency shall release the information to the public, but not earlier than 30 days after the date of mailing the notice of the request for information, unless, prior to the expiration of the 30-day period, the manufacturer obtains an action in an appropriate court for a declaratory judgment that the information is subject to protection under this section or for a preliminary injunction prohibiting disclosure of the information to the public and promptly notifies the state agency of that action. In order to prevent the state agency from releasing the information to the public, the manufacturer shall obtain a declaratory judgment or preliminary injunction within 30 days of filing an action for a declaratory judgment or preliminary injunction.

(d) This section does not authorize a manufacturer to refuse to disclose to the state agency information required by Section 57019.

(e) Any information that a court, pursuant to this section, determines is a trade secret and not a public record, or pending final judgment pursuant to subdivision (c), shall not be disclosed by the state agency to anyone, except to an officer or employee of a city or county, the state, or the United States, or to a contractor with a city or county, or the state, and its employees, if, in the opinion of the state agency, disclosure is necessary and required for the satisfactory performance of a contract, for the performance of work, or to protect the health and safety of the employees of the contractor.

(f) The definitions in Section 57018 apply to this section.

SEC. 267. Section 101661 of the Health and Safety Code is amended to read:

101661. (a) The authority, in addition to any other powers granted to the authority pursuant to this chapter, shall have the following powers:

(1) To have the duties, privileges, immunities, rights, liabilities, and limitations of a local unit of government within the state.

(2) To have perpetual existence.

(3) To adopt, have, and use a seal, and to alter it at its pleasure.

(4) To sue and be sued in the name of the authority in all actions and proceedings in all courts and tribunals of competent jurisdiction.

(5) To purchase, lease, trade, exchange, or otherwise acquire, maintain, hold, improve, mortgage, lease, sell, and dispose of real and personal property of any kind necessary or convenient to perform its functions and fully exercise its powers.

(6) To appoint and employ a chief executive officer and other officers and employees that may be necessary or appropriate, including legal counsel, to establish their compensation, provide for their health, retirement, and other employment benefits, and to define the power and duties of officers and employees.

(7) (A) To incur indebtedness and to borrow money and issue bonds evidencing the same, including the authority to issue, from time to time, notes and revenue bonds in principal amounts that the authority determines to be necessary to provide sufficient funds for achieving any of its purposes, including, but not limited to, assumption or refinancing of debt service for capital projects eligible for Medi-Cal supplemental payments pursuant to Section 14085.5 of the Welfare and Institutions Code, the payment of interest on notes and bonds of the authority, the establishment of reserves to secure these notes and bonds, and all other expenditures of the authority incident to and necessary or convenient to carry out its purposes and powers.

(B) Any notes, bonds, or other securities issued, and the income from them, including any profit from the sale thereof, shall at all times be free from taxation by the state or any agency, political subdivision, or instrumentality of the state.

(C) Notwithstanding the provisions of subparagraph (A), for any indebtedness, notes, bonds, or other securities that require voter approval pursuant to state law, the prior approval of the board of supervisors shall be required. Notwithstanding the required prior approval of the board of supervisors, any indebtedness incurred, or notes, bonds, or other securities issued pursuant to this subparagraph shall be the indebtedness, notes, bonds, or securities of the authority and not of the county, and the credit of the county shall not be pledged or relied upon in any manner in order to incur the indebtedness, or issue the notes, bonds, or other securities, unless the board of supervisors explicitly authorizes the use of the county's credit. The authority shall reimburse the county for all costs associated with the county's consideration of the indebtedness, notes, bonds, or securities, and the authority shall defend, indemnify, and hold harmless the county from any and all liability, costs, or expenses arising from or related to the indebtedness, notes, bonds, or securities.

(8) To pursue its own credit rating.

(9) To enter into any contract or agreement consistent with this chapter or the laws of this state, and to authorize the chief executive officer to enter into contracts, execute all instruments, and do all things necessary or convenient in the exercise of the powers granted in this chapter, and to secure the payment of bonds.

(10) To purchase supplies, equipment, materials, property, and services.

(11) To establish policies relating to its purposes.

(12) To acquire or contract to acquire, rights-of-way, easements, privileges, and property, and to construct, equip, maintain, and operate any and all works or improvements wherever located that are necessary, convenient, or proper to carry out any of the provisions, objects, or purposes of this chapter, and to complete, extend, add to, repair, or otherwise improve any works or improvements acquired by it.

(13) To contract for and to accept gifts, grants, and loans of funds, property, or other aid in any form from the federal government, the state, a state agency, or other source, or combination thereof, and to comply, subject to this chapter, with the terms and conditions thereof.

(14) To invest surplus money in its own treasury, manage investments, and engage third-party investment managers, in accordance with state law.

(15) To arrange for guarantees or insurance of its bonds, notes, or other obligations by the federal or state government or by a private insurer, and to pay the premiums thereof.

(16) To engage in managed care contracting, joint ventures, affiliations with other health care facilities, other health care providers and payers, management agreements, or to participate in alliances, purchasing consortia, health insurance pools, accountable care organizations, alternative delivery systems, or other cooperative arrangements, with any public or private entity.

(17) To enter into joint powers agreements pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

(18) To establish nonprofit, for profit, or other entities necessary to carry out the duties of the authority.

(19) To elect to transfer funds to the state and incur certified public expenditures in support of the Medi-Cal program and other programs for which federal financial participation is available.

(20) To use a computerized management information system, including an electronic health records system, in connection with the administration of its facilities.

(21) To request that the board of supervisors levy a tax on behalf of the authority. If the board of supervisors approves the proposal to levy the tax, the board shall call the election to seek voter approval and place the appropriate measure on the ballot for that election. The proceeds of these taxes shall be tax proceeds of the authority and not of the county. The authority shall reimburse the county for all costs associated with the county's consideration of these taxes, and shall defend, indemnify, and hold harmless the county from any liability, costs, or expenses arising from or related to the imposition of these taxes.

(22) To contract with the county for the provision of indigent care services on behalf of the county. The contract shall specify that county policies consistent with the county's obligations under Section 17000 of the Welfare and Institutions Code shall be applicable. Notwithstanding any other provision of this chapter, the authority shall not undertake any of the county's obligations under Section 17000 of the Welfare and Institutions Code, nor shall the authority have an entitlement to receive any revenue for the discharge of the county's obligations, without a written agreement with the county.

(23) To engage in other activities that may be in the best interests of the authority and the persons served by the authority, as determined by the board of trustees, in order to respond to changes in the health care industry.

(b) The authority shall conform to the following requirements:

(1) Be a government entity separate and apart for all purposes from the county and any other public entity, and shall not be considered to be an agency, division, or department of the county or any other public entity. The authority shall not be governed by, or subject to, the policies or operational rules of the county or any other public entity.

(2) Be subject to state and federal taxation laws that are applicable to public entities generally, except that the authority may, to the extent permitted by federal law, apply for an exemption from social security taxation if there is a mutual agreement with the exclusive representatives of the affected employees.

(3) Comply with the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code), the Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), and the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Division 2 of Title 5 of the Government Code).

(4) To the extent the authority is permitted by federal law to participate in the Public Employees' Retirement System, assume the assets and liabilities for Public Employees' Retirement System benefits, consistent with the requirements of Section 20508 and other applicable provisions of Part 3 (commencing with Section 20000) of Division 5 of Title 2 of the Government Code and assume workers' compensation liabilities and other employee benefits and liabilities with respect to employees of the authority, unless otherwise agreed to by the authority, the county, and the governing board.

(5) Carry professional and general liability insurance or programs to the extent sufficient to cover its activities.

(6) Comply with the requirements of Sections 53260 and 53261 of the Government Code.

(7) Meet all local, state, and federal data reporting requirements.

(8) Be subject to the jurisdiction of the Public Employment Relations Board.

(c) Open sessions of the authority constitute official proceedings authorized by law within the meaning of Section 47 of the Civil Code. The

privileges set forth in that section with respect to official proceedings apply to open sessions of the authority.

(d) The authority is a public agency for purposes of eligibility with respect to grants and other funding and loan guarantee programs. Contributions to the authority are tax deductible to the extent permitted by state and federal law. Nonproprietary income of the authority is exempt from state income taxation.

(e) The authority is not a "person" subject to suit under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code).

(f) The statutory authority of a board of supervisors to prescribe rules that authorize a county hospital to integrate its services with those of other providers into a system of community service that offers free choice of hospitals to those requiring hospital care, as set forth in Section 14000.2 of the Welfare and Institutions Code, apply to the authority and the board of trustees.

(g) Unless otherwise agreed to by the authority and the board of supervisors, or the authority and a governing board, an obligation of the authority, statutory, contractual or otherwise, is the obligation solely of the authority and not the obligation of the county or any other entity, and any contract executed by and between the county and the authority, or any other entity and the authority, shall contain a provision that liabilities or obligations of the authority with respect to its activities pursuant to the contract shall be the liabilities or obligations of the authority and shall not be or become the liabilities or obligations of the county or the other entity, respectively.

(h) An obligation of the authority, statutory, contractual or otherwise, is the obligation solely of the authority and not the obligation of the state.

(i) In the event of a change of license ownership, the board of trustees shall comply with the obligations of governing bodies of general acute care hospitals generally as set forth in Section 70701 of Title 22 of the California Code of Regulations, as currently written or subsequently amended, as well as the terms and conditions of the license. The authority is the responsible party with respect to compliance with these obligations, terms, and conditions.

(j) (1) Provisions of the Evidence Code, the Government Code, including the Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), the Civil Code, the Business and Professions Code, and other applicable law pertaining to the confidentiality of peer review activities of peer review bodies apply to the peer review activities of the authority. Peer review proceedings constitute an official proceeding authorized by law within the meaning of Section 47 of the Civil Code and those privileges set forth in that section with respect to official proceedings apply to peer review proceedings of the authority. If the authority is required by law or contractual obligation to submit to the state or federal government peer review information or information relevant to the credentialing of a participating provider, that submission does not constitute a waiver of confidentiality. The laws pertaining to the

confidentiality of peer review activities shall be together construed as extending, to the extent permitted by law, the maximum degree of protection of confidentiality.

(2) Notwithstanding any other law, Section 1461 applies to hearings on reports of hospital medical audit or quality assurance committees.

(k) (1) A transfer by the county to the authority, or by the governing board to the authority, of the maintenance, operation, and management or ownership of the medical center or the other health care facility, respectively, whether or not the transfer includes the surrendering by the county or the governing board of any existing general acute care hospital license and corresponding application for a change of ownership of the license, does not affect the eligibility of the county or the governing board to undertake, and authorizes the authority, subject to applicable requirements, to do, any of the following:

(A) With the written consent of the county, participate in and receive allocations pursuant to the California Health Care for Indigents Program pursuant to Chapter 5 (commencing with Section 16940) of Part 4.7 of Division 9 of the Welfare and Institutions Code, or similar programs, as may be identified or earmarked by the county for indigent health care services of the type provided by the medical center.

(B) With the written consent of the county, participate in and receive allocations of local revenue fund amounts provided pursuant to Chapter 6 (commencing with Section 17600) of Part 5 of Division 9 of the Welfare and Institutions Code as may be identified or earmarked by the county for indigent health care services of the type provided by the medical center.

(C) Participate in the financing of, and receive, Medicaid disproportionate share hospital payments available to a county hospital or designated public hospital, or any other successor or modified payment or funding that is intended to assist hospitals that serve a disproportionate share of low-income patients with special needs. The allocation of Medicaid disproportionate share hospital payments shall be made in consultation with the State Department of Health Care Services and other designated safety net hospitals.

(D) Participate in the financing of, and receive, Medi-Cal supplemental reimbursements, including, but not limited to, payments made pursuant to Sections 14105.96, 14105.965, 14166.4, and 14182.15 of the Welfare and Institutions Code, payments described in paragraph (4) of subdivision (b) of Section 14301.4 of the Welfare and Institutions Code, and payments made available to a county provider or designated public hospital, or governmental entity with which it is affiliated, under any other successor or modified Medicaid payment system.

(E) Participate in the financing of, and receive, safety net care pool funding, stabilization funding, delivery system reform incentive pool payments, and any other funding available to a county provider or designated public hospital, or governmental entities with which it is affiliated under the Medicaid demonstration project authorized pursuant to Article 5.2 (commencing with Section 14166) and Article 5.4 (commencing with Section 14180) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions

Code, or under any other successor or modified Medicaid demonstration project or Medicaid payment system. The allocation of safety net care pool funds shall be made in consultation with the State Department of Health Care Services and other designated safety net hospitals.

(F) Participate in the financing, administration, and provision of services under the Low Income Health Program authorized pursuant to Part 3.6 (commencing with Section 15909) of Division 9 of the Welfare and Institutions Code, or under any other successor or modified Medicaid demonstration project or Medicaid payment system if the authority enters into an agreement with the county concerning the provision of services by, and payment for these services to, the county.

(G) Participate in and receive direct grant and payment allocations pursuant to Article 5.228 (commencing with Section 14169.1) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, or under any other successor or modified direct grant and payment systems funded by hospital or other provider fee assessments.

(H) Receive Medi-Cal capital supplements pursuant to Section 14085.5 of the Welfare and Institutions Code. Notwithstanding any other provision of law, supplemental payments shall be made to the medical center under Section 14085.5 of the Welfare and Institutions Code for the debt service costs incurred by the county, and, if applicable, by the authority to the extent that debt service responsibility is refinanced, transferred to, or otherwise assumed by, directly or indirectly, the authority.

(I) Receive any other funds that would otherwise be available to a county provider or designated public hospital, or governmental entity with which it is affiliated.

(2) A transfer described in paragraph (1) shall not otherwise disqualify the county or the governing board, or in the case of a change in license ownership, the authority, from participating in any of the following:

(A) Local, state, and federal funding sources either specific to county or district hospitals, county or district ambulatory care clinics, designated public hospitals, or government entities with which they are affiliated, for which there are special provisions specific to those hospitals, ambulatory care clinics, or government entities.

(B) Funding programs in which the county or the governing board, by themselves or on behalf of the medical center or the other health care facility, respectively, had participated prior to the creation of the authority, or would otherwise be qualified to participate in had the authority not been created, and the maintenance, operation, and management or ownership of the medical center and the other health care facility not been transferred by the county and the governing board to the authority pursuant to this chapter.

(*l*) The authority, the county, and the governing board, or any combination thereof, may engage in marketing, advertising, and promotion of the medical and health care services made available to the community by the authority.

(m) The board of trustees has authority over procurement and contracts for the authority. The board of trustees shall adopt written rules, regulations, and procedures with regard to these functions. Contracts by and between

the authority and any public agency, and contracts by and between the authority and providers of health care, goods, or services, may be let on a nonbid basis and shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code. Notwithstanding any other provision of this section, the authority shall not subcontract work performed by classifications represented by employee organizations without mutual agreement between the authority and the exclusive representatives, except that a subcontract entered into prior to the formation of the authority may remain in effect until its termination or completion and may be modified or renewed to a later termination or completion date upon agreement between the authority and the exclusive representatives of the affected classifications.

(n) The authority shall be responsible for human resource functions, including, but not limited to, position classification, compensation, recruitment, selection, hiring, discipline, termination, grievance, equal opportunity, performance management, probationary periods, training, promotion, and maintenance of records. The board of trustees shall adopt written rules, regulations, and procedures with regard to these functions. Until the time that the board of trustees adopts its own rules, regulations, or procedures with regard to these functions, the existing rules, regulations, and procedures set forth in any memorandum of understanding described in paragraph (3) of subdivision (d) of Section 101658 apply. If the memoranda do not provide for the exercise of these functions, the rules, regulations, and procedures of the county apply.

(o) The authority may contract with the county or the governing board for services and personnel upon mutually agreeable terms.

(p) Notwithstanding Article 4.7 (commencing with Section 1125) of Chapter 1 of Division 4 of Title 1 of the Government Code, related to incompatible activities, a member of the authority's administrative staff shall not be considered to be engaged in activities inconsistent and incompatible with the staff member's duties as a result of prior employment or affiliation with the county or the governing board.

(q) The board of trustees and the officers and employees of the authority are public employees for purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, relating to claims and actions against public entities and public employees, and shall be protected by the immunities applicable to public entities and public employees governed by Part 2 (commencing with Section 814) of Division 3.6 of Title 1 of the Government Code, except as provided by other statutes or regulations that apply expressly to the authority.

(r) Except for Part 3 (commencing with Section 20000) of Division 5 of Title 2 of the Government Code, this chapter shall prevail over any inconsistent statutes governing employees of the authority, including, but not limited to, the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 1 of Title 1 of the Government Code).

SEC. 268. Section 101848.2 of the Health and Safety Code is amended to read:

101848.2. The records of the hospital authority, whether paper records, records maintained in the management information system, or records in any other form that relate to trade secrets or to payment rates or the determination thereof, or that relate to contract negotiations with providers of health care, shall not be subject to disclosure pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code). The transmission of the records, or the information contained therein in an alternative form, to the board of supervisors shall not constitute a waiver of exemption from disclosure, and the records and information once transmitted shall be subject to this same exemption. The information, if compelled pursuant to an order of a court of competent jurisdiction or administrative body in a manner permitted by law, shall be limited to in camera review, which, at the discretion of the court, may include the parties to the proceeding, and shall not be made a part of the court file unless sealed.

SEC. 269. Section 101848.9 of the Health and Safety Code is amended to read:

101848.9. Provisions of the Evidence Code, the Government Code, including the Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), the Civil Code, the Business and Professions Code, and other applicable law pertaining to the confidentiality of peer review activities of peer review bodies shall apply to the peer review activities of the hospital authority. Peer review proceedings shall constitute an official proceeding authorized by law within the meaning of Section 47 of the Civil Code and those privileges set forth in that section with respect to official proceedings shall apply to peer review proceedings of the hospital authority. If the hospital authority is required by law or contractual obligation to submit to the state or federal government peer review information or information relevant to the credentialing of a participating provider, that submission shall not constitute a waiver of confidentiality. The laws pertaining to the confidentiality of peer review activities shall be together construed as extending, to the extent permitted by law, the maximum degree of protection of confidentiality.

SEC. 270. Section 101850 of the Health and Safety Code is amended to read:

101850. The Legislature finds and declares the following:

(a) (1) Due to the challenges facing the Alameda Health System arising from changes in the public and private health industries, the Alameda County Board of Supervisors has determined that a transfer of governance of the Alameda Health System to an independent governing body, a hospital authority, is needed to improve the efficiency, effectiveness, and economy of the community health services provided at the medical center. The board of supervisors has further determined that the creation of an independent hospital authority strictly and exclusively dedicated to the management, administration, and control of the medical center, in a manner consistent with the county's obligations under Section 17000 of the Welfare and Institutions Code, is the best way to fulfill its commitment to the medically

indigent, special needs, and general populations of Alameda County. To accomplish this, it is necessary that the board of supervisors be given authority to create a hospital authority. Because there is no general law under which this authority could be formed, the adoption of a special act and the formation of a special authority is required.

(2) The following definitions apply for purposes of this section:

(A) "The county" means the County of Alameda.

(B) "Governing board" means the governing body of the hospital authority.

(C) "Hospital authority" means the separate public agency established by the Board of Supervisors of Alameda County to manage, administer, and control the Alameda Health System.

(D) "Medical center" means the Alameda Health System, which was formerly known as the Alameda County Medical Center.

(b) The board of supervisors of the county may, by ordinance, establish a hospital authority separate and apart from the county for the purpose of effecting a transfer of the management, administration, and control of the medical center in accordance with Section 14000.2 of the Welfare and Institutions Code. A hospital authority established pursuant to this chapter shall be strictly and exclusively dedicated to the management, administration, and control of the medical center within parameters set forth in this chapter, and in the ordinance, bylaws, and contracts adopted by the board of supervisors that shall not be in conflict with this chapter, Section 1442.5 of this code, or Section 17000 of the Welfare and Institutions Code.

(c) A hospital authority established pursuant to this chapter shall be governed by a board that is appointed, both initially and continually, by the Board of Supervisors of the County of Alameda. This hospital authority governing board shall reflect both the expertise necessary to maximize the quality and scope of care at the medical center in a fiscally responsible manner and the diverse interest that the medical center serves. The enabling ordinance shall specify the membership of the hospital authority governing board, the qualifications for individual members, the manner of appointment, selection, or removal of governing board members, their terms of office, and all other matters that the board of supervisors deems necessary or convenient for the conduct of the hospital authority's activities.

(d) The mission of the hospital authority shall be the management, administration, and other control, as determined by the board of supervisors, of the group of public hospitals, clinics, and programs that comprise the medical center, in a manner that ensures appropriate, quality, and cost-effective medical care as required of counties by Section 17000 of the Welfare and Institutions Code, and, to the extent feasible, other populations, including special populations in the County of Alameda.

(e) The board of supervisors shall adopt bylaws for the medical center that set forth those matters related to the operation of the medical center by the hospital authority that the board of supervisors deems necessary and appropriate. The bylaws shall become operative upon approval by a majority

vote of the board of supervisors. Changes or amendments to the bylaws shall be by majority vote of the board of supervisors.

(f) The hospital authority created and appointed pursuant to this section is a duly constituted governing body within the meaning of Section 1250 of this code and Section 70035 of Title 22 of the California Code of Regulations as currently written or subsequently amended.

(g) Unless otherwise provided by the board of supervisors by way of resolution, the hospital authority may, or the board of supervisors may on behalf of the hospital authority, apply as a public agency for one or more licenses for the provision of health care pursuant to statutes and regulations governing licensing as currently written or subsequently amended.

(h) In the event of a change of license ownership, the governing body of the hospital authority shall comply with the obligations of governing bodies of general acute care hospitals generally, as set forth in Section 70701 of Title 22 of the California Code of Regulations, as currently written or subsequently amended, as well as the terms and conditions of the license. The hospital authority is the responsible party with respect to compliance with these obligations, terms, and conditions.

(i) (1) A transfer by the county to the hospital authority of the administration, management, and control of the medical center, whether or not the transfer includes the surrendering by the county of the existing general acute care hospital license and corresponding application for a change of ownership of the license, does not affect the eligibility of the county, or in the case of a change of license ownership, the hospital authority, to do any of the following:

(A) Participate in, and receive allocations pursuant to, the California Healthcare for the Indigents Program (CHIP).

(B) Receive appropriations from the Medi-Cal Inpatient Payment Adjustment Fund without relieving the county of its obligation to make intergovernmental transfer payments related to the Medi-Cal Inpatient Payment Adjustment Fund pursuant to Section 14163 of the Welfare and Institutions Code.

(C) Receive Medi-Cal capital supplements pursuant to Section 14085.5 of the Welfare and Institutions Code.

(D) Receive any other funds that would otherwise be available to a county hospital.

(2) A transfer described in paragraph (1) does not otherwise disqualify the county, or in the case of a change in license ownership, the hospital authority, from participating in any of the following:

(A) Other funding sources either specific to county hospitals or county ambulatory care clinics or for which there are special provisions specific to county hospitals or to county ambulatory care clinics.

(B) Funding programs in which the county, on behalf of the medical center and the Alameda County Health Care Services Agency, had participated prior to the creation of the hospital authority, or would otherwise be qualified to participate in had the hospital authority not been created,

and administration, management, and control not been transferred by the county to the hospital authority, pursuant to this chapter.

(j) A hospital authority created pursuant to this chapter shall be a legal entity separate and apart from the county and shall file the statement required by Section 53051 of the Government Code. The hospital authority shall be a government entity separate and apart from the county, and shall not be considered to be an agency, division, or department of the county. The hospital authority shall not be governed by, nor be subject to, the charter of the county and shall not be subject to policies or operational rules of the county, including, but not limited to, those relating to personnel and procurement.

(k) (1) A contract executed by and between the county and the hospital authority shall provide that liabilities or obligations of the hospital authority with respect to its activities pursuant to the contract shall be the liabilities or obligations of the hospital authority, and shall not become the liabilities or obligations of the county.

(2) Liabilities or obligations of the hospital authority with respect to the liquidation or disposition of the hospital authority's assets upon termination of the hospital authority shall not become the liabilities or obligations of the county.

(3) An obligation of the hospital authority, statutory, contractual, or otherwise, shall be the obligation solely of the hospital authority and shall not be the obligation of the county or the state.

(*l*) (1) Notwithstanding any other provision of this section, a transfer of the administration, management, or assets of the medical center, whether or not accompanied by a change in licensing, does not relieve the county of the ultimate responsibility for indigent care pursuant to Section 17000 of the Welfare and Institutions Code or any obligation pursuant to Section 1442.5 of this code.

(2) A contract executed by and between the county and the hospital authority shall provide for the indemnification of the county by the hospital authority for liabilities as specifically set forth in the contract, except that the contract shall include a provision that the county shall remain liable for its own negligent acts.

(3) Indemnification by the hospital authority shall not be construed as divesting the county from its ultimate responsibility for compliance with Section 17000 of the Welfare and Institutions Code.

(m) Notwithstanding the provisions of this section relating to the obligations and liabilities of the hospital authority, a transfer of control or ownership of the medical center shall confer onto the hospital authority all the rights and duties set forth in state law with respect to hospitals owned or operated by a county.

(n) (1) A transfer of the maintenance, operation, and management or ownership of the medical center to the hospital authority shall comply with the provisions of Section 14000.2 of the Welfare and Institutions Code.

(2) A transfer of maintenance, operation, and management or ownership to the hospital authority may be made with or without the payment of a

purchase price by the hospital authority and upon the terms and conditions on which the parties mutually agree, which shall include those found necessary by the board of supervisors to ensure that the transfer will constitute an ongoing material benefit to the county and its residents.

(3) A transfer of the maintenance, operation, and management to the hospital authority shall not be construed as empowering the hospital authority to transfer any ownership interest of the county in the medical center except as otherwise approved by the board of supervisors.

(o) The board of supervisors shall retain control over the use of the medical center physical plant and facilities except as otherwise specifically provided for in lawful agreements entered into by the board of supervisors. A lease agreement or other agreement between the county and the hospital authority shall provide that county premises shall not be sublet without the approval of the board of supervisors.

(p) The statutory authority of a board of supervisors to prescribe rules that authorize a county hospital to integrate its services with those of other hospitals into a system of community service that offers free choice of hospitals to those requiring hospital care, as set forth in Section 14000.2 of the Welfare and Institutions Code, shall apply to the hospital authority upon a transfer of maintenance, operation, and management or ownership of the medical center by the county to the hospital authority.

(q) The hospital authority may acquire and possess real or personal property and may dispose of real or personal property other than that owned by the county, as may be necessary for the performance of its functions. The hospital authority may sue or be sued, to employ personnel, and to contract for services required to meet its obligations. Before January 1, 2024, the hospital authority shall not enter into a contract with any other person or entity, including, but not limited to, a subsidiary or other entity established by the authority, to replace services being provided by physicians and surgeons who are employed by the hospital authority and in a recognized collective bargaining unit, with services provided by that other person or entity without clear and convincing evidence that the needed medical care can only be delivered cost effectively by that other person or entity. Prior to entering into a contract for any of those services, the authority shall negotiate with the representative of the recognized collective bargaining unit of its physician and surgeon employees over the decision to privatize and, if unable to resolve any dispute through negotiations, shall submit the matter to final binding arbitration.

(r) An agreement between the county and the hospital authority shall provide that all existing services provided by the medical center shall continue to be provided to the county through the medical center subject to the policy of the county and consistent with the county's obligations under Section 17000 of the Welfare and Institutions Code.

(s) A hospital authority to which the maintenance, operation, and management or ownership of the medical center is transferred shall be a "district" within the meaning set forth in the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of

Division 4 of Title 3 of the Government Code). Employees of a hospital authority are eligible to participate in the County Employees Retirement System to the extent permitted by law, except as described in Section 101851.

(t) Members of the governing board of the hospital authority shall not be vicariously liable for injuries caused by the act or omission of the hospital authority to the extent that protection applies to members of governing boards of local public entities generally under Section 820.9 of the Government Code.

(u) The hospital authority shall be a public agency subject to the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code).

(v) Any transfer of functions from county employee classifications to a hospital authority established pursuant to this section shall result in the recognition by the hospital authority of the employee organization that represented the classifications performing those functions at the time of the transfer.

(w) (1) In exercising its powers to employ personnel, as set forth in subdivision (p), the hospital authority shall implement, and the board of supervisors shall adopt, a personnel transition plan. The personnel transition plan shall require all of the following:

(A) Ongoing communications to employees and recognized employee organizations regarding the impact of the transition on existing medical center employees and employee classifications.

(B) Meeting and conferring on all of the following issues:

(i) The timeframe for which the transfer of personnel shall occur. The timeframe shall be subject to modification by the board of supervisors as appropriate, but in no event shall it exceed one year from the effective date of transfer of governance from the board of supervisors to the hospital authority.

(ii) A specified period of time during which employees of the county impacted by the transfer of governance may elect to be appointed to vacant positions with the Alameda County Health Care Services Agency for which they have tenure.

(iii) A specified period of time during which employees of the county impacted by the transfer of governance may elect to be considered for reinstatement into positions with the county for which they are qualified and eligible.

(iv) Compensation for vacation leave and compensatory leave accrued while employed with the county in a manner that grants affected employees the option of either transferring balances or receiving compensation to the degree permitted employees laid off from service with the county.

(v) A transfer of sick leave accrued while employed with the county to hospital authority employment.

(vi) The recognition by the hospital authority of service with the county in determining the rate at which vacation accrues.

(vii) The possible preservation of seniority, pensions, health benefits, and other applicable accrued benefits of employees of the county impacted by the transfer of governance.

(2) This subdivision shall not be construed as prohibiting the hospital authority from determining the number of employees, the number of full-time equivalent positions, the job descriptions, and the nature and extent of classified employment positions.

(3) Employees of the hospital authority are public employees for purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code relating to claims and actions against public entities and public employees.

(x) The hospital authority created pursuant to this section shall be bound by the terms of the memorandum of understanding executed by and between the county and health care and management employee organizations that is in effect as of the date this legislation becomes operative in the county. Upon the expiration of the memorandum of understanding, the hospital authority has sole authority to negotiate subsequent memorandums of understanding with appropriate employee organizations. Subsequent memorandums of understanding shall be approved by the hospital authority.

(y) The hospital authority created pursuant to this section may borrow from the county and the county may lend the hospital authority funds or issue revenue anticipation notes to obtain those funds necessary to operate the medical center and otherwise provide medical services.

(z) The hospital authority is subject to state and federal taxation laws that are applicable to counties generally.

(aa) The hospital authority, the county, or both, may engage in marketing, advertising, and promotion of the medical and health care services made available to the community at the medical center.

(ab) The hospital authority is not a "person" subject to suit under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code).

(ac) Notwithstanding Article 4.7 (commencing with Section 1125) of Chapter 1 of Division 4 of Title 1 of the Government Code related to incompatible activities, a member of the hospital authority administrative staff shall not be considered to be engaged in activities inconsistent and incompatible with the staff member's duties as a result of employment or affiliation with the county.

(ad) (1) The hospital authority may use a computerized management information system in connection with the administration of the medical center.

(2) Information maintained in the management information system or in other filing and records maintenance systems that is confidential and protected by law shall not be disclosed except as provided by law.

(3) The records of the hospital authority, whether paper records, records maintained in the management information system, or records in any other form, that relate to trade secrets or to payment rates or the determination thereof, or that relate to contract negotiations with providers of health care,

shall not be subject to disclosure pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code). The transmission of the records, or the information contained therein in an alternative form, to the board of supervisors does not constitute a waiver of exemption from disclosure, and the records and information, once transmitted, shall be subject to this same exemption. The information, if compelled pursuant to an order of a court of competent jurisdiction or administrative body in a manner permitted by law, shall be limited to in-camera review, which, at the discretion of the court, may include the parties to the proceeding, and shall not be made a part of the court file unless sealed.

(ae) (1) Notwithstanding any other law, the governing board may order that a meeting held solely for the purpose of discussion or taking action on hospital authority trade secrets, as defined in subdivision (d) of Section 3426.1 of the Civil Code, shall be held in closed session. The requirements of making a public report of actions taken in closed session and the vote or abstention of every member present may be limited to a brief general description devoid of the information constituting the trade secret.

(2) The governing board may delete the portion or portions containing trade secrets from any documents that were finally approved in the closed session that are provided to persons who have made the timely or standing request.

(3) This section shall not be construed as preventing the governing board from meeting in closed session as otherwise provided by law.

(af) Open sessions of the hospital authority constitute official proceedings authorized by law within the meaning of Section 47 of the Civil Code. The privileges set forth in that section with respect to official proceedings apply to open sessions of the hospital authority.

(ag) The hospital authority is a public agency for purposes of eligibility with respect to grants and other funding and loan guarantee programs. Contributions to the hospital authority are tax deductible to the extent permitted by state and federal law. Nonproprietary income of the hospital authority is exempt from state income taxation.

(ah) Contracts by and between the hospital authority and the state and contracts by and between the hospital authority and providers of health care, goods, or services may be let on a nonbid basis and shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code.

(ai) (1) Provisions of the Evidence Code, the Government Code, including the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), the Civil Code, the Business and Professions Code, and other applicable law pertaining to the confidentiality of peer review activities of peer review bodies apply to the peer review activities of the hospital authority. Peer review proceedings constitute an official proceeding authorized by law within the meaning of Section 47 of the Civil Code and those privileges set forth in that section with respect to official proceedings shall apply to peer review proceedings

of the hospital authority. If the hospital authority is required by law or contractual obligation to submit to the state or federal government peer review information or information relevant to the credentialing of a participating provider, that submission does not constitute a waiver of confidentiality. The laws pertaining to the confidentiality of peer review activities shall be together construed as extending, to the extent permitted by law, the maximum degree of protection of confidentiality.

(2) Notwithstanding any other law, Section 1461 applies to hearings on the reports of hospital medical audit or quality assurance committees.

(aj) The hospital authority shall carry general liability insurance to the extent sufficient to cover its activities.

(ak) In the event the board of supervisors determines that the hospital authority should no longer function for the purposes set forth in this chapter, the board of supervisors may, by ordinance, terminate the activities of the hospital authority and expire the hospital authority as an entity.

(a*l*) A hospital authority that is created pursuant to this section, but does not obtain the administration, management, and control of the medical center or has those duties and responsibilities revoked by the board of supervisors, shall not be empowered with the powers enumerated in this section.

(am) (1) The county shall establish baseline data reporting requirements for the medical center consistent with the Medically Indigent Care Reporting System (MICRS) program established pursuant to Section 16910 of the Welfare and Institutions Code and shall collect that data for at least one year prior to the final transfer of the medical center to the hospital authority established pursuant to this chapter. The baseline data shall include, but not be limited to, all of the following:

(A) Inpatient days by facility by quarter.

(B) Outpatient visits by facility by quarter.

(C) Emergency room visits by facility by quarter.

(D) Number of unduplicated users receiving services within the medical center.

(2) Upon transfer of the medical center, the county shall establish baseline data reporting requirements for each of the medical center inpatient facilities consistent with data reporting requirements of the Office of Statewide Health Planning and Development, including, but not limited to, monthly average daily census by facility for all of the following:

(A) Acute care, excluding newborns.

(B) Newborns.

(C) Skilled nursing facility, in a distinct part.

(3) From the date of transfer of the medical center to the hospital authority, the hospital authority shall provide the county with quarterly reports specified in paragraphs (1) and (2) and any other data required by the county. The county, in consultation with health care consumer groups, shall develop other data requirements that shall include, at a minimum, reasonable measurements of the changes in medical care for the indigent population of Alameda County that result from the transfer of the

administration, management, and control of the medical center from the county to the hospital authority.

(an) A hospital authority established pursuant to this section shall comply with the requirements of Sections 53260 and 53261 of the Government Code.

SEC. 271. Section 101855 of the Health and Safety Code is amended to read:

101855. (a) Subject to any terms, conditions, and limitations as may be imposed by the enabling ordinance, the authority, in addition to any other powers granted pursuant to this chapter, shall have the following powers:

(1) To have the duties, privileges, immunities, rights, liabilities, and limitations of a local unit of government within the state.

(2) To have perpetual existence, subject to Article 5 (commencing with Section 101856).

(3) To adopt, have, and use a seal, and to alter it at its pleasure.

(4) To sue and be sued in the name of the authority in all actions and proceedings in all courts and tribunals of competent jurisdiction.

(5) To purchase, lease, trade, exchange, or otherwise acquire, maintain, hold, improve, mortgage, lease, sell, and dispose of real and personal property of any kind necessary or convenient to perform its functions and fully exercise its powers.

(6) To appoint and employ or otherwise engage a chief executive officer and other officers and employees that may be necessary or appropriate, including legal counsel, to establish their compensation, provide for their health, retirement, and other employment benefits, and to define the power and duties of officers and employees.

(7) (A) To incur indebtedness and to borrow money and issue bonds evidencing the same, including the authority to issue, from time to time, notes and revenue bonds in principal amounts that the authority determines to be necessary to provide sufficient funds for achieving any of its purposes, including, but not limited to, assumption or refinancing of debt service for capital projects eligible for Medi-Cal supplemental payments pursuant to Section 14085.5 of the Welfare and Institutions Code, or any successor or modified Medi-Cal debt service reimbursement program, the payment of principal and interest on notes and bonds of the authority, the establishment of reserves to secure those notes and bonds, and all other expenditures of the authority incident to and necessary or convenient to carry out its purposes and powers.

(B) Any notes, bonds, or other securities issued, and the income from them, including any profit from the sale thereof, shall at all times be free from taxation by the state or any agency, political subdivision, or instrumentality of the state.

(C) Notwithstanding the provisions of subparagraph (A), for any indebtedness, notes, bonds, or other securities that require voter approval pursuant to state law, the prior approval of the board of supervisors shall be required. Notwithstanding the required prior approval of the board of supervisors and except as otherwise provided in this chapter, any

indebtedness incurred, or notes, bonds, or other securities issued pursuant to this subparagraph shall be the indebtedness, notes, bonds, or securities of the authority and not of the county, and the credit of the county shall not be pledged or relied upon in any manner in order to incur the indebtedness, or issue the notes, bonds, or other securities, unless the board of supervisors explicitly authorizes the use of the county's credit. The authority shall reimburse the county for all costs associated with the county's consideration of the indebtedness, notes, bonds, or securities, and the authority shall defend, indemnify, and hold harmless the county from any and all liability, costs, or expenses arising from or related to the indebtedness, notes, bonds, or securities.

(D) Nothing in this section shall preclude the authority from repayment of its debts or other liabilities, using funds that are not otherwise encumbered.

(8) To pursue its own credit rating.

(9) To enter into one or more contracts or agreements consistent with this chapter and other applicable laws of this state, including, but not limited to, contracting with any public or private entity or person for management or other services and personnel, and to authorize the chief executive officer to enter into contracts, execute all instruments, and do all things necessary or convenient in the exercise of the powers granted in this chapter.

(10) To purchase supplies, equipment, materials, property, and services.

(11) To establish policies relating to its purposes.

(12) To acquire or contract to acquire, rights-of-way, easements, privileges, and property, and to construct, equip, maintain, and operate any and all works or improvements wherever located that are necessary, convenient, or proper to carry out any of the provisions, objects, or purposes of this chapter, and to complete, extend, add to, repair, or otherwise improve any works or improvements acquired by it.

(13) To participate in, contract for, and to accept, gifts, grants, and loans of funds, property, or other aid or finance opportunity in any form from the federal government, the state, a state agency, or other source, or combination thereof, as otherwise would be available to a public, government, or private entity, and to comply, subject to this chapter, with the terms and conditions thereof.

(14) If not otherwise required pursuant to the enabling ordinance to deposit its funds in the county treasury, the authority may establish its own treasury, invest surplus money in its own treasury, manage investments, and engage third-party investment managers, in accordance with state law.

(15) To arrange for guarantees or insurance of its bonds, notes, or other obligations by the federal or state government or by a private insurer, and to pay the premiums thereof.

(16) To engage in managed care contracting, joint ventures, affiliations with other health care facilities, other health care providers and payers, management agreements, or to participate in alliances, purchasing consortia, health insurance pools, accountable care organizations, alternative delivery systems, or other cooperative arrangements, with any public or private entity.

(17) To enter into joint powers agreements pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code. Notwithstanding any other law, the authority may enter into a joint powers agreement as described in Section 6523.5 of the Government Code as though that section applied to hospitals and other health care facilities in the County of Kern.

(18) To establish nonprofit, for-profit, or other entities necessary to carry out the duties of the authority.

(19) To elect to transfer funds to the state and incur certified public expenditures in support of the Medi-Cal program and other programs for which federal financial participation is available.

(20) To use a computerized management information system, including an electronic health records system, in connection with its operations, including, without limitation, the administration of its facilities.

(21) To request that the board of supervisors levy a tax on behalf of the authority. If the board of supervisors approves the proposal to levy the tax, it shall call the election to seek voter approval and place the appropriate measure on the ballot for that election. The proceeds of these taxes shall be tax proceeds of the authority and not of the county. The authority shall reimburse the county for all costs associated with the county's consideration of those taxes, and shall defend, indemnify, and hold harmless the county from any liability, costs, or expenses arising from or related to the imposition of these taxes.

(22) Notwithstanding the provisions of this chapter relating to the obligations and liabilities of the authority, or any other law, the authority shall have the same rights, privileges, exemptions, preferences, and authority of a county with respect to owning, operating, and providing coverage and services through hospitals, clinics and other health facilities, health programs, care organizations, physicians and physician practice plans, delivery systems, health care service plans, and other provider types and coverage mechanisms.

(23) To engage in other activities that may be in the best interests of the authority and the persons served by the authority, as determined by the board of governors, in order to respond to changes in the health care industry.

(b) The authority shall conform to the following requirements:

(1) (A) Be a government agency that is a local unit of government separate and apart for all purposes from the county and any other public entity, and shall not be considered to be an agency, division, or department of the county or any other public entity. The authority shall not be governed by or subject to the civil service requirements of the county. Notwithstanding any other law, except as otherwise provided for in the enabling ordinance enacted pursuant to this chapter, and as set forth in Section 101853.1 relating to the personnel transition plan, the authority shall not be governed by, or subject to, other policies or operational rules applicable to the county, the medical center prior to its transfer, or any other public entity, including, but not limited to, those relating to personnel and procurement.

(B) The board of governors shall adopt written rules, regulations, and procedures with regard to basic human resource functions not inconsistent

with memoranda of understanding covering employees represented by employee organizations or the provisions of this chapter. Until the time that the board of governors adopts its own rules, regulations, or procedures with regard to these functions, the existing rules, regulations, and procedures set forth in any memoranda of understanding described in Section 101853.1, and the rules and regulations adopted by the county and described in paragraph (4), shall continue to apply.

(2) Be subject to state and federal taxation laws that are applicable to public entities generally.

(3) Except as otherwise specifically provided in this chapter, comply with the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code), the Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), and the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

(4) Be subject to the jurisdiction of the Public Employment Relations Board. Until the authority adopts rules and regulations pursuant to subdivision (a) of Section 3507 of the Government Code, the existing rules adopted by the county and contained in the county's employer-employee relations resolution, as amended, shall apply, modified to account for the creation of the authority, and provided further that the resolution shall not contain any incorporation of the county's civil service rules or county ordinances unless specifically addressed in this chapter.

(5) Carry professional and general liability insurance or programs to the extent sufficient to cover its activities.

(6) Comply with the requirements of Sections 53260 and 53261 of the Government Code.

(7) Maintain financial and accounting records.

(8) Meet all local, state, and federal data reporting requirements.

(c) (1) Subject to any restrictions applicable to public agencies, and subject to any limitations or conditions set forth in the enabling ordinance adopted by the board of supervisors, the authority may borrow money from the county, repay debt it owes to the county, and use the borrowed funds to provide for its operating and capital needs. The county may lend the authority funds and may issue debt instruments, including, without limitation, revenue anticipation notes to obtain funds to provide, by loan or otherwise, amounts necessary for the authority to meet its operating and capital needs.

(2) Notwithstanding paragraph (1), nothing in this chapter shall be construed to limit the borrowing powers the county otherwise has under law for the purposes specified in paragraph (1) or any other purposes.

(d) Open sessions of the authority shall constitute official proceedings authorized by law within the meaning of Section 47 of the Civil Code. The privileges set forth in that section with respect to official proceedings shall apply to open sessions of the authority.

(e) (1) Notwithstanding any other law, the board of governors or board of supervisors, as applicable, may order that a meeting held solely for the

purpose of discussion or taking action on authority trade secrets, as defined in subdivision (d) of Section 3426.1 of the Civil Code, or to consider and take action on matters pertaining to contracts and contract negotiations concerning all matters related to rates of payment for health care services arranged or provided by the authority, shall be held in closed session. Trade secrets for purposes of this chapter shall also include information for which the secrecy of the information is necessary for the authority to initiate a new service, program, marketing strategy, business plan, or technology, or to add a benefit or product, and premature disclosure of the trade secret would create a substantial probability of depriving the authority of a substantial economic benefit or opportunity.

(2) The requirements of making a public report of actions taken in closed session and the vote or abstention of every member present may be limited to a brief general description devoid of the information constituting the trade secret or concerning the matters related to rates of payment.

(3) Those records of the authority or board of supervisors, as applicable, that reveal the authority's trade secrets are exempt from disclosure pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), or any similar local law requiring the disclosure of public records. This exemption shall apply for a period of two years after the service, program, marketing strategy, business plan, technology, benefit, or product that is the subject of the trade secret is formally adopted by the governing body of the authority, provided that the service, program, marketing strategy, business plan, technology, benefit, or product continues to be a trade secret. The board of governors or board of supervisors, as applicable, may delete the portion or portions containing trade secrets from any documents that were finally approved in the closed session that are provided to persons who have made the timely or standing request.

(4) This chapter shall not prevent the board of governors or board of supervisors, as applicable, from meeting in closed session as otherwise provided by law.

(f) Notwithstanding any other law, those records of the authority and of the county that reveal the authority's rates of payment for health care services arranged or provided by the authority or its deliberative processes, strategies, discussions, communications, or any other portion of the negotiations with providers of health care services or Medi-Cal, health care plans, or other payers for rates of payment, shall not be required to be disclosed pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), or any similar local law requiring the disclosure of public records. However, three years after a contract or amendment to a contract is fully executed, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(g) The authority shall be a public agency that is a local unit of government for purposes of eligibility with respect to grants and other funding and loan guarantee programs. Contributions to the authority shall

be tax deductible to the extent permitted by state and federal law. Nonproprietary income of the authority shall be exempt from state income taxation.

(h) Unless otherwise provided by the board of supervisors by way of resolution, the authority is empowered, or the board of supervisors is empowered on behalf of the authority, to apply as a public agency for one or more licenses for the provision of health care or the operation of a health care service plan pursuant to statutes and regulations governing licensing as currently written or subsequently amended.

(i) The statutory authority of a board of supervisors to prescribe rules that authorize a county hospital to integrate its services with those of other providers into a system of community service that offers free choice of hospitals to those requiring hospital care, as set forth in Section 14000.2 of the Welfare and Institutions Code, shall apply to the authority and the board of governors.

(j) (1) Except as otherwise provided in this chapter, provisions of the Evidence Code, the Government Code, including the Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), the Civil Code, the Business and Professions Code, and other applicable law pertaining to the confidentiality of peer review activities of peer review bodies shall apply to the peer review activities of the authority, or any peer review body, as defined in paragraph (1) of subdivision (a) of Section 805 of the Business and Professions Code, formed pursuant to the powers granted to the authority. The laws pertaining to the confidentiality of peer review activities shall be together construed as extending, to the extent permitted by law, the maximum degree of protection of confidentiality.

(2) Notwithstanding Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of, and Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of, the Government Code, or any other provision of law, any peer review body formed pursuant to the powers granted to the authority, may, at its discretion and without notice to the public, meet in closed session, so long as the purpose of the meeting is the peer review body's discharge of its responsibility to evaluate and improve the quality of care rendered by health facilities and health practitioners. The peer review body and its members shall receive, to the fullest extent, all immunities, privileges, and protections available to those peer review bodies, their individual members, and persons or entities assisting in the peer review process, including those afforded by Section 1157 of the Evidence Code and Section 1370. Peer review proceedings shall constitute an official proceeding authorized by law within the meaning of Section 47 of the Civil Code and those privileges set forth in that section with respect to official proceedings shall apply to peer review proceedings of the authority.

(3) Notwithstanding the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), or Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of

Division 3 of Title 2 of, and Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of, the Government Code, or any other provision of state or local law requiring disclosure of public records, those records of a peer review body formed pursuant to the powers granted to the authority, shall not be required to be disclosed. The records and proceedings of the peer review body and its individual members shall receive, to the fullest extent, all immunities, privileges, and protections available to those records and proceedings, including those afforded by Section 1157 of the Evidence Code and Section 1370 of the Health and Safety Code.

(4) If the authority is required by law or contractual obligation to submit to the state or federal government peer review information or information relevant to the credentialing of a participating provider, that submission shall not constitute a waiver of confidentiality.

(5) Notwithstanding any other law, Section 1461 shall apply to hearings on reports of hospital medical audit or quality assurance committees.

(k) Except as expressly provided by other provisions of this section, all exemptions and exclusions from disclosure as public records pursuant to this chapter and the California Public Records Act, including, but not limited to, those pertaining to trade secrets and information withheld in the public interest, shall be fully applicable to the authority, and for the board of supervisors, and all state and local agencies with respect to all writings that the authority is required to prepare, produce, or submit, and which shall not constitute a waiver of exemption from disclosure.

(*l*) The authority and the county, or any combination thereof, may engage in marketing, advertising, and promotion of the medical and health care services made available to the community by the authority.

(m) (1) The board of supervisors may contract for services or purchase items on behalf of the authority.

(2) Unless otherwise provided for, and subject to the limitations and conditions set forth in the enabling ordinance, the board of governors shall have authority over procurement and contracts for the authority and shall adopt written rules, regulations, and procedures with regard to these functions. The authority's ability to contract for personnel or other services and items it deems necessary, appropriate, or convenient for the conduct of its activities consistent with its purposes shall only be limited by the provisions in this chapter and obligations under the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code).

(3) Contracts by and between the authority and a public agency, and contracts by and between the authority and providers of health care, goods, or services, may be let on a nonbid basis and shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code.

(n) The authority may contract with the county for services and personnel upon mutually agreeable terms.

(o) Notwithstanding Article 4.7 (commencing with Section 1125) of Chapter 1 of Division 4 of Title 1 of the Government Code, related to

incompatible activities, Section 1099 of the Government Code, related to incompatible offices, or any other law, a member of the authority's administrative staff shall not be considered to hold an incompatible office or to be engaged in activities inconsistent and incompatible with the member's duties as a result of the member's employment or affiliation with the county or an agency of the county.

(p) The board of governors and the officers and employees of the authority are public employees for purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, relating to claims and actions against public entities and public employees, and shall be protected by the immunities applicable to public entities and public employees governed by Part 2 (commencing with Section 814) of Division 3.6 of Title 1 of the Government Code, except as provided by other statutes or regulations that apply expressly to the authority.

SEC. 272. Section 102100 of the Health and Safety Code is amended to read:

102100. Each live birth, fetal death, death, and marriage that occurs in the state shall be registered as provided in this part on the prescribed certificate forms. In addition, a report of every judgment of dissolution of marriage, legal separation, or nullity decree shall be filed with the State Registrar, as provided in this part. All confidential information included in birth, fetal death, death, and marriage certificates and reports of dissolution of marriage, legal separation, or nullity that are required to be filed by this part, shall be exempt from the California Public Records Act contained in Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code.

SEC. 273. Section 102230 of the Health and Safety Code is amended to read:

102230. (a) (1) The State Registrar shall arrange and permanently preserve the certificates in a systematic manner and shall prepare and maintain comprehensive and continuous indices of all certificates registered.

(2) The birth, death, and marriage record indices prepared pursuant to paragraph (1) and all comprehensive birth, death, and marriage record indices prepared or maintained by local registrars and county recorders shall be kept confidential and shall be exempt from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(3) Notwithstanding paragraph (2), the State Registrar, at the registrar's discretion, may release comprehensive birth, death, and nonconfidential marriage record indices to a government agency. The comprehensive birth record indices released to the county recorder shall be subject to the same restrictions applicable to the confidential portion of a certificate of live birth, as specified in Section 102430. Local registrars and county recorders, when requested, shall release their comprehensive birth, death, and marriage record indices to the State Registrar. Local registrars may release their comprehensive birth and death record indices to the county recorder within its jurisdiction for purposes of the preparation or maintenance of the indices

of the county recorder. A government agency that obtains indices pursuant to this paragraph shall not sell or release the index or a portion of its contents to another person, except as necessary for official government business, and shall not post the indices or any portion of the indices on the internet.

(b) (1) The State Registrar shall prepare and maintain separate noncomprehensive indices of all California birth, death, and nonconfidential marriage records for public release.

(2) For purposes of this section, noncomprehensive birth record indices for public release shall be comprised of first, middle, and last name, sex, date of birth, and place of birth.

(3) For purposes of this section, noncomprehensive death record indices for public release shall be comprised of first, middle, and last name, sex, date of birth, place of birth, place of death, date of death, and father's last name.

(4) For purposes of this section, noncomprehensive nonconfidential marriage record indices for public release shall be comprised of the name of each party to the marriage and the date of marriage.

(5) Requesters of the birth, death, or nonconfidential marriage record indices prepared pursuant to this subdivision shall provide proof of identity, complete a form, and sign the form under penalty of perjury. The form shall include all of the following:

(A) The proposed use of the birth, death, or nonconfidential marriage record indices.

(B) A disclaimer crediting analyses, interpretations, or conclusions reached regarding the birth, death, or nonconfidential marriage record indices to the author and not to the State Department of Public Health.

(C) Assurance that technical descriptions of the birth, death, or nonconfidential marriage record indices are consistent with those provided by the State Department of Public Health.

(D) Assurance that the requester shall not sell, assign, or otherwise transfer the birth, death, or nonconfidential marriage record indices.

(E) Assurance that the requester shall not use the birth or death record indices for fraudulent purposes.

(6) Birth, death, and nonconfidential marriage record indices obtained pursuant to this subdivision, and any portion thereof, shall not be used for fraudulent purposes.

(c) (1) The State Registrar shall prepare and maintain separate noncomprehensive indices of all California birth, death, and nonconfidential marriage records for purposes of law enforcement or preventing fraud.

(2) For purposes of this section, noncomprehensive birth record indices for the purpose of preventing fraud shall be comprised of first, middle, and last name, sex, date of birth, place of birth, and mother's maiden name.

(3) For purposes of this section, noncomprehensive death record indices for the purpose of preventing fraud shall be comprised of first, middle, and last name, place of death, mother's maiden name, sex, social security number, date of birth, place of birth, date of death, and father's last name.

(4) For purposes of this section, noncomprehensive nonconfidential marriage record indices for the purpose of preventing fraud shall be comprised of the name of each party to the marriage and the date of marriage.

(5) The birth, death, and nonconfidential marriage record indices prepared pursuant to this subdivision shall be made available to financial institutions, as defined in Section 6827(4)(A) and (B) of Title 15 of the United States Code, its representatives or contractors, consumer credit reporting agencies, as defined in subdivision (d) of Section 1785.3 of the Civil Code, its representatives or contractors, those entities providing information services for purposes of law enforcement or preventing fraud, officers of the court for the sole purpose of verifying a death, and to persons or entities acting on behalf of law enforcement agencies or the court, or pursuant to a court order.

(6) The birth, death, and nonconfidential marriage record indices prepared pursuant to this subdivision may be released to a government agency.

(7) Requesters of the birth, death, or nonconfidential marriage record indices prepared pursuant to this subdivision shall provide proof of identity, complete a form, and sign the form under penalty of perjury. The form shall include all of the following:

(A) An agreement not to release or allow public access to the birth, death, or nonconfidential marriage record indices, and an agreement not to post the indices on the internet, except as permitted by this subdivision.

(B) The proposed use of the birth, death, or nonconfidential marriage record indices.

(C) The names of all persons within the organization, if applicable, who will have access to the birth, death, or nonconfidential marriage record indices.

(D) A disclaimer crediting analyses, interpretations, or conclusions reached regarding the birth, death, or nonconfidential marriage record indices to the author and not to the State Department of Public Health.

(E) Assurance that technical descriptions of the birth, death, or nonconfidential marriage record indices are consistent with those provided by the State Department of Public Health.

(F) Assurance that the requester shall not sell, assign, or otherwise transfer the birth, death, or nonconfidential marriage record indices, except as permitted by this subdivision.

(G) Assurance that the requester shall not use the birth, death, or nonconfidential marriage record indices for fraudulent purposes.

(8) (A) Birth, death, and nonconfidential marriage record indices, and any portion thereof, obtained pursuant to this section, shall not be used for fraudulent purposes and shall not be posted on the internet.

(B) Notwithstanding subparagraph (A), individual information contained in birth, death, and nonconfidential marriage record indices may be posted on the internet if all of the following requirements are met:

(i) The individual information is posted on an internet website that is protected by a password.

(ii) The individual information is posted on an internet website that is available to subscribers only for a fee.

(iii) The individual information is not posted for public display.

(iv) The individual information is available to subscribers pursuant to a contractual agreement.

(v) The individual information is posted for purposes of law enforcement or preventing fraud.

(d) Mail-in requests from nongovernmental agencies for birth, death, and nonconfidential marriage record indices requested pursuant to subdivisions (b) and (c) shall include a notarized statement attesting to the identity of the requester.

(e) Noncomprehensive birth, death, and nonconfidential marriage record indices pursuant to subdivisions (b) and (c) shall be updated annually.

(f) Birth, death, and nonconfidential marriage record indices provided pursuant to this section shall be made available subject to cost recovery provisions of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(g) Noncomprehensive birth, death, and nonconfidential marriage record indices created by local registrars or county recorders shall be subject to the conditions for release required by this section.

(h) A person or entity that obtains a birth, death, or nonconfidential marriage record index, or any portion thereof, from a requester who has obtained the index in accordance with paragraph (7) of subdivision (c) shall not sell, assign, or otherwise transfer that index, or any portion thereof, to a third party.

(i) Paragraphs (2) and (3) of subdivision (a) and subdivisions (b) to (h), inclusive, shall be implemented only to the extent that funds for these purposes are appropriated by the Legislature in the annual Budget Act or other statute.

SEC. 274. Section 102231 of the Health and Safety Code is amended to read:

102231. (a) Notwithstanding any other law, birth data files, birth data files for public release, death data files for public release, death data files for purposes of law enforcement or preventing fraud, and nonconfidential marriage data files prepared and maintained by the State Registrar, local registrars, and county recorders shall only be released as follows:

(1) Birth data files containing personal identifiers shall be subject to the same restrictions as the confidential portion of a birth certificate and shall only be released under the terms and conditions specified in Section 102430.

(2) Birth data files for public release shall not contain the mother's maiden name.

(3) Death data files for public release shall not contain the mother's maiden name and social security number.

(4) Death data files for purposes of law enforcement or preventing fraud shall include the mother's maiden name and social security number. Death data files prepared pursuant to this subdivision may be released to

governmental agencies and to those entities described in paragraph (5) of subdivision (c) of Section 102230.

(5) Death data files containing personal identifying information may be released to persons expressing a valid scientific interest, as determined by the appropriate committee constituted for the protection of human subjects that is approved by the United States Department of Health and Human Services and has a general assurance pursuant to Part 46 (commencing with Section 46.101) of Title 45 of the Code of Federal Regulations.

(6) Nonconfidential marriage data files shall include the name of each party to the marriage and the date of the marriage. Nonconfidential marriage data files for public release shall not contain the maiden names of the mothers.

(b) Requesters of birth, death, and nonconfidential marriage data files pursuant to this section shall provide proof of identity, complete a form, and sign the form under penalty of perjury. The form shall include all of the following:

(1) An agreement not to release the birth, death, or marriage data files and not to post the files on the internet, except as permitted by this subdivision.

(2) An agreement not to provide public access to data files obtained pursuant to paragraphs (1) and (4) of subdivision (a).

(3) The proposed use of the data file.

(4) For data files obtained pursuant to paragraphs (1) and (4) of subdivision (a), the names of all persons within the organization, if applicable, who will have access to the data files.

(5) A disclaimer that credits analyses, interpretations, or conclusions reached regarding the birth or death data files to the author and not to the State Department of Public Health.

(6) Assurance that technical descriptions of the data files are consistent with those provided by the State Department of Public Health.

(7) Assurance that the requester shall not sell, assign, or otherwise transfer the data files, except as permitted by subdivision (e).

(8) Assurance that the requester shall not use the data files for fraudulent purposes.

(c) Mail-in requests for birth, death, and nonconfidential marriage data files pursuant to this section shall include a notarized statement attesting to the identity of the requester.

(d) Birth, death, and nonconfidential marriage data files provided pursuant to this section shall be made available subject to cost recovery provisions of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(e) (1) Birth, death, and nonconfidential marriage data files, and any portion thereof, obtained pursuant to this section, shall not be used for fraudulent purposes and shall not be posted on the internet.

(2) Notwithstanding paragraph (1), individual information contained in death data files obtained pursuant to paragraph (4) of subdivision (a) may be posted on the internet if all of the following requirements are met:

(A) The information is posted on an internet website that is protected by a password.

(B) The information is posted on an internet website that is available to subscribers only for a fee.

(C) The information is not posted for public display.

(D) The information is available to subscribers pursuant to a contractual agreement.

(E) The information is posted for purposes of law enforcement or preventing fraud.

(f) A person or entity that obtains a birth, death, or nonconfidential marriage data file, or any portion thereof, from a requester who has obtained the data file in accordance with subdivision (b) shall not sell, assign, or otherwise transfer that data file, or any portion thereof, to a third party.

(g) This section shall be implemented only to the extent that funds for these purposes are appropriated by the Legislature in the annual Budget Act or other statute.

SEC. 275. Section 105459 of the Health and Safety Code is amended to read:

105459. (a) By January 1, 2010, and every two years thereafter, the department, in collaboration with the agency, the office, and DTSC, shall submit a report to the Legislature containing the findings of the program, and shall include in the report additional activities and recommendations for improving the program based upon activities and findings to date. Copies of the report shall be made available via appropriate media to the public within 30 calendar days following its submission to the Legislature.

(b) The department shall provide the public access to information that they are required to release pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(c) The department and the office shall disseminate biomonitoring findings to the general public via appropriate media, including governmental and other websites in a manner that is understandable to the average person.

(d) Any health and environmental exposure data made available to the general public shall be provided in a summary format to protect the confidentiality of program participants. The data shall be made available, after appropriate quality assurance and quality control, by July 1, 2010, and at least every two years thereafter.

SEC. 276. Section 110845 of the Health and Safety Code is amended to read:

110845. (a) Notwithstanding any other provision of law, any producer, handler, processor, or retailer of products sold as organic shall immediately make available for inspection by, and shall upon request, within 72 hours of the request, provide a copy to, the director, the Attorney General, any prosecuting attorney, any governmental agency responsible for enforcing laws related to the production or handling of products sold as organic, or the secretary of any record required to be kept under this section for purposes of carrying out this article and Chapter 10 (commencing with Section 46000)

of Division 17 of the Food and Agricultural Code. Records acquired pursuant to this subdivision shall not be public records as that term is defined in Section 7920.530 of the Government Code and shall not be subject to Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code.

(b) Upon written request of any person that establishes cause for the request, the director and the secretary shall obtain and provide to the requesting party within 10 working days of the request a copy of any of the following records required to be kept under this article that pertain to a specific product sold or offered for sale, and that identify substances applied, administered, or added to that product, except that financial information about an operation or transaction, information regarding the quantity of a substance administered or applied, the date of each administration or application, information regarding the identity of suppliers or customers, and the quantity or price of supplies purchased or products sold shall be removed before disclosure and shall not be released to any person other than persons and agencies authorized to acquire records under subdivision (a):

(1) Records of a handler, as described in paragraph (4) of subdivision (a) of Section 110840, records of previous handlers, if any, without identifying the previous handlers or producers, and, if applicable, records obtained as required in subdivision (b).

(2) Records of a retailer, as described in paragraph (4) of subdivision (b) of Section 110840, records of previous handlers, if any, as described in paragraph (4) of subdivision (a) of, Section 110840, without identifying the previous handlers, and, if applicable, records obtained as required in subdivision (b).

This subdivision shall be the exclusive means of public access to records required to be kept by handlers and retailers under this article.

A person required to provide records pursuant to a request under this subdivision, may petition the director or the secretary to deny the request based on a finding that the request is of a frivolous or harassing nature. The secretary or director may, upon the issuance of this finding, waive the information production requirements of this subdivision for the specific request for information that was the subject of the petition.

(c) Information specified in subdivision (b) that is required to be released upon request shall not be considered a "trade secret" under Section 110165, Section 1060 of the Evidence Code, or the Uniform Trade Secrets Act (Title 5 (commencing with Section 3426) of Part 1 of Division 4 of the Civil Code).

(d) The director or the secretary may charge the person requesting records a reasonable fee to reimburse the director, the secretary, or the source of the records for the cost of reproducing the records requested.

(e) Any person who first imports into this state, for resale, products sold as organic shall obtain and provide to the enforcement authority, upon request, proof that the products being sold have been certified by an

accredited certifying organization or have otherwise been produced in compliance with this article.

(f) The director shall not be required to obtain records not in the director's possession in response to a subpoena. Prior to releasing records required to be kept pursuant to this chapter in response to a subpoena, the director shall delete any information regarding the identity of suppliers or customers and the quantity or price of supplies purchased or products sold.

SEC. 277. Section 111792 of the Health and Safety Code is amended to read:

111792. (a) The manufacturer of any cosmetic product subject to regulation by the federal Food and Drug Administration that is sold in this state shall, on a schedule and in electronic or other format, as determined by the division, provide the division with a complete and accurate list of its cosmetic products that, as of the date of submission, are sold in the state and that contain any ingredient that is a chemical identified as causing cancer or reproductive toxicity, including any chemical that meets either of the following conditions:

(1) A chemical contained in the product for purposes of fragrance or flavoring.

(2) A chemical identified by the phrase "and other ingredients" and determined to be a trade secret pursuant to the procedure established in Part 20 and Section 720.8 of Part 720 of Title 21 of the Code of Federal Regulations. Any ingredient identified pursuant to this paragraph shall be considered to be a trade secret and shall be treated by the division in a manner consistent with the requirements of Part 20 and Part 720 of Title 21 of the Code of Federal Regulations. Any ingredients considered to be a trade secret shall not be subject to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) for the purposes of this section.

(b) Any information submitted pursuant to subdivision (a) shall identify each chemical both by name and Chemical Abstract Service number and shall specify the product or products in which the chemical is contained.

(c) If an ingredient identified pursuant to this section subsequently is removed from the product in which it was contained, is removed from the list of chemicals known to cause cancer or reproductive toxicity published under Section 25249.8, or is no longer a chemical identified as causing cancer or reproductive toxicity by an authoritative body, the manufacturer of the product containing the ingredient shall submit the new information to the division. Upon receipt of new information, the division, after verifying the accuracy of that information, shall revise the manufacturer's information on record with the division to reflect the new information. The manufacturer shall not be under obligation to submit subsequent information on the presence of the ingredient in the product unless subsequent changes require submittal of the information.

(d) This section shall not apply to any manufacturer of cosmetic products with annual aggregate sales of cosmetic products, both within and outside

of California, of less than one million dollars ($1,000,000), based on the manufacturer's most recent tax year filing.

(e) On or before December 31, 2013, the State Department of Public Health shall develop and make operational a consumer-friendly, public internet website that creates a database of the information collected pursuant to this section. The database shall be searchable to accommodate a wide range of users, including users with limited technical and scientific literacy. Data shall be presented in an educational manner with, among other things, hypertext links that explain the meanings of technical terms, including, but not limited to, "carcinogenic" and "reproductive toxicity." The internet website shall be designed to be easily navigable and to enable users to compare and contrast products and reportable ingredients. The internet website shall include hypertext links to other educational and informational internet websites to enhance consumer understanding.

SEC. 278. Section 111792.6 of the Health and Safety Code is amended to read:

111792.6. (a) For purposes of this section, the following definitions apply:

(1) "Cosmetic product" means an article for retail sale or professional use intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body for cleansing, beautifying, promoting attractiveness, or altering the appearance.

(2) "Designated list" means any of the following, including subsequent revisions when adopted by the authoritative body:

(A) Chemicals known to the State of California to cause cancer or reproductive toxicity that are listed pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986 (Chapter 6.6 (commencing with Section 25249.5 of Division 20)).

(B) Chemicals classified by the European Union as carcinogens, mutagens, or reproductive toxicants pursuant to Category 1A or 1B in Annex VI to Regulation (EC) 1272/2008.

(C) Chemicals included in the European Union Candidate List of Substances of Very High Concern in accordance with Article 59 of Regulation (EC) 1907/2006 on the basis of Article 57(f) for endocrine disrupting properties.

(D) Chemicals for which a reference dose or reference concentration has been developed based on neurotoxicity in the federal Environmental Protection Agency's Integrated Risk Information System.

(E) Chemicals that are identified as carcinogenic to humans, likely to be carcinogenic to humans, or as Group A, B1, or B2 carcinogens in the federal Environmental Protection Agency's Integrated Risk Information System.

(F) Chemicals included in the European Chemicals Agency Candidate List of Substances of Very High Concern in accordance with Article 59 of Regulation (EC) 1907/2006 on the basis of Article 57(d), Article 57(e), or Article 57(f) of Regulation (EC) 1907/2006 for persistent, bioaccumulative and toxic, or very persistent and very bioaccumulative, properties.

(G) Chemicals that are identified as persistent, bioaccumulative, and inherently toxic to the environment by the Canadian Environmental Protection Act Environmental Registry Domestic Substances List.

(H) Chemicals classified by the European Union in Annex VI to Regulation (EC) 1272/2008 as respiratory sensitizer category 1.

(I) Group 1, 2A, or 2B carcinogens identified by the International Agency for Research on Cancer.

(J) Neurotoxicants that are identified in the federal Agency for Toxic Substances and Disease Registry's Toxic Substances Portal, Health Effects of Toxic Substances and Carcinogens, Nervous System.

(K) Persistent bioaccumulative and toxic priority chemicals that are identified by the federal Environmental Protection Agency National Waste Minimization Program.

(L) Reproductive or developmental toxicants identified in Monographs on the Potential Human Reproductive and Developmental Effects published by the federal National Toxicology Program, Office of Health Assessment and Translation.

(M) Chemicals identified by the federal Environmental Protection Agency's Toxics Release Inventory as Persistent, Bioaccumulative and Toxic Chemicals that are subject to reporting under Section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. Sec. 11001, et seq.).

(N) The Washington Department of Ecology's Persistent, Bioaccumulative, Toxic (PBT) Chemicals identified in Chapter 173-333 of Title 173 of the Washington Administrative Code.

(O) Chemicals that are identified as known to be, or reasonably anticipated to be, human carcinogens by the 13th Report on Carcinogens prepared by the federal National Toxicology Program.

(P) Chemicals for which notification levels, as defined in Section 116455, have been established by the State Department of Public Health or the State Water Resources Control Board.

(Q) Chemicals for which primary maximum contaminant levels have been established and adopted under Section 64431 or 64444 of Title 22 of the California Code of Regulations.

(R) Chemicals identified as toxic air contaminants under Section 93000 or 93001 of Title 17 of the California Code of Regulations.

(S) Chemicals that are identified as priority pollutants in the California water quality control plans pursuant to subdivision (c) of Section 303 of the federal Clean Water Act (33 U.S.C. Sec. 1341) and in Section 131.38 of Title 40 of the Code of Federal Regulations, or identified as pollutants by the state or the federal Environmental Protection Agency for one or more water bodies in the state under subdivision (d) of Section 303 of the federal Clean Water Act (33 U.S.C. Sec. 1341) and Section 130.7 of Title 40 of the Code of Federal Regulations.

(T) Chemicals that are identified with noncancer endpoints and listed with an inhalation or oral reference exposure level by the Office of

Environmental Health Hazard Assessment pursuant to paragraph (2) of subdivision (b) of Section 44360.

(U) Chemicals identified as priority chemicals by the California Environmental Contaminant Biomonitoring Program pursuant to Section 105449.

(V) Chemicals that are identified on Part A of the List of Chemicals for Priority Action prepared by the Oslo and Paris Conventions for the Protection of the Marine Environment of the North-East Atlantic.

(3) "Flavor ingredient" means any intentionally added substance or complex mixture of aroma chemicals, flavor chemicals, natural essential oils, and other functional ingredient or ingredients for which the purpose is to impart a flavor or taste, or to counteract a flavor or taste.

(4) "Fragrance ingredient" means any intentionally added substance or complex mixture of aroma chemicals, natural essential oils, and other functional ingredient or ingredients for which the purpose is to impart an odor or scent, or to counteract an odor.

(5) "Manufacturer" means any entity whose name appears on the label of a cosmetic product pursuant to the requirements of Section 701.12 of Title 21 of the Code of Federal Regulations.

(6) "Professional cosmetic" has the same meaning as provided in paragraph (3) of subdivision (b) of Section 110371.

(b) (1) Commencing January 1, 2022, a manufacturer of a cosmetic product sold in the state shall disclose all of the following information to the Division of Environmental and Occupational Disease Control within the State Department of Public Health:

(A) A list of each fragrance ingredient or flavor ingredient that is included on a designated list, as defined in paragraph (2) of subdivision (a), and present in the cosmetic product. This section does not require a manufacturer of a cosmetic product to disclose the presence of any fragrance ingredient or flavor ingredient that is not included on a designated list.

(B) A list of each fragrance allergen included in Annex III of the EU Cosmetics Regulation No. 1223/2009, as required to be disclosed pursuant to the EU Detergents Regulation No. 21 648/2004, and subsequent updates to those regulations, that is present in a rinse-off cosmetic product at a concentration at or above 0.01 percent (100 parts per million) or in a leave-on cosmetic product at a concentration at or above 0.001 percent (10 parts per million). Those ingredients shall appear on the database in a unique manner that distinguishes those ingredients from other reportable ingredients and indicates that they are hazardous only to individuals who suffer from fragrance allergies.

(C) Whether the cosmetic product is intended for professional use or retail cosmetic use.

(D) The Chemical Abstracts Service (CAS) number for each ingredient or allergen that requires disclosure pursuant to subparagraph (A) or (B).

(E) The corresponding Universal Product Code (UPC) for the cosmetic product described in subparagraph (A).

(2) (A) To protect trade secrets, this section does not require a manufacturer to disclose the weight or amount of an ingredient that requires disclosure pursuant to subparagraph (A) or (B) of paragraph (1) or to disclose the manner in which a cosmetic product or intentionally added fragrance ingredient or flavor ingredient is formulated. A manufacturer may protect as a trade secret, and is not required to disclose, any ingredient or combination of ingredients that is not on a designated list or required to be disclosed pursuant to subparagraph (A) or (B) of paragraph (1). A fragrance ingredient or flavor ingredient that is included in a designated list, or a fragrance allergen that requires disclosure pursuant to subparagraph (B) of paragraph (1), does not constitute a trade secret.

(B) Pursuant to Section 7927.705 of the Government Code, a fragrance ingredient or flavor ingredient that constitutes a trade secret is not subject to disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(3) (A) A manufacturer that is required to disclose a fragrance ingredient or flavor ingredient pursuant to paragraph (1) due to a change in a designated list shall disclose the ingredient no later than six months after the revised list is adopted by the authoritative body, or six months after the revised list becomes effective, whichever is later.

(B) The State Department of Public Health shall create a voluntary electronic mailing list for the department to provide updates on the inclusion or deletion of fragrance allergens, fragrance ingredients, and flavor ingredients on the designated lists.

(c) (1) Commencing January 1, 2022, the Division of Environmental and Occupational Disease Control shall post on the database created pursuant to Section 111792, in an easily readable format, all of the following information related to a cosmetic product described in, and disclosed pursuant to, subparagraph (A) of paragraph (1) of subdivision (b):

(A) A list of all fragrance ingredients and flavor ingredients that are included on a designated list and all fragrance allergens required to be disclosed pursuant to subparagraph (B) of paragraph (1) of subdivision (b).

(B) The health hazards associated with each fragrance ingredient or flavor ingredient.

(2) The division shall identify whether an ingredient is a fragrance ingredient or a flavor ingredient.

SEC. 279. Section 115000.1 of the Health and Safety Code is amended to read:

115000.1. (a) For the purposes of this section, the following terms have the following meanings:

(1) "Generate" means to produce or cause the production of, or to engage in an activity that otherwise results in the creation or increase in the volume of, low-level radioactive waste.

(2) (A) "Generator" means any person who, by the person's own actions, or by the actions of the person's agent, employee, or independent contractor, generates low-level radioactive waste in the state.

(B) For purposes of this section, a person who provides for or arranges for the collection, transportation, treatment, storage, or disposal of low-level radioactive waste generated by others is a generator only to the extent that the person's own actions, or the actions of the person's agent, employee, or independent contractor, generate low-level radioactive waste.

(3) "Person" means an individual, partnership, corporation, or other legal entity, including any state, interstate, federal, or municipal governmental entity.

(4) "Waste" means material that is not in use and is no longer useful.

(5) "Generator category" includes, but is not limited to, any of the following:

(A) Nuclear powerplants.

(B) Reactor vendors or designers.

(C) Government.

(D) Medicine.

(E) Academia.

(F) Aerospace.

(G) Military.

(H) Research.

(I) Industrial gauges.

(J) Manufacturing.

(6) "Low-level radioactive waste" or "LLRW" has the same meaning as defined in Article 2 of the Southwestern Low-Level Radioactive Waste Disposal Compact, as set forth in Section 115255.

(7) "Class" means the class of low-level radioactive waste. "Class A," "class B," and "class C" waste are those classes defined in Section 61.55 of Title 10 of the Code of Federal Regulations.

(8) "Licensed LLRW disposal facility" means any of the three disposal facilities located at Barnwell, South Carolina; Clive, Utah; or Richland, Washington, that exist on January 1, 2003.

(b) The department shall, for the protection of public health and safety maintain a file of each manifest from each generator of LLRW that is sent to a disposal facility or to a facility subject to the Southwestern Low-level Radioactive Waste Disposal Compact, as set forth in Article 17 (commencing with Section 115250).

(c) The department shall, for the protection of public health and safety, maintain a file of all LLRW transferred for disposal to a licensed LLRW disposal facility during the reporting period, either directly or through a broker or agent, that shall meet all of the following conditions:

(1) Specify the category of generator, class, quantity by activity, and volume of LLRW, including an estimate of the peak and average quantities in storage, along with the identity of the generator, and the chemical and physical characteristics of that waste, including its half-life, properties, or constituents, and radionuclides present at, or above, the minimum labeling requirements, with their respective concentrations and amounts of radioactivity.

(2) Be updated annually, at minimum, to ensure an accurate and timely depiction of radioactive waste in the state.

(3) Include all of the following information in the file:

(A) The total volume, volume by class, and activity by radionuclide and class.

(B) The types and specifications of individual containers used and the number of each type transferred for disposal.

(C) The maximum surface radiation exposure level on any single container of LLRW transferred, the number of disposal containers that exceed 200 mR/hour, and the volume, class, and activity by radionuclide.

(D) The identification of each licensed LLRW disposal facility to which LLRW was transferred, either directly or through a broker or agent, and the volume and activity by class of LLRW transferred by each broker to each licensed LLRW disposal facility.

(E) The identification of all brokers or agents to which LLRW was transferred and the volume and activity by class of the generator's LLRW transferred by each broker or agent to each licensed LLRW disposal facility.

(F) The weight of source material by its type. For purposes of this paragraph, "type" includes, but is not limited to, natural uranium, depleted uranium, or thorium.

(G) The total number of grams of special nuclear material by radionuclide, and the maximum number of grams of special nuclear material in any single shipment by radionuclide.

(H) As complete a description as practicable of the principal chemical and physical form of the LLRW by volume and radionuclide, including the identification of any known hazardous properties, other than its radioactive property.

(I) For solidified or sorbed liquids, the nature of the liquid, the solidifying or sorbing agent used, and the final volume.

(J) For LLRW containing more than 0.1 percent by weight chelating agents, the identification of the chelating agent, the volume and weight of the LLRW and the weight percentage of the chelating agent.

(K) For LLRW that was treated, either by the generator or its agent or independent contractor, in preparation for transfer to a licensed LLRW disposal facility described in paragraph (8) of subdivision (a) for the purpose of reducing its volume or activity by any method including reduction by storage for decay, or for the purpose of changing its physical or chemical characteristics in a manner other than by solidification or sorption of liquids, the file shall include a description of the treatment process.

(L) The volume, volume by class, and activity by radionuclide and class of that LLRW, if any, that the generator is holding at the end of the annual reporting period because the generator knows or has reason to believe that LLRW will not be accepted for disposal at any of the licensed LLRW disposal facilities. The file shall include a description of this LLRW.

(d) The department shall maintain a file on each generator's LLRW stored, including specific radionuclides, total volume, volume by class, total activity, and activity by radionuclide and class of LLRW stored for decay

and stored for later transfer, including the periods of time for both types of storage.

(e) (1) The department shall prepare an annual report, including a set of tables summarizing data collected from the activities and maintenance of files specified in subdivisions (c) and (d) to the department. These annual data tables shall contain information that summarizes and categorizes, by category, and if applicable, subcategory, of generator and location by county and identity of generator, the nature, characteristics and the total volume, volume by class, total activity and activity by radionuclide and class of LLRW generated, disposed of, treated, transferred, stored for later transfer, and stored for decay during each calendar year.

(2) The department shall note, in the set of tables prepared pursuant to paragraph (1), any generator for which data are lacking.

(f) The department shall make the information described in subdivisions (c) and (d) available to the public in a format that aggregates the information by county. The department shall not make public the identity and location of any site where LLRW is stored or used. The department may combine information from multiple counties if necessary to protect public security. Notwithstanding any other provision of law, the department shall not make the report prepared pursuant to subdivision (e) available to the public, and the report is not subject to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(g) The department may make the information described in subdivisions (c) and (d) available upon request to any Member of the Legislature. No Member of the Legislature may disclose the identity or location of any site where LLRW is stored or used to any member of the general public.

(h) To meet the requirements of this section, each generator shall submit to the department the information included in Forms 540, 541, and 542, and any successor forms, of the Nuclear Regulatory Commission, for each LLRW shipment. In addition, for purposes of subparagraph (L) of paragraph (4) of subdivision (c) and subdivision (d), each generator shall annually complete and submit to the department the information included on Forms 540, 541, and 542, and any successor forms, of the Nuclear Regulatory Commission that describe the LLRW stored and shipped by the generator.

SEC. 280. Section 116456 of the Health and Safety Code is amended to read:

116456. (a) When establishing or revising a notification level or response level, the state board shall do all of the following:

(1) Electronically post on its internet website and distribute through email a notice informing interested persons that the state board has initiated the development or revision of a notification level or response level.

(2) Electronically post on its internet website and distribute through email a notice that a proposed notification level or response level is available. The notice shall include an electronic link to an internet webpage where the proposed level can be viewed electronically along with the complete study or studies or an electronic link to the complete study or studies, and the notification level recommendations document provided to the state board

by the Office of Environmental Health Hazard Assessment, if applicable, that were used to establish the level. The state board shall not make available or provide an electronic link to a study that is not subject to disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code). The notice shall indicate whether the study or studies were peer reviewed and whether only one study was used. Notice and document availability shall occur at least 30 days before the meeting required pursuant to paragraph (3).

(3) Before a proposed notification level or response level is finalized, include, as an informational item, the proposed notification level or response level at a regularly noticed meeting of the state board.

(b) If the Division of Drinking Water of the state board finds that a contaminant presents the potential for imminent harm to public health and safety, paragraph (3) of subdivision (a), and the requirement to publish the proposed level and the 30-day deadline for the notice and document availability requirement in paragraph (2) of subdivision (a), shall not apply to the establishment or revision of the notification level or response level for the contaminant. At the time the notification level or response level is established or revised, the division shall post the information specified in paragraph (2) of subdivision (a) and any other information supporting its finding that the contaminant presents the potential for imminent harm to public health and safety. Within 45 days of establishing or revising the notification level or response level, the state board shall include, as an informational item, the notification level or response level at a regularly noticed meeting of the state board.

SEC. 281. Section 116787 of the Health and Safety Code is amended to read:

116787. (a) Notwithstanding subdivision (d) of Section 116786, the Santa Clarita Valley Sanitation District, or any successor district, may, by ordinance adopted subsequent to an ordinance adopted pursuant to Section 116786, require the removal of all installed residential self-regenerating water softeners, if the district makes all of the following findings and includes those findings in the ordinance:

(1) The removal of residential self-regenerating water softeners is a necessary and cost-effective means of achieving timely compliance with waste discharge requirements, water reclamation requirements, or a Total Maximum Daily Load (TMDL) issued by a California regional water quality control board. In determining what constitutes a necessary and cost-effective means of achieving compliance, the district shall assess all of the following:

(A) Alternatives to the ordinance.

(B) The cost-effectiveness and timeliness of the alternatives as compared to the adoption of the ordinance.

(C) The reduction in chloride levels to date resulting from the voluntary program implemented pursuant to paragraph (1) of subdivision (c).

(D) The potential reduction in chloride levels expected as a result of the program implemented pursuant to paragraph (2) of subdivision (c).

(2) The district has adopted and is enforcing regulatory requirements that limit the volume and concentrations of saline discharges from nonresidential sources to the community sewer system, to the extent that is technologically and economically feasible.

(3) Based on available information, sufficient wastewater treatment capacity exists in Los Angeles County to make portable exchange water softening services available to residents affected by this ordinance.

(4) Based on available information, the adoption and implementation of the ordinance will avoid or significantly reduce the costs associated with advanced treatment for salt removal and brine disposal that otherwise would be necessary to meet the Total Maximum Daily Load (TMDL) for chloride, established by the Regional Water Quality Control Board, Los Angeles Region, for Reaches 5 and 6 of the Santa Clara River, in Los Angeles County that took effect May 4, 2005.

(b) (1) An ordinance adopted pursuant to subdivision (a) shall not be effective until it is approved by a majority vote of the qualified votes cast in a regularly scheduled election, following the adoption of the ordinance, held in the district's service area, in a referendum in accordance with applicable provisions of the Elections Code.

(2) Information regarding the projected cost differences between advanced treatment for salt removal and brine disposal without the removal of installed residential self-regenerating water softeners, alternatives identified in paragraph (1) of subdivision (a), and the removal of installed residential self-regenerating water softeners shall be included in voter information material.

(c) (1) Prior to the effective date of any ordinance adopted pursuant to subdivision (a), the district shall make available to owners of residential self-regenerating water softeners within its service area a voluntary program to compensate the owner of the appliance for 100 percent of the reasonable value of the removed appliance, and the reasonable cost of the removal and disposal of the appliance, both of which shall be determined by the district, with consideration given to information provided by manufacturers of residential self-regenerating water softeners and providers of water softening or conditioning appliances and services in the district's service area regarding purchase price, useful life, and the cost of installation, removal, and disposal.

(2) On and after the effective date of any ordinance adopted pursuant to subdivision (a), the district shall make available to owners of residential self-regenerating water softeners within its service area a program to compensate the owner of the appliance for 75 percent of the reasonable value of the removed appliance, and the reasonable cost of the removal and disposal of the appliance, both of which shall be determined by the district, with consideration given to information provided by manufacturers of residential self-regenerating water softeners and providers of water softening or conditioning appliances and services in the district's service area regarding purchase price, useful life, and the cost of installation, removal, and disposal.

(3) Compensation pursuant to paragraphs (1) and (2) shall only be made available if the owner disposes of the residential self-regenerating water

softener and provides written confirmation of the disposal, which may include, but is not limited to, verification in writing provided by the franchise refuse hauler that provides the service of removing the appliance or verification in writing of the appliance's destruction by the party responsible for its recycling or final disposal.

(4) If the owner of a residential self-regenerating water softener is in the business of renting or leasing residential self-regenerating water softeners, the owner may voluntarily waive compensation pursuant to paragraphs (1) and (2), and shall not be required to dispose of the appliance if the owner provides the district with written confirmation that the appliance has been removed from the home within the district's service area for use in a location outside the district's service area.

(5) The terms of compensation included in paragraphs (1) and (2) shall be included in an ordinance adopted pursuant to subdivision (a).

(6) (A) Upon the request of the district, the providers of water softening or conditioning services and appliances to residents of the district's service area shall provide the district, within 60 days, copies of purchase agreements or receipts, or any other specific records of sales of residential self-generating water softeners in the district's service area.

(B) The information in this paragraph shall remain protected and confidential in accordance with applicable provisions of the Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(d) Any ordinance adopted pursuant to subdivision (a) and approved in accordance with subdivision (b) shall not take effect until January 1, 2009.

(e) For purposes of this section, "residential self-regenerating water softeners" and "appliances" mean residential water softening or conditioning appliances that discharge brine into the community sewer system.

SEC. 282. Section 120160 of the Health and Safety Code is amended to read:

120160. (a) Any manufacturer or distributor of the influenza vaccine, or nonprofit health care service plan that exclusively contracts with a single medical group in a specified geographic area to provide, or to arrange for the provision of, medical services to its enrollees, shall report the information described in subdivision (c) relating to the supply of the influenza vaccine to the department upon notice from the department.

(b) Within each county or city health jurisdiction, entities that have possession of, or have a legal right to obtain possession of, the influenza vaccine, or entities that are conducting or intend to conduct influenza clinics for the public, their residents, or their employees, except those entities described in subdivision (a), shall cooperate with the local health officer in determining local inventories of influenza vaccine, including providing inventory, orders, and distribution lists in a timely manner, when necessary.

(c) The information reported pursuant to subdivision (a) shall include, but is not limited to, the amount of the influenza vaccine that has been shipped, and the name, address, and, if applicable, the telephone number of the recipient.

(d) Subdivisions (a), (b), and (c) do not apply to a physician and surgeon practice, unless the practice is an occupational health provider who conducts influenza vaccination campaigns on behalf of a corporation.

(e) It is the intent of the Legislature in enacting this section to assist small physician and surgeon practices, nursing facilities, and other health care providers that provide care for patients at risk of illness or death from influenza by facilitating the sharing of vaccine supplies, if necessary, between providers within a local jurisdiction.

(f) If a business believes that the information required by this section involves the release of a trade secret, the business shall nevertheless disclose the information to the department, and shall notify the department in writing of that belief at the time of disclosure. As used in this section, "trade secret" has the meanings given to it by Section 7924.510 of the Government Code and Section 1061 of the Evidence Code. Any information, including identifying information, including, but not limited to, the name of the agent or contact person of an entity that receives the influenza vaccine from a manufacturer or distributor, or nonprofit health care service plan described in subdivision (a), and the receiving entity's address and telephone number, that is reported pursuant to this section shall not be disclosed by the department to anyone, except to an officer or employee of the county, city, city and county, or the state in connection with the official duties of that officer or employee to protect the public health.

SEC. 283. Section 123853 of the Health and Safety Code is amended to read:

123853. (a) The department may enter into contracts with one or more manufacturers on a negotiated or bid basis as the purchaser, but not the dispenser or distributor, of factor replacement therapies under the California Children's Services Program for the purpose of enabling the department to obtain the full range of available therapies and services required for clients with hematological disorders at the most favorable price and to enable the department, notwithstanding any other provision of state law, to obtain discounts, rebates, or refunds from the manufacturers based upon the large quantities purchased under the program. Nothing in this subdivision shall interfere with the usual and customary distribution practices of factor replacement therapies. In order to achieve maximum cost savings, the Legislature hereby determines that an expedited contract process under this section is necessary. Therefore, a contract under this subdivision may be on a negotiated basis and shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code and Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of the Government Code. Contracts entered pursuant to this subdivision shall be confidential and shall be exempt from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(b) (1) Factor replacement therapy manufacturers shall calculate and pay interest on late or unpaid rebates. The interest shall not apply to any prior period adjustments of unit rebate amounts or department utilization

adjustments. Manufacturers shall calculate and pay interest on late or unpaid rebates for quarters that begin on or after the effective date of the act that added this subdivision.

(2) Following the final resolution of any dispute regarding the amount of a rebate, any underpayment by a manufacturer shall be paid with interest calculated pursuant to paragraph (4), and any overpayment, together with interest at the rate calculated pursuant to paragraph (4), shall be credited by the department against future rebates due.

(3) Interest pursuant to paragraphs (1) and (2) shall begin accruing 38 calendar days from the date of mailing the invoice, including supporting utilization data sent to the manufacturer. Interest shall continue to accrue until the date of mailing of the manufacturer's payment.

(4) Interest rates and calculations pursuant to paragraphs (1) and (2) shall be identical to interest rates and calculations set forth in the federal Centers for Medicare and Medicaid Services' Medicaid Drug Rebate Program Releases or regulations.

(c) If the department has not received a rebate payment, including interest, within 180 days of the date of mailing of the invoice, including supporting utilization data, a factor replacement therapy manufacturer's contract with the department shall be deemed to be in default and the contract may be terminated in accordance with the terms of the contract. This subdivision does not limit the department's right to otherwise terminate a contract in accordance with the terms of that contract.

(d) The department may enter into contracts on a bid or negotiated basis with manufacturers, distributors, dispensers, or suppliers of pharmaceuticals, appliances, durable medical equipment, medical supplies, and other product-type health care services and laboratories for the purpose of obtaining the most favorable prices to the state and to assure adequate access and quality of the product or service. In order to achieve maximum cost savings, the Legislature hereby determines that an expedited contract process under this subdivision is necessary. Therefore, contracts under this subdivision may be on a negotiated basis and shall be exempt from the provisions of Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code and Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of the Government Code.

(e) The department may contract with one or more manufacturers of each multisource prescribed product or supplier of outpatient clinical laboratory services on a bid or negotiated basis. Contracts for outpatient clinical laboratory services shall require that the contractor be a clinical laboratory licensed or certified by the State of California or certified under Section 263a of Title 42 of the United States Code. Nothing in this subdivision shall be construed as prohibiting the department from contracting with less than all manufacturers or clinical laboratories, including just one manufacturer or clinical laboratory, on a bid or negotiated basis.

SEC. 284. Section 125191 of the Health and Safety Code is amended to read:

125191. (a) The department may enter into contracts with one or more manufacturers on a negotiated or bid basis as the purchaser, but not the dispenser or distributor, of factor replacement therapies under the Genetically Handicapped Persons Program for the purpose of enabling the department to obtain the full range of available therapies and services required for clients with hematological disorders at the most favorable price and to enable the department, notwithstanding any other state law, to obtain discounts, rebates, or refunds from the manufacturers based upon the large quantities purchased under the program. This subdivision does not interfere with the usual and customary distribution practices of factor replacement therapies. In order to achieve maximum cost savings, the Legislature hereby determines that an expedited contract process under this section is necessary. Therefore, a contract under this subdivision may be entered into on a negotiated basis and is exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code and Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of Title 2 of the Government Code. Contracts entered pursuant to this subdivision shall be confidential and shall be exempt from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(b) (1) Factor replacement therapy manufacturers shall calculate and pay interest on late or unpaid rebates. The interest does not apply to any prior period adjustments of unit rebate amounts or department utilization adjustments. Manufacturers shall calculate and pay interest on late or unpaid rebates for quarters that begin on or after the effective date of the act that added this subdivision.

(2) Following the final resolution of any dispute regarding the amount of a rebate, any underpayment by a manufacturer shall be paid with interest calculated pursuant to paragraph (4), and any overpayment, together with interest at the rate calculated pursuant to paragraph (4), shall be credited by the department against future rebates due.

(3) Interest pursuant to paragraphs (1) and (2) shall begin accruing 38 calendar days from the date of mailing the invoice, including supporting utilization data sent to the manufacturer. Interest shall continue to accrue until the date of mailing of the manufacturer's payment.

(4) Interest rates and calculations pursuant to paragraphs (1) and (2) shall be identical to interest rates and calculations set forth in the federal Centers for Medicare and Medicaid Services' Medicaid Drug Rebate Program Releases or regulations.

(c) If the department has not received a rebate payment, including interest, within 180 days of the date of mailing of the invoice, including supporting utilization data, a factor replacement therapy manufacturer's contract with the department shall be deemed to be in default and the contract may be terminated in accordance with the terms of the contract. This subdivision does not limit the department's right to otherwise terminate a contract in accordance with the terms of that contract.

(d) The department may enter into contracts on a bid or negotiated basis with manufacturers, distributors, dispensers, or suppliers of pharmaceuticals, appliances, durable medical equipment, medical supplies, and other product-type health care services and laboratories for the purpose of obtaining the most favorable prices to the state and to assure adequate access and quality of the product or service. In order to achieve maximum cost savings, the Legislature hereby determines that an expedited contract process under this subdivision is necessary. Therefore, contracts under this subdivision may be entered into on a negotiated basis and shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code and Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of Title 2 of the Government Code.

(e) The department may contract with one or more manufacturers of each multisource prescribed product or supplier of outpatient clinical laboratory services on a bid or negotiated basis. Contracts for outpatient clinical laboratory services shall require that the contractor be a clinical laboratory licensed or certified by the State of California or certified under Section 263a of Title 42 of the United States Code. This subdivision shall not be construed as prohibiting the department from contracting with less than all manufacturers or clinical laboratories, including just one manufacturer or clinical laboratory, on a bid or negotiated basis.

SEC. 285. Section 125290.30 of the Health and Safety Code is amended to read:

125290.30. Public and Financial Accountability Standards

(a) Annual Public Report

The institute shall issue an annual report to the public which sets forth its activities, grants awarded, grants in progress, research accomplishments, and future program directions. Each annual report shall include, but not be limited to, the following: the number and dollar amounts of research and facilities grants; the grantees for the prior year; the institute's administrative expenses; an assessment of the availability of funding for stem cell research from sources other than the institute; a summary of research findings, including promising new research areas; an assessment of the relationship between the institute's grants and the overall strategy of its research program; and a report of the institute's strategic research and financial plans.

(b) Independent Financial Audit for Review by Controller

The institute shall annually commission an independent financial audit of its activities from a certified public accounting firm, which shall be provided to the Controller, who shall review the audit and annually issue a public report of that review.

(c) A performance audit shall be commissioned by the institute every three years beginning with the audit for the 2010–11 fiscal year. The performance audit, which may be performed by the Bureau of State Audits, shall examine the functions, operations, management systems, and policies and procedures of the institute to assess whether the institute is achieving economy, efficiency, and effectiveness in the employment of available resources. The performance audit shall be conducted in accordance with

government auditing standards, and shall include a review of whether the institute is complying with ICOC policies and procedures. The performance audit shall not be required to include a review of scientific performance. The first performance audit shall include, but not be limited to, all of the following:

(1) Policies and procedures for the issuance of contracts and grants and a review of a representative sample of contracts, grants, and loans executed by the institute.

(2) Policies and procedures relating to the protection or treatment of intellectual property rights associated with research funded or commissioned by the institute.

(d) All administrative costs of the audits required by subdivisions (b) and (c) shall be paid by the institute.

(e) Citizen's Financial Accountability Oversight Committee

There shall be a Citizen's Financial Accountability Oversight Committee chaired by the Controller. This committee shall review the annual financial audit, the Controller's report and evaluation of that audit, and the financial practices of the institute. The Controller, the Treasurer, the President pro Tempore of the Senate, the Speaker of the Assembly, and the Chairperson of the ICOC shall each appoint a public member of the committee. Committee members shall have medical or patient advocacy backgrounds and knowledge of relevant financial matters. The committee shall provide recommendations on the institute's financial practices and performance. The Controller shall provide staff support. The committee shall hold a public meeting, with appropriate notice, and with a formal public comment period. The committee shall evaluate public comments and include appropriate summaries in its annual report. The ICOC shall provide funds for all costs associated with the per diem expenses of the committee members and for publication of the annual report.

(f) Public Meeting Laws

(1) The ICOC shall hold at least four public meetings per year, one of which will be designated as the institute's annual meeting. The ICOC may hold additional meetings as it determines are necessary or appropriate.

(2) The Bagley-Keene Open Meeting Act, Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, shall apply to all meetings of the ICOC, except as otherwise provided in this section. The ICOC shall award all grants, loans, and contracts in public meetings and shall adopt all governance, scientific, medical, and regulatory standards in public meetings.

(3) The ICOC may conduct closed sessions as permitted by the Bagley-Keene Open Meeting Act, under Section 11126 of the Government Code. In addition, the ICOC may conduct closed sessions when it meets to consider or discuss:

(A) Matters involving information relating to patients or medical subjects, the disclosure of which would constitute an unwarranted invasion of personal privacy.

(B) Matters involving confidential intellectual property or work product, whether patentable or not, including, but not limited to, any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information, which is not patented, which is known only to certain individuals who are using it to fabricate, produce, or compound an article of trade or a service having commercial value and which gives its user an opportunity to obtain a business advantage over competitors who do not know it or use it.

(C) Matters involving prepublication, confidential scientific research, or data.

(D) Matters concerning the appointment, employment, performance, compensation, or dismissal of institute officers and employees. Action on compensation of the institute's officers and employees shall only be taken in open session.

(4) The meeting required by paragraph (2) of subdivision (b) of Section 125290.20 shall be deemed to be a special meeting for the purposes of Section 11125.4 of the Government Code.

(g) Public Records

(1) The California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) shall apply to all records of the institute, except as otherwise provided in this section.

(2) Nothing in this section shall be construed to require disclosure of any records that are any of the following:

(A) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.

(B) Records containing or reflecting confidential intellectual property or work product, whether patentable or not, including, but not limited to, any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information, which is not patented, which is known only to certain individuals who are using it to fabricate, produce, or compound an article of trade or a service having commercial value and which gives its user an opportunity to obtain a business advantage over competitors who do not know it or use it.

(C) Prepublication scientific working papers or research data, including, but not limited to, applications and progress reports.

(3) The institute shall include, in all meeting minutes, a summary of vote tallies and disclosure of each board member's votes and recusals on all action items.

(h) Competitive Bidding

(1) The institute shall, except as otherwise provided in this section, be governed by the competitive bidding requirements applicable to the University of California, as set forth in Chapter 2.1 (commencing with Section 10500) of Part 2 of Division 2 of the Public Contract Code.

(2) For all institute contracts, the ICOC shall follow the procedures required of the Regents by Chapter 2.1 (commencing with Section 10500) of Part 2 of Division 2 of the Public Contract Code with respect to contracts let by the University of California.

(3) The requirements of this section shall not be applicable to grants or loans approved by the ICOC.

(4) Except as provided in this section, the Public Contract Code shall not apply to contracts let by the institute.

(i) Conflicts of Interest

(1) The Political Reform Act, Title 9 (commencing with Section 81000) of the Government Code, shall apply to the institute and to the ICOC, except as provided in this section and in subdivision (e) of Section 125290.50.

(A) No member of the ICOC shall make, participate in making, or in any way attempt to use his or her official position to influence a decision to approve or award a grant, loan, or contract to his or her employer, but a member may participate in a decision to approve or award a grant, loan, or contract to an entity in the same field as his or her employer.

(B) A member of the ICOC may participate in a decision to approve or award a grant, loan, or contract to an entity for the purpose of research involving a disease from which a member or his or her family suffers or in which the member has an interest as a representative of a disease advocacy organization.

(C) The adoption of standards, including, but not limited to, strategic plans, concept plans, and research budgets, is not a decision subject to this section.

(2) Service as a member of the ICOC by a member of the faculty or administration of any system of the University of California shall not, by itself, be deemed to be inconsistent, incompatible, in conflict with, or inimical to the duties of the ICOC member as a member of the faculty or administration of any system of the University of California and shall not result in the automatic vacation of either such office. Service as a member of the ICOC by a representative or employee of a disease advocacy organization, a nonprofit academic and research institution, or a life science commercial entity shall not be deemed to be inconsistent, incompatible, in conflict with, or inimical to the duties of the ICOC member as a representative or employee of that organization, institution, or entity.

(3) Section 1090 of the Government Code shall not apply to any grant, loan, or contract made by the ICOC except where both of the following conditions are met:

(A) The grant, loan, or contract directly relates to services to be provided by any member of the ICOC or the entity the member represents or financially benefits the member or the entity he or she represents.

(B) The member fails to recuse himself or herself from making, participating in making, or in any way attempting to use his or her official position to influence a decision on the grant, loan, or contract.

(j) Patent Royalties and License Revenues Paid to the State of California

(1) The ICOC shall establish standards that require that all grants and loan awards be subject to intellectual property agreements that balance the opportunity of the State of California to benefit from the patents, royalties, and licenses that result from basic research, therapy development, and clinical trials with the need to ensure that essential medical research is not

unreasonably hindered by the intellectual property agreements. All royalty revenues received through the intellectual property agreements established pursuant to this subdivision shall be deposited into an interest-bearing account in the General Fund, and to the extent permitted by law, the amount so deposited and interest thereon shall be appropriated for the purpose of offsetting the costs of providing treatments and cures arising from institute-funded research to California patients who have insufficient means to purchase such treatment or cure, including the reimbursement of patient-qualified costs for research participants.

(2) These standards shall include, at a minimum, a requirement that CIRM grantees, other than loan recipients and facilities grant recipients, share a fraction of the revenue they receive from licensing or self-commercializing an invention or technology that arises from research funded by CIRM, as set forth below.

(A) (i) A grantee that licenses an invention or technology that arises from a research program funded by CIRM, regardless of the number of grants awarded to that research program, shall pay 25 percent of the revenues it receives in excess of five hundred thousand dollars ($500,000), in the aggregate, to the General Fund. The threshold amount of five hundred thousand dollars ($500,000) shall be adjusted annually by a multiple of a fraction, the denominator of which is the Consumer Price Index, All Urban Consumers, All Items (San Francisco-Oakland-San Jose; 1982–84=100) as prepared by the Bureau of Labor Statistics of the United States Department of Labor and published for the month of October 2009, and the numerator of which is that index published for the month in which the grantee accepts the grant. For awards made on or after November 5, 2020, the threshold amount of five hundred thousand dollars ($500,000) shall be adjusted annually by a multiple of a fraction, the denominator of which is the Consumer Price Index, All Urban Consumers, All Items (San Francisco-Oakland-San Jose; 1982–84=100) as prepared by the Bureau of Labor Statistics of the United States Department of Labor and published for the month of October 2020, and the numerator of which is that index published for the month in which the grantee accepts the grant.

(ii) If funding sources other than CIRM directly contributed to the development of the invention or technology, then the return to the General Fund shall be calculated as follows: The amount of CIRM funding for the invention or technology shall be divided by the total of funding provided by all sources, and that fraction shall be multiplied by 25. That numeral is the percentage due to the General Fund.

(B) (i) A grantee that self-commercializes a product that results from an invention or technology that arises from research funded by CIRM shall pay an amount to the General Fund equal to three times the total amount of the CIRM grant or grants received by the grantee in support of the research that contributed to the creation of the product. The rate of payback of the royalty shall be at a rate of 3 percent of the annual net revenue received by the grantee from the product.

(ii) In addition to the payment required by clause (i), the first time that net commercial revenues earned by the grantee from the product exceed two hundred fifty million dollars ($250,000,000) in a calendar year, the grantee shall make a one-time payment to the General Fund equal to three times the total amount of the grant or grants awarded by CIRM to the grantee in support of the research that contributed to the creation of the product.

(iii) In addition to the payments required by clauses (i) and (ii), the first time that net commercial revenues earned by the grantee from the product exceed five hundred million dollars ($500,000,000) in a calendar year, the grantee shall make an additional one-time payment to the General Fund equal to three times the total amount of the grant or grants awarded by CIRM to the grantee in support of the research that contributed to the creation of the product.

(iv) In addition to the payments required by clauses (i), (ii), and (iii), the first time that net commercial revenues earned by the grantee from the product equal or exceed five hundred million dollars ($500,000,000) in a calendar year, the grantee shall pay the General Fund 1 percent annually of net commercial revenue in excess of five hundred million dollars ($500,000,000) for the life of any patent covering the invention or technology, if the grantee patented its invention or technology and received a CIRM grant or grants amounting to more than five million dollars ($5,000,000) in support of the research that contributed to the creation of the product.

(3) The ICOC shall have the authority to adopt regulations to implement this subdivision. The ICOC shall also have the authority to modify the formulas specified in subparagraphs (A) and (B) of paragraph (2) through regulations if the ICOC determines pursuant to paragraph (1) that a modification is required either in order to ensure that essential medical research, including, but not limited to, therapy development and the broad delivery of therapies to patients, is not unreasonably hindered, or to ensure that the State of California has an opportunity to benefit from the patents, royalties, and licenses that result from basic research, therapy development, and clinical trials. The ICOC shall notify the appropriate fiscal and policy committees of the Legislature 10 calendar days before exercising its authority to vote on the modification of the formulas specified in subparagraphs (A) and (B) of paragraph (2). The amendments made to this subdivision are not intended to affect the institute's authority to modify the provisions set forth in this subdivision pursuant to this paragraph, including, but not limited to, any modifications that occurred prior to the effective date of the initiative amending this subdivision.

(k) Preference for California Suppliers

The ICOC shall establish standards to ensure that grantees purchase goods and services from California suppliers to the extent reasonably possible, in a good faith effort to achieve a goal of more than 50 percent of such purchases from California suppliers.

(*l*) Additional Accountability Requirements

To assure strict accountability and transparency, including rigorous conflict of interest rules, ethical research and treatment standards, and independent financial audits, every four years the ICOC shall update, at its discretion, the standards relating to conflict of interest rules, ethical research and treatment, and independent financial audits, to be generally aligned with standards adopted by the National Academy of Sciences to the extent that those standards are consistent with constitutional and statutory requirements applicable to the institute.

SEC. 286. Section 125290.50 of the Health and Safety Code is amended to read:

125290.50. Scientific and Medical Working Groups—General

(a) The institute shall have, and there is hereby established, four separate scientific and medical working groups as follows:

(1) Scientific and Medical Research Funding Working Group.

(2) Scientific and Medical Accountability Standards Working Group.

(3) Scientific and Medical Research Facilities Working Group.

(4) Treatments and Cures Accessibility and Affordability Working Group.

(b) Working Group Members

(1) Appointments of scientific and medical working group members shall be made by a majority vote of a quorum of the ICOC, within 30 days of the election and appointment of the initial ICOC members. The working group members' terms shall be six years except that, after the first six-year terms, the members' terms will be staggered so that one-third of the members shall be elected for a term that expires two years later, one-third of the members shall be elected for a term that expires four years later, and one-third of the members shall be elected for a term that expires six years later. Subsequent terms are for six years. Working group members may serve a maximum of two consecutive terms, provided that the ICOC may, by a two-thirds vote of a quorum, reappoint non-ICOC working group members to serve more than two consecutive terms.

(2) Appointments of members of the Treatments and Cures Accessibility and Affordability Working Group shall be made by a majority vote of a quorum of the ICOC, within 90 days of the effective date of the initiative adding this paragraph. The working group members' terms shall be six years, and members may serve a maximum of two consecutive terms, provided that the ICOC may, by a two-thirds vote of a quorum, reappoint non-ICOC working group members to serve more than two consecutive terms.

(3) The ICOC may appoint ad hoc voting members to each working group as necessary to obtain expertise for a particular expert review session, not to exceed three members for any one expert review session.

(c) Working Group Meetings

Each group shall hold at least four meetings per year, one of which shall be designated as its annual meeting, except as otherwise determined by the institute.

(d) Working Group Recommendations to the ICOC

Recommendations of each panel of the working groups may be forwarded to the ICOC only by a vote of a majority of a quorum of the members of each panel for that working group. If 35 percent of the members of any working group panel award scores in the funding range, a minority recommendation report, including a summary of the strengths and weaknesses of the application and a rebuttal to the majority recommendation, shall be submitted to the ICOC. The ICOC shall consider the recommendations of the working groups in making its decisions on applications for research and facility grants and loan awards and in adopting regulatory standards, policies, and programs. Each working group shall recommend to ICOC rules, procedures, and practices for that working group.

(e) Conflict of Interest

(1) The ICOC shall adopt conflict of interest rules, based on standards applicable to members of scientific review committees of the National Institutes of Health, to govern the participation of non-ICOC working group members.

(2) The ICOC shall appoint an ethics officer from among the staff of the institute.

(3) Because the working groups are purely advisory and have no final decisionmaking authority, members of the working groups shall not be considered public officials, employees, or consultants for purposes of the Political Reform Act (Title 9 (commencing with Section 81000) of the Government Code), Sections 1090 and 19990 of the Government Code, and Sections 10516 and 10517 of the Public Contract Code.

(f) Working Group Records

All records of the working groups submitted as part of the working groups' recommendations to the ICOC for approval shall be subject to the Public Records Act. Except as provided in this subdivision, the working groups shall not be subject to the provisions of Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, or Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code.

SEC. 287. Section 125342 of the Health and Safety Code is amended to read:

125342. (a) A research program or project that involves AOP or any alternative method of oocyte retrieval shall ensure that a written record is established and maintained to include, but not be limited to, all of the following components:

(1) The demographics of subjects, including, but not limited to, their age, race, primary language, ethnicity, income bracket, education level, and the first three digits of the ZIP Code of current residence.

(2) Information regarding every oocyte that has been donated or used. This record should be sufficient to determine the provenance and disposition of those materials.

(3) A record of all adverse health outcomes, including, but not limited to, incidences and degrees of severity, resulting from the AOP or any alternative method of oocyte retrieval.

(b) (1) The information included in the written record pursuant to subdivision (a) shall not disclose personally identifiable information about subjects, and shall be confidential and is deemed protected by subject privacy provisions of law. This information shall be reported to the State Department of Public Health, which shall aggregate the data and make it publicly available, as set forth in paragraph (2), in a manner that does not reveal personally identifiable information about the subjects.

(2) The department shall provide public access to information that it is required to release pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code). The department shall disseminate the information to the general public via governmental and other websites in a manner that is understandable to the average person. The information shall be made available to the public when the biennial review pursuant to Section 125119.5 is provided to the Legislature.

SEC. 288. Section 127673.81 of the Health and Safety Code is amended to read:

127673.81. (a) (1) All personal consumer information obtained or maintained by the program shall be confidential.

(2) Only deidentified aggregate patient or other consumer data shall be included in a publicly available analysis, data product, or research.

(b) All policies and procedures developed in implementing this chapter shall ensure that the privacy, security, and confidentiality of consumers' individually identifiable health information is protected, consistent with state and federal privacy laws, including the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA)(Public Law 104-191) and the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code), and data shall not be disclosed until the office has developed a policy regarding the release of data.

(c) (1) The system and all program data shall be exempt from the disclosure requirements of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), and shall not be made available except pursuant to this chapter.

(2) The office shall develop policies and procedures for the disclosure of information described in paragraph (2) of subdivision (a).

(d) Program data shall not be used for determinations regarding individual patient care or treatment and shall not be used for any individual eligibility or coverage decisions or similar purposes.

SEC. 289. Section 127696 of the Health and Safety Code is amended to read:

127696. In order to protect proprietary, confidential information regarding manufacturer or distribution costs and drug pricing, utilization, and rebates, it is necessary that this act limit the public's right of access to that information. Notwithstanding any other provision of law, all nonpublic information and documents obtained under this section shall not be required to be disclosed pursuant to the California Public Records Act (Division 10

(commencing with Section 7920.000) of Title 1 of the Government Code), or any similar local law requiring the disclosure of public records.

SEC. 290. Section 128735 of the Health and Safety Code is amended to read:

128735. An organization that operates, conducts, owns, or maintains a health facility, and the officers thereof, shall make and file with the office, at the times as the office shall require, all of the following reports on forms specified by the office that are in accord, if applicable, with the systems of accounting and uniform reporting required by this part, except that the reports required pursuant to subdivision (g) shall be limited to hospitals:

(a) A balance sheet detailing the assets, liabilities, and net worth of the health facility at the end of its fiscal year.

(b) A statement of income, expenses, and operating surplus or deficit for the annual fiscal period, and a statement of ancillary utilization and patient census.

(c) A statement detailing patient revenue by payer, including, but not limited to, Medicare, Medi-Cal, and other payers, and revenue center.

(d) A statement of cashflows, including, but not limited to, ongoing and new capital expenditures and depreciation.

(e) (1) A statement reporting the information required in subdivisions (a), (b), (c), and (d) for each separately licensed health facility operated, conducted, or maintained by the reporting organization.

(2) Notwithstanding paragraph (1), a health facility that receives a preponderance of its revenue from associated comprehensive group practice prepayment health care service plans and that is operated as a unit of a coordinated group of health facilities under common management may report the information required pursuant to subdivisions (a) and (d) for the group and not for each separately licensed health facility.

(f) Data reporting requirements established by the office shall be consistent with national standards, as applicable.

(g) A Hospital Discharge Abstract Data Record that includes all of the following:

(1) Date of birth.

(2) Sex.

(3) Race.

(4) ZIP Code.

(5) Preferred language spoken.

(6) Patient social security number, if it is contained in the patient's medical record.

(7) Prehospital care and resuscitation, if any, including all of the following:

(A) "Do not resuscitate" (DNR) order on admission.

(B) "Do not resuscitate" (DNR) order after admission.

(8) Admission date.

(9) Source of admission.

(10) Type of admission.

(11) Discharge date.

(12) Principal diagnosis and whether the condition was present on admission.

(13) Other diagnoses and whether the conditions were present on admission.

(14) External causes of morbidity and whether present on admission.

(15) Principal procedure and date.

(16) Other procedures and dates.

(17) Total charges.

(18) Disposition of patient.

(19) Expected source of payment.

(20) Elements added pursuant to Section 128738.

(h) It is the intent of the Legislature that the patient's rights of confidentiality shall not be violated in any manner. Patient social security numbers and other data elements that the office believes could be used to determine the identity of an individual patient shall be exempt from the disclosure requirements of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(i) A person reporting data pursuant to this section shall not be liable for damages in an action based on the use or misuse of patient-identifiable data that has been mailed or otherwise transmitted to the office pursuant to the requirements of subdivision (g).

(j) A hospital shall use coding from the International Classification of Diseases in reporting diagnoses and procedures.

(k) On or before July 1, 2021, the office shall promulgate regulations as necessary to implement subdivision (e). A health facility that receives a preponderance of its revenue from associated comprehensive group practice prepayment health care service plans and that is operated as a unit of a coordinated group of health facilities under common management shall comply with the reporting requirements of subdivisions (b), (c), and (e) once the office finalizes related regulations.

SEC. 291. Section 128736 of the Health and Safety Code is amended to read:

128736. (a) Each hospital shall file an Emergency Care Data Record for each patient encounter in a hospital emergency department. The Emergency Care Data Record shall include all of the following:

(1) Date of birth.

(2) Sex.

(3) Race.

(4) Ethnicity.

(5) Preferred language spoken.

(6) ZIP Code.

(7) Patient social security number, if it is contained in the patient's medical record.

(8) Service date.

(9) Principal diagnosis.

(10) Other diagnoses.

(11) External causes of morbidity.

(12) Principal procedure.
(13) Other procedures.
(14) Disposition of patient.
(15) Expected source of payment.
(16) Elements added pursuant to Section 128738.

(b) It is the expressed intent of the Legislature that the patient's rights of confidentiality shall not be violated in any manner. Patient social security numbers and any other data elements that the office believes could be used to determine the identity of an individual patient shall be exempt from the disclosure requirements of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(c) No person reporting data pursuant to this section shall be liable for damages in any action based on the use or misuse of patient-identifiable data that has been mailed or otherwise transmitted to the office pursuant to the requirements of subdivision (a).

(d) Data reporting requirements established by the office shall be consistent with national standards as applicable.

(e) This section shall become operative on January 1, 2004.

SEC. 292. Section 128737 of the Health and Safety Code is amended to read:

128737. (a) Each general acute care hospital and freestanding ambulatory surgery clinic shall file an Ambulatory Surgery Data Record for each patient encounter during which at least one ambulatory surgery procedure is performed. The Ambulatory Surgery Data Record shall include all of the following:

(1) Date of birth.
(2) Sex.
(3) Race.
(4) Ethnicity.
(5) Preferred language spoken.
(6) ZIP Code.
(7) Patient social security number, if it is contained in the patient's medical record.
(8) Service date.
(9) Principal diagnosis.
(10) Other diagnoses.
(11) Principal procedure.
(12) Other procedures.
(13) External causes of morbidity.
(14) Disposition of patient.
(15) Expected source of payment.
(16) Elements added pursuant to Section 128738.

(b) It is the expressed intent of the Legislature that the patient's rights of confidentiality shall not be violated in any manner. Patient social security numbers and any other data elements that the office believes could be used to determine the identity of an individual patient shall be exempt from the

disclosure requirements of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(c) No person reporting data pursuant to this section shall be liable for damages in any action based on the use or misuse of patient-identifiable data that has been mailed or otherwise transmitted to the office pursuant to the requirements of subdivision (a).

(d) Data reporting requirements established by the office shall be consistent with national standards as applicable.

(e) This section shall become operative on January 1, 2004.

SEC. 293. Section 128745 of the Health and Safety Code is amended to read:

128745. (a) Commencing July 1993, and annually thereafter, the office shall publish risk-adjusted outcome reports in accordance with the following schedule:

Publication Date	Period Covered	Procedures and Conditions Covered
July 1993	1988–90	3
July 1994	1989–91	6
July 1995	1990–92	9

Reports for subsequent years shall include conditions and procedures and cover periods as appropriate.

(b) The procedures and conditions required to be reported under this chapter shall be divided among medical, surgical, and obstetric conditions or procedures and shall be selected by the office. The office shall publish the risk-adjusted outcome reports for surgical procedures by individual hospital and individual surgeon unless the office in consultation with medical specialists in the relevant area of practice determines that it is not appropriate to report by individual surgeon. The office, in consultation with the clinical panel established by Section 128748 and medical specialists in the relevant area of practice, may decide to report nonsurgical procedures and conditions by individual physician when it is appropriate. The selections shall be in accordance with all of the following criteria:

(1) The patient discharge abstract contains sufficient data to undertake a valid risk adjustment. The risk adjustment report shall ensure that public hospitals and other hospitals serving primarily low-income patients are not unfairly discriminated against.

(2) The relative importance of the procedure and condition in terms of the cost of cases and the number of cases and the seriousness of the health consequences of the procedure or condition.

(3) Ability to measure outcome and the likelihood that care influences outcome.

(4) Reliability of the diagnostic and procedure data.

(c) (1) In addition to any other established and pending reports, on or before July 1, 2002, the office shall publish a risk-adjusted outcome report

for coronary artery bypass graft surgery by hospital for all hospitals opting to participate in the report. This report shall be updated on or before July 1, 2003.

(2) In addition to any other established and pending reports, commencing July 1, 2004, and every year thereafter, the office shall publish risk-adjusted outcome reports for coronary artery bypass graft surgery for all coronary artery bypass graft surgeries performed in the state. In each year, the reports shall compare risk-adjusted outcomes by hospital, and in every other year, by hospital and cardiac surgeon. Upon the recommendation of the clinical panel established by Section 128748 based on statistical and technical considerations, information on individual hospitals and surgeons may be excluded from the reports.

(3) Unless otherwise recommended by the clinical panel established by Section 128748, the office shall collect the same data used for the most recent risk-adjusted model developed for the California Coronary Artery Bypass Graft Mortality Reporting Program. Upon recommendation of the clinical panel, the office may add any clinical data elements included in the Society of Thoracic Surgeons' database. Prior to any additions from the Society of Thoracic Surgeons' database, the following factors shall be considered:

(A) Utilization of sampling to the maximum extent possible.

(B) Exchange of data elements as opposed to addition of data elements.

(4) Upon recommendation of the clinical panel, the office may add, delete, or revise clinical data elements, but shall add no more than a net of six elements not included in the Society of Thoracic Surgeons' database, to the data set over any five-year period. Prior to any additions or deletions, all of the following factors shall be considered:

(A) Utilization of sampling to the maximum extent possible.

(B) Feasibility of collecting data elements.

(C) Costs and benefits of collection and submission of data.

(D) Exchange of data elements as opposed to addition of data elements.

(5) The office shall collect the minimum data necessary for purposes of testing or validating a risk-adjusted model for the coronary artery bypass graft report.

(6) Patient medical record numbers and any other data elements that the office believes could be used to determine the identity of an individual patient shall be exempt from the disclosure requirements of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(d) The annual reports shall compare the risk-adjusted outcomes experienced by all patients treated for the selected conditions and procedures in each California hospital during the period covered by each report, to the outcomes expected. Outcomes shall be reported in the five following groupings for each hospital:

(1) "Much higher than average outcomes," for hospitals with risk-adjusted outcomes much higher than the norm.

(2) "Higher than average outcomes," for hospitals with risk-adjusted outcomes higher than the norm.

(3) "Average outcomes," for hospitals with average risk-adjusted outcomes.

(4) "Lower than average outcomes," for hospitals with risk-adjusted outcomes lower than the norm.

(5) "Much lower than average outcomes," for hospitals with risk-adjusted outcomes much lower than the norm.

(e) For coronary artery bypass graft surgery reports and any other outcome reports for which auditing is appropriate, the office shall conduct periodic auditing of data at hospitals.

(f) The office shall publish in the annual reports required under this section the risk-adjusted mortality rate for each hospital and for those reports that include physician reporting, for each physician.

(g) The office shall either include in the annual reports required under this section, or make separately available at cost to any person requesting it, risk-adjusted outcomes data assessing the statistical significance of hospital or physician data at each of the following three levels: 99-percent confidence level (0.01 p-value), 95-percent confidence level (0.05 p-value), and 90-percent confidence level (0.10 p-value). The office shall include any other analysis or comparisons of the data in the annual reports required under this section that the office deems appropriate to further the purposes of this chapter.

SEC. 294. Section 130060 of the Health and Safety Code is amended to read:

130060. (a) (1) After January 1, 2008, a general acute care hospital building that is determined to be a potential risk of collapse or pose significant loss of life shall only be used for nonacute care hospital purposes, unless an extension of this deadline has been granted and either of the following occurs before the end of the extension:

(A) A replacement building has been constructed and a certificate of occupancy has been granted by the office for the replacement building.

(B) A retrofit has been performed on the building and a construction final has been obtained by the office.

(2) An extension of the deadline may be granted by the office upon a demonstration by the owner that compliance will result in a loss of health care capacity that may not be provided by other general acute care hospitals within a reasonable proximity. In its request for an extension of the deadline, a hospital shall state why the hospital is unable to comply with the January 1, 2008, deadline requirement.

(3) Prior to granting an extension of the January 1, 2008, deadline pursuant to this section, the office shall do all of the following:

(A) Provide public notice of a hospital's request for an extension of the deadline. The notice, at a minimum, shall be posted on the office's internet website, and shall include the facility's name and identification number, the status of the request, and the beginning and ending dates of the comment period, and shall advise the public of the opportunity to submit public

comments pursuant to subparagraph (C). The office shall also provide notice of all requests for the deadline extension directly to interested parties upon request of the interested parties.

(B) Provide copies of extension requests to interested parties within 10 working days to allow interested parties to review and provide comment within the 45-day comment period. The copies shall include those records that are available to the public pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(C) Allow the public to submit written comments on the extension proposal for a period of not less than 45 days from the date of the public notice.

(b) (1) It is the intent of the Legislature, in enacting this subdivision, to facilitate the process of having more hospital buildings in substantial compliance with this chapter and to take nonconforming general acute care hospital inpatient buildings out of service more quickly.

(2) The functional contiguous grouping of hospital buildings of a general acute care hospital, each of which provides, as the primary source, one or more of the hospital's eight basic services as specified in subdivision (a) of Section 1250, may receive a five-year extension of the January 1, 2008, deadline specified in subdivision (a) of this section pursuant to this subdivision for both structural and nonstructural requirements. A functional contiguous grouping refers to buildings containing one or more basic hospital services that are either attached or connected in a way that is acceptable to the State Department of Health Care Services. These buildings may be either on the existing site or a new site.

(3) To receive the five-year extension, a single building containing all of the basic services or at least one building within the contiguous grouping of hospital buildings shall have obtained a building permit prior to 1973 and this building shall be evaluated and classified as a nonconforming, Structural Performance Category-1 (SPC-1) building. The classification shall be submitted to and accepted by the Office of Statewide Health Planning and Development. The identified hospital building shall be exempt from the requirement in subdivision (a) until January 1, 2013, if the hospital agrees that the basic service or services that were provided in that building shall be provided, on or before January 1, 2013, as follows:

(A) Moved into an existing conforming Structural Performance Category-3 (SPC-3), Structural Performance Category-4 (SPC-4), or Structural Performance Category-5 (SPC-5) and Non-Structural Performance Category-4 (NPC-4) or Non-Structural Performance Category-5 (NPC-5) building.

(B) Relocated to a newly built compliant SPC-5 and NPC-4 or NPC-5 building.

(C) Continued in the building if the building is retrofitted to an SPC-5 and NPC-4 or NPC-5 building.

(4) A five-year extension is also provided to a post-1973 building if the hospital owner informs the Office of Statewide Health Planning and

Development that the building is classified as SPC-1, SPC-3, or SPC-4 and will be closed to general acute care inpatient service use by January 1, 2013. The basic services in the building shall be relocated into an SPC-5 and NPC-4 or NPC-5 building by January 1, 2013.

(5) SPC-1 buildings, other than the building identified in paragraph (3) or (4), in the contiguous grouping of hospital buildings shall also be exempt from the requirement in subdivision (a) until January 1, 2013. However, on or before January 1, 2013, at a minimum, each of these buildings shall be retrofitted to an SPC-2 and NPC-3 building, or no longer be used for general acute care hospital inpatient services.

(c) On or before March 1, 2001, the office shall establish a schedule of interim work progress deadlines that hospitals shall be required to meet to be eligible for the extension specified in subdivision (b). To receive this extension, the hospital building or buildings shall meet the year 2002 nonstructural requirements.

(d) A hospital building that is eligible for an extension pursuant to this section shall meet the January 1, 2030, nonstructural and structural deadline requirements if the building is to be used for general acute care inpatient services after January 1, 2030.

(e) Upon compliance with subdivision (b), the hospital shall be issued a written notice of compliance by the office. The office shall send a written notice of violation to hospital owners that fail to comply with this section. The office shall make copies of these notices available on its internet website.

(f) (1) A hospital that has received an extension of the January 1, 2008, deadline pursuant to subdivision (a) or (b) may request an additional extension of up to two years for a hospital building that it owns or operates and that meets the criteria specified in paragraph (2), (3), or (5).

(2) The office may grant the additional extension if the hospital building subject to the extension meets all of the following criteria:

(A) The hospital building is under construction at the time of the request for extension under this subdivision and the purpose of the construction is to meet the requirements of subdivision (a) to allow the use of the building as a general acute care hospital building after the extension deadline granted by the office pursuant to subdivision (a) or (b).

(B) The hospital building plans were submitted to the office and were deemed ready for review by the office at least four years prior to the applicable deadline for the building. The hospital shall indicate, upon submission of its plans, the SPC-1 building or buildings that will be retrofitted or replaced to meet the requirements of this section as a result of the project.

(C) The hospital received a building permit for the construction described in subparagraph (A) at least two years prior to the applicable deadline for the building.

(D) The hospital submitted a construction timeline at least two years prior to the applicable deadline for the building demonstrating the hospital's intent to meet the applicable deadline. The timeline shall include all of the following:

(i) The projected construction start date.

(ii) The projected construction completion date.

(iii) Identification of the contractor.

(E) The hospital is making reasonable progress toward meeting the timeline set forth in subparagraph (D), but factors beyond the hospital's control make it impossible for the hospital to meet the deadline.

(3) The office may grant the additional extension if the hospital building subject to the extension meets all of the following criteria:

(A) The hospital building is owned by a health care district that has, as owner, received the extension of the January 1, 2008, deadline, but where the hospital is operated by an unaffiliated third-party lessee pursuant to a facility lease that extends at least through December 31, 2009. The district shall file a declaration with the office with a request for an extension stating that, as of the date of the filing, the district has lacked, and continues to lack, unrestricted access to the subject hospital building for seismic planning purposes during the term of the lease, and that the district is under contract with the county to maintain hospital services when the hospital comes under district control. The office shall not grant the extension if an unaffiliated third-party lessee will operate the hospital beyond December 31, 2010.

(B) The hospital building plans were submitted to the office and were deemed ready for review by the office at least four years prior to the applicable deadline for the building. The hospital shall indicate, upon submission of its plans, the SPC-1 building or buildings that will be retrofitted or replaced to meet the requirements of this section as a result of the project.

(C) The hospital received a building permit for the construction described in subparagraph (B) by December 31, 2011.

(D) The hospital submitted, by December 31, 2011, a construction timeline for the building demonstrating the hospital's intent and ability to meet the deadline of December 31, 2014. The timeline shall include all of the following:

(i) The projected construction start date.

(ii) The projected construction completion date.

(iii) Identification of the contractor.

(E) The hospital building is under construction at the time of the request for the extension, the purpose of the construction is to meet the requirements of subdivision (a) to allow the use of the building as a general acute care hospital building after the extension deadline granted by the office pursuant to subdivision (a) or (b), and the hospital is making reasonable progress toward meeting the timeline set forth in subparagraph (D).

(F) The hospital granted an extension pursuant to this paragraph shall submit an additional status report to the office, equivalent to that required by subdivision (c) of Section 130061, no later than June 30, 2013.

(4) An extension granted pursuant to paragraph (3) shall be applicable only to the health care district applicant and its affiliated hospital while the hospital is operated by the district or an entity under the control of the district.

(5) The office may grant the additional extension if the hospital building subject to the extension meets all of the following criteria:

(A) The hospital owner submitted to the office, prior to June 30, 2009, a request for review using current computer modeling utilized by the office and based upon software developed by the Federal Emergency Management Agency (FEMA), referred to as Hazards US, and the building was deemed SPC-1 after that review.

(B) The hospital building plans for the building are submitted to the office and deemed ready for review by the office prior to July 1, 2010. The hospital shall indicate, upon submission of its plans, the SPC-1 building or buildings that shall be retrofitted or replaced to meet the requirements of this section as a result of the project.

(C) The hospital receives a building permit from the office for the construction described in subparagraph (B) prior to January 1, 2012.

(D) The hospital submits, prior to January 1, 2012, a construction timeline for the building demonstrating the hospital's intent and ability to meet the applicable deadline. The timeline shall include all of the following:

(i) The projected construction start date.

(ii) The projected construction completion date.

(iii) Identification of the contractor.

(E) The hospital building is under construction at the time of the request for the extension, the purpose of the construction is to meet the requirements of subdivision (a) to allow the use of the building as a general acute care hospital building after the extension deadline granted by the office pursuant to subdivision (a) or (b), and the hospital is making reasonable progress toward meeting the timeline set forth in subparagraph (D).

(F) The hospital owner completes construction so that the hospital meets all criteria to enable the office to issue a certificate of occupancy by the applicable deadline for the building.

(6) A hospital located in the County of Sacramento, San Mateo, or Santa Barbara or the City of San Jose or the City of Willits that has received an additional extension pursuant to paragraph (2) or (5) may request an additional extension until September 1, 2015, to obtain either a certificate of occupancy from the office for a replacement building, or a construction final from the office for a building on which a retrofit has been performed.

(7) A hospital denied an extension pursuant to this subdivision may appeal the denial to the Hospital Building Safety Board.

(8) The office may revoke an extension granted pursuant to this subdivision for any hospital building where the work of construction is abandoned or suspended for a period of at least one year, unless the hospital demonstrates in a public document that the abandonment or suspension was caused by factors beyond its control.

(g) (1) Notwithstanding subdivisions (a), (b), (c), and (f), and Sections 130061.5 and 130064, a hospital that has received an extension of the January 1, 2008, deadline pursuant to subdivision (a) or (b) also may request an additional extension of up to seven years for a hospital building that it

owns or operates. The office may grant the extension subject to the hospital meeting the milestones set forth in paragraph (2).

(2) The hospital building subject to the extension shall meet all of the following milestones, unless the hospital building is reclassified as SPC-2 or higher as a result of its Hazards US score:

(A) The hospital owner submits to the office, no later than September 30, 2012, a letter of intent stating whether it intends to rebuild, replace, or retrofit the building, or remove all general acute care beds and services from the building, and the amount of time necessary to complete the construction.

(B) The hospital owner submits to the office, no later than September 30, 2012, a schedule detailing why the requested extension is necessary, and specifically how the hospital intends to meet the requested deadline.

(C) The hospital owner submits to the office, no later than September 30, 2012, an application ready for review seeking structural reassessment of each of its SPC-1 buildings using current computer modeling based upon software developed by FEMA, referred to as Hazards US.

(D) The hospital owner submits to the office, no later than January 1, 2015, plans ready for review consistent with the letter of intent submitted pursuant to subparagraph (A) and the schedule submitted pursuant to subparagraph (B).

(E) The hospital owner submits a financial report to the office at the time the plans are submitted pursuant to subparagraph (D). The report shall demonstrate the hospital owner's financial capacity to implement the construction plans submitted pursuant to subparagraph (D).

(F) The hospital owner receives a building permit consistent with the letter of intent submitted pursuant to subparagraph (A) and the schedule submitted pursuant to subparagraph (B), no later than July 1, 2018.

(3) To evaluate public safety and determine whether to grant an extension of the deadline, the office shall consider the structural integrity of the hospital's SPC-1 buildings based on its Hazards US scores, community access to essential hospital services, and the hospital owner's financial capacity to meet the deadline as determined by either a bond rating of BBB or below or the financial report on the hospital owner's financial capacity submitted pursuant to subparagraph (E) of paragraph (2). The criteria contained in this paragraph shall be considered by the office in its determination of the length of an extension or whether an extension should be granted.

(4) The extension or subsequent adjustments granted pursuant to this subdivision may not exceed the amount of time that is reasonably necessary to complete the construction specified in paragraph (2).

(5) If the circumstances underlying the request for extension submitted to the office pursuant to paragraph (2) change, the hospital owner shall notify the office as soon as practicable, but in no event later than six months after the hospital owner discovered the change of circumstances. The office may adjust the length of the extension granted pursuant to paragraphs (2) and (3) as necessary, but in no event longer than the period specified in paragraph (1).

(6) A hospital denied an extension pursuant to this subdivision may appeal the denial to the Hospital Building Safety Board.

(7) The office may revoke an extension granted pursuant to this subdivision for any hospital building when it is determined that any information submitted pursuant to this section was falsified, or if the hospital failed to meet a milestone set forth in paragraph (2), or where the work of construction is abandoned or suspended for a period of at least six months, unless the hospital demonstrates in a publicly available document that the abandonment or suspension was caused by factors beyond its control.

(8) Regulatory submissions made by the office to the California Building Standards Commission to implement this section shall be deemed to be emergency regulations and shall be adopted as emergency regulations.

(9) The hospital owner that applies for an extension pursuant to this subdivision shall pay the office an additional fee, to be determined by the office, sufficient to cover the additional reasonable costs incurred by the office for maintaining the additional reporting requirements established under this section, including, but not limited to, the costs of reviewing and verifying the extension documentation submitted pursuant to this subdivision. This additional fee shall not include any cost for review of the plans or other duties related to receiving a building or occupancy permit.

(10) This subdivision shall become operative on the date that the State Department of Health Care Services receives all necessary federal approvals for a 2011–12 fiscal year hospital quality assurance fee program that includes three hundred twenty million dollars ($320,000,000) in fee revenue to pay for health care coverage for children, which is made available as a result of the legislative enactment of a 2011–12 fiscal year hospital quality assurance fee program.

(h) A critical access hospital located in the City of Tehachapi may submit a seismic safety extension application pursuant to subdivision (g), notwithstanding deadlines in that subdivision that are earlier than the effective date of the act that added this subdivision. The submitted application shall include a timetable as required pursuant to subdivision (g).

(i) (1) A hospital located in the Tarzana neighborhood of the City of Los Angeles that has received extensions pursuant to subdivisions (b) and (g) may request an additional extension for a single building until October 1, 2022, in order to obtain a certificate of occupancy from the office for a replacement building.

(2) The hospital owner seeking the extension shall submit a written request that includes a timeline specifying how the hospital intends to meet the new deadline, including the construction document submission dates. The following timeline shall be met for construction document submissions:

(A) No later than January 1, 2018, the hospital owner shall submit construction documents, deemed ready for review, related to the first final review of the second increment with information including the building core and shell of the hospital. Failure to submit the construction documents by January 1, 2018, shall result in the assessment of a fine of five thousand dollars ($5,000) per calendar day until the documents are submitted.

(B) No later than March 1, 2018, the hospital owner shall submit construction documents, deemed ready for review, related to the first final review of the first increment with information including the structural foundation, frame, and underslab utilities of the hospital. Failure to submit the construction documents by March 1, 2018, shall result in the assessment of a fine of five thousand dollars ($5,000) per calendar day until the documents are submitted.

(C) No later than September 1, 2018, the hospital owner shall submit construction documents, deemed ready for review, related to the first final review of the third increment with information on the build-out of the hospital. Failure to submit the construction documents by September 1, 2018, shall result in the assessment of a fine of five thousand dollars ($5,000) per calendar day until the documents are submitted.

(D) No later than November 1, 2018, the hospital owner shall submit construction documents, deemed ready for review, related to the first final review of the fourth increment with information on the seismic support and anchorage of the hospital. Failure to submit the construction documents by November 1, 2018, shall result in the assessment of a fine of five thousand dollars ($5,000) per calendar day until the documents are submitted.

(E) The hospital owner may submit a written request to the office seeking an extension of the deadlines set forth in subparagraphs (A), (B), (C), and (D). The written request shall state with specificity the reason for the request and how the reason preventing compliance with the deadlines was outside of the control of the hospital owner. After review of the request for extension, the office may grant the request for a period of time not to exceed 30 calendar days. If the office grants the request for an extension, no fine shall accrue or be imposed during the extension period.

(3) Notwithstanding any other law, any fines assessed pursuant to paragraph (2) shall be deposited into the General Fund following a determination on appeal, if any. A hospital assessed a fine pursuant to this subdivision may appeal the assessment to the Hospital Building Safety Board, provided the hospital posts the funds for any fines to be held by the office pending the resolution of the appeal.

(4) The office shall not issue a certificate of occupancy for the single replacement building until all assessed fines accrued pursuant to paragraph (2) have been paid in full, or, if an appeal is pending, have been posted subject to resolution of an appeal. Fines deposited by the hospital pursuant to paragraph (3) shall be considered paid in full for purposes of issuing a certificate of occupancy pursuant to this paragraph. This paragraph is in addition to, and is not intended to supersede, any other requirements that must be met by the hospital for issuance by the office of a certificate of occupancy.

SEC. 295. Section 130506 of the Health and Safety Code is amended to read:

130506. (a) The department shall negotiate drug discount agreements with manufacturers to provide discounts for single-source and multiple-source prescription drugs through the program. The department

shall attempt to negotiate the maximum possible discount for an eligible Californian. The department shall attempt to negotiate, with each manufacturer, discounts to offer single-source prescription drugs under the program at a volume weighted average discount that is equal to or below any one of the following benchmark prices:

(1) Eighty-five percent of the average manufacturer price for a drug, as published by the federal Centers for Medicare and Medicaid Services.

(2) The lowest price provided to any nonpublic entity in the state by a manufacturer to the extent that the Medicaid best price exists under federal law.

(3) The Medicaid best price, to the extent that this price exists under federal law.

(b) The department may require the drug manufacturer to provide information that is reasonably necessary for the department to carry out its duties pursuant to this division.

(c) The department shall pursue manufacturer discount agreements to ensure that the number and type of drugs available through the program is sufficient to give an eligible Californian a formulary comparable to the Medi-Cal list of contract drugs, or if this information is available to the department, a formulary that is comparable to that provided to CalPERS enrollees.

(d) To obtain the most favorable discounts, the department may limit the number of drugs available through the program.

(e) The drug discount agreements negotiated pursuant to this section shall be used to reduce the cost of drugs purchased by program participants and to fund program costs pursuant to Section 130542.1.

(f) All information reported by a manufacturer to, negotiations with, and agreements executed with, the department or its third-party vendor pursuant to this section, shall be considered confidential and corporate proprietary information. This information shall not be subject to disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code). The California State Auditor's Office and the Controller shall have access to pricing information in a manner that is consistent with their access to this information under the Medi-Cal program and under law. The California State Auditor's Office and the Controller may use this information only to investigate or audit the administration of the program. Neither the California State Auditor's Office, the Controller, nor the department may disclose this information in a form that identifies a specific manufacturer or wholesaler or prices charged for drugs of this manufacturer or wholesaler. Information provided to the department pursuant to subdivision (e) of Section 130530 shall not be affected by the confidentiality protections established by this subdivision.

(g) (1) Any pharmacy licensed pursuant to Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code may participate in the program.

(2) Any manufacturer may participate in the program.

SEC. 296. Section 131052 of the Health and Safety Code is amended to read:

131052. In implementing the transfer of jurisdiction pursuant to this article, the State Department of Public Health succeeds to and is vested with all the statutory duties, powers, purposes, responsibilities, and jurisdiction of the former State Department of Health Services as they relate to public health as provided for or referred to in all of the following provisions of law:

(1) Sections 550, 555, 650, 680, 1241, 1658, 2221.1, 2248.5, 2249, 2259, 2259.5, 2541.3, 2585, 2728, 3527, 4017, 4027, 4037, 4191, 19059.5, 19120, 22950, 22973.2, and 22974.8 of the Business and Professions Code.

(2) Sections 56.17, 1812.508, and 1812.543 of the Civil Code.

(3) Sections 8286, 8803, 17613, 32064, 32065, 32066, 32241, 49030, 49405, 49414, 49423.5, 49452.6, 49460, 49464, 49565, 49565.8, 49531.1, 56836.165, and 76403 of the Education Code.

(4) Sections 405, 6021, 6026, 18963, 30852, 41302, and 78486 of the Food and Agricultural Code.

(5) Sections 307, 355, 422, 7572, 7574, 8706, 8817, and 8909 of the Family Code.

(6) Sections 1786, 4011, 5523, 5671, 5674, 5700, 5701, 5701.5, 7115, and 15700 of the Fish and Game Code.

(7) Sections 855, 51010, and 551017.1 of the Government Code.

(8) (A) Sections 475, 1180.6, 1418.1, 1422.1, 1428.2, 1457, 1505, 1507.1, 1507.5, 1570.7, 1599.2, 1599.60, 1599.75, 1599.87, 2002, 2804, 11362.7, 11776, 11839.21, 11839.23, 11839.24, 11839.25, 11839.26, 11839.27, 11839.28, 11839.29, 11839.30, 11839.31, 11839.32, 11839.33, 11839.34, 17920.10, 17961, 18897.2, 24185, 24186, 24187, 24275, 26101, 26122, 26134, 26155, 26200, and 26203.

(B) Chapters 1, 2, 2.05, 2.3, 2.35, 2.4, 3.3, 3.9, 3.93, 3.95, 4, 4.1, 4.5, 5, 6, 6.5, 8, 8.3, 8.5, 8.6, 9, and 11 of Division 2.

(C) Articles 2 and 4 of Chapter 2, Chapter 3, and Chapter 4 of Part 1, Part 2, and Part 3 of Division 101.

(D) Division 102, including Sections 102230 and 102231.

(E) Division 103, including Sections 104145, 104181, 104182, 104182.5, 104187, 104191, 104192, 104193, 104316, 104317, 104318, 104319, 104320, 104321, 104324.2, 104324.25, 104350, 105191, 105251, 105255, 105280, 105340, and 105430.

(F) Division 104, including Sections 106615, 106675, 106770, 108115, 108855, 109282, 109910, 109915, 112155, 112500, 112650, 113355, 114460, 114475, 114650, 114710, 114850, 114855, 114985, 115061, 115261, 115340, 115736, 115880, 115885, 115915, 116064, 116183, 116270, 116365.5, 116366, 116375, 116610, 116751, 116760.20, 116825, 117100, 117924, and 119300.

(G) Division 105, including Sections 120262, 120381, 120395, 120440, 120480, 120956, 120966, 121155, 121285, 121340, 121349.1, 121480, 122410, and 122420.

(H) Part 1, Part 2 excluding Articles 5, 5.5, 6, and 6.5 of Chapter 3, Part 3 and Part 5 excluding Articles 1 and 2 of Chapter 2, Part 7, and Part 8 of Division 106.

(9) Sections 799.03, 10123.35, 10123.5, 10123.55, 10123.10, 10123.184, and 11520 of the Insurance Code.

(10) Sections 50.8, 142.3, 144.5, 144.7, 147.2, 4600.6, 6307.1, 6359, 6712, 9009, and 9022 of the Labor Code.

(11) Sections 4018.1, 5008.1, 7501, 7502, 7510, 7511, 7515, 7518, 7530, 7550, 7553, 7575, 7576, 11010, 11174.34, and 13990 of the Penal Code.

(12) Section 4806 of the Probate Code.

(13) Sections 15027, 25912, 28004, 30950, 41781.1, 42830, 43210, 43308, 44103, and 71081 of the Public Resources Code.

(14) Section 10405 of the Public Contract Code.

(15) Sections 883, 1507, and 7718 of the Public Utilities Code.

(16) Sections 18833, 18838, 18845.2, 18846.2, 18847.2, 18863, 30461.6, 43010.1, and 43011.1 of the Revenue and Taxation Code.

(17) Section 11020 of the Unemployment Insurance Code.

(18) Sections 22511.55, 23158, 27366, and 33000 of the Vehicle Code.

(19) Sections 5326.9, 5328, 5328.15, 14132, 16902, and 16909, and Division 24 of the Welfare and Institutions Code. Payment for services provided under the Family Planning, Access, Care, and Treatment (Family PACT) Waiver Program pursuant to subdivision (aa) of Section 14132 and Division 24 shall be made through the State Department of Health Care Services. The State Department of Public Health and the State Department of Health Care Services may enter into an interagency agreement for the administration of those payments. This paragraph, to the extent that it applies to the Family PACT Waiver Program, shall become inoperative on June 30, 2012.

(20) Sections 13176, 13177.5, 13178, 13193, 13390, 13392, 13392.5, 13393.5, 13395.5, 13396.7, 13521, 13522, 13523, 13528, 13529, 13529.2, 13550, 13552.4, 13552.8, 13553, 13553.1, 13554, 13554.2, 13816, 13819, 13820, 13823, 13824, 13825, 13827, 13830, 13834, 13835, 13836, 13837, 13858, 13861, 13862, 13864, 13868, 13868.1, 13868.3, 13868.5, 13882, 13885, 13886, 13887, 13891, 13892, 13895.1, 13895.6, 13895.9, 13896, 13896.3, 13896.4, 13896.5, 13897, 13897.4, 13897.5, 13897.6, 13898, 14011, 14012, 14015, 14016, 14017, 14019, 14022, 14025, 14026, 14027, and 14029 of the Water Code.

SEC. 297. Section 791.13 of the Insurance Code is amended to read:

791.13. An insurance institution, agent, or insurance-support organization shall not disclose any personal or privileged information about an individual collected or received in connection with an insurance transaction unless the disclosure is:

(a) With the written authorization of the individual, and meets either of the conditions specified in paragraph (1) or (2):

(1) If the authorization is submitted by another insurance institution, agent, or insurance-support organization, the authorization meets the requirement of Section 791.06.

(2) If the authorization is submitted by a person other than an insurance institution, agent, or insurance-support organization, the authorization is:

(A) Dated.

(B) Signed by the individual.

(C) Obtained one year or less prior to the date a disclosure is sought pursuant to this section.

(b) To a person other than an insurance institution, agent, or insurance-support organization, provided the disclosure is reasonably necessary:

(1) To enable the person to perform a business, professional, or insurance function for the disclosing insurance institution, agent, or insurance-support organization or insured and the person agrees not to disclose the information further without the individual's written authorization unless the further disclosure:

(A) Would otherwise be permitted by this section if made by an insurance institution, agent, or insurance-support organization; or

(B) Is reasonably necessary for the person to perform its function for the disclosing insurance institution, agent, or insurance-support organization.

(2) To enable the person to provide information to the disclosing insurance institution, agent or insurance-support organization for the purpose of:

(A) Determining an individual's eligibility for an insurance benefit or payment; or

(B) Detecting or preventing criminal activity, fraud, material misrepresentation or material nondisclosure in connection with an insurance transaction.

(c) To an insurance institution, agent, insurance-support organization or self-insurer, provided the information disclosed is limited to that which is reasonably necessary under either paragraph (1) or (2):

(1) To detect or prevent criminal activity, fraud, material misrepresentation, or material nondisclosure in connection with insurance transactions; or

(2) For either the disclosing or receiving insurance institution, agent, or insurance-support organization to perform its function in connection with an insurance transaction involving the individual.

(d) To a medical-care institution or medical professional for the purpose of any of the following:

(1) Verifying insurance coverage or benefits.

(2) Informing an individual of a medical problem of which the individual may not be aware.

(3) Conducting operations or services audit, provided the only information disclosed is reasonably necessary to accomplish the foregoing purposes.

(e) To an insurance regulatory authority; or

(f) To a law enforcement or other governmental authority pursuant to law.

(g) Otherwise permitted or required by law.

(h) In response to a facially valid administrative or judicial order, including a search warrant or subpoena.

(i) Made for the purpose of conducting actuarial or research studies, provided:

(1) No individual may be identified in any actuarial or research report.

(2) Materials allowing the individual to be identified are returned or destroyed as soon as they are no longer needed.

(3) The actuarial or research organization agrees not to disclose the information unless the disclosure would otherwise be permitted by this section if made by an insurance institution, agent, or insurance-support organization.

(j) To a party or a representative of a party to a proposed or consummated sale, transfer, merger, or consolidation of all or part of the business of the insurance institution, agent, or insurance-support organization, provided:

(1) Prior to the consummation of the sale, transfer, merger, or consolidation the only information disclosed is reasonably necessary to enable the recipient to make business decisions about the purchase, transfer, merger, or consolidation.

(2) The recipient agrees not to disclose the information unless the disclosure would otherwise be permitted by this section if made by an insurance institution, agent, or insurance-support organization.

(k) To a person whose only use of the information will be in connection with the marketing of a product or service, provided:

(1) No medical-record information, privileged information, or personal information relating to an individual's character, personal habits, mode of living, or general reputation is disclosed, and no classification derived from the information is disclosed; or

(2) The individual has been given an opportunity to indicate that the individual does not want personal information disclosed for marketing purposes and has given no indication that the individual does not want the information disclosed; and

(3) The person receiving the information agrees not to use it except in connection with the marketing of a product or service.

(*l*) To an affiliate whose only use of the information will be in connection with an audit of the insurance institution or agent or the marketing of an insurance product or service, provided the affiliate agrees not to disclose the information for any other purpose or to unaffiliated persons.

(m) By a consumer reporting agency, provided the disclosure is to a person other than an insurance institution or agent.

(n) To a group policyholder for the purpose of reporting claims experience or conducting an audit of the insurance institution's or agent's operations or services, provided the information disclosed is reasonably necessary for the group policyholder to conduct the review or audit.

(o) To a professional peer review organization for the purpose of reviewing the service or conduct of a medical-care institution or medical professional.

(p) To a governmental authority for the purpose of determining the individual's eligibility for health benefits for which the governmental authority may be liable.

(q) To a certificate holder or policyholder for the purpose of providing information regarding the status of an insurance transaction.

(r) To a lienholder, mortgagee, assignee, lessor, or other person shown on the records of an insurance institution or agent as having a legal or beneficial interest in a policy of insurance. The information disclosed shall be limited to that which is reasonably necessary to permit the person to protect that person's interest in the policy and shall be consistent with Article 5.5 (commencing with Section 770).

(s) To an insured or the insured's lawyer when the information disclosed is from an accident report, supplemental report, investigative report, or the actual report from a government agency or is a copy of an accident report or other report that the insured is entitled to obtain under Section 20012 of the Vehicle Code or Article 1 (commencing with Section 7923.600) of Chapter 1 of Part 5 of Division 10 of Title 1 of the Government Code.

SEC. 298. Section 922.41 of the Insurance Code is amended to read:

922.41. (a) Credit shall be allowed a domestic insurer when the reinsurance is ceded to an assuming insurer that has been certified by the commissioner as a reinsurer in this state and secures its obligations in accordance with this section. Credit shall be allowed at all times for which statutory financial statement credit for reinsurance is claimed under this section. The credit allowed shall be based upon the security held by or on behalf of the ceding insurer in accordance with a rating assigned to the certified reinsurer by the commissioner. The security shall be in a form consistent with this section, any regulations promulgated by the commissioner, and Section 922.5.

(b) In order to be eligible for certification, the assuming insurer shall meet the following requirements:

(1) The assuming insurer shall be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction, as determined by the commissioner pursuant to subdivisions (f) and (g).

(2) The assuming insurer shall maintain minimum capital and surplus, or its equivalent, in an amount to be determined by the commissioner, but no less than two hundred fifty million dollars ($250,000,000) calculated in accordance with paragraph (4) of subdivision (f) of this section or Section 922.5. This requirement may also be satisfied by an association including incorporated and individual unincorporated underwriters having minimum capital and surplus equivalents (net of liabilities) of at least two hundred fifty million dollars ($250,000,000) and a central fund containing a balance of at least two hundred fifty million dollars ($250,000,000).

(3) The assuming insurer shall maintain financial strength ratings from two or more rating agencies deemed acceptable by the commissioner. These ratings shall be based on interactive communication between the rating agency and the assuming insurer and shall not be based solely on publicly available information. These financial strength ratings will be one factor

used by the commissioner in determining the rating that is assigned to the assuming insurer. Acceptable rating agencies include the following:

(A) Standard & Poor's.

(B) Moody's Investors Service.

(C) Fitch Ratings.

(D) A.M. Best Company.

(E) Any other nationally recognized statistical rating organization.

(4) The assuming insurer shall agree to submit to the jurisdiction of this state, appoint the commissioner or a designated attorney in this state as its agent for service of process in this state, and agree to provide security for 100 percent of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers if it resists enforcement of a final United States judgment.

(5) The assuming insurer shall agree to meet applicable information filing requirements as determined by the commissioner, both with respect to an initial application for certification and on an ongoing basis.

(6) The certified reinsurer shall comply with any other requirements deemed relevant by the commissioner.

(c) (1) If an applicant for certification has been certified as a reinsurer in a National Association of Insurance Commissioners (NAIC) accredited jurisdiction, the commissioner may defer to that jurisdiction's certification, and has the discretion to defer to the rating assigned by that jurisdiction if the assuming insurer submits a properly executed Form CR-1, as published on the department's internet website, and additional information as the commissioner requires. The commissioner, however, may perform an independent review and determination of an applicant. The assuming insurer shall then be considered to be a certified reinsurer in this state.

(2) If the commissioner defers to a certification determination by another state, a change in the certified reinsurer's status or rating in the other jurisdiction shall apply automatically in this state as of the date it takes effect in the other jurisdiction unless the commissioner otherwise determines. The certified reinsurer shall notify the commissioner of a change in its status or rating within 10 days after receiving notice of the change.

(3) The commissioner may withdraw recognition of the other jurisdiction's rating at any time and assign a new rating in accordance with subdivision (h).

(4) The commissioner may withdraw recognition of the other jurisdiction's certification at any time, with written notice to the certified reinsurer. Unless the commissioner suspends or revokes the certified reinsurer's certification in accordance with this section and Section 922.42, the certified reinsurer's certification shall remain in good standing in this state for a period of three months, which shall be extended if additional time is necessary to consider the assuming insurer's application for certification in this state.

(d) An association, including incorporated and individual unincorporated underwriters, may be a certified reinsurer. In order to be eligible for

certification, in addition to satisfying requirements of subdivision (b), the reinsurer shall meet all of the following requirements:

(1) The association shall satisfy its minimum capital and surplus requirements through the capital and surplus equivalents (net of liabilities) of the association and its members, which shall include a joint central fund that may be applied to an unsatisfied obligation of the association or any of its members, in an amount determined by the commissioner to provide adequate protection.

(2) The incorporated members of the association shall not be engaged in any business other than underwriting as a member of the association and shall be subject to the same level of regulation and solvency control by the association's domiciliary regulator as are the unincorporated members.

(3) Within 90 days after its financial statements are due to be filed with the association's domiciliary regulator, the association shall provide to the commissioner an annual certification by the association's domiciliary regulator of the solvency of each underwriter member or, if a certification is unavailable, financial statements, prepared by independent public accountants, of each underwriter member of the association.

(e) (1) The commissioner shall post notice on the department's internet website promptly upon receipt of an application for certification, including instructions on how members of the public may respond to the application. The commissioner shall not take final action on the application until at least 30 days after posting the notice required by this subdivision.

(2) The commissioner shall issue written notice to an assuming insurer that has made application and has been approved as a certified reinsurer. Included in that notice shall be the rating assigned the certified reinsurer in accordance with subdivision (h). The commissioner shall publish a list of all certified reinsurers and their ratings.

(f) The certified reinsurer shall agree to meet applicable information filing requirements as determined by the commissioner, both with respect to an initial application for certification and on an ongoing basis. All information submitted by certified reinsurers that is not otherwise public information subject to disclosure shall be exempted from disclosure under Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code, and shall be withheld from public disclosure. The applicable information filing requirements are as follows:

(1) Notification within 10 days of a regulatory action taken against the certified reinsurer, a change in the provisions of its domiciliary license, or a change in rating by an approved rating agency, including a statement describing those changes and the reasons for those changes.

(2) Annually, Form CR-F or CR-S, as applicable pursuant to the instructions published on the department's internet website.

(3) Annually, the report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in paragraph (4).

(4) Annually, the most recent audited financial statements, regulatory filings, and actuarial opinion as filed with certified reinsurer's supervisor

and with a translation into English. Upon the initial certification, audited financial statements for the last two years filed with the certified reinsurer's supervisor.

(5) At least annually, an updated list of all disputed and overdue reinsurance claims regarding reinsurance assumed from United States domestic ceding insurers.

(6) A certification from the certified reinsurer's domestic regulator that the certified reinsurer is in good standing and maintains capital in excess of the jurisdiction's highest regulatory action level.

(7) Any other information that the commissioner may reasonably require.

(g) If the commissioner certifies a non-United States domiciled insurer, the commissioner shall create and publish a list of qualified jurisdictions, under which an assuming insurer licensed and domiciled in that jurisdiction is eligible to be considered for certification by the commissioner as a certified reinsurer.

(1) In order to determine whether the domiciliary jurisdiction of a non-United States assuming insurer is eligible to be recognized as a qualified jurisdiction, the commissioner shall evaluate the appropriateness and effectiveness of the reinsurance supervisory system of the jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits, and the extent of reciprocal recognition afforded by the non-United States jurisdiction to reinsurers licensed and domiciled in the United States. The commissioner shall determine the appropriate process for evaluating the qualifications of those jurisdictions. Before its listing, a qualified jurisdiction shall agree in writing to share information and cooperate with the commissioner with respect to all certified reinsurers domiciled within that jurisdiction. A jurisdiction may not be recognized as a qualified jurisdiction if the commissioner has determined that the jurisdiction does not adequately and promptly enforce final United States judgments and arbitration awards. Additional factors may be considered in the discretion of the commissioner, including, but not limited to, the following:

(A) The framework under which the assuming insurer is regulated.

(B) The structure and authority of the domiciliary regulator with regard to solvency regulation requirements and financial surveillance.

(C) The substance of financial and operating standards for assuming insurers in the domiciliary jurisdiction.

(D) The form and substance of financial reports required to be filed or made publicly available by reinsurers in the domiciliary jurisdiction and the accounting principles used.

(E) The domiciliary regulator's willingness to cooperate with United States regulators in general and the commissioner in particular.

(F) The history of performance by assuming insurers in the domiciliary jurisdiction.

(G) Any documented evidence of substantial problems with the enforcement of final United States judgments in the domiciliary jurisdiction.

(H) Any relevant international standards or guidance with respect to mutual recognition of reinsurance supervision adopted by the International Association of Insurance Supervisors or a successor organization.

(I) Any other matters deemed relevant by the commissioner.

(2) The commissioner shall consider the list of qualified jurisdictions published through the NAIC committee process in determining qualified jurisdictions. The commissioner may include on the list published pursuant to this section any jurisdiction on the NAIC list of qualified jurisdictions or on any equivalent list of the United States Treasury.

(3) If the commissioner approves a jurisdiction as qualified that does not appear on either the NAIC list of qualified jurisdictions, or the United States Treasury list, the commissioner shall provide thoroughly documented justification in accordance with criteria to be developed under this section.

(4) United States jurisdictions that meet the requirements for accreditation under the NAIC financial standards and accreditation program shall be recognized as qualified jurisdictions.

(5) If a certified reinsurer's domiciliary jurisdiction ceases to be a qualified jurisdiction, the commissioner has the discretion to suspend the reinsurer's certification indefinitely, in lieu of revocation.

(h) The commissioner shall assign a rating to each certified reinsurer, giving due consideration to the financial strength ratings that have been assigned by rating agencies deemed acceptable to the commissioner pursuant to this section. The commissioner shall publish a list of all certified reinsurers and their ratings.

(1) Each certified reinsurer shall be rated on a legal entity basis, with due consideration being given to the group rating where appropriate, except that an association including incorporated and individual unincorporated underwriters that has been approved to do business as a single certified reinsurer may be evaluated on the basis of its group rating. Factors that may be considered as part of the evaluation process include, but are not limited to, the following:

(A) The certified reinsurer's financial strength rating from an acceptable rating agency. The maximum rating that a certified reinsurer may be assigned shall correspond to its financial strength rating as set forth in clauses (i) to (vi), inclusive. The commissioner shall use the lowest financial strength rating received from an approved rating agency in establishing the maximum rating of a certified reinsurer. A failure to obtain or maintain at least two financial strength ratings from acceptable rating agencies shall result in loss of eligibility for certification.

(i) Ratings category "Secure - 1" corresponds to A.M. Best Company rating A++; Standard & Poor's rating AAA; Moody's Investors Service rating Aaa; and Fitch Ratings rating AAA.

(ii) Ratings category "Secure - 2" corresponds to A.M. Best Company rating A+; Standard & Poor's rating AA+, AA, or AA-; Moody's Investors Service rating Aa1, Aa2, or Aa3; and Fitch Ratings rating AA+, AA, or AA-.

(iii) Ratings category "Secure - 3" corresponds to A.M. Best Company rating A; Standard & Poor's rating A+ or A; Moody's Investors Service rating A1 or A2; and Fitch Ratings rating A+ or A.

(iv) Ratings category "Secure - 4" corresponds to A.M. Best Company rating A-; Standard & Poor's rating A-; Moody's Investors Service rating A3; and Fitch Ratings rating A-.

(v) Ratings category "Secure - 5" corresponds to A.M. Best Company rating B++ or B+; Standard & Poor's rating BBB+, BBB, or BBB-; Moody's Investors Service rating Baa1, Baa2, or Baa3; and Fitch Ratings rating BBB+, BBB, or BBB-.

(vi) Ratings category "Vulnerable - 6" corresponds to A.M. Best Company rating B, B-, C++, C+, C, C-, D, E, or F; Standard & Poor's rating BB+, BB, BB-, B+, B, B-, CCC, CC, C, D, or R; Moody's Investors Service rating Ba1, Ba2, Ba3, B1, B2, B3, Caa, Ca, or C; and Fitch Ratings rating BB+, BB, BB-, B+, B, B-, CCC+, CC, CCC-, or DD.

(B) The business practices of the certified reinsurer in dealing with its ceding insurers, including its record of compliance with reinsurance contractual terms and obligations.

(C) For certified reinsurers domiciled in the United States, a review of the most recent applicable NAIC Annual Statement Blank, either Schedule F (for property/casualty reinsurers) or Schedule S (for life and health reinsurers).

(D) For certified reinsurers not domiciled in the United States, a review annually of Form CR-F (for property/casualty reinsurers) or Form CR-S (for life and health reinsurers) (as published on the department's internet website).

(E) The reputation of the certified reinsurer for prompt payment of claims under reinsurance agreements, based on an analysis of ceding insurers' Schedule F reporting of overdue reinsurance recoverables, including the proportion of obligations that are more than 90 days past due or are in dispute, with specific attention given to obligations payable to companies that are in administrative supervision or receivership.

(F) Regulatory actions against the certified reinsurer.

(G) The report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in subparagraph (H).

(H) For certified reinsurers not domiciled in the United States, audited financial statements, regulatory filings, and actuarial opinion as filed with the non-United States jurisdiction supervisor and with a translation into English. Upon the initial application for certification, the commissioner shall consider audited financial statements for the last two years filed with its non-United States jurisdiction supervisor.

(I) The liquidation priority of obligations to a ceding insurer in the certified reinsurer's domiciliary jurisdiction in the context of an insolvency proceeding.

(J) A certified reinsurer's participation in a solvent scheme of arrangement, or similar procedure, that involves United States ceding insurers. The commissioner shall receive prior notice from a certified

reinsurer that proposes participation by the certified reinsurer in a solvent scheme of arrangement.

(K) Any other information deemed relevant by the commissioner.

(2) Based on the analysis conducted under subparagraph (E) of paragraph (1) of a certified reinsurer's reputation for prompt payment of claims, the commissioner may make appropriate adjustments in the security the certified reinsurer is required to post to protect its liabilities to United States ceding insurers, provided that the commissioner shall, at a minimum, increase the security the certified reinsurer is required to post by one rating level under regulations promulgated by the commissioner, if the commissioner finds either of the following:

(A) More than 15 percent of the certified reinsurer's ceding insurance clients have overdue reinsurance recoverables on paid losses of 90 days or more that are not in dispute and that exceed one hundred thousand dollars ($100,000) for each ceding insurer.

(B) The aggregate amount of reinsurance recoverables on paid losses that are not in dispute and that are overdue by 90 days or more exceeds fifty million dollars ($50,000,000).

(3) The assuming insurer shall submit a properly executed Form CR-1, as published on the department's internet website, as evidence of its submission to the jurisdiction of this state, appointment of the commissioner as an agent for service of process in this state, and agreement to provide security for 100 percent of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers if it resists enforcement of a final United States judgment. The commissioner shall not certify an assuming insurer that is domiciled in a jurisdiction that the commissioner has determined does not adequately and promptly enforce final United States judgments or arbitration awards.

(4) (A) In the case of a downgrade by a rating agency or other disqualifying circumstance, the commissioner shall, upon written notice, assign a new rating to the certified reinsurer in accordance with the requirements of this subdivision.

(B) The commissioner shall have the authority to suspend, revoke, or otherwise modify a certified reinsurer's certification at any time if the certified reinsurer fails to meet its obligations or security requirements under this section, or if other financial or operating results of the certified reinsurer, or documented significant delays in payment by the certified reinsurer, lead the commissioner to reconsider the certified reinsurer's ability or willingness to meet its contractual obligations.

(C) If the rating of a certified reinsurer is upgraded by the commissioner, the certified reinsurer may meet the security requirements applicable to its new rating on a prospective basis, but the commissioner shall require the certified reinsurer to post security under the previously applicable security requirements as to all contracts in force on or before the effective date of the upgraded rating. If the rating of a certified reinsurer is downgraded by the commissioner, the commissioner shall require the certified reinsurer to

meet the security requirements applicable to its new rating for all business it has assumed as a certified reinsurer.

(D) Upon revocation of the certification of a certified reinsurer by the commissioner, the assuming insurer shall be required to post security in accordance with Section 922.5 in order for the ceding insurer to continue to take credit for reinsurance ceded to the assuming insurer. If funds continue to be held in trust in accordance with subdivision (d) of Section 922.4, the commissioner may allow additional credit equal to the ceding insurer's pro rata share of those funds, discounted to reflect the risk of uncollectibility and anticipated expenses of trust administration. Notwithstanding the change of a certified reinsurer's rating or revocation of its certification, a domestic insurer that has ceded reinsurance to that certified reinsurer shall not be denied credit for reinsurance for a period of three months for all reinsurance ceded to that certified reinsurer, unless the reinsurance is found by the commissioner to be at high risk of uncollectibility.

(i) A certified reinsurer shall secure obligations assumed from United States ceding insurers under this subdivision at a level consistent with its rating. The amount of security required in order for full credit to be allowed shall correspond with the following requirements:

Ratings security required
Secure - 1: 0 percent
Secure - 2: 10 percent
Secure - 3: 20 percent
Secure - 4: 50 percent
Secure - 5: 75 percent
Vulnerable - 6: 100 percent

(1) In order for a domestic ceding insurer to qualify for full financial statement credit for reinsurance ceded to a certified reinsurer, the certified reinsurer shall maintain security in a form acceptable to the commissioner and consistent with Section 922.5, or in a multibeneficiary trust in accordance with subdivision (d) of Section 922.4, except as otherwise provided in this subdivision. In order for a domestic insurer to qualify for full financial statement credit, reinsurance contracts entered into or renewed under this section shall include a proper funding clause that requires the certified reinsurer to provide and maintain security in an amount sufficient to avoid the imposition of a financial statement penalty on the ceding insurer under this section for reinsurance ceded to the certified reinsurer.

(2) If a certified reinsurer maintains a trust to fully secure its obligations subject to subdivision (d) of Section 922.4, and chooses to secure its obligations incurred as a certified reinsurer in the form of a multibeneficiary trust, the certified reinsurer shall maintain separate trust accounts for its obligations incurred under reinsurance agreements issued or renewed as a certified reinsurer with reduced security as permitted by this subdivision or comparable laws of other United States jurisdictions and for its obligations subject to subdivision (d) of Section 922.4. It shall be a condition to the grant of certification under this section that the certified reinsurer shall have bound itself, by the language of the trust and agreement with the

commissioner with principal regulatory oversight of each of those trust accounts, to fund, upon termination of any of those trust accounts, out of the remaining surplus of those trusts any deficiency of any other of those trust accounts.

(3) The minimum trusteed surplus requirements provided in subdivision (d) of Section 922.4 are not applicable with respect to a multibeneficiary trust maintained by a certified reinsurer for the purpose of securing obligations incurred under this subdivision, except that the trust shall maintain a minimum trusteed surplus of ten million dollars ($10,000,000).

(4) With respect to obligations incurred by a certified reinsurer under this subdivision, if the security is insufficient, the commissioner shall reduce the allowable credit by an amount proportionate to the deficiency, and have the discretion to impose further reductions in allowable credit upon finding that there is a material risk that the certified reinsurer's obligations will not be paid in full when due.

(5) For purposes of this subdivision, a certified reinsurer whose certification has been terminated for any reason shall be treated as a certified reinsurer required to secure 100 percent of its obligations.

(A) As used in this subdivision, the term "terminated" means revocation, suspension, voluntary surrender, and inactive status.

(B) If the commissioner continues to assign a higher rating as permitted by other provisions of this section, this requirement shall not apply to a certified reinsurer in inactive status or to a reinsurer whose certification has been suspended.

(6) The commissioner shall require the certified reinsurer to post 100-percent security in accordance with Section 922.5, for the benefit of the ceding insurer or its estate, upon the entry of an order of rehabilitation, liquidation, or conservation against the ceding insurer.

(7) Affiliated reinsurance transactions shall receive the same opportunity for reduced security requirements as all other reinsurance transactions.

(8) In order to facilitate the prompt payment of claims, a certified reinsurer shall not be required to post security for catastrophe recoverables for a period of one year from the date of the first instance of a liability reserve entry by the ceding company as a result of a loss from a catastrophic occurrence that is likely to result in significant insured losses, as recognized by the commissioner. The one-year deferral period is contingent upon the certified reinsurer continuing to pay claims in a timely manner, as determined by the commissioner, in writing. Reinsurance recoverables for only the following lines of business as reported on the NAIC annual financial statement related specifically to the catastrophic occurrence shall be included in the deferral:

(A) Line 1: Fire.

(B) Line 2: Allied lines.

(C) Line 3: Farmowners' multiple peril.

(D) Line 4: Homeowners' multiple peril.

(E) Line 5: Commercial multiple peril.

(F) Line 9: Inland marine.

(G) Line 12: Earthquake.

(H) Line 21: Auto physical damage.

(9) Credit for reinsurance under this section shall apply only to reinsurance contracts entered into or renewed on or after the effective date of the certification of the assuming insurer. A reinsurance contract entered into before the effective date of the certification of the assuming insurer that is subsequently amended by mutual agreement of the parties to the reinsurance contract after the effective date of the certification of the assuming insurer, or a new reinsurance contract, covering a risk for which collateral was provided previously, shall only be subject to this section with respect to losses incurred and reserves reported from and after the effective date of the amendment or new contract.

(10) This section shall not be construed to prohibit the parties to a reinsurance agreement from agreeing to provisions establishing security requirements that exceed the minimum security requirements established for certified reinsurers under this section.

(j) A certified reinsurer that ceases to assume new business in this state may request to maintain its certification in inactive status in order to continue to qualify for a reduction in security for its in-force business. An inactive certified reinsurer shall continue to comply with all applicable requirements of this section, and the commissioner shall assign a rating that takes into account, if relevant, the reasons why the reinsurer is not assuming new business.

(k) Notwithstanding this section, credit for reinsurance or deduction from liability by a domestic ceding insurer for cessions to a certified reinsurer may be disallowed upon a finding by the commissioner that the application of the literal provisions of this section does not accomplish its intent, or either the financial condition of the reinsurer or the collateral or other security provided by the reinsurer does not, in substance, satisfy the credit for reinsurance requirements in Section 922.4.

SEC. 299. Section 923.6 of the Insurance Code is amended to read:

923.6. (a) Every admitted property and casualty insurer, unless otherwise exempted by the domiciliary commissioner, shall annually submit the opinion of an Appointed Actuary entitled "Statement of Actuarial Opinion." This opinion shall be filed in accordance with the appropriate Property and Casualty Annual Statement Instructions of the National Association of Insurance Commissioners (NAIC).

(1) For purposes of this section, the term, "property and casualty insurer" means any admitted insurer writing insurance as described in Section 102, 103, 105, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 118, 119, 119.6, 120, 124, or 124.5.

(2) For purposes of this section, the following terms have the same meaning as used in the Property and Casualty Annual Statement Instructions of the NAIC:

(A) Actuarial Opinion.

(B) Actuarial Opinion Summary.

(C) Actuarial Report.

(D) Appointed Actuary.
(E) Statement of Actuarial Opinion.
(F) Property and Casualty Annual Statement Instructions.

(3) The commissioner may adopt regulations related to the terms and conditions required by the Property and Casualty Annual Statement Instructions of the NAIC.

(b) Every property and casualty insurer domiciled in this state that is required to submit a Statement of Actuarial Opinion shall annually submit an Actuarial Opinion Summary, written by the insurer's Appointed Actuary. This Actuarial Opinion Summary shall be filed in accordance with the appropriate Property and Casualty Annual Statement Instructions of the NAIC and shall be considered as a document supporting the Actuarial Opinion required in subdivision (a).

(c) An admitted insurer not domiciled in this state shall provide the Actuarial Opinion Summary upon request of the commissioner.

(d) An Actuarial Report and underlying workpapers as required by the appropriate Property and Casualty Annual Statement Instructions of the NAIC shall be prepared to support each Actuarial Opinion. If an insurer fails to provide either a supporting Actuarial Report or workpapers at the request of the commissioner, or if the commissioner determines that the supporting Actuarial Report or workpapers provided by the insurer are otherwise unacceptable to the commissioner, the commissioner may engage a qualified actuary at the expense of the insurer to review the opinion and the basis for the opinion and prepare the supporting Actuarial Report or workpapers.

(e) Notwithstanding Section 7929.000 of the Government Code, subdivision (f), or any other provision of law, the Statement of Actuarial Opinion required by subdivision (a) shall be a public record and open to inspection.

(f) (1) Documents, materials, or other information in the possession or control of the commissioner that are considered an Actuarial Report, workpapers, or Actuarial Opinion Summary provided in support of the Statement of Actuarial Opinion, and any other material provided by the insurer to the commissioner in connection with the Actuarial Report, workpapers, or Actuarial Opinion Summary shall be confidential by law and privileged, shall not be made public by the commissioner or any other person and are exempt from the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any civil action brought by a private party.

(2) This subdivision shall not limit the commissioner's authority to release the documents, materials, and other information described in paragraph (1) to the American Academy of Actuaries' Actuarial Board for Counseling and Discipline (ABCD), or its successor, so long as those documents, materials, and other information are required for the purpose of professional disciplinary proceedings, and the ABCD establishes procedures satisfactory to the commissioner for preserving the confidentiality of the documents,

nor shall this subdivision limit the commissioner's authority to use those documents, materials, or other information in furtherance of any regulatory or legal action brought as part of the commissioner's official duties.

(3) The commissioner may also exercise, with respect to the documents, materials, or other information described in paragraph (1), all the authority specified in subdivision (b) of Section 735.5, or any successor provision.

SEC. 300. Section 925.3 of the Insurance Code is amended to read:

925.3. All supplemental information provided or made available to the commissioner pursuant to Sections 925 to 925.2, inclusive, including work papers and other relevant documents of the independent certified public accountants or, independent actuary or other independent professional financial person and the insurer relevant to that information, shall be received in confidence within the meaning of Section 7929.000 of the Government Code and exempt from the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code). Additionally, that information shall not be subject to subpoena or subpoena duces tecum.

SEC. 301. Section 929.1 of the Insurance Code is amended to read:

929.1. Information submitted to the commissioner, as required by Section 929, shall be confidential pursuant to Section 7929.000 of the Government Code and exempt from the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code). Additionally, that information shall not be subject to subpoena or subpoena duces tecum. Testimony by the commissioner, the commissioner's staff, an employee of the department, or a person to whom the report required by Section 929 was disclosed, regarding the contents of any report submitted pursuant to Section 929, shall be inadmissible as evidence in a civil proceeding.

SEC. 302. Section 935.8 of the Insurance Code is amended to read:

935.8. (a) Documents, materials, or other information, including the ORSA Summary Report, in the possession of or control of the Department of Insurance that are obtained by, created by, or disclosed to the commissioner or any other person under this article, are recognized by this state as being proprietary and contain trade secrets. These documents, materials, or other information shall be confidential by law and privileged, shall not be subject to disclosure pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), and shall not be subject to subpoena or discovery, or admissible in evidence, in any private civil action. However, the commissioner is authorized to use those documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties. The commissioner shall not otherwise make those documents, materials, or other information public without the prior written consent of the insurer.

(b) Neither the commissioner nor any other person who received documents, materials, or other ORSA-related information, including the ORSA Summary Report, through examination or otherwise, while acting

under the authority of the commissioner, or with whom those documents, materials, or other information are shared pursuant to this article, shall be permitted or required to testify in any private civil action concerning those confidential documents, materials, or information, subject to subdivision (a).

(c) In order to assist in the performance of the commissioner's regulatory duties, the commissioner:

(1) May, upon request, share documents, materials, or other ORSA-related information, including the confidential and privileged documents, materials, or information subject to subdivision (a), including proprietary and trade secret documents and materials, with other state, federal, and international financial regulatory agencies, including members of any supervisory college as described in Section 1215.7, with the NAIC, and with any third-party consultants designated by the commissioner, provided that the recipient agrees in writing to maintain the confidentiality and privileged status of the ORSA-related documents, materials, or other information and has verified in writing the legal authority to maintain confidentiality.

(2) May receive documents, materials, or other ORSA-related information, including otherwise confidential and privileged documents, materials, or information, including proprietary and trade secret information or documents, from regulatory officials of other foreign or domestic jurisdictions, including members of any supervisory college as described in Section 1215.7, and from the NAIC, and shall maintain as confidential or privileged any documents, materials, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information.

(3) Shall enter into a written agreement with the NAIC or a third-party consultant governing the sharing and the use of information provided pursuant to this article, consistent with this subdivision that shall do all of the following:

(A) Specify procedures and protocols regarding the confidentiality and security of information shared with the NAIC or a third-party consultant pursuant to this article, including procedures and protocols for sharing by the NAIC with other state regulators from states in which the insurance group has domiciled insurers. The agreement shall provide that the recipient agrees in writing to maintain the confidentiality and privileged status of the ORSA-related documents, materials, or other information and has verified in writing the legal authority to maintain confidentiality.

(B) Specify that ownership of information shared with the NAIC or a third-party consultant pursuant to this article remains with the commissioner and that the NAIC's or a third-party consultant's use of the information is subject to the direction of the commissioner.

(C) Prohibit the NAIC or third-party consultant from storing the information shared pursuant to this article in a permanent database after the underlying analysis is completed.

(D) Require prompt notice to be given to an insurer whose confidential information in the possession of the NAIC or a third-party consultant

pursuant to this article when that information is subject to a request or subpoena to the NAIC or a third-party consultant for disclosure or production.

(E) Require the NAIC or a third-party consultant to consent to intervention by an insurer in any judicial or administrative action in which the NAIC or a third-party consultant may be required to disclose confidential information about the insurer shared with the NAIC or a third-party consultant pursuant to this article.

(F) In the case of an agreement involving a third-party consultant, provide for the insurer's written consent.

(d) The sharing of information and documents by the commissioner pursuant to this article shall not constitute a delegation of regulatory authority or rulemaking, and the commissioner is solely responsible for the administration, execution, and enforcement of the provisions of this article.

(e) A waiver of any applicable privilege or claim of confidentiality in the documents, proprietary and trade secret materials, or other ORSA-related information shall not occur as a result of disclosure of the ORSA-related information or documents to the commissioner under this section or as a result of sharing as authorized in this article.

(f) Documents, materials, or other information in the possession or control of the NAIC or a third-party consultant pursuant to this article shall be confidential by law and privileged, shall not be subject to disclosure pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), and shall not be subject to subpoena or discovery, or admissible in evidence, in any private civil action.

SEC. 303. Section 936.6 of the Insurance Code is amended to read:

936.6. (a) (1) Documents, materials, or other information, including the CGAD, in the possession or control of the department that are obtained by, created by, or disclosed to, the commissioner or any other person under this article are recognized by this state as being proprietary and to contain trade secrets. All those documents, materials, or other information shall be confidential by law and privileged, shall not be subject to disclosure by the commissioner pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), shall not be subject to subpoena, and shall not be subject to discovery from the commissioner or admissible in evidence in any private civil action if obtained from the commissioner in any manner.

(2) However, the commissioner is authorized to use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties. The commissioner shall not otherwise disclose or make public the documents, materials, or other information without the prior written consent of the insurer.

(3) This section shall not be construed to require written consent of the insurer before the commissioner may share or receive confidential documents, materials, or other CGAD-related information pursuant to

subdivision (c) to assist in the performance of the commissioner's regulatory duties.

(b) Neither the commissioner nor any person who received documents, materials, or other CGAD-related information, through examination or otherwise, while acting under the authority of the commissioner, or with whom those documents, materials, or other information are shared pursuant to this article shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information described in subdivision (a).

(c) In order to assist in the performance of the commissioner's regulatory duties, the commissioner may do both of the following:

(1) Upon request, share documents, materials, or other CGAD-related information, including the confidential and privileged documents, materials, or information described in subdivision (a), including proprietary and trade secret documents and materials with other state, federal, and international financial regulatory agencies, including members of any supervisory college as defined in Section 1215.7 (Insurance Holding Company System Regulatory Act), with the NAIC, and with third-party consultants pursuant to Section 936.7, provided that the recipient agrees in writing to maintain the confidentiality and privileged status of the CGAD-related documents, materials, or other information and has verified in writing the legal authority to maintain confidentiality.

(2) Receive documents, materials, or other CGAD-related information, including otherwise confidential and privileged documents, materials, or information, including proprietary and trade-secret information or documents, from regulatory officials of other state, federal, and international financial regulatory agencies, including members of any supervisory college as defined in Section 1215.7 (Insurance Holding Company System Regulatory Act), and from the NAIC, and shall maintain as confidential or privileged any documents, materials, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the documents, materials, or information.

(d) The sharing of information and documents by the commissioner pursuant to this article shall not constitute a delegation of regulatory authority or rulemaking, and the commissioner is solely responsible for the administration, execution, and enforcement of this article.

(e) No waiver of any applicable privilege or claim of confidentiality in the documents, proprietary and trade-secret materials, or other CGAD-related information shall occur as a result of disclosure of that CGAD-related information or those documents to the commissioner under this section or as a result of sharing as authorized in this article.

SEC. 304. Section 1215.8 of the Insurance Code is amended to read:

1215.8. (a) All information, documents, and copies thereof obtained by or disclosed to the commissioner or any other person in the course of an examination or investigation made pursuant to Section 1215.4, 1215.5, 1215.6, 1215.7, or 1215.75, and all information reported or provided pursuant to Section 1215.4, 1215.5, 1215.6, 1215.7, or 1215.75 shall be kept

confidential, is not subject to disclosure by the commissioner pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), is not subject to subpoena, and is not subject to discovery from the commissioner or admissible into evidence in a private civil action if obtained from the commissioner. This information shall not be made public by the commissioner or any other person, except to insurance departments of other states, without the prior written consent of the insurance company to which it pertains, unless the commissioner, after giving the insurer and its affiliates who would be affected thereby notice and opportunity to be heard, determines that the interests of policyholders, shareholders, or the public will be served by the publication of the information, in which event the commissioner may publish all or any part of the information in a manner as the commissioner may deem appropriate.

(b) In order to assist in the performance of the commissioner's duties, the commissioner:

(1) May, upon request, be required to share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to subdivision (a), with other state, federal, and international regulatory agencies, with the NAIC and its affiliates and subsidiaries, and with state, federal, and international law enforcement authorities, including members of any supervisory college described in Section 1215.7, provided that the recipient agrees in writing to maintain the confidentiality and privileged status of the documents, materials, or other information, and has verified in writing the legal authority to maintain confidentiality.

(2) Notwithstanding paragraph (1), may only share confidential and privileged documents, materials, or information reported pursuant to subdivision (m) of Section 1215.4 with commissioners of states having statutes or regulations substantially similar to subdivision (a) and who have agreed in writing not to disclose the information.

(3) May receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or information, from the NAIC and its affiliates and subsidiaries and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any documents, materials, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the documents, materials, or information.

(4) May enter into written agreements with the NAIC governing sharing and use of information provided pursuant to this subdivision consistent with this subdivision that shall do the following:

(A) Specify procedures and protocols regarding the confidentiality and security of information shared with the NAIC and its affiliates and subsidiaries pursuant to this subdivision, including procedures and protocols for sharing by the NAIC with other state, federal, or international regulators.

(B) Specify that ownership of information shared with the NAIC and its affiliates and subsidiaries pursuant to this subdivision remains with the commissioner and the NAIC's use of the information is subject to the direction of the commissioner.

(C) Require prompt notice to be given to an insurer whose confidential information in the possession of the NAIC pursuant to this subdivision is subject to a request or subpoena to the NAIC for disclosure or production.

(D) Require the NAIC and its affiliates and subsidiaries to consent to intervention by an insurer in any judicial or administrative action in which the NAIC and its affiliates and subsidiaries may be required to disclose confidential information about the insurer shared with the NAIC and its affiliates and subsidiaries pursuant to this subdivision.

(c) The sharing of information by the commissioner pursuant to subdivision (b) shall not constitute a delegation of regulatory authority or rulemaking, and the commissioner is solely responsible for the administration, execution, and enforcement of the provisions of this article.

(d) A waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall not occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in subdivision (b).

(e) Documents, materials, or other information filed in the possession or control of the NAIC pursuant to this subdivision shall be confidential by law and privileged, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action.

SEC. 305. Section 1666.5 of the Insurance Code is amended to read:

1666.5. (a) (1) Notwithstanding any other provision of law, the commissioner shall at the time of issuance or renewal of any license under this chapter or Chapter 6 (commencing with Section 1760), Chapter 7 (commencing with Section 1800), or Chapter 8 (commencing with Section 1831) require that any license applicant or licensee provide its federal employer identification number if the license applicant or licensee is a partnership, or the licensee's social security number for all others, except as provided in paragraph (2).

(2) The commissioner shall require either a social security number or an individual taxpayer identification number if the license applicant or licensee is an individual applying for or renewing a license under this chapter.

(b) Any license applicant or licensee failing to provide the federal identification number, social security number, or individual taxpayer identification number shall be reported by the commissioner to the Franchise Tax Board and, if failing to provide after notification pursuant to paragraph (1) of subdivision (b) of Section 19528 of the Revenue and Taxation Code, shall be subject to the penalty provided in paragraph (2) of subdivision (b) of Section 19528 of the Revenue and Taxation Code.

(c) (1) The commissioner shall, upon request of the Franchise Tax Board, furnish to the board all of the following information with respect to every license applicant or licensee:

(A) License applicant's or licensee's name.

(B) Address or addresses of record.

(C) Federal employer identification number if the entity is a partnership or owner's name and social security number for all others.

(D) Type of license.

(E) Effective date of license or renewal.

(F) Expiration date of license.

(G) Whether license is active or inactive, if known.

(H) Whether license is new or a renewal.

(2) Notwithstanding paragraph (1), the commissioner shall, upon request of the Franchise Tax Board, furnish to the board either a social security number or an individual taxpayer identification number for individuals licensed under this chapter.

(d) For the purposes of this section:

(1) "License" includes a certificate, registration, or any other authorization needed to engage in the insurance business regulated by this code.

(2) "License applicant" means any individual or entity, other than a corporation, in the process of obtaining a license, certificate, registration, or other means to engage in the insurance business regulated by this code.

(3) "Licensee" means any individual or entity, other than a corporation, authorized by a license, certificate, registration, or other means to engage in the insurance business regulated by this code.

(e) The reports required under this section shall be filed on magnetic media or in other machine-readable form, according to standards furnished by the Franchise Tax Board.

(f) The commissioner shall begin providing to the Franchise Tax Board the information required by this section as soon as economically feasible, but no later than July 1, 1987. The information shall be furnished at a time that the Franchise Tax Board may require.

(g) Notwithstanding Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code, the information furnished pursuant to subdivision (a) and subparagraph (C) of paragraph (1) of, and paragraph (2) of, subdivision (c) shall not be deemed to be a public record and shall not be open to the public for inspection.

(h) Any deputy, agent, clerk, officer, or employee of the commissioner, or any former officer or employee or other individual who in the course of that person's employment or duty has or has had access to the information required to be furnished under this section, shall not disclose or make known in any manner that information, except as provided in this section.

(1) This section shall not prevent an agency from disclosing or making known in any manner that information when the transfer is necessary for the transferee agency to perform its constitutional or statutory duties, and the use is compatible with a purpose for which the information was collected and the use or transfer is accounted for in accordance with Section 1798.25 of the Civil Code.

(2) With respect to information transferred from a law enforcement or regulatory agency, or information transferred to another law enforcement or regulatory agency, a use is compatible if the use of the information

requested is needed in an investigation of unlawful activity under the jurisdiction of the requesting agency or for licensing, certification, or regulatory purposes by that agency and on the condition that the law enforcement or regulatory agency requesting the information needed agrees to keep that information confidential in accordance with Section 1798.25 of the Civil Code.

(3) A law enforcement or regulatory agency that requests information from the commissioner shall, upon request, identify for the commissioner the intended use for the information. The commissioner shall have the discretion to determine whether to transfer the information to the law enforcement or regulatory agency and shall not transfer the information if the commissioner determines that the information will be used for an improper purpose.

(i) It is the intent of the Legislature in enacting this section to utilize the social security account number, individual taxpayer identification number, or federal employer identification number for the purpose of establishing the identification of persons affected by state tax laws and, to that end, the information furnished pursuant to this section shall be used exclusively for an agency to perform its constitutional or statutory duties.

(j) This section shall become operative on July 1, 2018.

SEC. 306. Section 1861.07 of the Insurance Code is amended to read:

1861.07. All information provided to the commissioner pursuant to this article shall be available for public inspection, and the provisions of Section 7929.000 of the Government Code and Section 1857.9 of the Insurance Code shall not apply thereto.

SEC. 307. Section 1871.1 of the Insurance Code is amended to read:

1871.1. Insurers and their agents, while they are investigating suspected fraud claims, shall have access to all relevant public records that are required to be open for inspection under Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code, and any regulations thereunder. This section restates existing law, and the Legislature does not intend to grant insurers or their agents access to public records other than to those public records available to them under existing law.

SEC. 308. Section 10112.82 of the Insurance Code is amended to read:

10112.82. (a) (1) For services rendered subject to Section 10112.8, effective July 1, 2017, unless otherwise agreed to by the noncontracting individual health professional and the insurer, the insurer shall reimburse the greater of the average contracted rate or 125 percent of the amount Medicare reimburses on a fee-for-service basis for the same or similar services in the general geographic region in which the services were rendered. For the purposes of this section, "average contracted rate" means the average of the contracted commercial rates paid by the health insurer for the same or similar services in the geographic region. This subdivision does not apply to subdivision (c) of Section 10112.8 or subdivision (b) of this section.

(2) (A) By July 1, 2017, each health insurer shall provide to the commissioner all of the following:

(i) Data listing its average contracted rates for the insurer for services most frequently subject to Section 10112.8 in each geographic region in which the services are rendered for the calendar year 2015.

(ii) Its methodology for determining the average contracted rate for the insurer for services subject to Section 10112.8. The methodology to determine an average contracted rate shall ensure that the insurer includes the highest and lowest contracted rates for the calendar year 2015.

(iii) The policies and procedures used to determine the average contracted rates under this subdivision.

(B) For each calendar year after the health insurer's initial submission of the average contracted rate as specified in subparagraph (A) and until the standardized methodology under paragraph (3) is specified, a health insurer shall adjust the rate initially established pursuant to this subdivision by the Consumer Price Index for Medical Care Services, as published by the United States Bureau of Labor Statistics.

(3) (A) By January 1, 2019, the commissioner shall specify a methodology that insurers shall use to determine the average contracted rates for services most frequently subject to Section 10112.8. This methodology shall take into account, at a minimum, information from the independent dispute resolution process, the specialty of the individual health professional, and the geographic region in which the services are rendered. The methodology to determine an average contracted rate shall ensure that the insurer includes the highest and lowest contracted rates.

(B) Insurers shall provide to the commissioner the policies and procedures used to determine the average contracted rates in compliance with subparagraph (A).

(C) The average contracted rate data submitted pursuant to this section shall be confidential and not subject to disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(D) In developing the standardized methodology under this subdivision, the commissioner shall consult with interested parties throughout the process of developing the standards, including the Department of Managed Health Care, representatives of health plans, insurers, health care providers, hospitals, consumer advocates, and other stakeholders it deems appropriate. The commissioner shall hold the first stakeholder meeting no later than July 1, 2017.

(4) A health insurer shall include in its reports submitted to the commissioner pursuant to Section 10133.5 and regulations adopted pursuant to that section, in a manner specified by the department, the number of payments made to noncontracting individual health professionals for services at a contracting health facility and subject to Section 10112.8, as well as other data sufficient to determine the proportion of noncontracting individual health professionals to contracting individual health professionals at contracting health facilities, as defined in subdivision (f) of Section 10112.8. The commissioner shall include a summary of this information in its January 1, 2019, report required pursuant to subdivision (j) of Section 10112.81 and

its findings regarding the impact of the act that added this section on health insurer contracting and network adequacy.

(5) A health insurer that provides services subject to Section 10112.8 shall meet the network adequacy requirements set forth in this chapter, including, but not limited to, Section 10133.5 of this code and Sections 2240.1 and 2240.7 of Title 10 of the California Code of Regulations, including, but not limited to, inpatient hospital services and specialist physician services, and if necessary, the commissioner may adopt additional regulations related to those services. This section shall not be construed to limit the commissioner's authority under this chapter.

(6) For the purposes of this section, for average contracted rates for individual and small group coverage, geographic region shall be the geographic regions listed in subparagraph (A) of paragraph (2) of subdivision (a) of Section 10753.14. For purposes of this section for Medicare fee-for-service reimbursement, geographic regions shall be the geographic regions specified for physician reimbursement for Medicare fee-for-service by the United States Department of Health and Human Services.

(7) A health insurer shall authorize and permit assignment of the insured's right, if any, to any reimbursement for health care services covered under the health insurance policy to a noncontracting individual health professional who furnishes the health care services rendered subject to Section 10112.8. Lack of assignment pursuant to this paragraph shall not be construed to limit the applicability of this section, Section 10112.8, or Section 10112.81.

(8) A noncontracting individual health professional or health insurer who disputes the claim reimbursement under this section shall utilize the independent dispute resolution process described in Section 10112.81.

(b) If nonemergency services are provided by a noncontracting individual health professional consistent with subdivision (c) of Section 10112.8 to an insured who has voluntarily chosen to use the insured's out-of-network benefit for services covered by an insurer that includes coverage for out-of-network benefits, unless otherwise agreed to by the insurer and the noncontracting individual health professional, the amount paid by the insurer shall be the amount set forth in the insured's policy. This payment is not subject to the independent dispute resolution process described in Section 10112.81.

(c) If a health insurer delegates the responsibility for payment of claims to a contracted entity, including, but not limited to, a medical group or independent practice association, then the entity to which that responsibility is delegated shall comply with the requirements of this section.

(d) (1) A payment made by the health insurer to the noncontracting health care professional for nonemergency services as required by Section 10112.8 and this section, in addition to the applicable cost sharing owed by the insured, shall constitute payment in full for nonemergency services rendered unless either party uses the dispute resolution process or other lawful means pursuant to Section 10112.81.

(2) Notwithstanding any other law, the amounts paid by an insurer for services under this section shall not constitute the prevailing or customary

charges, the usual fees to the general public, or other charges for other payers for an individual health professional.

(3) This subdivision shall not preclude the use of the independent dispute resolution process pursuant to Section 10112.81.

(e) This section shall not apply to emergency services and care, as defined in Section 1317.1 of the Health and Safety Code.

(f) The definitions in subdivision (f) of Section 10112.8 shall apply for purposes of this section.

(g) This section shall not be construed to alter a health insurer's obligations pursuant to Section 10123.13.

SEC. 309. Section 10113.2 of the Insurance Code is amended to read:

10113.2. (a) This section applies to any person entering into, brokering, or soliciting life settlements pursuant to this section and Sections 10113.1 and 10113.3.

(b) (1) Except as provided in subparagraph (B) or (D), a person may not enter into, broker, or solicit life settlements pursuant to Section 10113.1 unless that person has been licensed by the commissioner under this section. The person shall file an application for a license in the form prescribed by the commissioner, and the application shall be accompanied by a fee of one hundred seventy-one dollars ($171). The annual license renewal fee shall be one hundred seventy-one dollars ($171). The applicant shall provide any information the commissioner may require. The commissioner may issue a license, or deny the application if, in the commissioner's discretion, it is determined that it is contrary to the interests of the public to issue a license to the applicant. The reasons for a denial shall be set forth in writing.

(A) An individual acting as a broker under this section shall complete at least 15 hours of continuing education related to life settlements and life settlement transactions, as required and approved by the commissioner, prior to operating as a broker. This requirement shall not apply to a life insurance producer who qualifies under subparagraph (D).

(B) A person licensed as an attorney, certified public accountant, or financial planner accredited by a nationally recognized accreditation agency, who is retained to represent the owner, and whose compensation is not paid directly or indirectly by the provider or purchaser, may negotiate a life settlement contract on behalf of the owner without having to obtain a license as a broker.

(C) A person licensed to act as a viatical settlement broker or provider as of December 31, 2009, shall be deemed qualified for licensure as a life settlement broker or provider, and shall be subject to all the provisions of this article as if the person were originally licensed as a life settlement broker or provider.

(D) (i) A life insurance producer who has been duly licensed as a life agent for at least one year or as a licensed nonresident producer in this state for one year shall be deemed to meet the licensing requirements of this section and shall be permitted to operate as a broker.

(ii) Not later than 10 days from the first day of operating as a broker, the life insurance producer shall notify the commissioner that the life insurance

producer is acting as a broker, on a form prescribed by the commissioner, and shall pay a fee of eighty-five dollars ($85).

(iii) The fee shall be paid by the life insurance producer for each license term the producer intends to operate as a broker. The fee shall be calculated pursuant to Section 1750. The notification to the commissioner shall include an acknowledgment by the life insurance producer that the life insurance producer will operate as a broker in accordance with this act.

(iv) The insurer that issued the policy that is the subject of a life settlement contract shall not be responsible for any act or omission of a broker or provider arising out of, or in connection with, the life settlement transaction, unless the insurer receives compensation for the replacement of the life settlement contract for the provider or broker.

(E) The commissioner shall review the examination for the licensing of life insurance agents and may recommend any changes to the examination to the department's curriculum committee in order to carry out the purposes of this section and Sections 10113.1 and 10113.3.

(2) Whenever it appears to the commissioner that it is contrary to the interests of the public for a person licensed pursuant to this section to continue to transact life settlements business, the commissioner shall issue a notice to the licensee stating the reasons therefor. If, after a hearing, the commissioner concludes that it is contrary to the interests of the public for the licensee to continue to transact life settlements business, the commissioner may revoke the person's license, or issue an order suspending the license for a period as determined by the commissioner. Any hearing conducted pursuant to this paragraph shall be in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, except that the hearing may be conducted by administrative law judges chosen pursuant to Section 11502 or appointed by the commissioner, and the commissioner shall have the powers granted therein.

(3) Each licensee shall owe and pay in advance to the commissioner an annual renewal fee in an amount to be determined by the commissioner pursuant to paragraph (1) of subdivision (b). This fee shall be for each license year, as defined by Section 1629.

(4) Any licensee that intends to discontinue transacting life settlements in this state shall so notify the commissioner, and shall surrender its license.

(c) A life settlements licensee shall file with the department a copy of all life settlement forms used in this state. A licensee may not use any life settlement form in this state unless it has been provided in advance to the commissioner. The commissioner may disapprove a life settlement form if, in the commissioner's discretion, the form, or provisions contained therein, are contrary to the interests of the public, or otherwise misleading or unfair to the consumer. In the case of disapproval, the licensee may, within 15 days of notice of the disapproval, request a hearing before the commissioner or the commissioner's designee, and the hearing shall be held within 30 days of the request.

(d) Life settlements licensees shall be required to provide any applicant for a life settlement contract, at the time of application for the life settlement contract, all of the following disclosures in writing and signed by the owner, in at least 12-point type:

(1) That there are possible alternatives to life settlements, including, but not limited to, accelerated benefits options that may be offered by the life insurer.

(2) The fact that some or all of the proceeds of a life settlement may be taxable and that assistance should be sought from a professional tax adviser.

(3) Consequences for interruption of public assistance as provided by information provided by the State Department of Health Care Services and the State Department of Social Services under Section 11022 of the Welfare and Institutions Code.

(4) That the proceeds from a life settlement could be subject to the claims of creditors.

(5) That entering into a life settlement contract may cause other rights or benefits, including conversion rights and waiver of premium benefits that may exist under the policy or certificate of a group policy to be forfeited by the owner and that assistance should be sought from a professional financial adviser.

(6) That a change in ownership of the settled policy could limit the insured's ability to purchase insurance in the future on the insured's life because there is a limit to how much coverage insurers will issue on one life.

(7) That the owner has a right to rescind a life settlement contract within 30 days of the date it is executed by all parties and the owner has received all required disclosures, or 15 days from receipt by the owner of the proceeds of the settlement, whichever is sooner. Rescission, if exercised by the owner, is effective only if both notice of rescission is given and the owner repays all proceeds and any premiums, loans, and loan interest paid on account of the provider within the rescission period. If the insured dies during the rescission period, the contract shall be deemed to have been rescinded subject to repayment by the owner or the owner's estate of all proceeds and any premiums, loans, and loan interest to the provider.

(8) That proceeds will be sent to the owner within three business days after the provider has received the insurer or group administrator's acknowledgment that ownership of the policy or the interest in the certificate has been transferred and the beneficiary has been designated in accordance with the terms of the life settlement contract.

(9) The date by which the funds will be available to the owner and the transmitter of the funds.

(10) The disclosure document shall include the following language:

"All medical, financial, or personal information solicited or obtained by a provider or broker about an insured, including the insured's identity or the identity of family members, a spouse, or a significant other may be disclosed as necessary to effect the life settlement contract between

the owner and provider. If you are asked to provide this information, you will be asked to consent to the disclosure. The information may be provided to someone who buys the policy or provides funds for the purchase. You may be asked to renew your permission to share information every two years."

(11) That the insured may be contacted by either the provider or the broker or its authorized representative for the purpose of determining the insured's health status or to verify the insured's address. This contact is limited to once every three months if the insured has a life expectancy of more than one year, and no more than once per month if the insured has a life expectancy of one year or less.

(12) Any affiliations or contractual relations between the provider and the broker, and the affiliation, if any, between the provider and the issuer of the policy to be settled.

(13) That a broker represents exclusively the owner, and not the insurer or the provider or any other person, and owes a fiduciary duty to the owner, including a duty to act according to the owner's instructions and in the best interest of the owner.

(14) The name, business address, and telephone number of the broker.

(e) Prior to the execution of the life settlement contract by all parties, the life settlement provider entering into a life settlement contract with the owner shall provide, in a document signed by the owner, the gross purchase price the life settlement provider is paying for the policy, the amount of the purchase price to be paid to the owner, the amount of the purchase price to be paid to the owner's life settlement broker, and the name, business address, and telephone number of the life settlement broker. For purposes of this section, "gross purchase price" means the total amount or value paid by the provider for the purchase of one or more life insurance policies, including commissions and fees.

(f) The broker shall provide the owner and the insured with at least all of the following disclosures in writing prior to the signing of the life settlement contract by all parties. The disclosures shall be clearly displayed in the life settlement contract or in a separate document signed by the owner:

(1) The name, business address, and telephone number of the broker.

(2) A full, complete, and accurate description of all of the offers, counteroffers, acceptances, and rejections relating to the proposed life settlement contract.

(3) A disclosure of any affiliations or contractual arrangements between the broker and any person making an offer in connection with the proposed life settlement contract.

(4) All estimates of the life expectancy of the insured that are obtained by the licensee in connection with the life settlement, unless that disclosure would violate any California or federal privacy laws.

(5) The commissioner may consider any failure to provide the disclosures or rights described in this section as a basis for suspending or revoking a broker's or provider's license pursuant to paragraph (2) of subdivision (b).

(g) All medical information solicited or obtained by any person soliciting or entering into a life settlement is subject to Article 6.6 (commencing with Section 791) of Chapter 1 of Part 2 of Division 1, concerning confidentiality of medical information.

(h) Except as otherwise allowed or required by law, a provider, broker, insurance company, insurance producer, information bureau, rating agency, or company, or any other person with actual knowledge of an insured's identity, shall not disclose the identity of an insured or information that there is a reasonable basis to believe that could be used to identify the insured or the insured's financial or medical information to any other person unless the disclosure is one of the following:

(1) It is necessary to effect a life settlement contract between the owner and a provider and the owner and insured have provided prior written consent to the disclosure.

(2) It is necessary to effectuate the sale of life settlement contracts, or interests therein, as investments, provided the sale is conducted in accordance with applicable state and federal securities law and provided further that the owner and the insured have both provided prior written consent to the disclosure.

(3) It is provided in response to an investigation or examination by the commissioner or any other governmental officer or agency or any other provision of law.

(4) It is a term or condition to the transfer of a policy by one provider to another provider, in which case the receiving provider shall be required to comply with the confidentiality requirements of Article 6.6 (commencing with Section 791) of Chapter 1 of Part 2 of Division 1.

(5) It is necessary to allow the provider or broker or their authorized representatives to make contacts for the purpose of determining health status. For the purposes of this section, the term "authorized representative" shall not include any person who has or may have any financial interest in the settlement contract other than a provider, licensed broker; further, a provider or broker shall require its authorized representative to agree in writing to adhere to the privacy provisions of this act.

(6) It is required to purchase stop loss coverage.

(i) In addition to other questions an insurance carrier may lawfully pose to a life insurance applicant, insurance carriers may inquire in the application for insurance whether the proposed owner intends to pay premiums with the assistance of financing from a lender that will use the policy as collateral to support the financing.

(1) If the premium finance loan provides funds that can be used for a purpose other than paying for the premiums, costs, and expenses associated with obtaining and maintaining the life insurance policy and loan, the application may be rejected as a prohibited practice under this act.

(2) If the financing does not violate paragraph (1), the existence of premium financing may not be the sole criterion employed by an insurer in a decision whether to reject an application for life insurance. The insurance carrier may make disclosures to the applicant, either on the application or

an amendment to the application to be completed no later than the delivery of the policy, including, but not limited to, the following:

"If you have entered into a loan arrangement where the policy is used as collateral, and the policy changes ownership at some point in the future in satisfaction of the loan, the following may be true:
(A) A change of ownership could lead to a stranger owning an interest in the insured's life.
(B) A change of ownership could in the future limit your ability to purchase insurance on the insured's life because there is a limit to how much coverage insurers will issue on a life.
(C) You should consult a professional adviser since a change in ownership in satisfaction of the loan may result in tax consequences to the owner, depending on the structure of the loan."

(3) In addition to the disclosures in paragraph (2), the insurance carrier may require the following certifications from the applicant or the insured:

"(A) I have not entered into any agreement or arrangement under which I have agreed to make a future sale of this life insurance policy.
(B) My loan arrangement for this policy provides funds sufficient to pay for some or all of the premiums, costs, and expenses associated with obtaining and maintaining my life insurance policy, but I have not entered into any agreement by which I am to receive consideration in exchange for procuring this policy.
(C) The borrower has an insurable interest in the insured."

(j) Life insurers shall provide individual life insurance policyholders with a statement informing them that if they are considering making changes in the status of their policy, they should consult with a licensed insurance or financial adviser. The statement may accompany or be included in notices or mailings otherwise provided to the policyholders.

(k) The commissioner may, whenever the commissioner deems it reasonably necessary to protect the interests of the public, examine the business and affairs of any licensee or applicant for a license. The commissioner shall have the authority to order any licensee or applicant to produce any records, books, files, or other information as is reasonably necessary to ascertain whether or not the licensee or applicant is acting or has acted in violation of the law or otherwise contrary to the interests of the public. The expenses incurred in conducting any examination shall be paid by the licensee or applicant.

(*l*) The commissioner may investigate the conduct of any licensee, its officers, employees, agents, or any other person involved in the business of the licensee, or any applicant for a license, whenever the commissioner has reason to believe that the licensee or applicant for a license may have acted, or may be acting, in violation of the law, or otherwise contrary to the interests

of the public. The commissioner may initiate an investigation on the commissioner's own initiative, or upon a complaint filed by any other person.

(m) The commissioner may issue orders to licensees whenever the commissioner determines that it is reasonably necessary to ensure or obtain compliance with this section, or Section 10113.3. This authority includes, but is not limited to, orders directing a licensee to cease and desist in any practice that is in violation of this section, or Section 10113.3, or otherwise contrary to the interests of the public. Any licensee to which an order pursuant to this subdivision is issued may, within 15 days of receipt of that order, request a hearing at which the licensee may challenge the order.

(n) The commissioner may, after notice and a hearing at which it is determined that a licensee has violated this section or Section 10113.3 or any order issued pursuant to this section, order the licensee to pay a monetary penalty of up to ten thousand dollars ($10,000), which may be recovered in a civil action. Any hearing conducted pursuant to this subdivision shall be in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, except that the hearing may be conducted by administrative law judges chosen pursuant to Section 11502 or appointed by the commissioner, and the commissioner shall have the powers granted therein.

(o) Each licensed provider shall file with the commissioner on or before March 1 of each year an annual statement in the form prescribed by the commissioner. The information that the commissioner may require in the annual statement shall include, but not be limited to, the total number, aggregate face amount, and life settlement proceeds of policies settled during the immediately preceding calendar year, together with a breakdown of the information by policy issue year. The annual statement shall also include the names of the insurance companies whose policies have been settled and the brokers that have settled those policies, and that information shall be received in confidence within the meaning of Section 7929.000 of the Government Code and exempt from disclosure pursuant to the Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code). The annual statement shall not include individual transaction data regarding the business of life settlements or information that there is a reasonable basis to believe could be used to identify the owner or the insured.

(p) A person who is not a resident of California may not receive or maintain a license unless a written designation of an agent for service of process is filed and maintained with the commissioner. The provisions of Article 3 (commencing with Section 1600) of Chapter 4 of Part 2 of Division 1 shall apply to life settlements licensees as if they were foreign insurers, their license a certificate of authority, and the life settlements a policy, and the commissioner may modify the agreement set forth in Section 1604 accordingly.

(q) A person licensed pursuant to this section shall not engage in any false or misleading advertising, solicitation, or practice. In no case shall a broker or provider, directly or indirectly, market, advertise, solicit, or

otherwise promote the purchase of a new policy for the sole purpose of or with a primary emphasis on settling the policy or use the words "free," "no cost," or words of similar import in the marketing, advertising, soliciting, or otherwise promoting of the purchase of a policy. The provisions of Article 6 (commencing with Section 780) and Article 6.5 (commencing with Section 790) of Chapter 1 of Part 2 of Division 1 shall apply to life settlements licensees as if they were insurers, their license a certificate of authority or producer's license, and the life settlements a policy, and the commissioner shall liberally construe these provisions so as to protect the interests of the public.

(r) Any person who enters into a life settlement with a life settlements licensee shall have the absolute right to rescind the settlement within 30 days of the date it is executed by all parties and the owner has received all required disclosures, or 15 days from receipt by the owner of the proceeds of the settlement, whichever is sooner, and any waiver or settlement language contrary to this subdivision shall be void. Rescission, if exercised by the owner, is effective only if both notice of rescission is given and the owner repays all proceeds and any premiums, loans, and loan interest paid on account of the provider within the rescission period. If the insured dies during the rescission period, the contract shall be deemed to have been rescinded subject to repayment by the owner or the owner's estate of all proceeds and any premiums, loans, and loan interest to the provider.

(s) Records of all consummated transactions and life settlement contracts shall be maintained by the provider for three years after the death of the insured and shall be available to the commissioner for inspection during reasonable business hours.

(t) A violation of this section is a misdemeanor.

SEC. 310. Section 10181.7 of the Insurance Code is amended to read:

10181.7. (a) Notwithstanding Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code, all information submitted under this article shall be made publicly available by the department except as provided in subdivision (b).

(b) (1) The contracted rates between a health insurer and a provider shall be deemed confidential information that shall not be made public by the department and are exempt from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code). The contracted rates between a health insurer and a provider shall not be disclosed by a health insurer to a large group purchaser that receives information pursuant to Section 10181.10.

(2) The contracted rates between a health insurer, including those submitted to the department pursuant to Section 10181.31, and a large group shall be deemed confidential information that shall not be made public by the department and are exempt from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code). Information provided to a large group purchaser pursuant to Section 10181.10 shall be deemed confidential information that shall not be made public by the department and shall be exempt from

disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(c) All information submitted to the department under this article shall be submitted electronically in order to facilitate review by the department and the public.

(d) In addition, the department and the health insurer shall, at a minimum, make the following information readily available to the public on their internet websites in plain language and in a manner and format specified by the department, except as provided in subdivision (b). For individual and small group health insurance policies, the information shall be made public for 120 days prior to the implementation of the rate increase. For large group health care insurance policies, the information shall be made public for 60 days prior to the implementation of the rate increase. The information shall include:

(1) Justifications for any unreasonable rate increases, including all information and supporting documentation as to why the rate increase is justified.

(2) An insurer's overall annual medical trend factor assumptions in each rate filing for all benefits.

(3) An insurer's actual costs, by aggregate benefit category to include, hospital inpatient, hospital outpatient, physician services, prescription drugs and other ancillary services, laboratory, and radiology.

(4) The amount of the projected trend attributable to the use of services, price inflation, or fees and risk for annual policy trends by aggregate benefit category, such as hospital inpatient, hospital outpatient, physician services, prescription drugs and other ancillary services, laboratory, and radiology.

SEC. 311. Section 10489.15 of the Insurance Code is amended to read:

10489.15. (a) Each of the following shall apply to actuarial opinions submitted prior to the operative date of the valuation manual:

(1) For an actuarial opinion, every life insurance company doing business in this state shall annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by regulation are computed appropriately, are based on assumptions that satisfy contractual provisions, are consistent with prior reported amounts, and comply with applicable laws of this state. The commissioner shall define by regulation the specifics of this opinion and add any other items deemed to be necessary to its scope.

(2) (A) For an actuarial analysis of reserves and assets supporting reserves, every life insurance company, except as exempted by regulation, shall also annually include in the opinion required by paragraph (1), an opinion of the same qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by regulation, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including, but not limited to, the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under

the policies and contracts, including, but not limited to, the benefits under and expenses associated with the policies and contracts.

(B) The commissioner may provide by regulation for a transition period for establishing any higher reserves that the qualified actuary may deem necessary in order to render the opinion required by this section.

(3) An opinion required by paragraphs (1) and (2) shall be governed by the following:

(A) A memorandum, in form and substance acceptable to the commissioner as specified by regulation, shall be prepared to support each actuarial opinion.

(B) If the insurance company fails to provide a supporting memorandum at the request of the commissioner within a period specified by regulation, or the commissioner determines that the supporting memorandum provided by the insurance company fails to meet the standards prescribed by the regulations or is otherwise unacceptable to the commissioner, the commissioner may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare the supporting memorandum required by the commissioner.

(4) Every opinion required by this subdivision shall be governed by the following provisions:

(A) The opinion shall be submitted with the annual statement reflecting the valuation of the reserve liabilities for each year ending on or after December 31, 1992.

(B) The opinion shall apply to all business in force, including individual and group health insurance plans, in form and substance acceptable to the commissioner as specified by regulation.

(C) The opinion shall be based on standards adopted from time to time by the Actuarial Standards Board and on any additional standards as the commissioner may by regulation prescribe.

(D) In the case of an opinion required to be submitted by a foreign or alien company, the commissioner may accept the opinion filed by that company with the insurance supervisory official of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.

(E) For the purposes of this paragraph, "qualified actuary" means a member in good standing of the American Academy of Actuaries who meets the requirements set forth in the regulation.

(F) The qualified actuary shall be liable for the actuary's negligence or other tortious conduct.

(G) Disciplinary action by the commissioner against the company or the qualified actuary may be defined in regulations by the commissioner.

(H) Except as provided in subparagraphs (L), (M), and (N), documents, materials, or other information in the possession or control of the Department of Insurance that are a memorandum in support of the opinion, and any other material provided by the company to the commissioner in connection with the memorandum, shall be confidential by law and privileged, shall not be subject to disclosure pursuant to the California Public Records Act

(Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), and shall not be subject to subpoena or discovery or admissible in evidence in any private civil action. However, the commissioner is authorized to use those documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties.

(I) The commissioner, any person who received documents, materials, or other information while acting under the authority of the commissioner, or any person with whom those documents, materials, or other information are shared pursuant to clause (i) of subparagraph (J), shall not be permitted or required to testify in any private civil action concerning those confidential documents, materials, or information subject to subparagraph (H).

(J) In order to assist in the performance of the commissioner's duties, the commissioner:

(i) May share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to subparagraph (H), with other state, federal, and international regulatory agencies, with the NAIC and its affiliates and subsidiaries, and with state, federal, and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material, or other information.

(ii) May receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or information, from the NAIC and its affiliates and subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information.

(iii) Enter into agreements governing sharing and use of information consistent with subparagraphs (H) to (J), inclusive.

(K) No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of disclosure of the documents, materials, or information to the commissioner under this section or as a result of sharing as authorized in subparagraph (J).

(L) A memorandum in support of the opinion, and any other material provided by the company to the commissioner in connection with the memorandum, may be subject to subpoena for the purpose of defending an action seeking damages from the actuary submitting the memorandum by reason of an action required by this section or by regulations promulgated pursuant to this section.

(M) The memorandum or the other material may otherwise be released by the commissioner with the written consent of the company or to the American Academy of Actuaries upon request stating that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the commissioner for preserving the confidentiality of the memorandum or the other material.

(N) Once any portion of the confidential memorandum is cited by the company in its marketing efforts or is cited before a governmental agency other than a state insurance department or is released by the company to the news media, all portions of the confidential memorandum shall no longer be confidential.

(b) Each of the following shall apply to actuarial opinions submitted after the operative date of the valuation manual:

(1) For an actuarial opinion, every company with outstanding life insurance contracts, accident and health insurance contracts, or deposit-type contracts in this state and subject to regulation by the commissioner shall annually submit the opinion of the appointed actuary as to whether the reserves and related actuarial items held in support of the policies and contracts are computed appropriately, are based on assumptions that satisfy contractual provisions, are consistent with prior reported amounts, and comply with applicable laws of this state. The valuation manual shall prescribe the specifics of this opinion, including any items deemed to be necessary to its scope.

(2) For an actuarial analysis of reserves and assets supporting reserves, every company with outstanding life insurance contracts, accident and health insurance contracts, or deposit-type contracts in this state and subject to regulation by the commissioner, except as exempted in the valuation manual, shall also annually include in the opinion required by paragraph (1) an opinion of the same appointed actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified in the valuation manual, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including, but not limited to, the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, adequately provide for the company's obligations under the policies and contracts, including, but not limited to, the benefits under and expenses associated with the policies and contracts.

(3) Every opinion required by this subdivision shall be governed by both of the following provisions:

(A) A memorandum, in form and substance as specified in the valuation manual, and acceptable to the commissioner, shall be prepared to support each actuarial opinion.

(B) If the insurance company fails to provide a supporting memorandum at the request of the commissioner within a period specified in the valuation manual, or the commissioner determines that the supporting memorandum provided by the insurance company fails to meet the standards prescribed by the valuation manual or is otherwise unacceptable to the commissioner, the commissioner may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare the supporting memorandum required by the commissioner.

(4) Every opinion subject to this subdivision shall be governed by the following provisions:

(A) The opinion shall be in form and substance as specified in the valuation manual and acceptable to the commissioner.

(B) The opinion shall be submitted with the annual statement reflecting the valuation of the reserve liabilities for each year ending on or after the operative date of the valuation manual.

(C) The opinion shall apply to all policies and contracts subject to paragraph (2), plus other actuarial liabilities as may be specified in the valuation manual.

(D) The opinion shall be based on standards adopted from time to time by the Actuarial Standards Board or its successor, and on such additional standards as may be prescribed in the valuation manual.

(E) If an opinion is required to be submitted by a foreign or alien company, the commissioner may accept the opinion filed by that company with the insurance supervisory official of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.

(F) The qualified actuary shall be liable for the actuary's negligence or other tortious conduct.

(G) Disciplinary action by the commissioner against the company or the appointed actuary may be defined in regulations by the commissioner.

(c) Nothing in this section shall be construed to limit the right of access to, or prohibit the admissibility as evidence in a private civil action of, any information, documents, data, or other materials not held for the purposes of this article by the commissioner or a person acting under the authority of the commissioner, including nondepartment actuaries and other consultants hired to implement this article, or a person with whom the commissioner has shared confidential information pursuant to clause (i) of subparagraph (J) of paragraph (4) of subdivision (a).

SEC. 312. Section 10489.99 of the Insurance Code is amended to read:

10489.99. (a) For purposes of this section, "confidential information" means:

(1) A memorandum in support of an opinion submitted pursuant to Section 10489.15 and any other documents, materials, and other information, including, but not limited to, all working papers, and copies thereof, created, produced, or obtained by or disclosed to the commissioner or any other person in connection with the memorandum.

(2) All documents, materials, and other information, including, but not limited to, all working papers, and copies thereof, created, produced, or obtained by or disclosed to the commissioner or any other person in the course of an examination made under subdivision (f) of Section 10489.96. However, if an examination report or other material prepared in connection with an examination made under Article 4 (commencing with Section 729) of Chapter 1 of Part 2 of Division 1 is not held as private and confidential information under that article, an examination report or other material prepared in connection with an examination made under subdivision (f) of Section 10489.96 shall not be "confidential information" to the same extent

as if the examination report or other material had been prepared under Article 4 (commencing with Section 729) of Chapter 1 of Part 2 of Division 1.

(3) Any reports, documents, materials, and other information developed by a company in support of, or in connection with, an annual certification by the company under paragraph (2) of subdivision (b) of Section 10489.97 evaluating the effectiveness of the company's internal controls with respect to a principle-based valuation and any other documents, materials, and other information, including, but not limited to, all working papers, and copies thereof, created, produced, or obtained by or disclosed to the commissioner or any other person in connection with those reports, documents, materials, and other information.

(4) Any principle-based valuation report developed under paragraph (3) of subdivision (b) of Section 10489.97 and any other documents, materials, and other information, including, but not limited to, all working papers, and copies thereof, created, produced, or obtained by or disclosed to the commissioner or any other person in connection with the report.

(5) All of the following:

(A) Any documents, materials, data, and other information submitted by a company pursuant to Section 10489.98, to be known collectively, as "experience data."

(B) Experience data plus any other documents, materials, data, and other information, including, but not limited to, all working papers, and copies thereof, created or produced in connection with the experience data, in each case that includes any potentially company-identifying or personally identifiable information, that is provided to or obtained by the commissioner, to be known, collectively, as "experience materials."

(C) Any other documents, materials, data, and other information, including, but not limited to, all working papers, and copies thereof, created, produced, or obtained by or disclosed to the commissioner or any other person in connection with the experience materials.

(b) (1) Except as provided in this section, a company's confidential information shall be confidential by law and privileged, shall not be subject to disclosure pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), and shall not be subject to subpoena or discovery or admissible in evidence in any private civil action. However, the commissioner is authorized to use the confidential information in a regulatory or legal action brought against the company as a part of the commissioner's official duties.

(2) The commissioner, any person who received confidential information while acting under the authority of the commissioner, or any person with whom those documents, materials, or other information are shared pursuant to paragraph (3), shall not be permitted or required to testify in a private civil action concerning any confidential information.

(3) In order to assist in the performance of the commissioner's duties, the commissioner may share confidential information with the following recipients, provided that the recipient agrees, and has the legal authority to agree, to maintain the confidentiality and privileged status of the documents,

materials, data, and other information in the same manner and to the same extent as required for the commissioner:

(A) Other state, federal, and international regulatory agencies and with the NAIC and its affiliates and subsidiaries.

(B) In the case of confidential information specified in paragraphs (1) and (4) of subdivision (a) of Section 10489.99 only, with the Actuarial Board for Counseling and Discipline or its successor upon request stating that the confidential information is required for the purpose of professional disciplinary proceedings and with state, federal, and international law enforcement officials.

(4) The commissioner may receive documents, materials, data, and other information, including otherwise confidential and privileged documents, materials, data, or information, from the NAIC and its affiliates and subsidiaries, from regulatory or law enforcement officials of other foreign or domestic jurisdictions, and from the Actuarial Board for Counseling and Discipline or its successor and shall maintain as confidential or privileged any document, material, data, or other information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or other information.

(5) The commissioner may enter into agreements governing sharing and use of information consistent with this subdivision.

(6) A waiver of any applicable privilege or claim of confidentiality in the information shall not occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in paragraph (3).

(7) A privilege established under the law of any state or jurisdiction that is substantially similar to the privilege established under this subdivision shall be available and enforced in any proceeding in, and in any court of, this state.

(8) For purposes of this section, "regulatory agency," "law enforcement agency," and the "NAIC" include, but are not limited to, their employees, agents, consultants, and contractors.

(c) Notwithstanding subdivision (b), any confidential information specified in paragraphs (1) and (4) of subdivision (a):

(1) May be subject to subpoena for the purpose of defending an action seeking damages from the appointed actuary submitting the related memorandum in support of an opinion submitted under Section 10489.15 or principle-based valuation report developed under paragraph (3) of subdivision (b) of Section 10489.97 by reason of an action required by this article or by regulations promulgated pursuant to this article.

(2) May otherwise be released by the commissioner with the written consent of the company.

(3) Once any portion of a memorandum in support of an opinion submitted under Section 10489.15 or a principle-based valuation report developed pursuant to paragraph (3) of subdivision (b) of Section 10489.97 is cited by the company in its marketing or is publicly volunteered to or before a governmental agency other than a state insurance department or is

released by the company to the news media, all portions of the memorandum or report shall no longer be confidential.

(d) This section shall not be construed to limit the right of access to, or prohibit the admissibility as evidence in a private civil action of, any information, documents, data, or other materials not held for the purposes of this article by the commissioner or a person acting under the authority of the commissioner, including nondepartment actuaries and other consultants hired to implement this article, or a person with whom the commissioner has shared confidential information pursuant to paragraph (3) of subdivision (b).

SEC. 313. Section 11401.5 of the Insurance Code is amended to read:

11401.5. (a) (1) Each association that holds a certificate of authority pursuant to this chapter and that issues long-term disability or long-term care policies or contracts shall submit to the commissioner the opinion of a qualified actuary as to whether the reserves and related actuarial items that support the policies or contracts issued pursuant to this chapter, including policies and contracts issued by entities established by these associations that provide benefits described in this chapter, are expected to be adequate to satisfy contractual provisions, are based on reasonable assumptions, and are based on actuarial standards of practice published by the American Academy of Actuaries and the Actuarial Standards Board. An association that holds a certificate of authority pursuant to this chapter shall file its opinion no later than July 1, 2021, and that opinion shall have been completed no earlier than December 31, 2019. Thereafter, an association shall submit a new actuary opinion to the commissioner within no more than four years from the date of its last opinion on file with the commissioner.

(2) An association is considered to have issued a long-term care or disability policy or contract if it self-funds all or part of the resulting obligation. An association that markets long-term policies or contracts issued by an insurer that is admitted by the department to offer insurance products in the state is exempt from this reporting requirement.

(3) An association seeking a certificate of authority pursuant to this chapter shall file an opinion, to the extent feasible, that establishes that it would have adequate resources to provide benefits described in this chapter as required to satisfy its proposed contractual obligations.

(b) The opinion required by subdivision (a) shall include supporting memoranda from the same qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts, when considered in light of the assets held by the association with respect to the reserves and related actuarial items, including, but not limited to, the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, shall make adequate provision for the association's obligations under the policies and contracts, including, but not limited to, the benefits and any administrative and operating expenses associated with the policies and contracts.

(c) The opinion required by subdivision (a) shall be governed by the following provisions:

(1) It shall include supporting memoranda consistent with actuarial standards of practice published by the American Academy of Actuaries and the Actuarial Standards Board.

(2) If the association fails to provide an opinion and supporting memoranda to the commissioner that meets the requirements of this section, the commissioner shall notify the association of the deficiencies in the filing, and shall make a specific request that identifies the issues that should be addressed in an amended filing. The requests shall be consistent with actuarial standards of practice published by the American Academy of Actuaries and the Actuarial Standards Board.

(d) Documents, materials, or other information, including the opinion with supporting memoranda, submitted pursuant to this section that are in the possession or control of the Department of Insurance and that are obtained by, created by, or disclosed to the commissioner or any other person pursuant to this section, are recognized by this state as being proprietary and to contain trade secrets. Those documents, materials, or other information shall be confidential by law and privileged, shall not be subject to disclosure by the commissioner pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), and shall not be subject to subpoena or discovery from the commissioner or admissible into evidence, in a private civil action if obtained from the commissioner. The commissioner shall not otherwise make those documents, materials, or other information public without the prior written consent of the association.

SEC. 314. Section 11785 of the Insurance Code is amended to read:

11785. (a) The board of directors shall appoint a president, a chief financial officer, a chief operating officer, a chief information technology officer, a chief investment officer, a chief risk officer, a general counsel, a chief medical officer, a chief actuarial officer, a chief claims operations officer, and a chief of internal affairs. The board may appoint a chief underwriting officer, a senior vice president of insurance services, an executive vice president of corporate claims, an executive vice president of strategic planning, and a pricing actuary. The board of directors shall set the salary for each position in amounts that are reasonably necessary to attract and retain individuals of superior qualifications. The board shall submit its salary-setting criteria, including salary surveys, to the Department of Human Resources. These positions shall not be subject to otherwise applicable provisions of the Government Code and the Public Contract Code, and for those purposes the fund shall not be considered a state agency or other public entity. The president shall manage and conduct the business and affairs of the fund under the general direction and subject to the approval of the board of directors, and shall perform other duties as the board of directors prescribes.

(b) Section 87406 of the Government Code, the Milton Marks Postgovernment Employment Restrictions Act of 1990, shall apply to the

fund. Members of the board, a person who held a position designated in subdivision (a), and any other person designated by the fund shall be deemed to be designated employees for the purpose of that act.

(c) Both the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code) and the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) shall apply to the fund.

(d) (1) The board shall, by September 1, 2018, and subsequently on a biennial basis, make a report to the Legislature and to the committees of the Senate and Assembly having jurisdiction over insurance that provides any salary-setting criteria and salary surveys submitted to the Department of Human Resources pursuant to subdivision (a), and the salary and total compensation of each position appointed pursuant to subdivision (a), for the previous two fiscal years.

(2) A report submitted pursuant to this subdivision shall be submitted in compliance with Section 9795 of the Government Code.

SEC. 315. Section 11873 of the Insurance Code is amended to read:

11873. (a) Except as provided by subdivision (b), the fund shall not be subject to the provisions of the Government Code made applicable to state agencies generally or collectively, unless the section specifically names the fund as an agency to which the provision applies.

(b) The fund shall be subject to the provisions of Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1 of, Division 10 (commencing with Section 7920.000) of Title 1 of, Chapter 6.5 (commencing with Section 8543) of Division 1 of Title 2 of, Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of, the Government Code, and Division 5 (commencing with Section 18000) of Title 2 of the Government Code, with the exception of all of the following provisions of that division:

(1) Article 1 (commencing with Section 19820) and Article 2 (commencing with Section 19823) of Chapter 2 of Part 2.6 of Division 5.

(2) Sections 19849.2, 19849.3, 19849.4, and 19849.5.

(3) Chapter 4.5 (commencing with Section 19993.1) of Part 2.6 of Division 5.

(c) Except as provided in subdivisions (d) and (e) for the period from July 1, 2012, to June 30, 2013, inclusive, and for the period from July 1, 2020, to June 30, 2021, inclusive, and notwithstanding any provision of the Government Code or any other provision of law, the positions funded by the State Compensation Insurance Fund are exempt from any hiring freezes and staff cutbacks otherwise required by law. This subdivision is declaratory of existing law.

(d) Notwithstanding any other law, employees of the fund shall, without limitation, be subject to any and all reductions in state employee compensation imposed by the Legislature on other state employees for the period from July 1, 2012, to June 30, 2013, inclusive, and for the period

from July 1, 2020, to June 30, 2021, inclusive, regardless of the means adopted to effect those reductions.

(e) With the exception of the reductions authorized in subdivision (d), if any provision of this section, or any practice or procedure adopted pursuant to this section, is in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 316. Section 12921.2 of the Insurance Code is amended to read:

12921.2. All public records of the department and the commissioner subject to disclosure under Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code shall be available for inspection and copying pursuant to those provisions at the offices of the department in the San Francisco Bay area, in the City of Los Angeles, and in the City of Sacramento. Adequate copy facilities for this purpose shall be made available. Notwithstanding any other law, a person requesting copies of these records shall receive the copies from employees of the department and the fee charged for the copies shall not exceed the actual cost of producing the copies. Any public record submitted to the department as computer data on an electronic medium shall, in addition to other formats, be made available to the public pursuant to this section through an electronic medium.

SEC. 317. Section 12968 of the Insurance Code is amended to read:

12968. (a) Every pleading issued by the commissioner to initiate a formal enforcement action under this code against a licensee or applicant, and every order issued by the commissioner or a court of competent jurisdiction or other document that resolves a formal enforcement action, shall be displayed on the department's internet website, if the document is a public record that is not exempt from disclosure to the public pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(b) Notwithstanding Section 12969, if an enforcement action against a licensee or applicant is withdrawn, then each pleading, document, or order against that licensee or applicant shall be removed from the department's internet website within 30 days of the withdrawal of the action. If a pleading, document, or order contains allegations against multiple licensees or applicants, and the department withdraws all allegations against any one or more of the licensees or applicants, then the department shall post, on its internet website, a pleading, document, or order that clarifies that the enforcement action against that specific licensee or applicant has been withdrawn.

SEC. 318. Section 138.7 of the Labor Code is amended to read:

138.7. (a) Except as expressly permitted in subdivision (b), a person or public or private entity not a party to a claim for workers' compensation

benefits shall not obtain individually identifiable information obtained or maintained by the division regarding that claim. For purposes of this section, "individually identifiable information" means any data concerning an injury or claim that is linked to a uniquely identifiable employee, employer, claims administrator, or any other person or entity.

(b) (1) (A) The administrative director, or a statistical agent designated by the administrative director, may use individually identifiable information for purposes of creating and maintaining the workers' compensation information system as specified in Section 138.6.

(B) The administrative director may publish the identity of claims administrators in the annual report disclosing the compliance rates of claims administrators pursuant to subdivision (d) of Section 138.6.

(C) The administrative director shall use individually identifiable information for purposes of creating provider medical utilization data as specified in Section 138.8.

(2) (A) The State Department of Public Health may use individually identifiable information for purposes of establishing and maintaining a program on occupational health and occupational disease prevention as specified in Section 105175 of the Health and Safety Code.

(B) (i) The State Department of Health Care Services may use individually identifiable information for purposes of seeking recovery of Medi-Cal costs incurred by the state for treatment provided to injured workers that should have been incurred by employers and insurance carriers pursuant to Article 3.5 (commencing with Section 14124.70) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code.

(ii) The Department of Industrial Relations shall furnish individually identifiable information to the State Department of Health Care Services, and the State Department of Health Care Services may furnish the information to its designated agent, provided that the individually identifiable information shall not be disclosed for use other than the purposes described in clause (i). The administrative director may adopt regulations solely for the purpose of governing access by the State Department of Health Care Services or its designated agents to the individually identifiable information as defined in subdivision (a).

(3) (A) Individually identifiable information may be used by the Division of Workers' Compensation and the Division of Occupational Safety and Health as necessary to carry out their duties. The administrative director shall adopt regulations governing the access to the information described in this subdivision by these divisions. Any regulations adopted pursuant to this subdivision shall set forth the specific uses for which this information may be obtained.

(B) Individually identifiable information maintained in the workers' compensation information system and the Division of Workers' Compensation may be used by researchers employed by or under contract to the Commission on Health and Safety and Workers' Compensation as necessary to carry out the commission's research. The administrative director shall adopt regulations governing the access to the information described

in this subdivision by commission researchers. These regulations shall set forth the specific uses for which this information may be obtained and include provisions guaranteeing the confidentiality of individually identifiable information. Individually identifiable information obtained under this subdivision shall not be disclosed to commission members. Individually identifiable information obtained by researchers under contract to the commission pursuant to this subparagraph may not be disclosed to any other person or entity, public or private, for a use other than that research project for which the information was obtained. Within a reasonable period of time after the research for which the information was obtained has been completed, the data collected shall be modified in a manner so that the subjects cannot be identified, directly or through identifiers linked to the subjects.

(C) Individually identifiable information may be used by the Office of Self-Insurance Plans of the Department of Industrial Relations as necessary to carry out its duties, including evaluating the costs of administration, workers' compensation benefit expenditures, and solvency and performance of the public self-insured employers' workers' compensation programs.

(4) The administrative director shall adopt regulations allowing reasonable access to individually identifiable information by other persons or public or private entities for the purpose of bona fide statistical research. This research shall not divulge individually identifiable information concerning a particular employee, employer, claims administrator, or any other person or entity. The regulations adopted pursuant to this paragraph shall include provisions guaranteeing the confidentiality of individually identifiable information. Within a reasonable period of time after the research for which the information was obtained has been completed, the data collected shall be modified in a manner so that the subjects cannot be identified, directly or through identifiers linked to the subjects.

(5) (A) This section does not exempt from disclosure any information that is considered to be a public record pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) contained in an individual's file once an application for adjudication has been filed pursuant to Section 5501.5.

(B) Individually identifiable information shall not be provided to any person or public or private entity who is not a party to the claim unless that person self-identifies or that public or private entity identifies itself and states the reason for making the request. The administrative director may require the person or public or private entity making the request to produce information to verify that the name and address of the requester is valid and correct. If the purpose of the request is related to preemployment screening, the administrative director shall notify the person about whom the information is requested that the information was provided and shall include the following in 12-point type:

"IT MAY BE A VIOLATION OF FEDERAL AND STATE LAW TO DISCRIMINATE AGAINST A JOB APPLICANT BECAUSE THE

APPLICANT HAS FILED A CLAIM FOR WORKERS' COMPENSATION BENEFITS."

(C) Any residence address is confidential and shall not be disclosed to any person or public or private entity except to a party to the claim, a law enforcement agency, an office of a district attorney, any person for a journalistic purpose, or other governmental agency.

(D) This paragraph does not prohibit the use of individually identifiable information for purposes of identifying bona fide lien claimants.

(c) Except as provided in subdivision (b), individually identifiable information obtained by the division is privileged and is not subject to subpoena in a civil proceeding unless, after reasonable notice to the division and a hearing, a court determines that the public interest and the intent of this section will not be jeopardized by disclosure of the information. This section does not restrict access to information by any law enforcement agency or district attorney's office nor limit admissibility of that information in a criminal proceeding.

(d) It is unlawful for any person who has received individually identifiable information from the division pursuant to this section to provide that information to any person who is not entitled to it under this section.

SEC. 319. Section 147.2 of the Labor Code is amended to read:

147.2. (a) As used in this section, "Hazard Evaluation System and Information Service" or "HESIS" means the repository established pursuant to subdivision (b).

(b) In accordance with Chapter 2 (commencing with Section 6350) of Part 1 of Division 5 of this code and Section 105175 of the Health and Safety Code, the Department of Industrial Relations, by interagency agreement with the State Department of Public Health, shall establish a repository of current data on toxic materials and harmful physical agents in use or potentially in use in places of employment in the state, known as the Hazard Evaluation System and Information Service, or HESIS.

(c) HESIS shall fulfill all of the following functions:

(1) Provide reliable information of practical use to employers, employees, representatives of employees, and other governmental agencies on the possible hazards to employees of exposure to toxic materials or harmful physical agents.

(2) Collect and evaluate toxicological and epidemiological data and any other information that may be pertinent to establishing harmful effects on health of exposure to toxic materials or harmful physical agents. Nothing in this subdivision shall be construed as authorizing HESIS to require employers, other than chemical manufacturers, formulators, suppliers, distributors, importers, and their agents, to report any information not otherwise required by law.

(3) When there is new scientific or medical information and the Chief of HESIS, in consultation with the Director of Industrial Relations and the Chief of the Division of Environmental and Occupational Disease Control in the State Department of Public Health, determines that a substance may

be in use in a place of employment, may pose a hazard under a reasonable anticipated condition of use, and potentially poses a serious new or unrecognized health hazard to an employee, including, but not limited to, cancer, reproductive or developmental harm, organ system impairment, or death, chemical manufacturers, formulators, suppliers, distributors, importers, and their agents, as specified in subparagraph (A), shall provide to HESIS the names and addresses of their customers who have purchased certain chemicals, as specified by HESIS, or commercial products containing those chemicals and information related to those shipments, including the quantities and dates of shipments, and the proportion of a specified chemical within a mixture containing the specified chemical, upon written request by HESIS, for every product the final destination of which may be a place of employment in California. This paragraph shall not apply to a retail seller of the substance, whether sold individually or as part of a commercial product to the public. The following shall apply to this paragraph:

(A) On or after January 1, 2016, the information requested shall include current and past customers for not more than a one-year period prior to the date the request is issued. The information shall be provided within a reasonable timeframe, not to exceed 30 calendar days from the date the request is issued. The information shall be provided in a format specified by the State Department of Public Health but consistent with the responding entity's current data system.

(B) Unless, pursuant to other law or regulation the following persons, any other person, or any governmental entity is required to publicly disclose the following information, the names and addresses of customers, the quantities and dates of shipments, and the proportion of a specified chemical within a mixture provided by chemical manufacturers, formulators, suppliers, distributors, importers, and their agents pursuant to this paragraph shall be considered confidential and, except as specified in this subparagraph, exempt from public disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code). HESIS may disclose that information to officers or employees of the State Department of Public Health, to officers or employees of the state who are responsible for carrying out the purposes of Division 5 (commencing with Section 6300), or to the state agencies of the state officers specified in paragraphs (5) and (6). Any officer, employee, or agency to which the information is disclosed shall be subject to this subparagraph.

(C) The State Department of Public Health shall be entitled to reimbursement of attorney's fees and costs incurred in seeking an injunction to enforce this paragraph.

(4) Recommend to the Chief of the Division of Occupational Safety and Health Administration that an occupational safety and health standard be developed whenever it has been determined that a substance in use or potentially in use in places of employment is potentially toxic at the concentrations or under the conditions used.

(5) Notify the Director of Pesticide Regulation of any information developed by HESIS that is relevant to carrying out the director's

responsibilities under Chapters 2 (commencing with Section 12751) and 3 (commencing with Section 14001) of Division 7 of the Food and Agricultural Code.

(6) Notify the Secretary for Environmental Protection of any information developed by HESIS that is relevant to carrying out the secretary's responsibilities.

(d) The Director of Industrial Relations shall appoint an advisory committee to HESIS. The advisory committee shall consist of four representatives from labor, four representatives from management, four active practitioners in the occupational health field, and three persons knowledgeable in biomedical statistics or information storage and retrieval systems. The advisory committee shall meet on a regular basis at the request of the director. The committee shall be consulted by, and shall advise the director at each phase of the structuring and functioning of the repository and alert system with regard to, the procedures, methodology, validity, and practical utility of collecting, evaluating, and disseminating information concerning hazardous substances, consistent with the primary goals and objectives of the repository.

(e) Nothing in this section shall be construed to limit the ability of the State Department of Public Health to propose occupational safety and health standards to the Occupational Safety and Health Standards Board.

(f) Policies and procedures shall be developed to assure, to the extent possible, that HESIS uses and does not duplicate the resources of the federal government and other states.

(g) On or before December 31 of each year, the Department of Industrial Relations shall submit a report to the Legislature detailing the implementation and operation of HESIS including, but not limited to, the amount and source of funds allocated and spent on repository activities, the toxic materials and harmful physical agents investigated during the past year and recommendations made concerning them, actions taken to inform interested persons of the possible hazards of exposure to toxic materials and harmful physical agents, and any recommendations for legislative changes relating to the functions of HESIS.

SEC. 320. Section 432.3 of the Labor Code is amended to read:

432.3. (a) An employer shall not rely on the salary history information of an applicant for employment as a factor in determining whether to offer employment to an applicant or what salary to offer an applicant.

(b) An employer shall not, orally or in writing, personally or through an agent, seek salary history information, including compensation and benefits, about an applicant for employment.

(c) An employer, upon reasonable request, shall provide the pay scale for a position to an applicant applying for employment. For purposes of this section, "pay scale" means a salary or hourly wage range. For purposes of this section, "reasonable request" means a request made after an applicant has completed an initial interview with the employer.

(d) Section 433 does not apply to this section.

(e) This section does not apply to salary history information disclosable to the public pursuant to federal or state law, including the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) or the federal Freedom of Information Act (Section 552 of Title 5 of the United States Code).

(f) This section applies to all employers, including state and local government employers and the Legislature.

(g) Nothing in this section shall prohibit an applicant from voluntarily and without prompting disclosing salary history information to a prospective employer.

(h) If an applicant voluntarily and without prompting discloses salary history information to a prospective employer, nothing in this section shall prohibit that employer from considering or relying on that voluntarily disclosed salary history information in determining the salary for that applicant.

(i) Nothing in this section shall prohibit an employer from asking an applicant about the applicant's salary expectation for the position being applied for.

(j) Consistent with Section 1197.5, nothing in this section shall be construed to allow prior salary to justify any disparity in compensation.

(k) For purposes of this section, the term "applicant" or "applicant for employment" means an individual who is seeking employment with the employer and is not currently employed with that employer in any capacity or position.

SEC. 321. Section 1776 of the Labor Code is amended to read:

1776. (a) Each contractor and subcontractor shall keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the contractor or subcontractor in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:

(1) The information contained in the payroll record is true and correct.

(2) The employer has complied with the requirements of Sections 1771, 1811, and 1815 for any work performed by that person's employees on the public works project.

(b) The payroll records enumerated under subdivision (a) shall be certified and shall be available for inspection at all reasonable hours at the principal office of the contractor on the following basis:

(1) A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or the employee's authorized representative on request.

(2) A certified copy of all payroll records enumerated in subdivision (a) shall be made available for inspection or furnished upon request to a representative of the body awarding the contract and the Division of Labor Standards Enforcement of the Department of Industrial Relations.

(3) A certified copy of all payroll records enumerated in subdivision (a) shall be made available upon request by the public for inspection or for copies thereof. However, a request by the public shall be made through either the body awarding the contract or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided pursuant to paragraph (2), the requesting party shall, prior to being provided the records, reimburse the costs of preparation by the contractor, subcontractors, and the entity through which the request was made. The public may not be given access to the records at the principal office of the contractor.

(c) Unless required to be furnished directly to the Labor Commissioner in accordance with paragraph (3) of subdivision (a) of Section 1771.4, the certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information as the forms provided by the division. The payroll records may consist of printouts of payroll data that are maintained as computer records, if the printouts contain the same information as the forms provided by the division and the printouts are verified in the manner specified in subdivision (a).

(d) A contractor or subcontractor shall file a certified copy of the records enumerated in subdivision (a) with the entity that requested the records within 10 days after receipt of a written request.

(e) Except as provided in subdivision (f), any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the awarding body or the Division of Labor Standards Enforcement shall be marked or obliterated to prevent disclosure of an individual's name, address, and social security number. The name and address of the contractor awarded the contract or the subcontractor performing the contract shall not be marked or obliterated. Any copy of records made available for inspection by, or furnished to, a multiemployer Taft-Hartley trust fund (29 U.S.C. Sec. 186(c)(5)) that requests the records for the purposes of allocating contributions to participants shall be marked or obliterated only to prevent disclosure of an individual's full social security number, but shall provide the last four digits of the social security number. Any copy of records made available for inspection by, or furnished to, a joint labor-management committee established pursuant to the federal Labor Management Cooperation Act of 1978 (29 U.S.C. Sec. 175a) shall be marked or obliterated only to prevent disclosure of an individual's social security number.

(f) (1) Notwithstanding any other provision of law, agencies that are included in the Joint Enforcement Strike Force on the Underground Economy established pursuant to Section 329 of the Unemployment Insurance Code and other law enforcement agencies investigating violations of law shall, upon request, be provided nonredacted copies of certified payroll records. Any copies of records or certified payroll made available for inspection and furnished upon request to the public by an agency included in the Joint Enforcement Strike Force on the Underground Economy or to a law enforcement agency investigating a violation of law shall be marked or

redacted to prevent disclosure of an individual's name, address, and social security number.

(2) An employer shall not be liable for damages in a civil action for any reasonable act or omission taken in good faith in compliance with this subdivision.

(g) The contractor shall inform the body awarding the contract of the location of the records enumerated under subdivision (a), including the street address, city, and county, and shall, within five working days, provide a notice of a change of location and address.

(h) The contractor or subcontractor has 10 days in which to comply subsequent to receipt of a written notice requesting the records enumerated in subdivision (a). In the event that the contractor or subcontractor fails to comply within the 10-day period, the contractor or subcontractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit one hundred dollars ($100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due. A contractor is not subject to a penalty assessment pursuant to this section due to the failure of a subcontractor to comply with this section.

(i) The body awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section.

(j) The director shall adopt rules consistent with the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) and the Information Practices Act of 1977 (Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code) governing the release of these records, including the establishment of reasonable fees to be charged for reproducing copies of records required by this section.

SEC. 322. Section 2810 of the Labor Code is amended to read:

2810. (a) A person or entity shall not enter into a contract or agreement for labor or services with a construction, farm labor, garment, janitorial, security guard, or warehouse contractor, where the person or entity knows or should know that the contract or agreement does not include funds sufficient to allow the contractor to comply with all applicable local, state, and federal laws or regulations governing the labor or services to be provided.

(b) There is a rebuttable presumption affecting the burden of proof that there has been no violation of subdivision (a) where the contract or agreement with a construction, farm labor, garment, janitorial, security guard, or warehouse contractor meets all of the requirements in subdivision (d).

(c) Subdivision (a) does not apply to a person or entity who executes a collective bargaining agreement covering the workers employed under the contract or agreement, or to a person who enters into a contract or agreement for labor or services to be performed on that person's home residences,

provided that a family member resides in the residence or residences for which the labor or services are to be performed for at least a part of the year.

(d) To meet the requirements of subdivision (b), a contract or agreement with a construction, farm labor, garment, janitorial, security guard, or warehouse contractor for labor or services shall be in writing, in a single document, and contain all of the following provisions, in addition to any other provisions that may be required by regulations adopted by the Labor Commissioner from time to time:

(1) The name, address, and telephone number of the person or entity and the construction, farm labor, garment, janitorial, security guard, or warehouse contractor through whom the labor or services are to be provided.

(2) A description of the labor or services to be provided and a statement of when those services are to be commenced and completed.

(3) The employer identification number for state tax purposes of the construction, farm labor, garment, janitorial, security guard, or warehouse contractor.

(4) The workers' compensation insurance policy number and the name, address, and telephone number of the insurance carrier of the construction, farm labor, garment, janitorial, security guard, or warehouse contractor.

(5) The vehicle identification number of any vehicle that is owned by the construction, farm labor, garment, janitorial, security guard, or warehouse contractor and used for transportation in connection with any service provided pursuant to the contract or agreement, the number of the vehicle liability insurance policy that covers the vehicle, and the name, address, and telephone number of the insurance carrier.

(6) The address of any real property to be used to house workers in connection with the contract or agreement.

(7) The total number of workers to be employed under the contract or agreement, the total amount of all wages to be paid, and the date or dates when those wages are to be paid.

(8) The amount of the commission or other payment made to the construction, farm labor, garment, janitorial, security guard, or warehouse contractor for services under the contract or agreement.

(9) The total number of persons who will be utilized under the contract or agreement as independent contractors, along with a list of the current local, state, and federal contractor license identification numbers that the independent contractors are required to have under local, state, or federal laws or regulations.

(10) The signatures of all parties, and the date the contract or agreement was signed.

(e) (1) To qualify for the rebuttable presumption set forth in subdivision (b), a material change to the terms and conditions of a contract or agreement between a person or entity and a construction, farm labor, garment, janitorial, security guard, or warehouse contractor must be in writing, in a single document, and contain all of the provisions listed in subdivision (d) that are affected by the change.

(2) If a provision required to be contained in a contract or agreement pursuant to paragraph (7) or (9) of subdivision (d) is unknown at the time the contract or agreement is executed, the best estimate available at that time is sufficient to satisfy the requirements of subdivision (d). If an estimate is used in place of actual figures in accordance with this paragraph, the parties to the contract or agreement have a continuing duty to ascertain the information required pursuant to paragraph (7) or (9) of subdivision (d) and to reduce that information to writing in accordance with the requirements of paragraph (1) once that information becomes known.

(f) A person or entity who enters into a contract or agreement referred to in subdivisions (d) or (e) shall keep a copy of the written contract or agreement for a period of not less than four years following the termination of the contract or agreement. Upon the request of the Labor Commissioner, any person or entity who enters into the contract or agreement shall provide to the Labor Commissioner a copy of the provisions of the contract or agreement, and any other documentation, related to paragraphs (1) to (10), inclusive, of subdivision (d). Documents obtained pursuant to this section are exempt from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(g) (1) An employee aggrieved by a violation of subdivision (a) may file an action for damages to recover the greater of all of the employee's actual damages or two hundred fifty dollars ($250) per employee per violation for an initial violation and one thousand dollars ($1,000) per employee for each subsequent violation, and, upon prevailing in an action brought pursuant to this section, may recover costs and reasonable attorney's fees. An action under this section shall not be maintained unless it is pleaded and proved that an employee was injured as a result of a violation of a labor law or regulation in connection with the performance of the contract or agreement.

(2) An employee aggrieved by a violation of subdivision (a) may also bring an action for injunctive relief and, upon prevailing, may recover costs and reasonable attorney's fees.

(h) The phrase "construction, farm labor, garment, janitorial, security guard, or warehouse contractor" includes any person, as defined in this code, whether or not licensed, who is acting in the capacity of a construction, farm labor, garment, janitorial, security guard, or warehouse contractor.

(i) (1) The term "knows" includes the knowledge, arising from familiarity with the normal facts and circumstances of the business activity engaged in, that the contract or agreement does not include funds sufficient to allow the contractor to comply with applicable laws.

(2) The phrase "should know" includes the knowledge of any additional facts or information that would make a reasonably prudent person undertake to inquire whether, taken together, the contract or agreement contains sufficient funds to allow the contractor to comply with applicable laws.

(3) A failure by a person or entity to request or obtain any information from the contractor that is required by any applicable statute or by the

contract or agreement between them, constitutes knowledge of that information for purposes of this section.

(j) For the purposes of this section, "warehouse" means a facility the primary operation of which is the storage or distribution of general merchandise, refrigerated goods, or other products.

SEC. 323. Section 4600.5 of the Labor Code is amended to read:

4600.5. (a) Any health care service plan licensed pursuant to the Knox-Keene Health Care Service Plan Act, a disability insurer licensed by the Department of Insurance, or any entity, including, but not limited to, workers' compensation insurers and third-party administrators authorized by the administrative director under subdivision (e), may make written application to the administrative director to become certified as a health care organization to provide health care to injured employees for injuries and diseases compensable under this article.

(b) Each application for certification shall be accompanied by a reasonable fee prescribed by the administrative director, sufficient to cover the actual cost of processing the application. A certificate is valid for the period that the director may prescribe unless sooner revoked or suspended.

(c) If the health care organization is a health care service plan licensed pursuant to the Knox-Keene Health Care Service Plan Act, and has provided the Managed Care Unit of the Division of Workers' Compensation with the necessary documentation to comply with this subdivision, that organization shall be deemed to be a health care organization able to provide health care pursuant to Section 4600.3, without further application duplicating the documentation already filed with the Department of Managed Health Care. These plans shall be required to remain in good standing with the Department of Managed Health Care, and shall meet the following additional requirements:

(1) Proposes to provide all medical and health care services that may be required by this article.

(2) Provides a program involving cooperative efforts by the employees, the employer, and the health plan to promote workplace health and safety, consultative and other services, and early return to work for injured employees.

(3) Proposes a timely and accurate method to meet the requirements set forth by the administrative director for all carriers of workers' compensation coverage to report necessary information regarding medical and health care service cost and utilization, rates of return to work, average time in medical treatment, and other measures as determined by the administrative director to enable the director to determine the effectiveness of the plan.

(4) Agrees to provide the administrative director with information, reports, and records prepared and submitted to the Department of Managed Health Care in compliance with the Knox-Keene Health Care Service Plan Act, relating to financial solvency, provider accessibility, peer review, utilization review, and quality assurance, upon request, if the administrative director determines the information is necessary to verify that the plan is providing

medical treatment to injured employees in compliance with the requirements of this code.

Disclosure of peer review proceedings and records to the administrative director shall not alter the status of the proceedings or records as privileged and confidential communications pursuant to Sections 1370 and 1370.1 of the Health and Safety Code.

(5) Demonstrates the capability to provide occupational medicine and related disciplines.

(6) Complies with any other requirement the administrative director determines is necessary to provide medical services to injured employees consistent with the intent of this article, including, but not limited to, a written patient grievance policy.

(d) If the health care organization is a disability insurer licensed by the Department of Insurance, and is in compliance with subdivision (d) of Sections 10133 and 10133.5 of the Insurance Code, the administrative director shall certify the organization to provide health care pursuant to Section 4600.3 if the director finds that the plan is in good standing with the Department of Insurance and meets the following additional requirements:

(1) Proposes to provide all medical and health care services that may be required by this article.

(2) Provides a program involving cooperative efforts by the employees, the employer, and the health plan to promote workplace health and safety, consultative and other services, and early return to work for injured employees.

(3) Proposes a timely and accurate method to meet the requirements set forth by the administrative director for all carriers of workers' compensation coverage to report necessary information regarding medical and health care service cost and utilization, rates of return to work, average time in medical treatment, and other measures as determined by the administrative director to enable the director to determine the effectiveness of the plan.

(4) Agrees to provide the administrative director with information, reports, and records prepared and submitted to the Department of Insurance in compliance with the Insurance Code relating to financial solvency, provider accessibility, peer review, utilization review, and quality assurance, upon request, if the administrative director determines the information is necessary to verify that the plan is providing medical treatment to injured employees consistent with the intent of this article.

Disclosure of peer review proceedings and records to the administrative director shall not alter the status of the proceedings or records as privileged and confidential communications pursuant to subdivision (d) of Section 10133 of the Insurance Code.

(5) Demonstrates the capability to provide occupational medicine and related disciplines.

(6) Complies with any other requirement the administrative director determines is necessary to provide medical services to injured employees

consistent with the intent of this article, including, but not limited to, a written patient grievance policy.

(e) If the health care organization is a workers' compensation insurer, third-party administrator, or any other entity that the administrative director determines meets the requirements of Section 4600.6, the administrative director shall certify the organization to provide health care pursuant to Section 4600.3 if the director finds that it meets the following additional requirements:

(1) Proposes to provide all medical and health care services that may be required by this article.

(2) Provides a program involving cooperative efforts by the employees, the employer, and the health plan to promote workplace health and safety, consultative and other services, and early return to work for injured employees.

(3) Proposes a timely and accurate method to meet the requirements set forth by the administrative director for all carriers of workers' compensation coverage to report necessary information regarding medical and health care service cost and utilization, rates of return to work, average time in medical treatment, and other measures as determined by the administrative director to enable the director to determine the effectiveness of the plan.

(4) Agrees to provide the administrative director with information, reports, and records relating to provider accessibility, peer review, utilization review, quality assurance, advertising, disclosure, medical and financial audits, and grievance systems, upon request, if the administrative director determines the information is necessary to verify that the plan is providing medical treatment to injured employees consistent with the intent of this article.

Disclosure of peer review proceedings and records to the administrative director shall not alter the status of the proceedings or records as privileged and confidential communications pursuant to subdivision (d) of Section 10133 of the Insurance Code.

(5) Demonstrates the capability to provide occupational medicine and related disciplines.

(6) Complies with any other requirement the administrative director determines is necessary to provide medical services to injured employees consistent with the intent of this article, including, but not limited to, a written patient grievance policy.

(7) Complies with the following requirements:

(A) An organization certified by the administrative director under this subdivision may not provide or undertake to arrange for the provision of health care to employees, or to pay for or to reimburse any part of the cost of that health care in return for a prepaid or periodic charge paid by or on behalf of those employees.

(B) Every organization certified under this subdivision shall operate on a fee-for-service basis. As used in this section, fee for service refers to the situation where the amount of reimbursement paid by the employer to the organization or providers of health care is determined by the amount and type of health care rendered by the organization or provider of health care.

(C) An organization certified under this subdivision is prohibited from assuming risk.

(f) (1) A workers' compensation health care provider organization authorized by the Department of Business Oversight on December 31, 1997, shall be eligible for certification as a health care organization under subdivision (e).

(2) An entity that had, on December 31, 1997, submitted an application with the Commissioner of Business Oversight under Part 3.2 (commencing with Section 5150) shall be considered an applicant for certification under subdivision (e) and shall be entitled to priority in consideration of its application. The Commissioner of Business Oversight shall provide complete files for all pending applications to the administrative director on or before January 31, 1998.

(g) The provisions of this section shall not affect the confidentiality or admission in evidence of a claimant's medical treatment records.

(h) Charges for services arranged for or provided by health care service plans certified by this section and that are paid on a per-enrollee-periodic-charge basis shall not be subject to the schedules adopted by the administrative director pursuant to Section 5307.1.

(i) Nothing in this section shall be construed to expand or constrict any requirements imposed by law on a health care service plan or insurer when operating as other than a health care organization pursuant to this section.

(j) In consultation with interested parties, including the Department of Business Oversight and the Department of Insurance, the administrative director shall adopt rules necessary to carry out this section.

(k) The administrative director shall refuse to certify or may revoke or suspend the certification of any health care organization under this section if the director finds that:

(1) The plan for providing medical treatment fails to meet the requirements of this section.

(2) A health care service plan licensed by the Department of Managed Health Care, a workers' compensation health care provider organization authorized by the Department of Business Oversight, or a carrier licensed by the Department of Insurance is not in good standing with its licensing agency.

(3) Services under the plan are not being provided in accordance with the terms of a certified plan.

(*l*) (1) When an injured employee requests chiropractic treatment for work-related injuries, the health care organization shall provide the injured worker with access to the services of a chiropractor pursuant to guidelines for chiropractic care established by paragraph (2). Within five working days of the employee's request to see a chiropractor, the health care organization and any person or entity who directs the kind or manner of health care services for the plan shall refer an injured employee to an affiliated chiropractor for work-related injuries that are within the guidelines for chiropractic care established by paragraph (2). Chiropractic care rendered in accordance with guidelines for chiropractic care established pursuant to

paragraph (2) shall be provided by duly licensed chiropractors affiliated with the plan.

(2) The health care organization shall establish guidelines for chiropractic care in consultation with affiliated chiropractors who are participants in the health care organization's utilization review process for chiropractic care, which may include qualified medical evaluators knowledgeable in the treatment of chiropractic conditions. The guidelines for chiropractic care shall, at a minimum, explicitly require the referral of any injured employee who so requests to an affiliated chiropractor for the evaluation or treatment, or both, of neuromusculoskeletal conditions.

(3) Whenever a dispute concerning the appropriateness or necessity of chiropractic care for work-related injuries arises, the dispute shall be resolved by the health care organization's utilization review process for chiropractic care in accordance with the health care organization's guidelines for chiropractic care established by paragraph (2).

Chiropractic utilization review for work-related injuries shall be conducted in accordance with the health care organization's approved quality assurance standards and utilization review process for chiropractic care. Chiropractors affiliated with the plan shall have access to the health care organization's provider appeals process and, in the case of chiropractic care for work-related injuries, the review shall include review by a chiropractor affiliated with the health care organization, as determined by the health care organization.

(4) The health care organization shall inform employees of the procedures for processing and resolving grievances, including those related to chiropractic care, including the location and telephone number where grievances may be submitted.

(5) All guidelines for chiropractic care and utilization review shall be consistent with the standards of this code that require care to cure or relieve the effects of the industrial injury.

(m) Individually identifiable medical information on patients submitted to the division shall not be subject to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(n) (1) When an injured employee requests acupuncture treatment for work-related injuries, the health care organization shall provide the injured worker with access to the services of an acupuncturist pursuant to guidelines for acupuncture care established by paragraph (2). Within five working days of the employee's request to see an acupuncturist, the health care organization and any person or entity who directs the kind or manner of health care services for the plan shall refer an injured employee to an affiliated acupuncturist for work-related injuries that are within the guidelines for acupuncture care established by paragraph (2). Acupuncture care rendered in accordance with guidelines for acupuncture care established pursuant to paragraph (2) shall be provided by duly licensed acupuncturists affiliated with the plan.

(2) The health care organization shall establish guidelines for acupuncture care in consultation with affiliated acupuncturists who are participants in

the health care organization's utilization review process for acupuncture care, which may include qualified medical evaluators. The guidelines for acupuncture care shall, at a minimum, explicitly require the referral of any injured employee who so requests to an affiliated acupuncturist for the evaluation or treatment, or both, of neuromusculoskeletal conditions.

(3) Whenever a dispute concerning the appropriateness or necessity of acupuncture care for work-related injuries arises, the dispute shall be resolved by the health care organization's utilization review process for acupuncture care in accordance with the health care organization's guidelines for acupuncture care established by paragraph (2).

Acupuncture utilization review for work-related injuries shall be conducted in accordance with the health care organization's approved quality assurance standards and utilization review process for acupuncture care. Acupuncturists affiliated with the plan shall have access to the health care organization's provider appeals process and, in the case of acupuncture care for work-related injuries, the review shall include review by an acupuncturist affiliated with the health care organization, as determined by the health care organization.

(4) The health care organization shall inform employees of the procedures for processing and resolving grievances, including those related to acupuncture care, including the location and telephone number where grievances may be submitted.

(5) All guidelines for acupuncture care and utilization review shall be consistent with the standards of this code that require care to cure or relieve the effects of the industrial injury.

SEC. 324. Section 4610 of the Labor Code is amended to read:

4610. (a) For purposes of this section, "utilization review" means utilization review or utilization management functions that prospectively, retrospectively, or concurrently review and approve, modify, or deny, based in whole or in part on medical necessity to cure and relieve, treatment recommendations by physicians, as defined in Section 3209.3, prior to, retrospectively, or concurrent with the provision of medical treatment services pursuant to Section 4600.

(b) For all dates of injury occurring on or after January 1, 2018, emergency treatment services and medical treatment rendered for a body part or condition that is accepted as compensable by the employer and is addressed by the medical treatment utilization schedule adopted pursuant to Section 5307.7, by a member of the medical provider network or health care organization, or by a physician predesignated pursuant to subdivision (d) of Section 4600, within the 30 days following the initial date of injury, shall be authorized without prospective utilization review, except as provided in subdivision (c). The services rendered under this subdivision shall be consistent with the medical treatment utilization schedule. In the event that the employee is not subject to treatment with a medical provider network, health care organization, or predesignated physician pursuant to subdivision (d) of Section 4600, the employee shall be eligible for treatment under this section within 30 days following the initial date of injury if the treatment

is rendered by a physician or facility selected by the employer. For treatment rendered by a medical provider network physician, health care organization physician, a physician predesignated pursuant to subdivision (d) of Section 4600, or an employer-selected physician, the report required under Section 6409 and a complete request for authorization shall be submitted by the physician within five days following the employee's initial visit and evaluation.

(c) Unless authorized by the employer or rendered as emergency medical treatment, the following medical treatment services, as defined in rules adopted by the administrative director, that are rendered through a member of the medical provider network or health care organization, a predesignated physician, an employer-selected physician, or an employer-selected facility, within the 30 days following the initial date of injury, shall be subject to prospective utilization review under this section:

(1) Pharmaceuticals, to the extent they are neither expressly exempted from prospective review nor authorized by the drug formulary adopted pursuant to Section 5307.27.

(2) Nonemergency inpatient and outpatient surgery, including all presurgical and postsurgical services.

(3) Psychological treatment services.

(4) Home health care services.

(5) Imaging and radiology services, excluding x-rays.

(6) All durable medical equipment, whose combined total value exceeds two hundred fifty dollars ($250), as determined by the official medical fee schedule.

(7) Electrodiagnostic medicine, including, but not limited to, electromyography and nerve conduction studies.

(8) Any other service designated and defined through rules adopted by the administrative director.

(d) (1) Except for emergency treatment services, any request for payment for treatment provided under subdivision (b) shall comply with Section 4603.2 and be submitted to the employer, or its insurer or claims administrator, within 30 days of the date the service was provided.

(2) (A) In the case of emergency treatment services, any request for payment for treatment provided under subdivision (b) shall comply with Section 4603.2 and be submitted to the employer, or its insurer or claims administrator, within 180 days of the date the service was provided.

(B) For the purposes of this subdivision, "emergency treatment services" means treatment for an emergency medical condition defined in subdivision (b) of Section 1317.1 of the Health and Safety Code and provided in a licensed general acute care hospital, as defined in Section 1250 of the Health and Safety Code.

(e) If a physician fails to submit the report required under Section 6409 and a complete request for authorization, as described in subdivision (b), an employer may remove the physician's ability under this subdivision to provide further medical treatment to the employee that is exempt from prospective utilization review.

(f) An employer may perform retrospective utilization review for any treatment provided pursuant to subdivision (b) solely for the purpose of determining if the physician is prescribing treatment consistent with the schedule for medical treatment utilization, including, but not limited to, the drug formulary adopted pursuant to Section 5307.27.

(1) If it is found after retrospective utilization reviews that there is a pattern and practice of the physician or provider failing to render treatment consistent with the schedule for medical treatment utilization, including the drug formulary, the employer may remove the ability of the predesignated physician, employer-selected physician, or the member of the medical provider network or health care organization under this subdivision to provide further medical treatment to any employee that is exempt from prospective utilization review. The employer shall notify the physician or provider of the results of the retrospective utilization review and the requirement for prospective utilization review for all subsequent medical treatment.

(2) The results of retrospective utilization review may constitute a showing of good cause for an employer's petition requesting a change of physician or provider pursuant to Section 4603 and may serve as grounds for termination of the physician or provider from the medical provider network or health care organization.

(g) Each employer shall establish a utilization review process in compliance with this section, either directly or through its insurer or an entity with which an employer or insurer contracts for these services.

(1) Each utilization review process that modifies or denies requests for authorization of medical treatment shall be governed by written policies and procedures. These policies and procedures shall ensure that decisions based on the medical necessity to cure and relieve of proposed medical treatment services are consistent with the schedule for medical treatment utilization, including the drug formulary, adopted pursuant to Section 5307.27.

(2) (A) Unless otherwise indicated in this section, a physician providing treatment under Section 4600 shall send any request for authorization for medical treatment, with supporting documentation, to the claims administrator for the employer, insurer, or other entity according to rules adopted by the administrative director. The employer, insurer, or other entity shall employ or designate a medical director who holds an unrestricted license to practice medicine in this state issued pursuant to Section 2050 or 2450 of the Business and Professions Code. The medical director shall ensure that the process by which the employer or other entity reviews and approves, modifies, or denies requests by physicians prior to, retrospectively, or concurrent with the provision of medical treatment services complies with the requirements of this section. This section does not limit the existing authority of the Medical Board of California.

(B) A request for authorization, including its supporting documentation, shall not be altered or amended by any entity other than the requesting physician or provider prior to the submission of the request to the claims

administrator in accordance with subparagraph (A). This subparagraph is declaratory of existing law.

(3) (A) A person other than a licensed physician who is competent to evaluate the specific clinical issues involved in the medical treatment services, if these services are within the scope of the physician's practice, requested by the physician, shall not modify or deny requests for authorization of medical treatment for reasons of medical necessity to cure and relieve or due to incomplete or insufficient information under subdivisions (i) and (j).

(B) (i) The employer, or any entity conducting utilization review on behalf of the employer, shall neither offer nor provide any financial incentive or consideration to a physician based on the number of modifications or denials made by the physician under this section.

(ii) An insurer or third-party administrator shall not refer utilization review services conducted on behalf of an employer under this section to an entity in which the insurer or third-party administrator has a financial interest as defined under Section 139.32. This prohibition does not apply if the insurer or third-party administrator provides the employer and the administrative director with prior written disclosure of both of the following:

(I) The entity conducting the utilization review services.

(II) The insurer or third-party administrator's financial interest in the entity.

(C) The administrative director has authority pursuant to this section to review any compensation agreement, payment schedule, or contract between the employer, or any entity conducting utilization review on behalf of the employer, and the utilization review physician. Any information disclosed to the administrative director pursuant to this paragraph shall be considered confidential information and not subject to disclosure pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code). Disclosure of the information to the administrative director pursuant to this subdivision shall not waive the provisions of the Evidence Code relating to privilege.

(4) A utilization review process that modifies or denies requests for authorization of medical treatment shall be accredited on or before July 1, 2018, and shall retain active accreditation while providing utilization review services, by an independent, nonprofit organization to certify that the utilization review process meets specified criteria, including, but not limited to, timeliness in issuing a utilization review decision, the scope of medical material used in issuing a utilization review decision, peer-to-peer consultation, internal appeal procedure, and requiring a policy preventing financial incentives to doctors and other providers based on the utilization review decision. The administrative director shall adopt rules to implement the selection of an independent, nonprofit organization for those accreditation purposes. Until those rules are adopted, the administrative director shall designate URAC as the accrediting organization. The administrative director may adopt rules to do any of the following:

(A) Require additional specific criteria for measuring the quality of a utilization review process for purposes of accreditation.

(B) Exempt nonprofit, public sector internal utilization review programs from the accreditation requirement pursuant to this section, if the administrative director has adopted minimum standards applicable to nonprofit, public sector internal utilization review programs that meet or exceed the accreditation standards developed pursuant to this section.

(5) On or before July 1, 2018, each employer, either directly or through its insurer or an entity with which an employer or insurer contracts for utilization review services, shall submit a description of the utilization review process that modifies or denies requests for authorization of medical treatment and the written policies and procedures to the administrative director for approval. Approved utilization review process descriptions and the accompanying written policies and procedures shall be disclosed by the employer to employees and physicians and made available to the public by posting on the employer's, claims administrator's, or utilization review organization's internet website.

(h) The criteria or guidelines used in the utilization review process to determine whether to approve, modify, or deny medical treatment services shall be all of the following:

(1) Developed with involvement from actively practicing physicians.

(2) Consistent with the schedule for medical treatment utilization, including the drug formulary, adopted pursuant to Section 5307.27.

(3) Evaluated at least annually, and updated if necessary.

(4) Disclosed to the physician and the employee, if used as the basis of a decision to modify or deny services in a specified case under review.

(5) Available to the public upon request. An employer shall only be required to disclose the criteria or guidelines for the specific procedures or conditions requested. An employer may charge members of the public reasonable copying and postage expenses related to disclosing criteria or guidelines pursuant to this paragraph. Criteria or guidelines may also be made available through electronic means. A charge shall not be required for an employee whose physician's request for medical treatment services is under review.

(i) In determining whether to approve, modify, or deny requests by physicians prior to, retrospectively, or concurrent with the provisions of medical treatment services to employees, all of the following requirements shall be met:

(1) Except for treatment requests made pursuant to the formulary, prospective or concurrent decisions shall be made in a timely fashion that is appropriate for the nature of the employee's condition, not to exceed five normal business days from the receipt of a request for authorization for medical treatment and supporting information reasonably necessary to make the determination, but in no event more than 14 days from the date of the medical treatment recommendation by the physician. Prospective decisions regarding requests for treatment covered by the formulary shall be made no more than five normal business days from the date of receipt of the medical

treatment request. The request for authorization and supporting documentation may be submitted electronically under rules adopted by the administrative director.

(2) In cases where the review is retrospective, a decision resulting in denial of all or part of the medical treatment service shall be communicated to the individual who received services, or to the individual's designee, within 30 days of the receipt of the information that is reasonably necessary to make this determination. If payment for a medical treatment service is made within the time prescribed by Section 4603.2, a retrospective decision to approve the service need not otherwise be communicated.

(3) If the employee's condition is one in which the employee faces an imminent and serious threat to the employee's health, including, but not limited to, the potential loss of life, limb, or other major bodily function, or the normal timeframe for the decisionmaking process, as described in paragraph (1), would be detrimental to the employee's life or health or could jeopardize the employee's ability to regain maximum function, decisions to approve, modify, or deny requests by physicians prior to, or concurrent with, the provision of medical treatment services to employees shall be made in a timely fashion that is appropriate for the nature of the employee's condition, but not to exceed 72 hours after the receipt of the information reasonably necessary to make the determination.

(4) (A) Final decisions to approve, modify, or deny requests by physicians for authorization prior to, or concurrent with, the provision of medical treatment services to employees shall be communicated to the requesting physician within 24 hours of the decision by telephone, facsimile, or, if agreed to by the parties, secure email.

(B) Decisions resulting in modification or denial of all or part of the requested health care service shall be communicated in writing to the employee, and to the physician if the initial communication under subparagraph (A) was by telephone, within 24 hours for concurrent review, or within two normal business days of the decision for prospective review, as prescribed by the administrative director. If the request is modified or denied, disputes shall be resolved in accordance with Section 4610.5, if applicable, or otherwise in accordance with Section 4062.

(C) In the case of concurrent review, medical care shall not be discontinued until the employee's physician has been notified of the decision and a care plan has been agreed upon by the physician that is appropriate for the medical needs of the employee. Medical care provided during a concurrent review shall be care that is medically necessary to cure and relieve, and an insurer or self-insured employer shall only be liable for those services determined medically necessary to cure and relieve. If the insurer or self-insured employer disputes whether or not one or more services offered concurrently with a utilization review were medically necessary to cure and relieve, the dispute shall be resolved pursuant to Section 4610.5, if applicable, or otherwise pursuant to Section 4062. A compromise between the parties that an insurer or self-insured employer believes may result in payment for services that were not medically necessary to cure and relieve

shall be reported by the insurer or the self-insured employer to the licensing board of the provider or providers who received the payments, in a manner set forth by the respective board and in a way that minimizes reporting costs both to the board and to the insurer or self-insured employer, for evaluation as to possible violations of the statutes governing appropriate professional practices. Fees shall not be levied upon insurers or self-insured employers making reports required by this section.

(5) Communications regarding decisions to approve requests by physicians shall specify the specific medical treatment service approved. Responses regarding decisions to modify or deny medical treatment services requested by physicians shall include a clear and concise explanation of the reasons for the employer's decision, a description of the criteria or guidelines used, and the clinical reasons for the decisions regarding medical necessity. If a utilization review decision to deny a medical service is due to incomplete or insufficient information, the decision shall specify all of the following:

(A) The reason for the decision.

(B) A specific description of the information that is needed.

(C) The date and time of attempts made to contact the physician to obtain the necessary information.

(D) A description of the manner in which the request was communicated.

(j) (1) Unless otherwise indicated in this section, a physician providing treatment under Section 4600 shall send any request for authorization for medical treatment, with supporting documentation, to the claims administrator for the employer, insurer, or other entity according to rules adopted by the administrative director. If an employer, insurer, or other entity subject to this section requests medical information from a physician in order to determine whether to approve, modify, or deny requests for authorization, that employer, insurer, or other entity shall request only the information reasonably necessary to make the determination.

(2) If the employer, insurer, or other entity cannot make a decision within the timeframes specified in paragraph (1), (2), or (3) of subdivision (i) because the employer or other entity is not in receipt of, or in possession of, all of the information reasonably necessary to make a determination, the employer shall immediately notify the physician and the employee, in writing, that the employer cannot make a decision within the required timeframe, and specify the information that must be provided by the physician for a determination to be made. Upon receipt of all information reasonably necessary and requested by the employer, the employer shall approve, modify, or deny the request for authorization within the timeframes specified in paragraph (1), (2), or (3) of subdivision (i).

(k) A utilization review decision to modify or deny a treatment recommendation shall remain effective for 12 months from the date of the decision without further action by the employer with regard to a further recommendation by the same physician, or another physician within the requesting physician's practice group, for the same treatment unless the further recommendation is supported by a documented change in the facts material to the basis of the utilization review decision.

(*l*) Utilization review of a treatment recommendation shall not be required while the employer is disputing liability for injury or treatment of the condition for which treatment is recommended pursuant to Section 4062.

(m) If utilization review is deferred pursuant to subdivision (*l*), and it is finally determined that the employer is liable for treatment of the condition for which treatment is recommended, the time for the employer to conduct retrospective utilization review in accordance with paragraph (2) of subdivision (i) shall begin on the date the determination of the employer's liability becomes final, and the time for the employer to conduct prospective utilization review shall commence from the date of the employer's receipt of a treatment recommendation after the determination of the employer's liability.

(n) Each employer, insurer, or other entity subject to this section shall maintain telephone access during California business hours for physicians to request authorization for health care services and to conduct peer-to-peer discussions regarding issues, including the appropriateness of a requested treatment, modification of a treatment request, or obtaining additional information needed to make a medical necessity decision.

(o) The administrative director shall develop a system for the mandatory electronic reporting of documents related to every utilization review performed by each employer, which shall be administered by the Division of Workers' Compensation. The administrative director shall adopt regulations specifying the documents to be submitted by the employer and the authorized transmission format and timeframe for their submission. For purposes of this subdivision, "employer" means the employer, the insurer of an insured employer, a claims administrator, or a utilization review organization, or other entity acting on behalf of any of them.

(p) If the administrative director determines that the employer, insurer, or other entity subject to this section has failed to meet any of the timeframes in this section, or has failed to meet any other requirement of this section, the administrative director may assess, by order, administrative penalties for each failure. A proceeding for the issuance of an order assessing administrative penalties shall be subject to appropriate notice to, and an opportunity for a hearing with regard to, the person affected. The administrative penalties shall not be deemed to be an exclusive remedy for the administrative director. These penalties shall be deposited in the Workers' Compensation Administration Revolving Fund.

(q) The administrative director shall contract with an outside, independent research organization on or after March 1, 2019, to evaluate the impact of the provision of medical treatment within the first 30 days after a claim is filed, for a claim filed on or after January 1, 2017, and before January 1, 2019. The report shall be provided to the administrative director, the Senate Committee on Labor and Industrial Relations, and the Assembly Committee on Insurance before January 1, 2020.

SEC. 325. Section 6322 of the Labor Code is amended to read:

6322. All information reported to or otherwise obtained by the chief or representatives of the chief in connection with any inspection or proceeding

of the division that contains or that might reveal a trade secret referred to in Section 1905 of Title 18 of the United States Code, or other information that is confidential pursuant to Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code, shall be considered confidential, except that this information may be disclosed to other officers or employees of the division concerned with carrying out the purposes of the division or when relevant in any proceeding of the division. The appeals board, standards board, the courts, or the director shall in that type of proceeding issue orders as may be appropriate to protect the confidentiality of trade secrets. Violation of this section is a misdemeanor.

SEC. 326. Section 6396 of the Labor Code is amended to read:

6396. (a) The Director of Industrial Relations shall protect from disclosure any and all trade secrets coming into the director's possession, as defined in subdivision (f) of Section 7924.510 of the Government Code, when requested in writing or by appropriate stamping or marking of documents by the manufacturer or producer of a mixture.

(b) Any information reported to or otherwise obtained by the Director of Industrial Relations, or any of the director's representatives or employees, which is exempt from disclosure under subdivision (a), shall not be disclosed to anyone except an officer or employee of the state or of the United States of America, in connection with the official duties of that officer or employee under any law for the protection of health, or to contractors with the state and their employees if in the opinion of the director the disclosure is necessary and required for the satisfactory performance of a contract for performance of work in connection with this act.

(c) Any officer or employee of the state, or former officer or employee, who by virtue of that employment or official position has obtained possession of or has access to material the disclosure of which is prohibited by this section, and who, knowing that disclosure of the material is prohibited, knowingly and willfully discloses the material in any manner to any person not entitled to receive it, is guilty of a misdemeanor. Any contractor with the state and any employee of that contractor, who has been furnished information as authorized by this section, shall be considered to be an employee of the state for purposes of this section.

(d) Information certified to by appropriate officials of the United States, as necessarily kept secret for national defense purposes, shall be accorded the full protections against disclosure as specified by that official or in accordance with the laws of the United States.

(e) (1) The director, upon the director's own initiative, or upon receipt of a request pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), for the release of data submitted and designated as a trade secret by an employer, manufacturer, or producer of a mixture, shall determine whether any or all of the data so submitted are a properly designated trade secret.

(2) If the director determines that the data is not a trade secret, the director shall notify the employer, manufacturer, or producer of a mixture by certified mail.

(3) The employer, manufacturer, or producer of a mixture shall have 15 days after receipt of notification to provide the director with a complete justification and statement of the grounds on which the trade secret privilege is claimed. This justification and statement shall be submitted by certified mail.

(4) The director shall determine whether the data are protected as a trade secret within 15 days after receipt of the justification and statement, or if no justification and statement is filed, within 30 days of the original notice, and shall notify the employer or manufacturer and any party who has requested the data pursuant to the California Public Records Act of that determination by certified mail. If the director determines that the data are not protected as a trade secret, the final notice shall also specify a date, not sooner than 15 days after the date of mailing of the final notice, when the data shall be available to the public.

(5) Prior to the date specified in the final notice, an employer, manufacturer, or producer of a mixture may institute an action in an appropriate superior court for a declaratory judgment as to whether the data are subjected to protection under subdivision (a).

(f) This section does not authorize a manufacturer to refuse to disclose information required pursuant to this chapter to the director.

SEC. 327. Section 7873 of the Labor Code is amended to read:

7873. (a) As used in this section, "trade secret" means a trade secret as defined in subdivision (f) of Section 7924.510 of the Government Code or Section 1061 of the Evidence Code, and shall include the schedule submitted to the division pursuant to subdivision (b) of Section 7872 of this code, and the scheduling, duration, layout, configuration, and type of work to be performed during a turnaround. Upon completion of a turnaround, the scheduling and duration of that turnaround shall no longer be considered a trade secret. The wages, hours, benefits, job classifications, and training standards for employees performing work for petroleum refinery employers is not a trade secret.

(b) (1) If a petroleum refinery employer believes that information submitted to the division pursuant to Section 7872 may involve the release of a trade secret, the petroleum refinery employer shall nevertheless provide this information to the division. The petroleum refinery employer may, at the time of submission, identify all or a portion of the information submitted to the division as trade secret and, to the extent feasible, segregate records designated as trade secret from the other records.

(2) Subject to subdivisions (c), (d), and (g), the division shall not release to the public any information designated as a trade secret by the petroleum refinery employer pursuant to paragraph (1).

(c) (1) Upon the receipt of a request for the release of information to the public that includes information that the petroleum refinery employer has notified the division is a trade secret pursuant to paragraph (1) of subdivision (b), the division shall notify the petroleum refinery employer in writing of the request by certified mail, return receipt requested.

(2) The division shall release the requested information to the public, unless both of the following occur:

(A) Within 30 days of receipt of the notice of the request for information, the petroleum refinery employer files an action in an appropriate court for a declaratory judgment that the information is subject to protection as a trade secret, as defined in subdivision (a), and promptly notifies the division of that action.

(B) Within 120 days of receipt of the notice of the request for information, the petroleum refinery employer obtains an order prohibiting disclosure of the information to the public and promptly notifies the division of that action.

(3) This subdivision shall not be construed to allow a petroleum refinery employer to refuse to disclose the information required pursuant to this section to the division.

(d) Except as provided in subdivision (c), any information that has been designated as a trade secret by a petroleum refinery employer shall not be released to any member of the public, except that the information may be disclosed to other officers or employees of the division when relevant in any proceeding of the division.

(e) (1) The petroleum refinery employer filing an action pursuant to paragraph (2) of subdivision (c) shall provide notice of the action to the person requesting the release of the information at the same time that the defendant in the action is served.

(2) A person who has requested the release of information that includes information that the petroleum refinery employer has notified the division is a trade secret pursuant to paragraph (1) of subdivision (b) may intervene in an action by the petroleum refinery employer filed pursuant to paragraph (2) of subdivision (c). The court shall permit that person to intervene.

(f) The public agency shall not bear the court costs for any party named in litigation filed pursuant to this section.

(g) This section shall not be construed to prohibit the exchange of trade secrets between local, state, or federal public agencies or state officials when those trade secrets are relevant and reasonably necessary to the exercise of their authority.

(h) If the person requesting the release of information identified by a petroleum refinery employer as a trade secret files an action against the division to order disclosure of that information, the division shall promptly notify the petroleum refinery employer in writing of the action by certified mail, return receipt requested. The petroleum refinery employer may intervene in an action filed by the person requesting the release of trade secrets identified by the petroleum refinery employer. The court shall permit the petroleum refinery employer to intervene.

(i) An officer or employee of the division who, by virtue of that employment or official position, has possession of, or has access to, trade secret information, and who, knowing that disclosure of the information to the general public is prohibited by this section, knowingly and willfully discloses the information in any manner to a person that the officer or employee knows is not entitled to receive it, is guilty of a misdemeanor. A

contractor with the division and an employee of the contractor, who has been furnished information as authorized by this section, shall be considered an employee of the division for purposes of this section.

SEC. 328. Section 55 of the Military and Veterans Code is amended to read:

55. (a) A person serving in the position of inspector general shall satisfy all of the following requirements:

(1) Be appointed by the Governor, with consideration of the recommendation of the Adjutant General and notification to the Senate Committee on Rules, and shall serve a four-year term from the effective date of appointment. The inspector general shall not be removed from office during that term, except for good cause. An inspector general shall not serve more than two consecutive terms.

(2) Meet the same qualifications established in this code for the Assistant Adjutant General.

(3) Be an advisor to the Governor and responsive to the Adjutant General and serve on state active duty at the grade of O-6 or higher.

(b) (1) The inspector general may not serve as the Adjutant General or the Assistant Adjutant General for four years from the date of leaving the position of inspector general.

(2) A commissioned officer on state active duty appointed to the position of inspector general who, immediately prior to that duty, held a permanent state active duty position shall remain on state active duty upon vacating the inspector general position.

(3) The inspector general, as soon as able after their appointment, shall attend the Department of Defense Inspector General School.

(c) The department shall, from the amount annually appropriated to it for purposes of this office, continue to fund the position of inspector general.

(d) The inspector general shall have access to all employees and documents of the department.

(e) The inspector general may receive communications from any person, including, but not limited to, any member of the department.

(f) The inspector general shall, at a minimum, continue to perform the functions of inspections, assistance, investigations, and teaching and training. The functions of the inspector general shall be performed in accordance with applicable service laws, rules, and regulations governing federal inspectors general.

(g) The inspector general shall continue to maintain a toll-free public telephone number and an internet website to receive complaints and allegations, including, but not limited to, those described in subdivision (h) or the California Military Whistleblower Protection Act. The inspector general shall continue to post the telephone number and internet website in clear view at every California National Guard armory, flight facility, airfield, or installation.

(h) (1) At the discretion of the inspector general or the Adjutant General, or upon a written request by the Governor, a Member of the Legislature, any member of the department, or any member of the public, the inspector

general shall, in compliance with Army Regulation 20-1 or any subsequent regulation governing activities and procedures of the inspector general, expeditiously investigate any complaint or allegation regarding the following:

(A) A violation of law, including, but not limited to, regulations, the Uniform Code of Military Justice, and any law prohibiting sexual harassment or unlawful discrimination.

(B) Gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specified danger to the public health or safety.

(2) (A) For all written requests submitted by a Member of the Legislature, the inspector general shall respond in writing with the inspector general's findings. The response shall contain only that information that may be lawfully disclosed, and, if a complaint or allegation is at issue, the response shall contain, at a minimum, information regarding whether the complaint or allegation was unfounded or sustained.

(B) If the inspector general conducts an investigation at the request of a Member of the Legislature, the inspector general shall submit to that member a report of the inspector general's findings of that investigation. The report shall contain only information that may be lawfully disclosed, and shall contain, at a minimum, information regarding whether the complaint or allegations were unfounded or sustained.

(3) The inspector general shall notify a person who submitted a request for investigation pursuant to paragraph (1) of the results of the investigation, with respect to those issues and allegations directly pertaining to, or made by, the person.

(4) (A) A request described in paragraph (1) is not a public record and is not subject to disclosure under the California Public Records Act set forth in Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code.

(B) The inspector general shall not disclose to any person or entity the identity of a person making a written request or an allegation or complaint described in paragraph (1), unless the person making the request, allegation, or complaint has consented to the disclosure in writing.

(5) (A) When deemed appropriate by the inspector general, the inspector general may refer to the Chief of the National Guard Bureau any complaints or allegations described in paragraph (1), any violations of the Uniform Code of Military Justice, or any violations of any other state or federal law.

(B) When deemed appropriate by the inspector general, the inspector general may refer to the State Auditor any complaints or allegations described in subparagraph (B) of paragraph (1) or any violation of state or federal law.

(i) If the inspector general receives, or becomes aware of, an allegation, complaint, or misconduct regarding the Adjutant General or the Assistant Adjutant General, the inspector general shall immediately refer the matter to the Chief of the National Guard Bureau and the Governor for review. The inspector general, by order of the Governor, shall conduct an investigation regarding the allegations concerning the Adjutant General or the Assistant Adjutant General concurrently with any federal investigation

where appropriate. The inspector general shall report the findings to the Governor under this subdivision.

(j) If the inspector general receives, or becomes aware of, an allegation, complaint, or instance of misconduct regarding an inspector general, the inspector general shall immediately refer the allegation, by rapid and confidential means, to the Governor and the next higher echelon inspector general for appropriate action within 10 working days after receipt.

(k) Any allegation presented to the inspector general against a person recognized by the federal government as grade E-8 or E-9, or against any officer recognized by the federal government as a rank of major through colonel, that resulted in the initiation of an inspector general investigation or investigative inquiry or a command-directed action, such as an investigation pursuant to Army Regulation 15-6, commander's inquiry, or referral to the United States Army Criminal Investigation Command, shall be reported to the inspector general of the Department of the Army or the inspector general of the Department of the Air Force, as appropriate, and the Adjutant General within 10 working days after receipt.

(*l*) Any allegation presented to the inspector general against a person not recognized by the federal government as grade E-8 or E-9, or against any officer not recognized by the federal government as a rank of major through colonel, that resulted in the initiation of an inspector general investigation or investigative inquiry or a command-directed action, such as an investigation pursuant to Army Regulation 15-6, commander's inquiry, or referral to the United States Army Criminal Investigation Command, shall be reported to the Governor and the Adjutant General within 10 working days after receipt.

(m) Any allegation presented to the inspector general against general officers or brigadier general selectees shall be reported, by rapid and confidential means, to the Governor and the Adjutant General within 10 working days after receipt.

(n) (1) (A) The inspector general shall, on or before July 1, 2013, and on or before July 1 each year thereafter, submit a report to the Governor, the Legislature, the Senate Committee on Military and Veterans Affairs, and the Assembly Committee on Military and Veterans Affairs. The report shall include, but not be limited to, a description of significant problems discovered by the office and a summary of investigations conducted by the office during the previous year. Upon submitting the report to the Governor, the Legislature, the Senate Committee on Military and Veterans Affairs, and the Assembly Committee on Military and Veterans Affairs the report shall be made available to the public and posted on the office's internet website.

(B) A report to be submitted pursuant to subparagraph (A) shall be submitted in compliance with Section 9795 of the Government Code.

(2) Upon the completion of an investigation conducted by the inspector general pursuant to paragraph (1) of subdivision (h) or Section 56, the inspector general shall also prepare and issue on a quarterly basis a public report that includes all investigations completed in the previous quarter.

The inspector general shall submit a copy of the quarterly report to the Legislature, the Senate Committee on Military and Veterans Affairs, and the Assembly Committee on Military and Veterans Affairs. The inspector general shall have the discretion to redact or otherwise protect the names of individuals, specific locations, or other facts that, if not redacted, might hinder prosecution under state or federal law or the Uniform Code of Military Justice related to the investigation, or where disclosure of the information is otherwise prohibited by law, and to decline to produce any of the underlying materials. In a case where allegations were deemed to be unfounded, all applicable identifying information shall be redacted. Each quarterly report shall be made available to the public and posted on the office's internet website.

(o) For purposes of this section, all of the following apply:

(1) "Department" means the Military Department.

(2) "Inspector general" means the California Military Department Inspector General.

(3) "Member of the department" means the Adjutant General, any person under the command of the Adjutant General, any person employed by the department, including, but not limited to, any servicemember or employee of the office of the Adjutant General, the California National Guard, the State Guard, the California Cadet Corps, or the Naval Militia, any person on state active duty, any person with a state commission, or any civil service or part-time employee of the department.

(4) "Office" means the Office of the California Military Department Inspector General.

SEC. 329. Section 56 of the Military and Veterans Code is amended to read:

56. (a) This section shall be known, and may be cited, as the "California Military Whistleblower Protection Act."

(b) Notwithstanding any other law, a person shall not do any of the following:

(1) (A) Restrict a member of the department from communicating with a Member of Congress, the Governor, a Member of the Legislature, or any state or federal inspector general.

(B) Subparagraph (A) shall not apply to a communication that is unlawful.

(2) Take, or threaten to take, an unfavorable personnel action, or withhold, or threaten to withhold, a favorable personnel action, as a reprisal against a member of the department for making a communication to any person, including, but not limited to, any of the following:

(A) A Member of Congress.

(B) The Governor.

(C) A Member of the Legislature.

(D) The inspector general.

(E) The State Auditor.

(F) A federal inspector general or any other inspector general appointed under the Inspector General Act of 1978.

(G) Any member of a Department of Defense audit, inspection, investigation, or law enforcement organization.

(H) Any local, state, or federal law enforcement agency.

(I) Any person or organization in the chain of command of the department.

(J) Any other person or organization designated pursuant to regulation or any other established administrative procedures for communications of this type.

(c) Notwithstanding any other law, if a member of the department submits to an inspector general an allegation that a personnel action prohibited by paragraph (2) of subdivision (b) has been taken or has been threatened to be taken against the member of the department, the inspector general shall take action as provided by subdivision (d).

(d) An inspector general receiving an allegation pursuant to subdivision (c) shall do all of the following:

(1) Expeditiously determine whether there is sufficient evidence, in accordance with federal regulations governing federal inspectors general, to warrant an investigation of the allegation.

(2) Conduct a separate investigation of the information that the member making the allegation believes constitutes evidence of wrongdoing under both of the following circumstances:

(A) There has not been a previous investigation.

(B) There has been a previous investigation but the inspector general determines that the previous investigation was biased or otherwise inadequate.

(3) Upon determining that an investigation of an allegation is warranted, expeditiously investigate the allegation.

(e) The inspector general shall refer all allegations regarding personnel actions prohibited by paragraph (2) of subdivision (b) to the Chief of the National Guard Bureau and the Governor.

(f) (1) After completion of an investigation the inspector general shall submit a report on the results of the investigation to the Adjutant General and a copy of the report on the results of the investigation to the member of the department who made the allegation. The report shall be transmitted to the Adjutant General, and the copy of the report shall be transmitted to the member, not later than 30 days after the completion of the investigation.

(2) The report on the results of the investigation transmitted to the Adjutant General shall contain a thorough review of the facts and circumstances relevant to the allegation and the complaint or disclosure and shall include documents acquired during the course of the investigation, including summaries of interviews conducted. The report may include a recommendation as to the disposition of the complaint.

(3) Except for that information that is not required to be disclosed under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), in the copy of the report transmitted to the member of the department the inspector general shall ensure the maximum disclosure of information that may be lawfully

disclosed. The copy of the report need not, however, include summaries of interviews conducted, or any document acquired, during the course of the investigation. These items shall be transmitted to the member of the department, if the member requests the items, with the copy of the report or after the transmittal to the member of the copy of the report, regardless of whether the request for those items is made before or after the copy of the report is transmitted to the member.

(4) The inspector general shall provide an interim response to allegations when the final response will be significantly delayed due to operational demands, complexity of the case, or the receipt of additional information. The inspector general shall provide interim responses every 60 days until the matter is resolved and the case closed.

(5) If, in the course of an investigation of an allegation under this section, the inspector general determines that it is not possible to submit the report required by this subdivision within 60 days after the date of receipt of the allegation being investigated, the inspector general shall provide to the Adjutant General and to the member making the allegation a notice of all of the following:

(A) The reasons why the report may not be submitted within that time.

(B) When the report will be submitted.

(g) Nothing in this article is intended to supersede the rights, benefits, processes, and procedures already afforded to members of the department under existing law.

(h) For purposes of this section, all of the following shall apply:

(1) A "communication" means any communication or report in which a member of the department complains of, or discloses information that the member of the department reasonably believes constitutes evidence of, any of the following:

(A) A violation of law, including, but not limited to, regulations, the Uniform Code of Military Justice, and any law prohibiting sexual harassment or unlawful discrimination.

(B) Gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specified danger to the public health or safety.

(2) "Department" means the Military Department.

(3) "Inspector general" means the California Military Department Inspector General.

(4) "Member of the department" has the same meaning as defined in Section 55.

(5) "Office" means the Office of the California Military Department Inspector General.

SEC. 330. Section 146e of the Penal Code is amended to read:

146e. (a) Every person who maliciously, and with the intent to obstruct justice or the due administration of the laws, or with the intent or threat to inflict imminent physical harm in retaliation for the due administration of the laws, publishes, disseminates, or otherwise discloses the residence address or telephone number of any peace officer, nonsworn police dispatcher, employee of a city police department or county sheriff's office,

or public safety official, or that of the spouse or children of these persons who reside with them, while designating the peace officer, nonsworn police dispatcher, employee of a city police department or county sheriff's office, or public safety official, or relative of these persons as such, without the authorization of the employing agency, is guilty of a misdemeanor.

(b) A violation of subdivision (a) with regard to any peace officer, employee of a city police department or county sheriff's office, or public safety official, or the spouse or children of these persons, that results in bodily injury to the peace officer, employee of the city police department or county sheriff's office, or public safety official, or the spouse or children of these persons, is a felony punishable by imprisonment pursuant to subdivision (h) of Section 1170.

(c) For purposes of this section, "public safety official" is defined in Section 7930.535 of the Government Code.

SEC. 331. Section 186.34 of the Penal Code is amended to read:

186.34. (a) For purposes of this section and Sections 186.35 and 186.36, the following definitions apply:

(1) "Criminal street gang" means an ongoing organization, association, or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of crimes enumerated in paragraphs (1) to (25), inclusive, and paragraphs (31) to (33), inclusive, of subdivision (e) of Section 186.22 who have a common identifying sign, symbol, or name, and whose members individually or collectively engage in or have engaged in a pattern of definable criminal activity.

(2) "Gang database" means any database accessed by a law enforcement agency that designates a person as a gang member or associate, or includes or points to information, including, but not limited to, fact-based or uncorroborated information, that reflects a designation of that person as a gang member or associate.

(3) "Law enforcement agency" means a governmental agency or a subunit of a governmental agency, and its authorized support staff and contractors, whose primary function is detection, investigation, or apprehension of criminal offenders, or whose primary duties include detention, pretrial release, posttrial release, correctional supervision, or the collection, storage, or dissemination of criminal history record information.

(4) "Shared gang database" means a gang database that is accessed by an agency or person outside of the agency that created the records that populate the database.

(b) Notwithstanding subdivision (a), the following are not subject to this section, or Sections 186.35 and 186.36:

(1) Databases that designate persons as gang members or associates using only criminal offender record information, as defined in Section 13102, or information collected pursuant to Section 186.30.

(2) Databases accessed solely by jail or custodial facility staff for classification or operational decisions in the administration of the facility.

(c) (1) To the extent a local law enforcement agency elects to utilize a shared gang database prior to a local law enforcement agency designating

a person as a suspected gang member, associate, or affiliate in a shared gang database, or submitting a document to the Attorney General's office for the purpose of designating a person in a shared gang database, or otherwise identifying the person in a shared gang database, the local law enforcement agency shall provide written notice to the person, and shall, if the person is under 18 years of age, provide written notice to the person and the person's parent or guardian, of the designation and the basis for the designation, unless providing that notification would compromise an active criminal investigation or compromise the health or safety of the minor.

(2) The notice described in paragraph (1) shall describe the process for the person, or, if the person is under 18 years of age, for the person's parent or guardian, or an attorney working on behalf of the person, to contest the designation of the person in the database. The notice shall also inform the person of the reason for the person's designation in the database.

(d) (1) (A) A person, or, if the person is under 18 years of age, the person's parent or guardian, or an attorney working on behalf of the person, may request information of any law enforcement agency as to whether the person is designated as a suspected gang member, associate, or affiliate in a shared gang database accessible by that law enforcement agency and the name of the law enforcement agency that made the designation. A request pursuant to this paragraph shall be in writing.

(B) If a person about whom information is requested pursuant to subparagraph (A) is designated as a suspected gang member, associate, or affiliate in a shared gang database by that law enforcement agency, the person making the request may also request information as to the basis for the designation for the purpose of contesting the designation as described in subdivision (e).

(2) The law enforcement agency shall provide information requested under paragraph (1), unless doing so would compromise an active criminal investigation or compromise the health or safety of the person if the person is under 18 years of age.

(3) The law enforcement agency shall respond to a valid request pursuant to paragraph (1) in writing to the person making the request within 30 calendar days of receipt of the request.

(e) Subsequent to the notice described in subdivision (c) or the law enforcement agency's response to an information request described in subdivision (d), the person designated or to be designated as a suspected gang member, associate, or affiliate, or the person's parent or guardian if the person is under 18 years of age, may submit written documentation to the local law enforcement agency contesting the designation. The local law enforcement agency shall review the documentation, and if the agency determines that the person is not a suspected gang member, associate, or affiliate, the agency shall remove the person from the shared gang database. The local law enforcement agency shall provide the person and, if the person is under 18 years of age, the person's parent or guardian, with written verification of the agency's decision within 30 days of submission of the written documentation contesting the designation. If the law enforcement

agency denies the request for removal, the notice of its determination shall state the reason for the denial. If the law enforcement agency does not provide a verification of the agency's decision within the required 30-day period, the request to remove the person from the gang database shall be deemed denied. The person or, if the person is under 18 years of age, the person's parent or guardian may petition the court to review the law enforcement agency's denial of the request for removal and order the law enforcement agency to remove the person from the shared gang database pursuant to Section 186.35.

(f) Nothing in this section shall require a local law enforcement agency to disclose any information protected under Section 1040 or 1041 of the Evidence Code or any provision listed in Section 7920.505 of the Government Code.

SEC. 332. Section 290.07 of the Penal Code is amended to read:

290.07. Notwithstanding any other provision of law, a person authorized by statute to administer the State Authorized Risk Assessment Tool for Sex Offenders (SARATSO) and trained pursuant to Section 290.06 or 290.09, and a person acting under authority from the SARATSO Review Committee as an expert to train, monitor, or review scoring by persons who administer the SARATSO pursuant to Section 290.05 or 1203 of this code or Section 706 of the Welfare and Institutions Code, shall be granted access to all relevant records pertaining to a registered sex offender, including, but not limited to, criminal histories, sex offender registration records, police reports, probation and presentencing reports, judicial records and case files, juvenile records, psychological evaluations and psychiatric hospital reports, sexually violent predator treatment program reports, and records that have been sealed by the courts or the Department of Justice. Records and information obtained under this section shall not be subject to the California Public Records Act, Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code.

SEC. 333. Section 290.46 of the Penal Code, as amended by Section 58 of Chapter 423 of the Statutes of 2018, is amended to read:

290.46. (a) (1) On or before the dates specified in this section, the Department of Justice shall make available information concerning persons who are required to register pursuant to Section 290 to the public via an internet website as specified in this section. The department shall update the internet website on an ongoing basis. All information identifying the victim by name, birth date, address, or relationship to the registrant shall be excluded from the internet website. The name or address of the person's employer and the listed person's criminal history other than the specific crimes for which the person is required to register shall not be included on the internet website. The internet website shall be translated into languages other than English as determined by the department.

(2) (A) On or before July 1, 2010, the Department of Justice shall make available to the public, via an internet website as specified in this section, as to any person described in subdivision (b), the following information:

(i) The year of conviction of the person's most recent offense requiring registration pursuant to Section 290.

(ii) The year the person was released from incarceration for that offense.

However, no year of conviction shall be made available to the public unless the department also is able to make available the corresponding year of release of incarceration for that offense, and the required notation regarding any subsequent felony.

(B) (i) Any state facility that releases from incarceration a person who was incarcerated because of a crime for which the person is required to register as a sex offender pursuant to Section 290 shall, within 30 days of release, provide the year of release for the person's most recent offense requiring registration to the Department of Justice in a manner and format approved by the department.

(ii) Any state facility that releases a person who is required to register pursuant to Section 290 from incarceration whose incarceration was for a felony committed subsequently to the offense for which the person is required to register shall, within 30 days of release, advise the Department of Justice of that fact.

(iii) Any state facility that, prior to January 1, 2007, released from incarceration a person who was incarcerated because of a crime for which the person is required to register as a sex offender pursuant to Section 290 shall provide the year of release for the person's most recent offense requiring registration to the Department of Justice in a manner and format approved by the department. The information provided by the Department of Corrections and Rehabilitation shall be limited to information that is currently maintained in an electronic format.

(iv) Any state facility that, prior to January 1, 2007, released a person who is required to register pursuant to Section 290 from incarceration whose incarceration was for a felony committed subsequently to the offense for which the person is required to register shall advise the Department of Justice of that fact in a manner and format approved by the department. The information provided by the Department of Corrections and Rehabilitation shall be limited to information that is currently maintained in an electronic format.

(3) The State Department of State Hospitals shall provide to the Department of Justice the names of all persons committed to its custody pursuant to Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, within 30 days of commitment, and shall provide the names of all of those persons released from its custody within five working days of release.

(b) (1) With respect to a person who has been convicted of the commission or the attempted commission of any of the offenses listed in, or who is otherwise described in, paragraph (2), or who is a tier three offender as described in paragraph (3) of subdivision (d) of Section 290, the Department of Justice shall make available to the public via the internet website the person's name and known aliases, a photograph, a physical description, including gender and race, date of birth, criminal history, prior

adjudication as a sexually violent predator, the address at which the person resides, and any other information that the Department of Justice deems relevant, but not the information excluded pursuant to subdivision (a), except that information about persons required to register as a result of an adjudication as a ward of the juvenile court pursuant to Section 290.008 shall not be made available on the internet website. The department shall also make available to the public via the internet website the person's static SARATSO risk level, if any, and information on an elevated risk level based on the SARATSO future violence tool. Any registrant whose information is listed on the public internet website on January 1, 2022, by the Department of Justice pursuant to this subdivision, may continue to be included on the public internet website while the registrant is placed in the tier-to-be-determined category described in paragraph (5) of subdivision (d) of Section 290.

(2) This subdivision shall apply to the following offenses and offenders:

(A) Section 187 committed in the perpetration, or an attempt to perpetrate, rape or any act punishable under Section 286, 287, 288, or 289, or former Section 288a.

(B) Section 207 committed with intent to violate Section 261, 286, 287, 288, or 289, or former Section 288a.

(C) Section 209 committed with intent to violate Section 261, 286, 287, 288, or 289, or former Section 288a.

(D) Paragraph (2) or (6) of subdivision (a) of Section 261.

(E) Section 264.1.

(F) Section 269.

(G) Subdivision (c) or (d) of Section 286.

(H) Subdivision (a), (b), or (c) of Section 288, provided that the offense is a felony.

(I) Subdivision (c) or (d) of Section 287 or of former Section 288a.

(J) Section 288.3, provided that the offense is a felony.

(K) Section 288.4, provided that the offense is a felony.

(L) Section 288.5.

(M) Subdivision (a) or (j) of Section 289.

(N) Section 288.7.

(O) Any person who has ever been adjudicated a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code.

(P) A felony violation of Section 311.1.

(Q) A felony violation of subdivision (b), (c), or (d) of Section 311.2.

(R) A felony violation of Section 311.3.

(S) A felony violation of subdivision (a), (b), or (c) of Section 311.4.

(T) Section 311.10.

(U) A felony violation of Section 311.11.

(V) A tier three offender, as described in paragraph (3) of subdivision (d) of Section 290.

(c) (1) With respect to a person who has been convicted of the commission or the attempted commission of any of the offenses listed in, or who is otherwise described in, paragraph (2) of subdivision (d) of Section

290 and who is a tier two offender, and with respect to a person who has been convicted of the commission or the attempted commission of Section 647.6, the Department of Justice shall make available to the public via the internet website the person's name and known aliases, a photograph, a physical description, including gender and race, date of birth, criminal history, the community of residence and ZIP Code in which the person resides or the county in which the person is registered as a transient, and any other information that the Department of Justice deems relevant, but not the information excluded pursuant to subdivision (a) or the address at which the person resides, except that information about persons required to register as a result of an adjudication as a ward of the juvenile court pursuant to Section 290.008 shall not be made available on the internet website. Any registrant whose information is listed on the public internet website on January 1, 2022, by the Department of Justice pursuant to this subdivision may continue to be included on the public internet website while the registrant is placed in the tier-to-be-determined category described in paragraph (5) of subdivision (d) of Section 290.

(2) Any registrant whose information was not included on the public internet website on January 1, 2022, and who is placed in the tier-to-be-determined category described in paragraph (5) of subdivision (d) of Section 290 may have the information described in this subdivision made available to the public via the public internet website.

(d) (1) (A) An offender who is required to register pursuant to the Sex Offender Registration Act may apply for exclusion from the internet website if the offender demonstrates that the person's only registerable offense is either of the following:

(i) An offense for which the offender successfully completed probation, provided that the offender submits to the department a certified copy of a probation report, presentencing report, report prepared pursuant to Section 288.1, or other official court document that clearly demonstrates that the offender was the victim's parent, stepparent, sibling, or grandparent and that the crime did not involve either oral copulation or penetration of the vagina or rectum of either the victim or the offender by the penis of the other or by any foreign object.

(ii) An offense for which the offender is on probation at the time of the offender's application, provided that the offender submits to the department a certified copy of a probation report, presentencing report, report prepared pursuant to Section 288.1, or other official court document that clearly demonstrates that the offender was the victim's parent, stepparent, sibling, or grandparent and that the crime did not involve either oral copulation or penetration of the vagina or rectum of either the victim or the offender by the penis of the other or by any foreign object.

(B) If, subsequent to the offender's application, the offender commits a violation of probation resulting in the offender's incarceration in county jail or state prison, the offender's exclusion, or application for exclusion, from the internet website shall be terminated.

(C) For the purposes of this paragraph, "successfully completed probation" means that during the period of probation the offender neither received additional county jail or state prison time for a violation of probation nor was convicted of another offense resulting in a sentence to county jail or state prison.

(2) If the department determines that a person who was granted an exclusion under a former version of this subdivision would not qualify for an exclusion under the current version of this subdivision, the department shall rescind the exclusion, make a reasonable effort to provide notification to the person that the exclusion has been rescinded, and, no sooner than 30 days after notification is attempted, make information about the offender available to the public on the internet website as provided in this section.

(3) Effective January 1, 2012, no person shall be excluded pursuant to this subdivision unless the offender has submitted to the department documentation sufficient for the department to determine that the person has a SARATSO risk level of average, below average, or very low as determined by the Coding Rules for the SARATSO static risk assessment instrument.

(e) (1) A designated law enforcement entity, as defined in subdivision (f) of Section 290.45, may make available information concerning persons who are required to register pursuant to Section 290 to the public via an internet website as specified in paragraph (2), provided that the information about that person is also displayed on the Department of Justice's Megan's Law internet website.

(2) The law enforcement entity may make available by way of an internet website the information described in subdivision (c) if it determines that the public disclosure of the information about a specific offender by way of the entity's internet website is necessary to ensure the public safety based upon information available to the entity concerning the current risk posed by a specific offender, including the offender's risk of sexual or violent reoffense, as indicated by the person's SARATSO static, dynamic, and violence risk levels, as described in Section 290.04, if available.

(3) The information that may be provided pursuant to this subdivision may include the information specified in subdivision (b) of Section 290.45. However, that offender's address may not be disclosed unless the offender is a person whose address is on the Department of Justice's internet website pursuant to subdivision (b).

(f) For purposes of this section, "offense" includes the statutory predecessors of that offense, or any offense committed in another jurisdiction that, if committed or attempted to be committed in this state, would have been punishable in this state as an offense listed in subdivision (c) of Section 290.

(g) Notwithstanding Section 7921.505 of the Government Code, disclosure of information pursuant to this section is not a waiver of exemptions under Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code and does not affect other statutory restrictions on disclosure in other situations.

(h) (1) Any person who uses information disclosed pursuant to this section to commit a misdemeanor shall be subject to, in addition to any other penalty or fine imposed, a fine of not less than ten thousand dollars ($10,000) and not more than fifty thousand dollars ($50,000).

(2) Any person who uses information disclosed pursuant to this section to commit a felony shall be punished, in addition and consecutive to any other punishment, by a five-year term of imprisonment pursuant to subdivision (h) of Section 1170.

(i) Any person who is required to register pursuant to Section 290 who enters an internet website established pursuant to this section shall be punished by a fine not exceeding one thousand dollars ($1,000), imprisonment in a county jail for a period not to exceed six months, or by both that fine and imprisonment.

(j) (1) A person is authorized to use information disclosed pursuant to this section only to protect a person at risk.

(2) Except as authorized under paragraph (1) or any other provision of law, use of any information that is disclosed pursuant to this section for purposes relating to any of the following is prohibited:

(A) Health insurance.

(B) Insurance.

(C) Loans.

(D) Credit.

(E) Employment.

(F) Education, scholarships, or fellowships.

(G) Housing or accommodations.

(H) Benefits, privileges, or services provided by any business establishment.

(3) This section shall not affect authorized access to, or use of, information pursuant to, among other provisions, Sections 11105 and 11105.3 of this code, Section 8808 of the Family Code, Sections 777.5 and 14409.2 of the Financial Code, Sections 1522.01 and 1596.871 of the Health and Safety Code, and Section 432.7 of the Labor Code.

(4) (A) Any use of information disclosed pursuant to this section for purposes other than those provided by paragraph (1) or in violation of paragraph (2) shall make the user liable for the actual damages, and any amount that may be determined by a jury or a court sitting without a jury, not exceeding three times the amount of actual damage, and not less than two hundred fifty dollars ($250), and attorney's fees, exemplary damages, or a civil penalty not exceeding twenty-five thousand dollars ($25,000).

(B) Whenever there is reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of misuse of the information available via an internet website established pursuant to this section in violation of paragraph (2), the Attorney General, any district attorney, or city attorney, or any person aggrieved by the misuse is authorized to bring a civil action in the appropriate court requesting preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order against the person or group of persons responsible for

the pattern or practice of misuse. The foregoing remedies shall be independent of any other remedies or procedures that may be available to an aggrieved party under other provisions of law, including Part 2 (commencing with Section 43) of Division 1 of the Civil Code.

(k) The public notification provisions of this section are applicable to every person described in this section, without regard to when the person's crimes were committed or the person's duty to register pursuant to Section 290 arose, and to every offense described in this section, regardless of when it was committed.

(*l*) A designated law enforcement entity and its employees shall be immune from liability for good faith conduct under this section.

(m) The Attorney General, in collaboration with local law enforcement and others knowledgeable about sex offenders, shall develop strategies to assist members of the public in understanding and using publicly available information about registered sex offenders to further public safety. These strategies may include, but are not limited to, a hotline for community inquiries, neighborhood and business guidelines for how to respond to information posted on this internet website, and any other resource that promotes public education about these offenders.

(n) This section shall become operative on January 1, 2022.

SEC. 334. Section 293 of the Penal Code is amended to read:

293. (a) An employee of a law enforcement agency who personally receives a report from a person, alleging that the person making the report has been the victim of a sex offense, shall inform that person that the person's name will become a matter of public record unless the person requests that it not become a matter of public record, pursuant to Section 7923.615 of the Government Code.

(b) A written report of an alleged sex offense shall indicate that the alleged victim has been properly informed pursuant to subdivision (a) and shall memorialize the victim's response.

(c) A law enforcement agency shall not disclose to a person, except the prosecutor, parole officers of the Department of Corrections and Rehabilitation, hearing officers of the parole authority, probation officers of county probation departments, or other persons or public agencies where authorized or required by law, the address of a person who alleges to be the victim of a sex offense.

(d) A law enforcement agency shall not disclose to a person, except the prosecutor, parole officers of the Department of Corrections and Rehabilitation, hearing officers of the parole authority, probation officers of county probation departments, or other persons or public agencies where authorized or required by law, the name of a person who alleges to be the victim of a sex offense if that person has elected to exercise the person's right pursuant to this section and Section 7923.615 of the Government Code.

(e) A law enforcement agency shall not disclose to a person, except the prosecutor, parole officers of the Department of Corrections and Rehabilitation, hearing officers of the parole authority, probation officers of county probation departments, or other persons or public agencies if

authorized or required by law, names, addresses, or images of a person who alleges to be the victim of human trafficking, as defined in Section 236.1, or of that alleged victim's immediate family, other than a family member who is charged with a criminal offense arising from the same incident, and that information and those images shall be withheld and remain confidential. The law enforcement agency shall orally inform the person who alleges to be the victim of human trafficking of that person's right to have the person's name, addresses, and images, and the names, addresses, and images of the person's immediate family members withheld and kept confidential pursuant to this section and Section 7923.615 of the Government Code. For purposes of this subdivision, "immediate family" shall have the same meaning as that provided in paragraph (3) of subdivision (b) of Section 422.4 of the Penal Code.

(f) For purposes of this section, sex offense means any crime listed in subdivision (b) of Section 7923.615 of the Government Code.

(g) Parole officers of the Department of Corrections and Rehabilitation, hearing officers of the parole authority, and probation officers of county probation departments shall be entitled to receive information pursuant to subdivisions (c), (d), and (e) only if the person to whom the information pertains alleges that the person is the victim of a sex offense or is the victim of human trafficking, as defined in Section 236.1, the alleged perpetrator of which is a parolee who is alleged to have committed the offense while on parole, or in the case of a county probation officer, the person who is alleged to have committed the offense is a probationer or is under investigation by a county probation department.

SEC. 335. Section 293.5 of the Penal Code is amended to read:

293.5. (a) Except as provided in Chapter 10 (commencing with Section 1054) of Part 2 of Title 7, or for cases in which the alleged victim of a sex offense, as specified in subdivision (f) of Section 293, has not elected to exercise the alleged victim's right pursuant to Section 7923.615 of the Government Code, the court, at the request of the alleged victim, may order the identity of the alleged victim in all records and during all proceedings to be either Jane Doe or John Doe, if the court finds that type of order is reasonably necessary to protect the privacy of the person and will not unduly prejudice the prosecution or the defense.

(b) If the court orders the alleged victim to be identified as Jane Doe or John Doe pursuant to subdivision (a) and if there is a jury trial, the court shall instruct the jury, at the beginning and at the end of the trial, that the alleged victim is being so identified only for the purpose of protecting the alleged victim's privacy pursuant to this section.

SEC. 336. Section 637.5 of the Penal Code is amended to read:

637.5. (a) No person who owns, controls, operates, or manages a satellite or cable television corporation, or who leases channels on a satellite or cable system shall:

(1) Use any electronic device to record, transmit, or observe any events or listen to, record, or monitor any conversations that take place inside a subscriber's residence, workplace, or place of business, without obtaining

the express written consent of the subscriber. A satellite or cable television corporation may conduct electronic sweeps of subscriber households to monitor for signal quality.

(2) Provide any person with any individually identifiable information regarding any of its subscribers, including, but not limited to, the subscriber's television viewing habits, shopping choices, interests, opinions, energy uses, medical information, banking data or information, or any other personal or private information, without the subscriber's express written consent.

(b) Individual subscriber viewing responses or other individually identifiable information derived from subscribers may be retained and used by a satellite or cable television corporation only to the extent reasonably necessary for billing purposes and internal business practices, and to monitor for unauthorized reception of services. A satellite or cable television corporation may compile, maintain, and distribute a list containing the names and addresses of its subscribers if the list contains no other individually identifiable information and if subscribers are afforded the right to elect not to be included on the list. However, a satellite or cable television corporation shall maintain adequate safeguards to ensure the physical security and confidentiality of the subscriber information.

(c) (1) A satellite or cable television corporation shall not make individual subscriber information available to government agencies in the absence of legal compulsion, including, but not limited to, a court order or subpoena. If requests for information are made, a satellite or cable television corporation shall promptly notify the subscriber of the nature of the request and what government agency has requested the information prior to responding unless otherwise prohibited from doing so by law.

(2) Nothing in this section shall be construed to prevent local franchising authorities from obtaining information necessary to monitor franchise compliance pursuant to franchise or license agreements. This information shall be provided so as to omit individually identifiable subscriber information whenever possible. Information obtained by local franchising authorities shall be used solely for monitoring franchise compliance and shall not be subject to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(d) Any individually identifiable subscriber information gathered by a satellite or cable television corporation shall be made available for subscriber examination within 30 days of receiving a request by a subscriber to examine the information on the premises of the corporation. Upon a reasonable showing by the subscriber that the information is inaccurate, a satellite or cable television corporation shall correct the information.

(e) Upon a subscriber's application for satellite or cable television service, including, but not limited to, interactive service, a satellite or cable television corporation shall provide the applicant with a separate notice in an appropriate form explaining the subscriber's right to privacy protection afforded by this section.

(f) As used in this section:

(1) "Cable television corporation" shall have the same meaning as that term is given by Section 216.4 of the Public Utilities Code.

(2) "Individually identifiable information" means any information identifying an individual or the individual's use of any service provided by a satellite or cable system other than the mere fact that the individual is a satellite or cable television subscriber. "Individually identifiable information" shall not include anonymous, aggregate, or any other information that does not identify an individual subscriber of a video provider service.

(3) "Person" includes an individual, business association, partnership, corporation, limited liability company, or other legal entity, and an individual acting or purporting to act for or on behalf of any government, or subdivision thereof, whether federal, state, or local.

(4) "Interactive service" means any service offered by a satellite or cable television corporation involving the collection, reception, aggregation, storage, or use of electronic information transmitted from a subscriber to any other receiving point under the control of the satellite or cable television corporation, or vice versa.

(g) Nothing in this section shall be construed to limit the ability of a satellite or cable television corporation to market satellite or cable television or ancillary services to its subscribers.

(h) Any person receiving subscriber information from a satellite or cable television corporation shall be subject to the provisions of this section.

(i) Any aggrieved person may commence a civil action for damages for invasion of privacy against any satellite or cable television corporation, service provider, or person that leases a channel or channels on a satellite or cable television system that violates the provisions of this section.

(j) Any person who violates the provisions of this section is guilty of a misdemeanor punishable by a fine not exceeding three thousand dollars ($3,000), or by imprisonment in the county jail not exceeding one year, or by both that fine and imprisonment.

(k) The penalties and remedies provided by subdivisions (i) and (j) are cumulative, and shall not be construed as restricting any penalty or remedy, provisional or otherwise, provided by law for the benefit of any person, and no judgment under this section shall preclude any person from obtaining additional relief based upon the same facts.

(*l*) The provisions of this section are intended to set forth minimum state standards for protecting the privacy of subscribers to cable television services and are not intended to preempt more restrictive local standards.

SEC. 337. Section 679.03 of the Penal Code is amended to read:

679.03. (a) With respect to the conviction of a defendant involving a violent offense, as defined in Section 29905, the county district attorney, probation department, and victim-witness coordinator shall confer and establish an annual policy within existing resources to decide which one of their agencies shall inform each witness involved in the conviction who was threatened by the defendant following the defendant's arrest and each victim or next of kin of the victim of that offense of the right to request and receive a notice pursuant to Section 3058.8 or 3605. If no agreement is reached, the

presiding judge shall designate the appropriate county agency or department to provide this notification.

(b) The Department of Corrections and Rehabilitation shall supply a form to the agency designated pursuant to subdivision (a) in order to enable persons specified in subdivision (a) to request and receive notification from the department of the release, escape, scheduled execution, or death of the violent offender. That agency shall give the form to the victim, witness, or next of kin of the victim for completion, explain to that person or persons the right to be so notified, and forward the completed form to the department. The department or the Board of Parole Hearings is responsible for notifying all victims, witnesses, or next of kin of victims who request to be notified of a violent offender's release or scheduled execution, as provided by Sections 3058.8 and 3605.

(c) All information relating to any person receiving notice pursuant to subdivision (b) shall remain confidential and is not subject to disclosure pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(d) Nothing in this section precludes a victim, witness, or next of kin of the victim from requesting notification using an automated electronic notification process, if available.

SEC. 338. Section 832.5 of the Penal Code is amended to read:

832.5. (a) (1) Each department or agency in this state that employs peace officers shall establish a procedure to investigate complaints by members of the public against the personnel of these departments or agencies, and shall make a written description of the procedure available to the public.

(2) Each department or agency that employs custodial officers, as defined in Section 831.5, may establish a procedure to investigate complaints by members of the public against those custodial officers employed by these departments or agencies, provided, however, that any procedure so established shall comply with the provisions of this section and with the provisions of Section 832.7.

(b) Complaints and any reports or findings relating to these complaints shall be retained for a period of at least five years. All complaints retained pursuant to this subdivision may be maintained either in the peace or custodial officer's general personnel file or in a separate file designated by the department or agency as provided by department or agency policy, in accordance with all applicable requirements of law. However, prior to any official determination regarding promotion, transfer, or disciplinary action by an officer's employing department or agency, the complaints described by subdivision (c) shall be removed from the officer's general personnel file and placed in a separate file designated by the department or agency, in accordance with all applicable requirements of law.

(c) Complaints by members of the public that are determined by the peace or custodial officer's employing agency to be frivolous, as defined in Section 128.5 of the Code of Civil Procedure, or unfounded or exonerated, or any portion of a complaint that is determined to be frivolous, unfounded,

or exonerated, shall not be maintained in that officer's general personnel file. However, these complaints shall be retained in other, separate files that shall be deemed personnel records for purposes of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) and Section 1043 of the Evidence Code.

(1) Management of the peace or custodial officer's employing agency shall have access to the files described in this subdivision.

(2) Management of the peace or custodial officer's employing agency shall not use the complaints contained in these separate files for punitive or promotional purposes except as permitted by subdivision (f) of Section 3304 of the Government Code.

(3) Management of the peace or custodial officer's employing agency may identify any officer who is subject to the complaints maintained in these files which require counseling or additional training. However, if a complaint is removed from the officer's personnel file, any reference in the personnel file to the complaint or to a separate file shall be deleted.

(d) As used in this section, the following definitions apply:

(1) "General personnel file" means the file maintained by the agency containing the primary records specific to each peace or custodial officer's employment, including evaluations, assignments, status changes, and imposed discipline.

(2) "Unfounded" means that the investigation clearly established that the allegation is not true.

(3) "Exonerated" means that the investigation clearly established that the actions of the peace or custodial officer that formed the basis for the complaint are not violations of law or department policy.

SEC. 339. Section 832.7 of the Penal Code is amended to read:

832.7. (a) Except as provided in subdivision (b), the personnel records of peace officers and custodial officers and records maintained by any state or local agency pursuant to Section 832.5, or information obtained from these records, are confidential and shall not be disclosed in any criminal or civil proceeding except by discovery pursuant to Sections 1043 and 1046 of the Evidence Code. This section shall not apply to investigations or proceedings concerning the conduct of peace officers or custodial officers, or an agency or department that employs those officers, conducted by a grand jury, a district attorney's office, or the Attorney General's office.

(b) (1) Notwithstanding subdivision (a), Article 1 (commencing with Section 7923.600) of Chapter 1 of Part 5 of Division 10 of Title 1 of the Government Code, or any other law, the following peace officer or custodial officer personnel records and records maintained by any state or local agency shall not be confidential and shall be made available for public inspection pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code):

(A) A record relating to the report, investigation, or findings of any of the following:

(i) An incident involving the discharge of a firearm at a person by a peace officer or custodial officer.

(ii) An incident in which the use of force by a peace officer or custodial officer against a person resulted in death, or in great bodily injury.

(B) (i) Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency that a peace officer or custodial officer engaged in sexual assault involving a member of the public.

(ii) As used in this subparagraph, "sexual assault" means the commission or attempted initiation of a sexual act with a member of the public by means of force, threat, coercion, extortion, offer of leniency or other official favor, or under the color of authority. For purposes of this definition, the propositioning for or commission of any sexual act while on duty is considered a sexual assault.

(iii) As used in this subparagraph, "member of the public" means any person not employed by the officer's employing agency and includes any participant in a cadet, explorer, or other youth program affiliated with the agency.

(C) Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency of dishonesty by a peace officer or custodial officer directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another peace officer or custodial officer, including, but not limited to, any sustained finding of perjury, false statements, filing false reports, destruction, falsifying, or concealing of evidence.

(2) Records that shall be released pursuant to this subdivision include all investigative reports; photographic, audio, and video evidence; transcripts or recordings of interviews; autopsy reports; all materials compiled and presented for review to the district attorney or to any person or body charged with determining whether to file criminal charges against an officer in connection with an incident, or whether the officer's action was consistent with law and agency policy for purposes of discipline or administrative action, or what discipline to impose or corrective action to take; documents setting forth findings or recommended findings; and copies of disciplinary records relating to the incident, including any letters of intent to impose discipline, any documents reflecting modifications of discipline due to the Skelly or grievance process, and letters indicating final imposition of discipline or other documentation reflecting implementation of corrective action.

(3) A record from a separate and prior investigation or assessment of a separate incident shall not be released unless it is independently subject to disclosure pursuant to this subdivision.

(4) If an investigation or incident involves multiple officers, information about allegations of misconduct by, or the analysis or disposition of an investigation of, an officer shall not be released pursuant to subparagraph (B) or (C) of paragraph (1), unless it relates to a sustained finding against that officer. However, factual information about that action of an officer during an incident, or the statements of an officer about an incident, shall

be released if they are relevant to a sustained finding against another officer that is subject to release pursuant to subparagraph (B) or (C) of paragraph (1).

(5) An agency shall redact a record disclosed pursuant to this section only for any of the following purposes:

(A) To remove personal data or information, such as a home address, telephone number, or identities of family members, other than the names and work-related information of peace and custodial officers.

(B) To preserve the anonymity of complainants and witnesses.

(C) To protect confidential medical, financial, or other information of which disclosure is specifically prohibited by federal law or would cause an unwarranted invasion of personal privacy that clearly outweighs the strong public interest in records about misconduct and serious use of force by peace officers and custodial officers.

(D) Where there is a specific, articulable, and particularized reason to believe that disclosure of the record would pose a significant danger to the physical safety of the peace officer, custodial officer, or another person.

(6) Notwithstanding paragraph (5), an agency may redact a record disclosed pursuant to this section, including personal identifying information, where, on the facts of the particular case, the public interest served by not disclosing the information clearly outweighs the public interest served by disclosure of the information.

(7) An agency may withhold a record of an incident described in subparagraph (A) of paragraph (1) that is the subject of an active criminal or administrative investigation, in accordance with any of the following:

(A) (i) During an active criminal investigation, disclosure may be delayed for up to 60 days from the date the use of force occurred or until the district attorney determines whether to file criminal charges related to the use of force, whichever occurs sooner. If an agency delays disclosure pursuant to this clause, the agency shall provide, in writing, the specific basis for the agency's determination that the interest in delaying disclosure clearly outweighs the public interest in disclosure. This writing shall include the estimated date for disclosure of the withheld information.

(ii) After 60 days from the use of force, the agency may continue to delay the disclosure of records or information if the disclosure could reasonably be expected to interfere with a criminal enforcement proceeding against an officer who used the force. If an agency delays disclosure pursuant to this clause, the agency shall, at 180-day intervals as necessary, provide, in writing, the specific basis for the agency's determination that disclosure could reasonably be expected to interfere with a criminal enforcement proceeding. The writing shall include the estimated date for the disclosure of the withheld information. Information withheld by the agency shall be disclosed when the specific basis for withholding is resolved, when the investigation or proceeding is no longer active, or by no later than 18 months after the date of the incident, whichever occurs sooner.

(iii) After 60 days from the use of force, the agency may continue to delay the disclosure of records or information if the disclosure could

reasonably be expected to interfere with a criminal enforcement proceeding against someone other than the officer who used the force. If an agency delays disclosure under this clause, the agency shall, at 180-day intervals, provide, in writing, the specific basis why disclosure could reasonably be expected to interfere with a criminal enforcement proceeding, and shall provide an estimated date for the disclosure of the withheld information. Information withheld by the agency shall be disclosed when the specific basis for withholding is resolved, when the investigation or proceeding is no longer active, or by no later than 18 months after the date of the incident, whichever occurs sooner, unless extraordinary circumstances warrant continued delay due to the ongoing criminal investigation or proceeding. In that case, the agency must show by clear and convincing evidence that the interest in preventing prejudice to the active and ongoing criminal investigation or proceeding outweighs the public interest in prompt disclosure of records about use of serious force by peace officers and custodial officers. The agency shall release all information subject to disclosure that does not cause substantial prejudice, including any documents that have otherwise become available.

(iv) In an action to compel disclosure brought pursuant to Sections 7923.000 and 7923.005 of the Government Code, an agency may justify delay by filing an application to seal the basis for withholding, in accordance with Rule 2.550 of the California Rules of Court, or any successor rule thereto, if disclosure of the written basis itself would impact a privilege or compromise a pending investigation.

(B) If criminal charges are filed related to the incident in which force was used, the agency may delay the disclosure of records or information until a verdict on those charges is returned at trial or, if a plea of guilty or no contest is entered, the time to withdraw the plea pursuant to Section 1018.

(C) During an administrative investigation into an incident described in subparagraph (A) of paragraph (1), the agency may delay the disclosure of records or information until the investigating agency determines whether the use of force violated a law or agency policy, but no longer than 180 days after the date of the employing agency's discovery of the use of force, or allegation of use of force, by a person authorized to initiate an investigation, or 30 days after the close of any criminal investigation related to the peace officer or custodial officer's use of force, whichever is later.

(8) A record of a civilian complaint, or the investigations, findings, or dispositions of that complaint, shall not be released pursuant to this section if the complaint is frivolous, as defined in Section 128.5 of the Code of Civil Procedure, or if the complaint is unfounded.

(c) Notwithstanding subdivisions (a) and (b), a department or agency shall release to the complaining party a copy of the party's own statements at the time the complaint is filed.

(d) Notwithstanding subdivisions (a) and (b), a department or agency that employs peace or custodial officers may disseminate data regarding the number, type, or disposition of complaints (sustained, not sustained,

exonerated, or unfounded) made against its officers if that information is in a form that does not identify the individuals involved.

(e) Notwithstanding subdivisions (a) and (b), a department or agency that employs peace or custodial officers may release factual information concerning a disciplinary investigation if the officer who is the subject of the disciplinary investigation, or the officer's agent or representative, publicly makes a statement the officer, agent, or representative knows to be false concerning the investigation or the imposition of disciplinary action. Information may not be disclosed by the peace or custodial officer's employer unless the false statement was published by an established medium of communication, such as television, radio, or a newspaper. Disclosure of factual information by the employing agency pursuant to this subdivision is limited to facts contained in the officer's personnel file concerning the disciplinary investigation or imposition of disciplinary action that specifically refute the false statements made public by the peace or custodial officer or the officer's agent or representative.

(f) (1) The department or agency shall provide written notification to the complaining party of the disposition of the complaint within 30 days of the disposition.

(2) The notification described in this subdivision shall not be conclusive or binding or admissible as evidence in any separate or subsequent action or proceeding brought before an arbitrator, court, or judge of this state or the United States.

(g) This section does not affect the discovery or disclosure of information contained in a peace or custodial officer's personnel file pursuant to Section 1043 of the Evidence Code.

(h) This section does not supersede or affect the criminal discovery process outlined in Chapter 10 (commencing with Section 1054) of Title 6 of Part 2, or the admissibility of personnel records pursuant to subdivision (a), which codifies the court decision in Pitchess v. Superior Court (1974) 11 Cal.3d 531.

(i) Nothing in this chapter is intended to limit the public's right of access as provided for in Long Beach Police Officers Association v. City of Long Beach (2014) 59 Cal.4th 59.

SEC. 340. Section 832.18 of the Penal Code is amended to read:

832.18. (a) It is the intent of the Legislature to establish policies and procedures to address issues related to the downloading and storage data recorded by a body-worn camera worn by a peace officer. These policies and procedures shall be based on best practices.

(b) When establishing policies and procedures for the implementation and operation of a body-worn camera system, law enforcement agencies, departments, or entities shall consider the following best practices regarding the downloading and storage of body-worn camera data:

(1) Designate the person responsible for downloading the recorded data from the body-worn camera. If the storage system does not have automatic downloading capability, the officer's supervisor should take immediate physical custody of the camera and should be responsible for downloading

the data in the case of an incident involving the use of force by an officer, an officer-involved shooting, or other serious incident.

(2) Establish when data should be downloaded to ensure the data is entered into the system in a timely manner, the cameras are properly maintained and ready for the next use, and for purposes of tagging and categorizing the data.

(3) Establish specific measures to prevent data tampering, deleting, and copying, including prohibiting the unauthorized use, duplication, or distribution of body-worn camera data.

(4) Categorize and tag body-worn camera video at the time the data is downloaded and classified according to the type of event or incident captured in the data.

(5) Specifically state the length of time that recorded data is to be stored.

(A) Unless subparagraph (B) or (C) applies, nonevidentiary data including video and audio recorded by a body-worn camera should be retained for a minimum of 60 days, after which it may be erased, destroyed, or recycled. An agency may keep data for more than 60 days to have it available in case of a civilian complaint and to preserve transparency.

(B) Evidentiary data including video and audio recorded by a body-worn camera under this section should be retained for a minimum of two years under any of the following circumstances:

(i) The recording is of an incident involving the use of force by a peace officer or an officer-involved shooting.

(ii) The recording is of an incident that leads to the detention or arrest of an individual.

(iii) The recording is relevant to a formal or informal complaint against a law enforcement officer or a law enforcement agency.

(C) If evidence that may be relevant to a criminal prosecution is obtained from a recording made by a body-worn camera under this section, the law enforcement agency should retain the recording for any time in addition to that specified in subparagraphs (A) and (B), and in the same manner as is required by law for other evidence that may be relevant to a criminal prosecution.

(D) In determining a retention schedule, the agency should work with its legal counsel to determine a retention schedule to ensure that storage policies and practices are in compliance with all relevant laws and adequately preserve evidentiary chains of custody.

(E) Records or logs of access and deletion of data from body-worn cameras should be retained permanently.

(6) State where the body-worn camera data will be stored, including, for example, an in-house server that is managed internally, or an online cloud database that is managed by a third-party vendor.

(7) If using a third-party vendor to manage the data storage system, the following factors should be considered to protect the security and integrity of the data:

(A) Using an experienced and reputable third-party vendor.

(B) Entering into contracts that govern the vendor relationship and protect the agency's data.

(C) Using a system that has a built-in audit trail to prevent data tampering and unauthorized access.

(D) Using a system that has a reliable method for automatically backing up data for storage.

(E) Consulting with internal legal counsel to ensure the method of data storage meets legal requirements for chain-of-custody concerns.

(F) Using a system that includes technical assistance capabilities.

(8) Require that all recorded data from body-worn cameras are property of their respective law enforcement agency and shall not be accessed or released for any unauthorized purpose, explicitly prohibit agency personnel from accessing recorded data for personal use and from uploading recorded data onto public and social media internet websites, and include sanctions for violations of this prohibition.

(c) (1) For purposes of this section, "evidentiary data" refers to data of an incident or encounter that could prove useful for investigative purposes, including, but not limited to, a crime, an arrest or citation, a search, a use of force incident, or a confrontational encounter with a member of the public. The retention period for evidentiary data are subject to state evidentiary laws.

(2) For purposes of this section, "nonevidentiary data" refers to data that does not necessarily have value to aid in an investigation or prosecution, such as data of an incident or encounter that does not lead to an arrest or citation, or data of general activities the officer might perform while on duty.

(d) This section shall not be interpreted to limit the public's right to access recorded data under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

SEC. 341. Section 936.7 of the Penal Code is amended to read:

936.7. (a) In a county of the eighth class, as defined by Sections 28020 and 28029 of the Government Code, upon a request by the grand jury, the presiding judge of the superior court may retain, in the name of the county, a special counsel to the grand jury. The request shall be presented to the presiding judge in camera, by an affidavit, executed by the foreperson of the grand jury, which specifies the reason for the request and the nature of the services sought, and which certifies that the appointment of the special counsel is reasonably necessary to aid the work of the grand jury. The affidavit shall be confidential and its contents may not be made public except by order of the presiding judge upon a showing of good cause. The special counsel shall be selected by the presiding judge following submission of the name of the nominee to the board of supervisors for comment.

The special counsel shall be retained under a contract executed by the presiding judge in the name of the county. The contract shall contain the following terms:

(1) The types of legal services to be rendered to the grand jury; provided, (i) that the special counsel's duties shall not include any legal advisory,

investigative, or prosecutorial service that by statute is vested within the powers of the district attorney, and (ii) that the special counsel may not perform any investigative or prosecutorial service whatsoever except upon advance written approval by the presiding judge, which specifies the number of hours of these services, the hourly rate therefor, and the subject matter of the inquiry.

(2) The hourly rate of compensation of the special counsel for legal advisory services delivered, together with a maximum contract amount payable for all services rendered under the contract during the term thereof, and all service authorizations issued pursuant thereto.

(3) That the contract may be canceled in advance of the expiration of its term by the presiding judge pursuant to service upon the special counsel of 10 days' advance written notice.

(b) The maximum contract amount shall be determined by the board of supervisors and included in the grand jury's annual operational budget. The maximum amount shall be subject to increase by the presiding judge through contract amendment during the term thereof, subject to and in compliance with the procedure prescribed by Section 914.5.

(c) The contract shall constitute a public record and shall be subject to public inspection and copying pursuant to the provisions of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code). However, at the sole discretion of the board of supervisors, any or all of the following steps may be taken:

(1) The nomination by the presiding judge, and any or all actions by the board of supervisors in commenting upon the nominee and the comments, may be made confidential.

(2) The deliberations and actions may be undertaken in meetings from which the public is excluded, and the communication containing comments may constitute a confidential record that is not subject to public inspection or copying except at the sole discretion of the board of supervisors. Moreover, any written authorization by the presiding judge pursuant to paragraph (1) of subdivision (a) shall constitute a confidential record that is not subject to public inspection or copying except in connection with a dispute concerning compensation for services rendered.

SEC. 342. Section 1524.4 of the Penal Code is amended to read:

1524.4. (a) This section applies to a service provider that is subject to the Electronic Communications Privacy Act (Chapter 3.6 (commencing with Section 1546)) and that operates in California. This section does not apply to a service provider that does not offer services to the general public.

(b) (1) Every service provider described in subdivision (a) shall maintain a law enforcement contact process that meets the criteria set forth in paragraph (2).

(2) Every service provider described in subdivision (a) shall ensure, at a minimum, that its law enforcement contact process meets all of the following criteria:

(A) Provides a specific contact mechanism for law enforcement personnel.

(B) Provides continual availability of the law enforcement contact process.

(C) Provides a method to provide status updates to a requesting law enforcement agency on a request for assistance.

(3) Every service provider described in subdivision (a) shall, by July 1, 2017, file a statement with the Attorney General describing the law enforcement contact process maintained pursuant to paragraph (1). If a service provider makes a material change to its law enforcement contact process, the service provider shall, as soon as practicable, file a statement with the Attorney General describing its new law enforcement contact process.

(c) The Attorney General shall consolidate the statements received pursuant to this section into one discrete record and regularly make that record available to local law enforcement agencies.

(d) The exclusive remedy for a violation of this section shall be an action brought by the Attorney General for injunctive relief. Nothing in this section shall limit remedies available for a violation of any other state or federal law.

(e) A statement filed or distributed pursuant to this section is confidential and shall not be disclosed pursuant to any state law, including, but not limited to, the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

SEC. 343. Section 5058 of the Penal Code is amended to read:

5058. (a) (1) The director may prescribe and amend rules and regulations for the administration of the prisons and for the administration of the parole of persons sentenced under Section 1170 except those persons who meet the criteria set forth in Section 2962. The rules and regulations shall be promulgated and filed pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, except as otherwise provided in this section and Sections 5058.1 to 5058.3, inclusive. All rules and regulations shall, to the extent practical, be stated in language that is easily understood by the general public.

(2) For any rule or regulation filed as regular rulemaking as defined in paragraph (5) of subdivision (a) of Section 1 of Title 1 of the California Code of Regulations, copies of the rule or regulation shall be posted in conspicuous places throughout each institution and shall be mailed to all persons or organizations who request them no less than 20 days prior to its effective date.

(b) The director shall maintain, publish, and make available to the general public, a compendium of the rules and regulations promulgated by the director pursuant to this section and Sections 5058.1 to 5058.3, inclusive.

(c) The following are deemed not to be "regulations" as defined in Section 11342.600 of the Government Code:

(1) Rules issued by the director applying solely to a particular prison or other correctional facility, provided that the following conditions are met:

(A) All rules that apply to prisons or other correctional facilities throughout the state are adopted by the director pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(B) All rules except those that are excluded from disclosure to the public pursuant to Article 1 (commencing with Section 7923.600) of Chapter 1 of Part 5 of Division 10 of Title 1 of the Government Code are made available to all inmates confined in the particular prison or other correctional facility to which the rules apply and to all members of the general public.

(2) Short-term criteria for the placement of inmates in a new prison or other correctional facility, or subunit thereof, during its first six months of operation, or in a prison or other correctional facility, or subunit thereof, planned for closing during its last six months of operation, provided that the criteria are made available to the public and that an estimate of fiscal impact is completed pursuant to Sections 6650 to 6670, inclusive, of the State Administrative Manual.

(3) Rules issued by the director that are excluded from disclosure to the public pursuant to Article 1 (commencing with Section 7923.600) of Chapter 1 of Part 5 of Division 10 of Title 1 of the Government Code.

SEC. 344. Section 6126.3 of the Penal Code is amended to read:

6126.3. (a) The Inspector General shall not destroy any papers or memoranda used to support a completed review within three years after a report is released.

(b) Except as provided in subdivision (c), all books, papers, records, and correspondence of the office pertaining to its work are public records subject to Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code and shall be filed at any of the regularly maintained offices of the Inspector General.

(c) The following books, papers, records, and correspondence of the Office of the Inspector General pertaining to its work are not public records subject to Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code, nor shall they be subject to discovery pursuant to any provision of Title 3 (commencing with Section 1985) of Part 4 of the Code of Civil Procedure or Chapter 7 (commencing with Section 19570) of Part 2 of Division 5 of Title 2 of the Government Code in any manner:

(1) All reports, papers, correspondence, memoranda, electronic communications, or other documents that are otherwise exempt from disclosure pursuant to the provisions of subdivision (d) of Section 6126.5, Section 6126.6, subdivision (c) of Section 6128, subdivision (c) of Section 6126, or all other applicable laws regarding confidentiality, including, but not limited to, the California Public Records Act, the Public Safety Officers' Procedural Bill of Rights, the Information Practices Act of 1977, the Confidentiality of Medical Information Act of 1977, and the provisions of Section 832.7, relating to the disposition notification for complaints against peace officers.

(2) Any papers, correspondence, memoranda, electronic communications, or other documents pertaining to any audit or review that has not been completed.

(3) Any papers, correspondence, memoranda, electronic communications, or other documents pertaining to internal discussions between the Inspector General and the Inspector General's staff, or between staff members of the

Inspector General, or any personal notes of the Inspector General or the Inspector General's staff.

(4) All identifying information, and any personal papers or correspondence from any person requesting assistance from the Inspector General, except in those cases where the Inspector General determines that disclosure of the information is necessary in the interests of justice.

(5) Any papers, correspondence, memoranda, electronic communications, or other documents pertaining to contemporaneous public oversight pursuant to Section 6133 or subdivision (i) or (j) of Section 6126.

SEC. 345. Section 7443 of the Penal Code is amended to read:

7443. The California Research Bureau shall follow appropriate procedures to ensure confidentiality of the records and to protect the privacy of the survey participants and their children, and participating agencies. Data compiled from case files shall be coded under an assigned number and not identified by name. Survey questionnaires and coding forms shall be exempt from the public disclosure requirements prescribed by Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code.

SEC. 346. Section 11167.5 of the Penal Code is amended to read:

11167.5. (a) The reports required by Sections 11166 and 11166.2, or authorized by Section 11166.05, and child abuse or neglect investigative reports that result in a summary report being filed with the Department of Justice pursuant to subdivision (a) of Section 11169 shall be confidential and may be disclosed only as provided in subdivision (b). Any violation of the confidentiality provided by this article is a misdemeanor punishable by imprisonment in a county jail not to exceed six months, by a fine of five hundred dollars ($500), or by both that imprisonment and fine.

(b) Reports of suspected child abuse or neglect and information contained therein may be disclosed only to the following:

(1) Persons or agencies to whom disclosure of the identity of the reporting party is permitted under Section 11167.

(2) Persons or agencies to whom disclosure of information is permitted under subdivision (b) of Section 11170 or subdivision (a) of Section 11170.5.

(3) Persons or agencies with whom investigations of child abuse or neglect are coordinated under the regulations promulgated under Section 11174.

(4) Multidisciplinary personnel teams as defined in subdivision (d) of Section 18951 of the Welfare and Institutions Code.

(5) Persons or agencies responsible for the licensing of facilities which care for children, as specified in Section 11165.7.

(6) The State Department of Social Services or any county, as specified in paragraph (4) of subdivision (b) of Section 11170, when an individual has applied for a license to operate a community care facility or child daycare facility, or for a certificate of approval to operate a certified family home or resource family home, or for employment or presence in a licensed facility, certified family home, or resource family home, or when a complaint alleges child abuse or neglect by a licensee or employee of, or individual

approved to be present in, a licensed facility, certified family home, or resource family home.

(7) Hospital scan teams. As used in this paragraph, "hospital scan team" means a team of three or more persons established by a hospital, or two or more hospitals in the same county, consisting of health care professionals and representatives of law enforcement and child protective services, the members of which are engaged in the identification of child abuse or neglect. The disclosure authorized by this section includes disclosure among all hospital scan teams.

(8) Coroners and medical examiners when conducting a post mortem examination of a child.

(9) The Board of Parole Hearings, which may subpoena an employee of a county welfare department who can provide relevant evidence and reports that both (A) are not unfounded, pursuant to Section 11165.12, and (B) concern only the current incidents upon which parole revocation proceedings are pending against a parolee charged with child abuse or neglect. The reports and information shall be confidential pursuant to subdivision (d) of Section 11167.

(10) Personnel from an agency responsible for making a placement of a child pursuant to Section 361.3 of, and Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of, the Welfare and Institutions Code.

(11) Persons who have been identified by the Department of Justice as listed in the Child Abuse Central Index pursuant to paragraph (7) of subdivision (b) of Section 11170 or subdivision (c) of Section 11170, or persons who have verified with the Department of Justice that they are listed in the Child Abuse Central Index as provided in subdivision (f) of Section 11170. Disclosure under this paragraph is required notwithstanding the California Public Records Act, (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code). Nothing in this paragraph shall preclude a submitting agency prior to disclosure from redacting any information necessary to maintain confidentiality as required by law.

(12) Out-of-state law enforcement agencies conducting an investigation of child abuse or neglect only when an agency makes the request for reports of suspected child abuse or neglect in writing and on official letterhead, or as designated by the Department of Justice, identifying the suspected abuser or victim by name and date of birth or approximate age. The request shall be signed by the department supervisor of the requesting law enforcement agency. The written request shall cite the out-of-state statute or interstate compact provision that requires that the information contained within these reports is to be disclosed only to law enforcement, prosecutorial entities, or multidisciplinary investigative teams, and shall cite the safeguards in place to prevent unlawful disclosure provided by the requesting state or the applicable interstate compact provision.

(13) Out-of-state agencies responsible for approving prospective foster or adoptive parents for placement of a child only when the agency makes the request in compliance with the Adam Walsh Child Protection and Safety

Act of 2006 (Public Law 109-248). The request shall also cite the safeguards in place to prevent unlawful disclosure provided by the requesting state or the applicable interstate compact provision and indicate that the requesting state shall maintain continual compliance with the requirement in paragraph (20) of subdivision (a) of Section 671 of Title 42 of the United States Code that requires the state have in place safeguards to prevent the unauthorized disclosure of information in any child abuse and neglect registry maintained by the state and prevent the information from being used for a purpose other than the conducting of background checks in foster or adoptive placement cases.

(14) Each chairperson of a county child death review team, or the chairperson's designee, to whom disclosure of information is permitted under this article, relating to the death of one or more children and any prior child abuse or neglect investigation reports maintained involving the same victim, siblings, or suspects. Local child death review teams may share any relevant information regarding case reviews involving child death with other child death review teams.

(c) Authorized persons within county health departments shall be permitted to receive copies of any reports made by health practitioners, as defined in paragraphs (21) to (28), inclusive, of subdivision (a) of Section 11165.7, and pursuant to Section 11165.13, and copies of assessments completed pursuant to Sections 123600 and 123605 of the Health and Safety Code, to the extent permitted by federal law. Any information received pursuant to this subdivision is protected by subdivision (e).

(d) Nothing in this section requires the Department of Justice to disclose information contained in records maintained under Section 11170 or under the regulations promulgated pursuant to Section 11174, except as otherwise provided in this article.

(e) This section shall not be interpreted to allow disclosure of any reports or records relevant to the reports of child abuse or neglect if the disclosure would be prohibited by any other provisions of state or federal law applicable to the reports or records relevant to the reports of child abuse or neglect.

SEC. 347. Section 13300 of the Penal Code is amended to read:

13300. (a) As used in this section:

(1) "Local summary criminal history information" means the master record of information compiled by any local criminal justice agency pursuant to Chapter 2 (commencing with Section 13100) of Title 3 of Part 4 pertaining to the identification and criminal history of any person, such as name, date of birth, physical description, dates of arrests, arresting agencies and booking numbers, charges, dispositions, and similar data about the person.

(2) "Local summary criminal history information" does not refer to records and data compiled by criminal justice agencies other than that local agency, nor does it refer to records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the local agency.

(3) "Local agency" means a local criminal justice agency.

(b) A local agency shall furnish local summary criminal history information to any of the following, when needed in the course of their duties, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any entity, in fulfilling employment, certification, or licensing duties, Chapter 1321 of the Statutes of 1974 and Section 432.7 of the Labor Code shall apply:

(1) The courts of the state.

(2) Peace officers of the state, as defined in Section 830.1, subdivisions (a) and (d) of Section 830.2, subdivisions (a), (b), and (j) of Section 830.3, and subdivisions (a), (b), and (c) of Section 830.5.

(3) District attorneys of the state.

(4) Prosecuting city attorneys of any city within the state.

(5) City attorneys pursuing civil gang injunctions pursuant to Section 186.22a, or drug abatement actions pursuant to Section 3479 or 3480 of the Civil Code, or Section 11571 of the Health and Safety Code.

(6) Probation officers of the state.

(7) Parole officers of the state.

(8) A public defender or attorney of record when representing a person in proceedings upon a petition for a certificate of rehabilitation and pardon pursuant to Section 4852.08.

(9) A public defender or attorney of record when representing a person in a criminal case, or a parole, mandatory supervision, or postrelease community supervision revocation or revocation extension hearing, and when authorized access by statutory or decisional law.

(10) Any agency, officer, or official of the state when the local summary criminal history information is required to implement a statute, regulation, or ordinance that expressly refers to specific criminal conduct applicable to the subject person of the local summary criminal history information, and contains requirements or exclusions, or both, expressly based upon the specified criminal conduct.

(11) Any city, county, city and county, or district, or any officer or official thereof, when access is needed in order to assist the agency, officer, or official in fulfilling employment, certification, or licensing duties, and when the access is specifically authorized by the city council, board of supervisors, or governing board of the city, county, or district when the local summary criminal history information is required to implement a statute, regulation, or ordinance that expressly refers to specific criminal conduct applicable to the subject person of the local summary criminal history information, and contains requirements or exclusions, or both, expressly based upon the specified criminal conduct.

(12) The subject of the local summary criminal history information.

(13) Any person or entity when access is expressly authorized by statute when the local summary criminal history information is required to implement a statute, regulation, or ordinance that expressly refers to specific criminal conduct applicable to the subject person of the local summary criminal history information, and contains requirements or exclusions, or both, expressly based upon the specified criminal conduct.

(14) Any managing or supervising correctional officer of a county jail or other county correctional facility.

(15) Local child support agencies established by Section 17304 of the Family Code. When a local child support agency closes a support enforcement case containing summary criminal history information, the agency shall delete or purge from the file and destroy any documents or information concerning or arising from offenses for or of which the parent has been arrested, charged, or convicted, other than for offenses related to the parents having failed to provide support for the minor children, consistent with Section 17531 of the Family Code.

(16) County child welfare agency personnel who have been delegated the authority of county probation officers to access state summary criminal information pursuant to Section 272 of the Welfare and Institutions Code for the purposes specified in Section 16504.5 of the Welfare and Institutions Code.

(17) A humane officer appointed pursuant to Section 14502 of the Corporations Code, for the purposes of performing the officer's duties. A local agency may charge a reasonable fee sufficient to cover the costs of providing information pursuant to this paragraph.

(c) The local agency may furnish local summary criminal history information, upon a showing of a compelling need, to any of the following, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any entity, in fulfilling employment, certification, or licensing duties, Chapter 1321 of the Statutes of 1974 and Section 432.7 of the Labor Code shall apply:

(1) Any public utility, as defined in Section 216 of the Public Utilities Code, that operates a nuclear energy facility when access is needed to assist in employing persons to work at the facility, provided that, if the local agency supplies the information, it shall furnish a copy of this information to the person to whom the information relates.

(2) To a peace officer of the state other than those included in subdivision (b).

(3) An animal control officer, authorized to exercise powers specified in Section 830.9, for the purposes of performing the officer's official duties. A local agency may charge a reasonable fee sufficient to cover the costs of providing information pursuant to this paragraph.

(4) To a peace officer of another country.

(5) To public officers, other than peace officers, of the United States, other states, or possessions or territories of the United States, provided that access to records similar to local summary criminal history information is expressly authorized by a statute of the United States, other states, or possessions or territories of the United States when this information is needed for the performance of their official duties.

(6) To any person when disclosure is requested by a probation, parole, or peace officer with the consent of the subject of the local summary criminal history information and for purposes of furthering the rehabilitation of the subject.

(7) The courts of the United States, other states, or territories or possessions of the United States.

(8) Peace officers of the United States, other states, or territories or possessions of the United States.

(9) To any individual who is the subject of the record requested when needed in conjunction with an application to enter the United States or any foreign nation.

(10) Any public utility, as defined in Section 216 of the Public Utilities Code, when access is needed to assist in employing persons who will be seeking entrance to private residences in the course of their employment. The information provided shall be limited to the record of convictions and any arrest for which the person is released on bail or on the person's own recognizance pending trial.

If the local agency supplies the information pursuant to this paragraph, it shall furnish a copy of the information to the person to whom the information relates.

Any information obtained from the local summary criminal history is confidential and the receiving public utility shall not disclose its contents, other than for the purpose for which it was acquired. The local summary criminal history information in the possession of the public utility and all copies made from it shall be destroyed 30 days after employment is denied or granted, including any appeal periods, except for those cases where an employee or applicant is out on bail or on the person's own recognizance pending trial, in which case the state summary criminal history information and all copies shall be destroyed 30 days after the case is resolved, including any appeal periods.

A violation of any of the provisions of this paragraph is a misdemeanor, and shall give the employee or applicant who is injured by the violation a cause of action against the public utility to recover damages proximately caused by the violation.

Nothing in this section shall be construed as imposing any duty upon public utilities to request local summary criminal history information on any current or prospective employee.

Seeking entrance to private residences in the course of employment shall be deemed a "compelling need" as required to be shown in this subdivision.

(11) Any city, county, city and county, or district, or any officer or official thereof, if a written request is made to a local law enforcement agency and the information is needed to assist in the screening of a prospective concessionaire, and any affiliate or associate thereof, as these terms are defined in subdivision (k) of Section 432.7 of the Labor Code, for the purposes of consenting to, or approving of, the prospective concessionaire's application for, or acquisition of, any beneficial interest in a concession, lease, or other property interest.

Any local government's request for local summary criminal history information for purposes of screening a prospective concessionaire and their affiliates or associates before approving or denying an application for, or acquisition of, any beneficial interest in a concession, lease, or other property

interest is deemed a "compelling need" as required by this subdivision. However, only local summary criminal history information pertaining to criminal convictions may be obtained pursuant to this paragraph.

Any information obtained from the local summary criminal history is confidential and the receiving local government shall not disclose its contents, other than for the purpose for which it was acquired. The local summary criminal history information in the possession of the local government and all copies made from it shall be destroyed not more than 30 days after the local government's final decision to grant or deny consent to, or approval of, the prospective concessionaire's application for, or acquisition of, a beneficial interest in a concession, lease, or other property interest. Nothing in this section shall be construed as imposing any duty upon a local government, or any officer or official thereof, to request local summary criminal history information on any current or prospective concessionaire or their affiliates or associates.

(12) A public agency described in subdivision (b) of Section 15975 of the Government Code, for the purpose of oversight and enforcement policies with respect to its contracted providers.

(d) Whenever an authorized request for local summary criminal history information pertains to a person whose fingerprints are on file with the local agency and the local agency has no criminal history of that person, and the information is to be used for employment, licensing, or certification purposes, the fingerprint card accompanying the request for information, if any, may be stamped "no criminal record" and returned to the person or entity making the request.

(e) A local agency taking fingerprints of a person who is an applicant for licensing, employment, or certification may charge a fee to cover the cost of taking the fingerprints and processing the required documents.

(f) Whenever local summary criminal history information furnished pursuant to this section is to be used for employment, licensing, or certification purposes, the local agency shall charge the person or entity making the request a fee that it determines to be sufficient to reimburse the local agency for the cost of furnishing the information, provided that no fee shall be charged to any public law enforcement agency for local summary criminal history information furnished to assist it in employing, licensing, or certifying a person who is applying for employment with the agency as a peace officer or criminal investigator. Any state agency required to pay a fee to the local agency for information received under this section may charge the applicant a fee sufficient to reimburse the agency for the expense.

(g) Whenever there is a conflict, the processing of criminal fingerprints shall take priority over the processing of applicant fingerprints.

(h) It is not a violation of this article to disseminate statistical or research information obtained from a record, provided that the identity of the subject of the record is not disclosed.

(i) It is not a violation of this article to include information obtained from a record in (1) a transcript or record of a judicial or administrative proceeding

or (2) any other public record when the inclusion of the information in the public record is authorized by a court, statute, or decisional law.

(j) Notwithstanding any other law, a public prosecutor may, in response to a written request made pursuant to Article 1 (commencing with Section 7922.500) and Article 2 (commencing with Section 7922.525) of Chapter 1 of Part 3 of Division 10 of Title 1 of the Government Code, provide information from a local summary criminal history, if release of the information would enhance public safety, the interest of justice, or the public's understanding of the justice system and the person making the request declares that the request is made for a scholarly or journalistic purpose. If a person in a declaration required by this subdivision willfully states as true any material fact that person knows to be false, the person shall be subject to a civil penalty not exceeding ten thousand dollars ($10,000). The requestor shall be informed in writing of this penalty. An action to impose a civil penalty under this subdivision may be brought by any public prosecutor and shall be enforced as a civil judgment.

(k) Notwithstanding any other law, the Department of Justice or any state or local law enforcement agency may require the submission of fingerprints for the purpose of conducting summary criminal history information record checks that are authorized by law.

(*l*) Any local criminal justice agency may release, within five years of the arrest, information concerning an arrest or detention of a peace officer or applicant for a position as a peace officer, as defined in Section 830, that did not result in conviction, and for which the person did not complete a postarrest diversion program or a deferred entry of judgment program, to a government agency employer of that peace officer or applicant.

(m) Any local criminal justice agency may release information concerning an arrest of a peace officer or applicant for a position as a peace officer, as defined in Section 830, that did not result in conviction but for which the person completed a postarrest diversion program or a deferred entry of judgment program, or information concerning a referral to and participation in any postarrest diversion program or a deferred entry of judgment program to a government agency employer of that peace officer or applicant.

(n) Notwithstanding subdivision (*l*) or (m), a local criminal justice agency shall not release information under the following circumstances:

(1) Information concerning an arrest for which diversion or a deferred entry of judgment program has been ordered without attempting to determine whether diversion or a deferred entry of judgment program has been successfully completed.

(2) Information concerning an arrest or detention followed by a dismissal or release without attempting to determine whether the individual was exonerated.

(3) Information concerning an arrest without a disposition without attempting to determine whether diversion has been successfully completed or the individual was exonerated.

SEC. 348. Section 13302 of the Penal Code is amended to read:

13302. An employee of the local criminal justice agency who knowingly furnishes a record or information obtained from a record to a person who is not authorized by law to receive the record or information is guilty of a misdemeanor. Nothing in this section shall prohibit a public prosecutor from accessing and obtaining information from the public prosecutor's case management database to respond to a request for publicly disclosable information pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

SEC. 349. Section 13519.4 of the Penal Code is amended to read:

13519.4. (a) The commission shall develop and disseminate guidelines and training for all peace officers in California as described in subdivision (a) of Section 13510 and who adhere to the standards approved by the commission, on the racial and cultural differences among the residents of this state. The course or courses of instruction and the guidelines shall stress understanding and respect for racial, identity, and cultural differences, and development of effective, noncombative methods of carrying out law enforcement duties in a diverse racial, identity, and cultural environment.

(b) The course of basic training for peace officers shall include adequate instruction on racial, identity, and cultural diversity in order to foster mutual respect and cooperation between law enforcement and members of all racial, identity, and cultural groups. In developing the training, the commission shall consult with appropriate groups and individuals having an interest and expertise in the field of racial, identity, and cultural awareness and diversity.

(c) For the purposes of this section the following shall apply:

(1) "Disability," "gender," "nationality," "religion," and "sexual orientation" have the same meaning as in Section 422.55.

(2) "Culturally diverse" and "cultural diversity" include, but are not limited to, disability, gender, nationality, religion, and sexual orientation issues.

(3) "Racial" has the same meaning as "race or ethnicity" in Section 422.55.

(4) "Stop" has the same meaning as in paragraph (2) of subdivision (g) of Section 12525.5 of the Government Code.

(d) The Legislature finds and declares as follows:

(1) The working men and women in California law enforcement risk their lives every day. The people of California greatly appreciate the hard work and dedication of peace officers in protecting public safety. The good name of these officers should not be tarnished by the actions of those few who commit discriminatory practices.

(2) Racial or identity profiling is a practice that presents a great danger to the fundamental principles of our Constitution and a democratic society. It is abhorrent and cannot be tolerated.

(3) Racial or identity profiling alienates people from law enforcement, hinders community policing efforts, and causes law enforcement to lose credibility and trust among the people whom law enforcement is sworn to protect and serve.

(4) Pedestrians, users of public transportation, and vehicular occupants who have been stopped, searched, interrogated, and subjected to a property seizure by a peace officer for no reason other than the color of their skin, national origin, religion, gender identity or expression, housing status, sexual orientation, or mental or physical disability are the victims of discriminatory practices.

(5) It is the intent of the Legislature in enacting the changes to this section made by the act that added this paragraph that additional training is required to address the pernicious practice of racial or identity profiling and that enactment of this section is in no way dispositive of the issue of how the state should deal with racial or identity profiling.

(e) "Racial or identity profiling," for purposes of this section, is the consideration of, or reliance on, to any degree, actual or perceived race, color, ethnicity, national origin, age, religion, gender identity or expression, sexual orientation, or mental or physical disability in deciding which persons to subject to a stop or in deciding upon the scope or substance of law enforcement activities following a stop, except that an officer may consider or rely on characteristics listed in a specific suspect description. The activities include, but are not limited to, traffic or pedestrian stops, or actions during a stop, such as asking questions, frisks, consensual and nonconsensual searches of a person or any property, seizing any property, removing vehicle occupants during a traffic stop, issuing a citation, and making an arrest.

(f) A peace officer shall not engage in racial or identity profiling.

(g) Every peace officer in this state shall participate in expanded training as prescribed and certified by the Commission on Peace Officers Standards and Training.

(h) The curriculum shall be evidence-based and shall include and examine evidence-based patterns, practices, and protocols that make up racial or identity profiling, including implicit bias. This training shall prescribe evidence-based patterns, practices, and protocols that prevent racial or identity profiling. In developing the training, the commission shall consult with the Racial and Identity Profiling Advisory Board established pursuant to subdivision (j). The course of instruction shall include, but not be limited to, significant consideration of each of the following subjects:

(1) Identification of key indices and perspectives that make up racial, identity, and cultural differences among residents in a local community.

(2) Negative impact of intentional and implicit biases, prejudices, and stereotyping on effective law enforcement, including examination of how historical perceptions of discriminatory enforcement practices have harmed police-community relations and contributed to injury, death, disparities in arrest detention and incarceration rights, and wrongful convictions.

(3) The history and role of the civil and human rights movement and struggles and their impact on law enforcement.

(4) Specific obligations of peace officers in preventing, reporting, and responding to discriminatory or biased practices by fellow peace officers.

(5) Perspectives of diverse, local constituency groups and experts on particular racial, identity, and cultural and police-community relations issues in a local area.

(6) The prohibition against racial or identity profiling in subdivision (f).

(i) Once the initial basic training is completed, each peace officer in California as described in subdivision (a) of Section 13510 who adheres to the standards approved by the commission shall be required to complete a refresher course every five years thereafter, or on a more frequent basis if deemed necessary, in order to keep current with changing racial, identity, and cultural trends.

(j) (1) Beginning July 1, 2016, the Attorney General shall establish the Racial and Identity Profiling Advisory Board (RIPA) for the purpose of eliminating racial and identity profiling, and improving diversity and racial and identity sensitivity in law enforcement.

(2) RIPA shall include the following members:

(A) The Attorney General, or their designee.

(B) The President of the California Public Defenders Association, or their designee.

(C) The President of the California Police Chiefs Association, or their designee.

(D) The President of the California State Sheriffs' Association, or their designee.

(E) The President of the Peace Officers Research Association of California, or their designee.

(F) The Commissioner of the California Highway Patrol, or their designee.

(G) A university professor who specializes in policing, and racial and identity equity.

(H) Two representatives of human or civil rights tax-exempt organizations who specialize in civil or human rights.

(I) Two representatives of community organizations who specialize in civil or human rights and criminal justice, and work with victims of racial and identity profiling. At least one representative shall be between 16 and 24 years of age.

(J) Two religious clergy members who specialize in addressing and reducing racial and identity bias toward individuals and groups.

(K) Up to two other members that the Governor may prescribe.

(L) Up to two other members that the President pro Tempore of the Senate may prescribe.

(M) Up to two other members that the Speaker of the Assembly may prescribe.

(3) Each year, on an annual basis, RIPA shall do the following:

(A) Analyze the data reported pursuant to Section 12525.5 of the Government Code and Section 13012 of this code.

(B) Analyze law enforcement training under this section.

(C) Work in partnership with state and local law enforcement agencies to review and analyze racial and identity profiling policies and practices across geographic areas in California.

(D) Conduct, and consult available, evidence-based research on intentional and implicit biases, and law enforcement stop, search, and seizure tactics.

(E) Issue a report that provides RIPA's analysis under subparagraphs (A) to (D), inclusive, and detailed findings on the past and current status of racial and identity profiling, and makes policy recommendations for eliminating racial and identity profiling. RIPA shall post the report on its internet website. Each report shall include disaggregated statistical data for each reporting law enforcement agency. The report shall include, at minimum, each reporting law enforcement agency's total results for each data collection criterion under subdivision (b) of Section 12525.5 of the Government Code for each calendar year. The reports shall be retained and made available to the public by posting those reports on the Department of Justice's OpenJustice web portal. The first annual report shall be issued no later than January 1, 2018. The reports are public records within the meaning of Section 7920.530 of the Government Code and are open to public inspection pursuant to Sections 7922.500 to 7922.545, inclusive, 7923.000, and 7923.005 of the Government Code.

(F) Hold at least three public meetings annually to discuss racial and identity profiling, and potential reforms to prevent racial and identity profiling. Each year, one meeting shall be held in northern California, one in central California, and one in southern California. RIPA shall provide the public with notice of at least 60 days before each meeting.

(4) Pursuant to subdivision (e) of Section 12525.5 of the Government Code, RIPA shall advise the Attorney General in developing regulations for the collection and reporting of stop data, and ensuring uniform reporting practices across all reporting agencies.

(5) Members of RIPA shall not receive compensation, nor per diem expenses, for their services as members of RIPA.

(6) No action of RIPA shall be valid unless agreed to by a majority of its members.

(7) The initial terms of RIPA members shall be four years.

(8) Each year, RIPA shall elect two of its members as cochairpersons.

SEC. 350. Section 13650 of the Penal Code is amended to read:

13650. Commencing January 1, 2020, the Commission on Peace Officer Standards and Training and each local law enforcement agency shall conspicuously post on their internet websites all current standards, policies, practices, operating procedures, and education and training materials that would otherwise be available to the public if a request was made pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

SEC. 351. Section 14029 of the Penal Code is amended to read:

14029. All information relating to any witness participating in the program established pursuant to this title shall remain confidential and is not subject to disclosure pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) and, if a change of name has been approved by the

program, the order to show cause is not subject to the publication requirement of Section 1277 of the Code of Civil Procedure.

SEC. 352. Section 14167 of the Penal Code is amended to read:

14167. Any report, record, information, analysis, or request obtained by the department or any agency pursuant to this title is not a public record as defined in Section 7920.530 of the Government Code and is not subject to disclosure under Article 1 (commencing with Section 7922.500) and Article 2 (commencing with Section 7922.525) of Chapter 1 of Part 3 of Division 10 of Title 1 of the Government Code.

SEC. 353. Section 2602 of the Public Contract Code is amended to read:

2602. (a) When a contractor, bidder, or other entity is required to provide an enforceable commitment that a skilled and trained workforce will be used to complete a contract or project, the commitment shall be made in an enforceable agreement with the public entity or other awarding body that provides both of the following:

(1) The contractor, bidder, or other entity, and its contractors and subcontractors at every tier, will comply with this chapter.

(2) The contractor, bidder, or other entity will provide to the public entity or other awarding body, on a monthly basis while the project or contract is being performed, a report demonstrating compliance with this chapter.

(b) If the contractor, bidder, or other entity fails to provide the monthly report required by this section, or provides a report that is incomplete, the public agency or other awarding body shall withhold further payments until a complete report is provided. If a monthly report is incomplete due to the failure of a subcontractor to timely submit the required information to the contractor, bidder, or other entity, the public agency or awarding body shall only withhold an amount equal to 150 percent of the value of the monthly billing for the relevant subcontractor. If a public agency or other awarding body withholds amounts pursuant to this subdivision, the contractor, bidder, or other entity shall be entitled to withhold the same amount from the subcontractor until the subcontractor provides the contractor, bidder, or other entity a complete report, and the public agency or awarding body subsequently pays the contractor, bidder, or other entity the withheld payments. If the contractor, bidder, or other entity substitutes a subcontractor pursuant to Chapter 4 (commencing with Section 4100) for failure to provide a complete report, and the contractor, bidder, or other entity replaces the subcontractor with one that provides an enforceable commitment that a skilled and trained workforce will be used to complete the contract or project, the public agency or awarding body shall immediately resume making payments to the contractor, bidder, or other entity, including all previously withheld payments.

(c) If a monthly report does not demonstrate compliance with this chapter, the public agency or other awarding body shall do all of the following:

(1) Withhold further payments until the contractor, bidder, or other entity provides a plan to achieve substantial compliance with this chapter, with respect to the relevant apprenticeable occupation, prior to completion of the

contract or project. All of the following shall apply to the withholding of payments under this paragraph:

(A) The public agency or awarding body shall withhold an amount equal to 150 percent of the value of the monthly billing for the entity that failed to comply with this chapter, or 150 percent of the value of the monthly billing for the subcontractor that failed to comply with this chapter. If a public agency or other awarding body withholds amounts pursuant to this paragraph, the contractor, bidder, or other entity shall be entitled to withhold the same amount from the subcontractor that did not demonstrate compliance with this chapter.

(B) If the contractor, bidder, or other entity substitutes a subcontractor pursuant to Chapter 4 (commencing with Section 4100) for failure to demonstrate compliance, and the contractor, bidder, or other entity replaces the subcontractor with one that provides an enforceable commitment that a skilled and trained workforce will be used to complete the contract or project, the public agency or awarding body shall immediately resume making payments to the contractor, bidder, or other entity, including all previously withheld payments.

(C) If a contractor, bidder, or other entity submits to the public agency or awarding body a plan to achieve substantial compliance with this chapter, the public agency or awarding body shall immediately resume making payments to the contractor, bidder, or other entity, including all previously withheld payments unless, within a reasonable time, the public agency or awarding body rejects the plan as insufficient and explains the reasons for the rejection.

(2) Forward a copy of the monthly report to the Labor Commissioner for issuance of a civil wage and penalty assessment in accordance with Section 2603.

(3) Forward to the Labor Commissioner a copy of the plan, if any, submitted by the contractor, bidder, or other entity to achieve substantial compliance with this chapter and the response to that plan, if any, by the public agency or awarding body.

(d) A monthly report provided to the public agency or other awarding body shall be a public record under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) and shall be open to public inspection.

SEC. 354. Section 6703 of the Public Contract Code is amended to read:

6703. Construction Manager/General Contractor method projects shall progress as follows:

(a) (1) The department shall establish a procedure for the evaluation and selection of a construction manager through a request for qualifications (RFQ). The RFQ shall include, but not be limited to, the following:

(A) If the entity is a partnership, limited partnership, or other association, a list of all of the partners, general partners, or association members known at the time of the bid submission who will participate in the Construction Manager/General Contractor method contract, including, but not limited to, subcontractors.

(B) Evidence that the members of the entity have completed, or demonstrated the experience, competency, capability, and capacity to complete projects of similar size, scope, or complexity, and that proposed key personnel have sufficient experience and training to competently manage and complete the construction of the project, as well as a financial statement that assures the department that the entity has the capacity to complete the project, construction expertise, and an acceptable safety record.

(C) The licenses, registration, and credentials required to construct the project, including information on the revocation or suspension of any license, registration, or credential.

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

(E) Any prior serious or willful violation of the California Occupational Safety and Health Act of 1973, contained in Part 1 (commencing with Section 6300) of Division 5 of the Labor Code, or the federal Occupational Safety and Health Act of 1970 (Public Law 91-596), settled against any member of the entity, and information concerning workers' compensation experience history and a worker safety program.

(F) Information concerning any debarment, disqualification, or removal from a federal, state, or local government public works project. Any instance in which an entity, its owners, officers, or managing employees submitted a bid on a public works project and were found to be nonresponsive, or were found by an awarding body not to be a responsible bidder.

(G) Any instance in which the entity, or its owners, officers, or managing employees, defaulted on a construction contract.

(H) Any violations of the Contractors' State License Law (Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code), excluding alleged violations of federal or state law including the payment of wages, benefits, apprenticeship requirements, or personal income tax withholding, or of the Federal Insurance Contributions Act (26 U.S.C. Sec. 3101, et seq.) withholding requirements settled against any member of the entity.

(I) Information concerning the bankruptcy or receivership of any member of the entity, including information concerning any work completed by a surety.

(J) Information concerning all settled adverse claims, disputes, or lawsuits between the owner of a public works project and any member of the entity during the five years preceding submission of a bid pursuant to this section, in which the claim, settlement, or judgment exceeds fifty thousand dollars ($50,000). Information shall also be provided concerning any work completed by a surety during this period.

(K) In the case of a partnership or other association that is not a legal entity, a copy of the agreement creating the partnership or association and specifying that all partners or association members agree to be fully liable for the performance under the contract.

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

(2) The information required pursuant to this subdivision shall be verified under oath by the entity and its members in the manner in which civil pleadings in civil actions are verified. Information that is not a public record pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) shall not be open to public inspection.

(b) For each RFQ, the department shall generate a final list of qualified persons or firms that participated in the RFQ prior to entering into negotiations on the contract or contracts to which the RFQ applies.

(c) (1) For each contract included in the RFQ, the department shall enter into separate negotiations for the contract with the highest qualified person or firm on the final list for that contract. However, if the RFQ is for multiple contracts and specifies that all of the multiple contracts will be awarded to a single construction manager, there may be a single negotiation for all of the multiple contracts. The negotiations shall include consideration of compensation and other contract terms that the department determines to be fair and reasonable to the department. In making this decision, the department shall take into account the estimated value, the scope, the complexity, and the nature of the professional services or construction services to be rendered. If the department is not able to negotiate a satisfactory contract with the highest qualified person or firm on the final list, regarding compensation and on other contract terms the department determines to be fair and reasonable, the department shall formally terminate negotiations with that person or firm. The department may undertake negotiations with the next most qualified person or firm on the final list in sequence until an agreement is reached or a determination is made to reject all persons or firms on the final list.

(2) If a contract for construction services is entered into pursuant to this chapter and includes preconstruction services by the construction manager, the department shall enter into a written contract with the construction manager for preconstruction services under which contract the department shall pay the construction manager a fee for preconstruction services in an amount agreed upon by the department and the construction manager. The preconstruction services contract may include fees for services to be performed during the contract period provided, however, the department shall not request or obtain a fixed price or a guaranteed maximum price for the construction contract from the construction manager or enter into a construction contract with the construction manager until after the department has entered into a services contract. A preconstruction services contract

shall provide for the subsequent negotiation for construction of all or any discreet phase or phases of the project.

(3) A contract for construction services shall be awarded after the plans have been sufficiently developed and either a fixed price or a guaranteed maximum price has been successfully negotiated. In the event that a fixed price or a guaranteed maximum price is not negotiated, the department shall not award the contract for construction services.

(4) The department is not required to award the construction services contract.

(5) Construction shall not commence on any phase, package, or element until the department and construction manager agree in writing on either a fixed price that the department will pay for the construction to be commenced or a guaranteed maximum price for the construction to be commenced and construction schedule for the project. The construction manager shall perform not less than 30 percent of the work covered by the fixed price or guaranteed maximum price agreement reached. Work that is not performed directly by the construction manager shall be bid to subcontractors pursuant to Section 6705.

SEC. 355. Section 6824 of the Public Contract Code is amended to read:

6824. The procurement process for the design-build project shall progress as follows:

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

(b) Based on the documents prepared as described in subdivision (a), the transportation entity shall prepare a request for proposals that invites interested parties to submit competitive sealed proposals in the manner prescribed by the transportation entity. The request for proposals shall include, but need not be limited to, the following elements:

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

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

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

(4) For transportation entities authorized to utilize best value as a selection method, the transportation entity reserves the right to request proposal

revisions and hold discussions and negotiations with responsive bidders and shall so specify in the request for proposals and shall publish separately or incorporate into the request for proposals applicable rules and procedures to be observed by the transportation entity to ensure that any discussions or negotiations are conducted in good faith.

(c) Based on the documents prepared under subdivision (a), the transportation entity shall prepare and issue a request for qualifications in order to prequalify or short-list the design-build entities whose proposals shall be evaluated for final selection. The request for qualifications shall include, but need not be limited to, the following elements:

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

(2) (A) Significant factors that the transportation entity reasonably expects to consider in evaluating qualifications, including technical design and construction expertise, skilled labor force availability, and all other nonprice-related factors.

(B) For purposes of subparagraph (A), skilled labor force availability shall be determined by the existence of an agreement with a registered apprenticeship program, approved by the California Apprenticeship Council, that has graduated at least one apprentice in each of the preceding five years. This graduation requirement shall not apply to programs providing apprenticeship training for any craft that was first deemed by the Department of Labor and the Department of Industrial Relations to be an apprenticeable craft within the five years prior to the effective date of this article.

(3) A standard form request for statements of qualifications prepared by the transportation entity. In preparing the standard form, the transportation entity may consult with the construction industry, the building trades and surety industry, and other public agencies interested in using the authorization provided by this chapter. The standard form shall require information including, but not limited to, all of the following:

(A) If the design-build entity is a partnership, limited partnership, joint venture, or other association, a listing of all of the partners, general partners, or association members known at the time of statement of qualification submission who will participate in the design-build contract.

(B) Evidence that the members of the design-build entity have completed, or demonstrated the experience, competency, capability, and capacity to complete projects of similar size, scope, or complexity, and that proposed key personnel have sufficient experience and training to competently manage and complete the design and construction of the project, and a financial statement that assures the transportation entity that the design-build entity has the capacity to complete the project.

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

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

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

(F) A full disclosure regarding all of the following that are applicable:

(i) Any serious or willful violation of Part 1 (commencing with Section 6300) of Division 5 of the Labor Code or the federal Occupational Safety and Health Act of 1970 (Public Law 91-596), settled against any member of the design-build entity.

(ii) Any debarment, disqualification, or removal from a federal, state, or local government public works project.

(iii) Any instance where the design-build entity, or its owners, officers, or managing employees submitted a bid on a public works project and were found to be nonresponsive or were found by an awarding body not to be a responsible bidder.

(iv) Any instance where the design-build entity, or its owners, officers, or managing employees defaulted on a construction contract.

(v) Any violations of the Contractors' State License Law, as described in Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, including alleged violations of federal or state law regarding the payment of wages, benefits, apprenticeship requirements, or personal income tax withholding, or Federal Insurance Contribution Act (FICA) withholding requirements settled against any member of the design-build entity.

(vi) Any bankruptcy or receivership of any member of the design-build entity, including, but not limited to, information concerning any work completed by a surety.

(vii) Any settled adverse claims, disputes, or lawsuits between the owner of a public works project and any member of the design-build entity during the five years preceding submission of a bid under this article, in which the claim, settlement, or judgment exceeds fifty thousand dollars ($50,000). Information shall also be provided concerning any work completed by a surety during this five-year period.

(G) If the proposed design-build entity is a partnership, limited partnership, joint-venture, or other association, a copy of the organizational documents or agreement committing to form the organization, and a statement that all general partners, joint venture members, or other association members agree to be fully liable for the performance under the design-build contract.

(H) An acceptable safety record. A bidder's safety record shall be deemed acceptable if its experience modification rate for the most recent three-year period is an average of 1.00 or less, and its average total recordable injury/illness rate and average lost work rate for the most recent three-year

period does not exceed the applicable statistical standards for its business category or if the bidder is a party to an alternative dispute resolution system as provided for in Section 3201.5 of the Labor Code.

(4) The information required under this subdivision shall be verified under oath by the design-build entity and its members in the manner in which civil pleadings in civil actions are verified. Information required under this subdivision that is not a public record under the California Public Records Act, as described in Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code, shall not be open to public inspection.

(d) For those projects utilizing low bid as the final selection method, the competitive bidding process shall result in lump-sum bids by the prequalified or short-listed design-build entities. Awards shall be made to the lowest responsible bidder.

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

(1) Competitive proposals shall be evaluated by using only the criteria and selection procedures specifically identified in the request for proposals. However, the following minimum factors shall be weighted as deemed appropriate by the contracting transportation entity:

(A) Price.

(B) Technical design and construction expertise.

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

(2) Pursuant to subdivision (b), the transportation entity may hold discussions or negotiations with responsive bidders using the process articulated in the transportation entity's request for proposals.

(3) When the evaluation is complete, the top three responsive bidders shall be ranked sequentially based on a determination of value provided.

(4) The award of the contract shall be made to the responsible bidder whose proposal is determined by the transportation entity to have offered the best value to the public.

(5) Notwithstanding any other provision of this code, upon issuance of a contract award, the transportation entity shall publicly announce its award, identifying the contractor to whom the award is made, along with a written decision supporting its contract award and stating the basis of the award. The notice of award shall also include the transportation entity's second- and third-ranked design-build entities.

(6) The written decision supporting the transportation entity's contract award, described in paragraph (5), and the contract file shall provide sufficient information to satisfy an external audit.

SEC. 356. Section 10191 of the Public Contract Code is amended to read:

10191. The procurement process for the design-build projects shall progress as follows:

(a) (1) The director shall prepare a set of documents setting forth the scope and estimated price of the project. The documents may include, but need not be limited to, the size, type, and desired design character of the

project, performance specifications covering the quality of materials, equipment, workmanship, preliminary plans or building layouts, or any other information deemed necessary to describe adequately the department's needs. The performance specifications and any plans shall be prepared by a design professional who is duly licensed and registered in California.

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

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

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

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

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

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

(B) Evidence that the members of the design-build team have completed, or demonstrated the experience, competency, capability, and capacity to complete projects of similar size, scope, or complexity, and that proposed key personnel have sufficient experience and training to competently manage and complete the design and construction of the project, and a financial statement that ensures that the design-build entity has the capacity to complete the project.

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

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

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

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

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

(4) (A) The information required under this subdivision shall be certified under penalty of perjury by the design-build entity and its general partners or joint venture members.

(B) Information required under this subdivision that is not otherwise a public record under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) shall not be open to public inspection.

(c) (1) A design-build entity shall not be prequalified or short-listed unless the entity provides an enforceable commitment to the director that the entity and its subcontractors at every tier will use a skilled and trained workforce to perform all work on the project or contract that falls within an apprenticeable occupation in the building and construction trades, in accordance with Chapter 2.9 (commencing with Section 2600) of Part 1.

(2) This subdivision shall not apply if any of the following requirements are met:

(A) The department has entered into a project labor agreement that will bind all contractors and subcontractors performing work on the project or contract to use a skilled and trained workforce, and the entity agrees to be bound by that project labor agreement.

(B) The project or contract is being performed under the extension or renewal of a project labor agreement that was entered into by the department prior to January 1, 2017.

(C) The entity has entered into a project labor agreement that will bind the entity and all its subcontractors at every tier performing the project or contract to use a skilled and trained workforce.

(3) For purposes of this subdivision, "project labor agreement" has the same meaning as in paragraph (1) of subdivision (b) of Section 2500.

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

(1) Identification of the basic scope and needs of the project or contract, the estimated cost of the project, the methodology that will be used by the department to evaluate proposals, whether the contract will be awarded on the basis of low bid or best value, and any other information deemed

necessary by the department to inform interested parties of the contracting opportunity.

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

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

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

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

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

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

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

(B) Technical design and construction expertise.

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

(2) Pursuant to subdivision (d), the department may hold discussions or negotiations with responsive proposers using the process articulated in the department's request for proposals.

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

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

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

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

SEC. 357. Section 10335 of the Public Contract Code is amended to read:

10335. (a) This article shall apply to all contracts, including amendments, entered into by any state agency for services to be rendered

to the state, whether or not the services involve the furnishing or use of equipment, materials, or supplies or are performed by an independent contractor. Except as provided in Sections 10295.6 and 10351, and paragraphs (8) and (9) of subdivision (b) of Section 10340, all contracts subject to this article are of no effect unless and until approved by the department. Each contract shall be transmitted with all papers, estimates, and recommendations concerning it to the department and, if approved by the department, shall be effective from the date of approval. This article shall apply to any state agency that by general or specific statute is expressly or impliedly authorized to enter into the transactions referred to in this section. This article shall not apply to contracts for the construction, alteration, improvement, repair, or maintenance of real or personal property, contracts for services subject to Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code, to contracts that are listed as exceptions in Section 10295, contracts of less than five thousand dollars ($5,000) in amount, contracts of less than five thousand dollars ($5,000) where only per diem or travel expenses, or a combination thereof, are to be paid, contracts between state agencies, or contracts between a state agency and local agency or federal agency.

(b) In exercising its authority under this article with respect to contracts for the services of legal counsel, other than the Attorney General, entered into by any state agency that is subject to Section 11042 or Section 11043 of the Government Code, the department, as a condition of approval of the contract, shall require the state agency to demonstrate that the consent of the Attorney General to the employment of the other counsel has been granted pursuant to Section 11040 of the Government Code. This consent shall not be construed in a manner that would authorize the Attorney General to establish a separate program for reviewing and approving contracts in the place of, or in addition to, the program administered by the department pursuant to this article.

(c) Until January 1, 2001, the department shall maintain a list of contracts approved pursuant to subdivision (b). This list shall be filed quarterly with the Senate Committee on Budget and Fiscal Review and the Assembly Committee on Budget. The list shall be limited to contracts with a consideration in excess of twenty thousand dollars ($20,000) during the life of the contract and shall include sufficient information to identify the provider of legal services, the length of each contract, applicable hourly rates, and the need for the services. The department shall add a contract that meets these conditions to the list within 10 days after approval. A copy of the list shall be made available to any requester. The department may charge a fee to cover the cost of supplying the list as provided in Section 7922.530 of the Government Code.

(d) Contracts subject to the approval of the department shall also have the department's approval for a modification or amendment thereto, with the following exceptions:

(1) An amendment to a contract that only extends the original time for completion of performance for a period of one year or less is exempt. If the

original contract was subject to approval by the department, one fully executed copy including transmittal document, explaining the reason for the extension, shall be sent to the legal office of the department. A contract may only be amended once under this exemption.

(2) Contracts let or awarded on the basis of a law requiring competitive bidding may be modified or amended only if the contract so provides or if authorized by the law requiring competitive bidding.

(3) If an amendment to a contract has the effect of giving the contract as amended an increase in monetary amount, or an agreement by the state to indemnify or save harmless any person, the amendment shall be approved by the department.

SEC. 358. Section 10506.6 of the Public Contract Code is amended to read:

10506.6. The university shall proceed in accordance with the following when awarding best value contracts under this article.

(a) The university shall prepare a solicitation for bids and give notice pursuant to Section 10502.

(b) The university shall establish a procedure to prequalify bidders. The information required pursuant to this section shall be verified under oath by the bidder in the manner in which civil pleadings in civil actions are verified. Information submitted by the bidder as part of the evaluation process shall not be open to public inspection to the extent that information is exempt from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(c) (1) A best value contractor shall not be prequalified or short-listed unless the entity provides an enforceable commitment to the Regents of the University of California that the best value contractor and its subcontractors at every tier will use a skilled and trained workforce to perform all work on the project or contract that falls within an apprenticeable occupation in the building and construction trades, in accordance with Sections 10506.8 and 10506.9.

(2) This subdivision shall not apply if any of the following requirements are met:

(A) The Regents of the University of California have entered into a project labor agreement that will bind all contractors and subcontractors performing work on the project or contract to use a skilled and trained workforce, and the entity agrees to be bound by that project labor agreement.

(B) The project or contract is being performed under the extension or renewal of a project labor agreement that was entered into by the Regents of the University of California prior to January 1, 2018.

(C) The best value contractor has entered into a project labor agreement that will bind the entity and all its subcontractors at every tier performing the project or contract to use a skilled and trained workforce.

(3) For purposes of this subdivision, "project labor agreement" has the same meaning as in subdivision (g) of Section 10506.5.

(d) Each solicitation for bids shall do all of the following:

(1) Invite prequalified bidders to submit sealed bids in the manner prescribed by this article.

(2) Include a section identifying and describing the following:

(A) Criteria that the university will consider in evaluating the qualifications of the bidders.

(B) The methodology and rating or weighting system that will be used by the university in evaluating bids.

(C) The relative importance or weight assigned to the criteria for evaluating the qualifications of bidders identified in the request for bids.

(e) Final evaluation of the best value contractor shall be done in a manner that prevents cost or price information from being revealed to the committee evaluating the qualifications of the bidders prior to completion and announcement of that committee's decision.

SEC. 359. Section 10506.9 of the Public Contract Code is amended to read:

10506.9. (a) If a contractor, bidder, or other entity is required to provide an enforceable commitment that a skilled and trained workforce will be used to complete a contract or project, the commitment shall be made in an enforceable agreement with the university that provides both of the following:

(1) The contractor, bidder, or other entity, and its contractors and subcontractors at every tier, will comply with this article.

(2) The contractor, bidder, or other entity shall provide to the university, on a monthly basis while the project contract is being performed, a report demonstrating compliance with this article.

(b) If the contractor, bidder, or other entity fails to provide the monthly report required by this section, or provides a report that is incomplete, the university shall withhold further payments until a complete record is provided.

(c) If a monthly report does not demonstrate compliance with this article, the university shall withhold further payments until the contractor, bidder, or other entity provides a plan to achieve substantial compliance with this article, with respect to the relevant apprenticeable occupation, prior to completion of the contract or project.

(d) A monthly report provided to the university shall be a public record under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) and shall be open to public inspection.

SEC. 360. Section 20101 of the Public Contract Code is amended to read:

20101. (a) Except as provided in Section 20111.5, a public entity subject to this part may require that each prospective bidder for a contract complete and submit to the entity a standardized questionnaire and financial statement in a form specified by the entity, including a complete statement of the prospective bidder's experience in performing public works. The standardized questionnaire may not require prospective bidders to disclose any violations of Chapter 1 (commencing with Section 1720) of Part 7 of

Division 2 of the Labor Code committed prior to January 1, 1998, if a violation was based on a subcontractor's failure to comply with these provisions and the bidder had no knowledge of the subcontractor's violations. The Department of Industrial Relations, in collaboration with affected agencies and interested parties, shall develop model guidelines for rating bidders, and draft the standardized questionnaire, that may be used by public entities for the purposes of this part. The Department of Industrial Relations, in developing the standardized questionnaire, shall consult with affected public agencies, cities and counties, the construction industry, the surety industry, and other interested parties. The questionnaire and financial statement shall be verified under oath by the bidder in the manner in which civil pleadings in civil actions are verified. The questionnaires and financial statements shall not be public records and shall not be open to public inspection; however, records of the names of contractors applying for prequalification status shall be public records subject to disclosure under Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code.

(b) Any public entity requiring prospective bidders to complete and submit questionnaires and financial statements, as described in subdivision (a), shall adopt and apply a uniform system of rating bidders on the basis of the completed questionnaires and financial statements, in order to determine both the minimum requirements permitted for qualification to bid, and the type and size of the contracts upon which each bidder shall be deemed qualified to bid. The uniform system of rating prospective bidders shall be based on objective criteria.

(c) A public entity may establish a process for prequalifying prospective bidders pursuant to this section on a quarterly basis and a prequalification pursuant to this process shall be valid for one calendar year following the date of initial prequalification.

(d) Any public entity requiring prospective bidders on a public works project to prequalify pursuant to this section shall establish a process that will allow prospective bidders to dispute their proposed prequalification rating prior to the closing time for receipt of bids. The appeal process shall include the following:

(1) Upon request of the prospective bidder, the public entity shall provide notification to the prospective bidder in writing of the basis for the prospective bidder's disqualification and any supporting evidence that has been received from others or adduced as a result of an investigation by the public entity.

(2) The prospective bidder shall be given the opportunity to rebut any evidence used as a basis for disqualification and to present evidence to the public entity as to why the prospective bidder should be found qualified.

(3) If the prospective bidder chooses not to avail itself of this process, the proposed prequalification rating may be adopted without further proceedings.

(e) For the purposes of subdivision (a), a financial statement shall not be required from a contractor who has qualified as a Small Business

Administration entity pursuant to paragraph (1) of subdivision (d) of Section 14837 of the Government Code, when the bid is no more than 25 percent of the qualifying amount provided in paragraph (1) of subdivision (d) of Section 14837 of the Government Code.

(f) Nothing in this section shall preclude an awarding agency from prequalifying or disqualifying a subcontractor. The disqualification of a subcontractor by an awarding agency does not disqualify an otherwise prequalified contractor.

SEC. 361. Section 20119.3 of the Public Contract Code is amended to read:

20119.3. The governing board of the school district shall proceed in accordance with the following when awarding best value contracts under this article:

(a) The school district shall prepare a solicitation for bids and give notice pursuant to Section 20112.

(b) (1) The school district shall establish a procedure to prequalify bidders as required by this code. Information submitted by the bidder as part of the evaluation process shall not be open to public inspection to the extent that information is exempt from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(2) A best value entity shall not be prequalified or short-listed unless the entity provides an enforceable commitment to the governing board that the entity and its subcontractors at every tier will use a skilled and trained workforce to perform all work on the project or contract that falls within an apprenticeable occupation in the building and construction trades, in accordance with Chapter 2.9 (commencing with Section 2600) of Part 1.

(3) Paragraph (2) shall not apply if any of the following requirements are met:

(A) The school district has entered into a project labor agreement that will bind all contractors and subcontractors performing work on the project or contract to use a skilled and trained workforce, and the entity agrees to be bound by that project labor agreement.

(B) The project or contract is being performed under the extension or renewal of a project labor agreement that was entered into by the school district prior to January 1, 2020.

(C) The entity has entered into a project labor agreement that will bind the entity and all its subcontractors at every tier performing the project or contract to use a skilled and trained workforce.

(4) For purposes of this subdivision, "project labor agreement" has the same meaning as in paragraph (1) of subdivision (b) of Section 2500.

(c) Each solicitation for bids shall do all of the following:

(1) Invite prequalified bidders to submit sealed bids in the manner prescribed by this article.

(2) Include a section identifying and describing the following:

(A) Criteria that the school district will consider in evaluating the qualifications of the bidders.

(B) The methodology and rating or weighting system that will be used by the school district in evaluating bids.

(C) The relative importance or weight assigned to the criteria for evaluating the qualifications of bidders identified in the request for bids.

(d) Final evaluation of the bidders shall be done in a manner that prevents the identity of the bidders and the cost or price information from being revealed in evaluating the qualifications of the bidders prior to completion of qualification scoring.

SEC. 362. Section 20155.3 of the Public Contract Code is amended to read:

20155.3. A county shall proceed in accordance with the following when awarding best value contracts under this article:

(a) The county shall not select a bidder on the basis of the best value to a county unless, after evaluating at a public meeting the alternative of awarding the contract on the basis of the lowest bid price, the county makes a written finding that awarding the contract on the basis of best value, for the specific project under consideration, will accomplish one or more of the following objectives: reducing project costs, expediting the completion of the project, or providing features not achievable through awarding the contract on the basis of the lowest bid price.

(b) The county shall prepare a solicitation for bids and give notice pursuant to Section 20125. A county may identify specific types of subcontractors that are required to be included in the bids. A county shall comply with Chapter 4 (commencing with Section 4100) of Part 1 with regard to construction subcontractors identified in the bid.

(c) The county shall establish a procedure to prequalify bidders pursuant to Section 20101. The information required pursuant to this section shall be verified under oath by the bidder in the manner in which civil pleadings in civil actions are verified. Information submitted by the bidder as part of the evaluation process shall not be open to public inspection to the extent that information is exempt from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(d) Each solicitation for bids shall do all of the following:

(1) Invite prequalified bidders to submit sealed bids in the manner prescribed by this article.

(2) Include a section identifying and describing the following:

(A) Criteria that the county will consider in evaluating bids.

(B) The methodology and rating or weighting system that will be used by the county in evaluating bids.

(C) The relative importance or weight assigned to the criteria identified in the request for bids.

(e) Final evaluation of the best value contractor shall be done in a manner that prevents cost or price information from being revealed to the committee evaluating the qualifications of the bidders prior to completion and announcement of that committee's decision.

SEC. 363. Section 20663.3 of the Public Contract Code is amended to read:

20663.3. The governing board of the community college district shall proceed in accordance with the following when awarding best value contracts under this article:

(a) The community college district shall prepare a solicitation for bids and give notice pursuant to Section 81641 of the Education Code.

(b) The community college district shall establish a procedure to prequalify bidders as required by this code. Information submitted by the bidder as part of the evaluation process shall not be open to public inspection to the extent that information is exempt from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(c) (1) A bidder shall not be prequalified or short-listed unless the bidder provides an enforceable commitment to the community college district that the bidder and its subcontractors at every tier will use a skilled and trained workforce to perform all work on the project or contract that falls within an apprenticeable occupation in the building and construction trades, in accordance with Chapter 2.9 (commencing with Section 2600) of Part 1.

(2) This subdivision shall not apply if any of the following requirements are met:

(A) The community college district has entered into a project labor agreement that will bind all contractors and subcontractors performing work on the project to contract to use a skilled and trained workforce, and the bidder agrees to be bound by that project labor agreement.

(B) The project or contract is being performed under the extension or renewal of a project labor agreement that was entered into by the community college district prior to January 1, 2020.

(C) The bidder has entered into a project labor agreement that will bind the bidder and all of its subcontractors at every tier performing the project or contract to use a skilled and trained workforce.

(3) For purposes of this subdivision, "project labor agreement" has the same meaning as in paragraph (1) of subdivision (b) of Section 2500.

(d) Each solicitation for bids shall do all of the following:

(1) Invite prequalified bidders to submit sealed bids in the manner prescribed by this article.

(2) Include a section identifying and describing the following:

(A) Criteria that the community college district will consider in evaluating the qualifications of the bidders.

(B) The methodology and rating or weighting system that will be used by the community college district in evaluating bids.

(C) The relative importance or weight assigned to the criteria for evaluating the qualifications of bidders identified in the request for bids.

(e) Final evaluation of the bidders shall be done in a manner that prevents the identity of the bidders and the cost or price information from being revealed in evaluating the qualifications of the bidders prior to completion of qualification scoring.

SEC. 364. Section 20928.2 of the Public Contract Code is amended to read:

20928.2. The procurement process for the project shall progress as follows:

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

(b) The local agency shall prepare and issue a request for qualifications in order to prequalify or short-list the entities, including subcontractors and suppliers, whose bids shall be evaluated for final selection. The request for qualifications shall include, but need not be limited to, the following elements:

(1) Identification of the basic scope and needs of the project or contract, the expected cost range, the methodology that will be used by the local agency to evaluate bids, the procedure for final selection of the bidder, and any other information deemed necessary by the local agency to inform interested parties of the contracting opportunity.

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

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

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

(B) Evidence that the members of the contracting team have completed, or demonstrated the experience, competency, capability, and capacity to complete, projects of similar size, scope, or complexity and that proposed key personnel have sufficient experience and training to competently manage and complete the project, and a financial statement that ensures that the bidder has the capacity to complete the project.

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

(D) Evidence that establishes that the bidder has the capacity to obtain all required payment and performance bonding, liability insurance, and errors and omissions insurance.

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

(F) An acceptable safety record. "Safety record" means the prior history concerning the safe performance of construction contracts. The criteria used to evaluate a bidder's safety record shall include, at a minimum, its experience modification rate for the most recent three-year period, and its average total recordable injury or illness rate and average lost work rate for the most recent three-year period.

(4) The information required under this subdivision shall be certified under penalty of perjury by the bidder and its general partners or joint venture members.

(c) A contracting entity shall not be prequalified or short-listed unless the entity provides an enforceable commitment to the local agency that the entity and its subcontractors will use a skilled and trained workforce to perform all work on the project or contract that falls within an apprenticeable occupation in the building and construction trades.

(1) For purposes of this subdivision:

(A) "Apprenticeable occupation" means an occupation for which the chief had approved an apprenticeship program pursuant to Section 3075 of the Labor Code prior to January 1, 2014.

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

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

(ii) (I) For work performed on or after January 1, 2017, at least 30 percent of the skilled journeypersons employed to perform work on the contract or project by the bidder and each of its subcontractors at every tier are graduates of an apprenticeship program for the applicable occupation that was either approved by the Chief of the Division of Apprenticeship Standards pursuant to Section 3075 of the Labor Code or located outside California and approved for federal purposes pursuant to the apprenticeship regulations adopted by the federal Secretary of Labor.

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

(III) For work performed on or after January 1, 2019, at least 50 percent of the skilled journeypersons employed to perform work on the contract or project by the bidder and each of its subcontractors at every tier are graduates

of an apprenticeship program for the applicable occupation that was either approved by the Chief of the Division of Apprenticeship Standards pursuant to Section 3075 of the Labor Code or located outside California and approved for federal purposes pursuant to the apprenticeship regulations adopted by the federal Secretary of Labor.

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

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

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

(i) Graduated from an apprenticeship program for the applicable occupation that was approved by the chief or located outside California and approved for federal purposes pursuant to the apprenticeship regulations adopted by the federal Secretary of Labor.

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

(2) The apprenticeship graduation percentage requirements of subparagraph (B) of paragraph (1) are satisfied if, in a particular calendar month, either of the following is true:

(A) The required percentage of the skilled journeypersons employed by the contractor or subcontractor to perform work on the contract or project meet the graduation percentage requirement.

(B) For the hours of work performed by skilled journeypersons employed by the contractor or subcontractor on the contract or project, the percentage of hours performed by skilled journeypersons who met the graduation requirement meets or exceeds the required graduation percentage.

(3) A contractor or subcontractor need not meet the apprenticeship graduation requirements of subparagraph (B) of paragraph (1) if, during the calendar month, the contractor or subcontractor employs skilled journeypersons to perform fewer than 10 hours of work on the contract or project.

(4) A subcontractor need not meet the apprenticeship graduation requirements of subparagraph (B) of paragraph (1) if both of the following requirements are met:

(A) The subcontractor was not a listed subcontractor under Section 4104 or a substitute for a listed subcontractor.

(B) The subcontract does not exceed one-half of 1 percent of the price of the prime contract.

(5) (A) A contractor, bidder, or other entity's commitment that a skilled and trained workforce will be used to perform the project or contract shall be established by the contractor, bidder, or other entity's agreement with the local agency that the contractor, bidder, or other entity and its subcontractors at every tier will comply with this subdivision and that the contractor, bidder, or other entity will provide the local agency with a report on a monthly basis while the project or contract is being performed, as to whether the contractor, bidder, or other entity and its subcontractors are complying with the requirements of this subdivision.

(B) If the contractor, bidder, or other entity fails to provide the monthly report required by this section, or provides a report that is incomplete, the local agency shall withhold further payments until a complete report is provided.

(C) If a monthly report does not demonstrate compliance with this chapter, the local agency shall withhold further payments until the contractor, bidder, or other entity provides a plan to achieve substantial compliance with this article, with respect to the relevant apprenticeable occupation, prior to completion of the contract or project.

(D) A monthly report provided to the public agency or other awarding body shall be a public record under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) and shall be open to public inspection.

(6) This subdivision shall not apply if the contractor, bidder, or other entity has entered into a project labor agreement that will bind itself and all its subcontractors who perform construction work on the project, and the contractor, bidder, or other entity agrees to be bound by the project agreement.

(d) The local agency shall make the list of prequalified entities available to the public.

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

(1) Identification of the basic scope and needs of the project or contract, the estimated cost to perform the work being requested, the methodology that will be used by the local agency to evaluate bids, whether the contract will be awarded on the basis of best value or to the lowest responsible bidder, and any other information deemed necessary by the local agency to inform interested parties of the contracting opportunity.

(2) Significant factors that the local agency reasonably expects to consider in evaluating bids, including, but not limited to, cost or price and all nonprice-related factors.

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

(4) If a best value selection method is used, the local agency may reserve the right to request bid revisions and hold discussions and negotiations with responsive bidders, in which case the local agency shall so specify in the request for bids and shall publish separately or incorporate into the request for bids applicable procedures to be observed by the local agency to ensure that any discussions or negotiations are conducted in good faith.

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

(g) For those projects utilizing best value as a selection method, the competition shall progress as follows:

(1) Competitive bids shall be evaluated by using only the criteria and selection procedures specifically identified in the request for bids. The following minimum factors, however, shall be included, if applicable to the delivery method and weighted as deemed appropriate by the local agency:

(A) Price, unless a stipulated sum is specified and including financial and bonding capacity requirements.

(B) Technical design, procurement, and construction expertise.

(C) Proposed construction approach, sequencing, and methods.

(D) Compliance with the requirements of the owner-provided performance specification.

(E) Ability to meet the milestone schedule dates and, if applicable, any liquidated damages.

(F) Ability to meet the quality requirements.

(G) Proposed risk allocation and sharing.

(H) Safety record.

(I) Warranty.

(J) Life-cycle costs over 15 or more years as specified by the local agency.

(2) Pursuant to subdivision (e), the local agency may hold discussions or negotiations with responsive bidders using the process articulated in the local agency's request for bids.

(3) When the evaluation is complete, the responsive bidders shall be ranked based on a determination of value provided by the local agency if no more than three bidders are required to be ranked.

(4) The award of the contract shall be made to the responsible bidder whose bid is determined by the local agency to have offered the best value to the public.

(5) Notwithstanding any provision of the Water Code, upon issuance of a contract award the local agency shall publicly announce its award, identifying the bidder to which the award is made, along with a statement regarding the basis of the award.

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

SEC. 365. Section 22164 of the Public Contract Code is amended to read:

22164. The procurement process for the design-build projects shall progress as follows:

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

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

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

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

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

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

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

(B) Evidence that the members of the design-build team have completed, or demonstrated the experience, competency, capability, and capacity to complete projects of similar size, scope, or complexity, and that proposed key personnel have sufficient experience and training to competently manage and complete the design and construction of the project, and a financial statement that ensures that the design-build entity has the capacity to complete the project.

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

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

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

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

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

(4) (A) The information required under this subdivision shall be certified under penalty of perjury by the design-build entity and its general partners or joint venture members.

(B) Information required under this subdivision that is not otherwise a public record under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) shall not be open to public inspection.

(c) (1) A design-build entity shall not be prequalified or short-listed unless the entity provides an enforceable commitment to the local agency that the entity and its subcontractors at every tier will use a skilled and trained workforce to perform all work on the project or contract that falls within an apprenticeable occupation in the building and construction trades, in accordance with Chapter 2.9 (commencing with Section 2600) of Part 1.

(2) This subdivision shall not apply if any of the following requirements are met:

(A) The local agency has entered into a project labor agreement that will bind all contractors and subcontractors performing work on the project or contract to use a skilled and trained workforce, and the entity agrees to be bound by that project labor agreement.

(B) The project or contract is being performed under the extension or renewal of a project labor agreement that was entered into by the local agency prior to January 1, 2017.

(C) The entity has entered into a project labor agreement that will bind the entity and all its subcontractors at every tier performing the project or contract to use a skilled and trained workforce.

(3) For purposes of this subdivision, "project labor agreement" has the same meaning as in paragraph (1) of subdivision (b) of Section 2500.

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

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

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

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

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

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

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

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

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

(B) Technical design and construction expertise.

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

(2) Pursuant to subdivision (d), the local agency may hold discussions or negotiations with responsive proposers using the process articulated in the local agency's request for proposals.

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

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

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

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

SEC. 366. Section 2207 of the Public Resources Code is amended to read:

2207. (a) The owner or the operator of a mining operation within the state shall forward to the supervisor annually, not later than a date established by the supervisor, upon forms approved by the board from time to time, a report that identifies all of the following:

(1) The name, address, and telephone number of the person, company, or other owner of the mining operation.

(2) The name, address, and telephone number of a designated agent who resides in this state, and who will receive and accept service of all orders, notices, and processes of the lead agency, board, supervisor, or court.

(3) The location of the mining operation, its name, its mine number as issued by the Division of Mine Reclamation, its section, township, range, latitude, longitude, and approximate boundaries of the mining operation marked on a United States Geological Survey 7½-minute or 15-minute quadrangle map.

(4) The lead agency.

(5) The approval date of the mining operation's reclamation plan.

(6) The mining operation's status as active, idle, reclaimed, or in the process of being reclaimed.

(7) The commodities produced by the mine and the type of mining operation.

(8) A copy of the previously completed annual inspection form and a requested date, within 12 months of the prior inspection date, for the next annual inspection by the lead agency.

(9) Proof of financial assurances.

(10) Ownership of the property, including government agencies, if applicable, by the assessor's parcel number, and total assessed value of the mining operation.

(11) The approximate permitted size of the mining operation subject to Chapter 9 (commencing with Section 2710), in acres.

(12) The approximate total acreage of land newly disturbed by the mining operation during the previous calendar year.

(13) The approximate total of disturbed acreage reclaimed during the previous calendar year.

(14) The approximate total unreclaimed disturbed acreage remaining as of the end of the calendar year.

(15) The total production for each mineral commodity produced during the previous year.

(16) A copy of any approved reclamation plan and any amendments or conditions of approval to any existing reclamation plan approved by the lead agency.

(b) (1) Every year, not later than the date established by the supervisor, the person submitting the report pursuant to subdivision (a) shall forward to the lead agency, upon forms furnished by the board, a report that provides all of the information specified in subdivision (a).

(2) The owner or operator of a mining operation shall allow access to the property to any governmental agency or the agent of any company providing financial assurance mechanisms in connection with the reclamation plan in order that the reclamation can be carried out by the entity or company, in accordance with the provisions of the reclamation plan.

(c) Subsequent reports shall include only changes in the information submitted for the items described in subdivision (a), except that, instead of the approved reclamation plan, the reports shall include any reclamation plan amendments approved during the previous year. The reports shall state whether review of a reclamation plan, financial assurances, or an interim management plan is pending under subdivision (h) of Section 2770, or whether an appeal before the board or lead agency governing body is pending under subdivision (e) or (h) of Section 2770. The supervisor shall notify the person submitting the report and the owner's designated agent in writing that the report and the fee required pursuant to subdivision (d) have been received, specify the mining operation's mine number if one has not been issued by the Division of Mine Reclamation, and notify the person and agent of any deficiencies in the report within 90 days of receipt. That person or agent shall have 30 days from receipt of the notification to correct the noted deficiencies and forward the revised report to the supervisor and the lead agency. A person who fails to comply with this section, or knowingly provides incorrect or false information in reports required by this section, may be subject to an administrative penalty as provided in subdivision (c) of Section 2774.1.

(d) (1) The board shall impose, by regulation, pursuant to paragraph (2), an annual reporting fee on, and method for collecting annual fees from, each active or idle mining operation. The maximum fee for any single mining operation may not exceed ten thousand dollars ($10,000) annually and may not be less than one hundred dollars ($100) annually, as adjusted for the cost of living as measured by the California Consumer Price Index for all urban consumers, calendar year averages, using the percentage change in the previous year, except that the maximum fee for any single mining operation shall not exceed six thousand dollars ($6,000) in the 2017–18 fiscal year and eight thousand dollars ($8,000) in the 2018–19 fiscal year.

(2) (A) The board shall adopt, by regulation, a schedule of fees authorized under paragraph (1) to cover the department's cost in carrying out this section and Chapter 9 (commencing with Section 2710), as reflected in the Governor's proposed Budget, and may adopt those regulations as emergency regulations. In establishing the schedule of fees to be paid by each active and idle mining operation, the fees shall be calculated on an equitable basis reflecting the size and type of operation. The board shall also consider the total assessed value of the mining operation, the acreage disturbed by mining activities, and the acreage subject to the reclamation plan.

(B) Regulations adopted pursuant to this subdivision shall be adopted by the board in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The adoption of any emergency regulations pursuant

to this subdivision shall be considered necessary to address an emergency and shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health, safety, and general welfare.

(3) The total revenue generated by the reporting fees may not exceed, and may be less than, the amount of eight million dollars ($8,000,000), as adjusted for the cost of living as measured by the California Consumer Price Index for all urban consumers, calendar year averages, using the percentage change in the previous year, beginning with the 2017–18 fiscal year and annually thereafter. If the director determines that the revenue collected during the preceding fiscal year was greater or less than the cost to operate the program, the board shall adjust the fees to compensate for the overcollection or undercollection of revenues.

(4) (A) The reporting fees established pursuant to this subdivision shall be deposited in the Mine Reclamation Account, which is hereby created. Any fees, penalties, interest, fines, or charges collected by the supervisor or board pursuant to this chapter or Chapter 9 (commencing with Section 2710) shall be deposited in the Mine Reclamation Account. The money in the account shall be available to the department and board, upon appropriation by the Legislature, for the purpose of carrying out this section and complying with Chapter 9 (commencing with Section 2710), which includes, but is not limited to, the classification and designation of areas with mineral resources of statewide or regional significance, reclamation plan and financial assurance review, mine inspection, and enforcement.

(B) (i) In addition to reporting fees, the board shall collect five dollars ($5) per ounce of gold and ten cents ($0.10) per ounce of silver mined within the state and shall deposit the fees collected in the Abandoned Mine Reclamation and Minerals Fund Subaccount, which is hereby created in the Mine Reclamation Account. The department may expend the moneys in the subaccount, upon appropriation by the Legislature, for only the purposes of Section 2796.5 and as authorized herein for the remediation of abandoned mines.

(ii) Notwithstanding subdivision (j) of Section 2796.5, fees collected pursuant to clause (i) may also be used to remediate features of historic abandoned mines and lands that they impact. For the purposes of this section, historic abandoned mines are mines for which operations have been conducted before January 1, 1976, and include, but are not limited to, historic gold and silver mines.

(5) In case of late payment of the reporting fee, a penalty of not less than one hundred dollars ($100) or 10 percent of the amount due, whichever is greater, plus interest at the rate of 1 ½ percent per month, computed from the delinquent date of the assessment until and including the date of payment, shall be assessed. New mining operations that have not submitted a report shall submit a report prior to commencement of operations. The new operation shall submit its fee according to the reasonable fee schedule adopted by the board, and the month that the report is received shall become that operation’s anniversary month.

(e) The lead agency, or the board when acting as the lead agency, may impose a fee upon each mining operation to cover the reasonable costs incurred in implementing this chapter and Chapter 9 (commencing with Section 2710).

(f) For purposes of this section, "mining operation" means a mining operation of any kind or character whatever in this state, including, but not limited to, a mining operation that is classified as a "surface mining operation" as defined in Section 2735, unless excepted by Section 2714. For the purposes of fee collections only, "mining operation" may include one or more mines operated by a single operator or mining company on one or more sites, if the total annual combined mineral production for all sites is less than 100 troy ounces for precious metals, if precious metals are the primary mineral commodity produced, or less than 100,000 short tons if the primary mineral commodity produced is not precious metals.

(g) Any information in reports submitted pursuant to subdivision (a) that includes or otherwise indicates the total mineral production, reserves, or rate of depletion of any mining operation may not be disclosed to any member of the public, as defined in Section 7920.515 of the Government Code. Other portions of the reports are public records unless excepted by statute. Statistical bulletins based on these reports and published under Section 2205 shall be compiled to show, for the state as a whole and separately for each lead agency, the total of each mineral produced therein. In order not to disclose the production, reserves, or rate of depletion from any identifiable mining operation, no production figure shall be published or otherwise disclosed unless that figure is the aggregated production of not less than three mining operations. If the production figure for any lead agency would disclose the production, reserves, or rate of depletion of less than three mining operations or otherwise permit the reasonable inference of the production, reserves, or rate of depletion of any identifiable mining operation, that figure shall be combined with the same figure of not less than two other lead agencies without regard to the location of the lead agencies. The bulletin shall be published annually by June 30 or as soon thereafter as practicable.

(h) The approval of a form by the board pursuant to this section is not the adoption of a regulation for purposes of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) and is not subject to that act.

SEC. 367. Section 3160 of the Public Resources Code is amended to read:

3160. (a) On or before January 1, 2015, the Secretary of the Natural Resources Agency shall cause to be conducted, and completed, an independent scientific study on well stimulation treatments, including, but not limited to, hydraulic fracturing and acid well stimulation treatments. The scientific study shall evaluate the hazards and risks and potential hazards and risks that well stimulation treatments pose to natural resources and public, occupational, and environmental health and safety. The scientific study shall do all of the following:

(1) Follow the well-established standard protocols of the scientific profession, including, but not limited to, the use of recognized experts, peer review, and publication.

(2) Identify areas with existing and potential conventional and unconventional oil and gas reserves where well stimulation treatments are likely to spur or enable oil and gas exploration and production.

(3) (A) Evaluate all aspects and effects of well stimulation treatments, including, but not limited to, the well stimulation treatment, additive and water transportation to and from the well site, mixing and handling of the well stimulation treatment fluids and additives onsite, the use and potential for use of nontoxic additives and the use or reuse of treated or produced water in well stimulation treatment fluids, and flowback fluids and the handling, treatment, and disposal of flowback fluids and other materials, if any, generated by the treatment. Specifically, the potential for the use of recycled water in well stimulation treatments, including appropriate water quality requirements and available treatment technologies, shall be evaluated. Well stimulation treatments include, but are not limited to, hydraulic fracturing and acid well stimulation treatments.

(B) Review and evaluate acid matrix stimulation treatments, including the range of acid volumes applied per treated foot and total acid volumes used in treatments, types of acids, acid concentration, and other chemicals used in the treatments.

(4) Consider, at a minimum, atmospheric emissions, including potential greenhouse gas emissions, the potential degradation of air quality, potential impacts on wildlife, native plants, and habitat, including habitat fragmentation, potential water and surface contamination, potential noise pollution, induced seismicity, and the ultimate disposition, transport, transformation, and toxicology of well stimulation treatments, including acid well stimulation fluids, hydraulic fracturing fluids, and waste hydraulic fracturing fluids and acid well stimulation in the environment.

(5) Identify and evaluate the geologic features present in the vicinity of a well, including the wellbore, that should be taken into consideration in the design of a proposed well stimulation treatment.

(6) Include a hazard assessment and risk analysis addressing occupational and environmental exposures to well stimulation treatments, including hydraulic fracturing treatments, hydraulic fracturing treatment-related processes, acid well stimulation treatments, acid well stimulation treatment-related processes, and the corresponding impacts on public health and safety with the participation of the Office of Environmental Health Hazard Assessment.

(7) Clearly identify where additional information is necessary to inform and improve the analyses.

(b) (1) (A) On or before January 1, 2015, the division, in consultation with the Department of Toxic Substances Control, the State Air Resources Board, the State Water Resources Control Board, the Department of Resources Recycling and Recovery, and any local air districts and regional water quality control boards in areas where well stimulation treatments,

including acid well stimulation treatments and hydraulic fracturing treatments, may occur, shall adopt rules and regulations specific to well stimulation treatments. The rules and regulations shall include, but are not limited to, revisions, as needed, to the rules and regulations governing construction of wells and well casings to ensure integrity of wells, well casings, and the geologic and hydrologic isolation of the oil and gas formation during and following well stimulation treatments, and full disclosure of the composition and disposition of well stimulation fluids, including, but not limited to, hydraulic fracturing fluids, acid well stimulation fluids, and flowback fluids.

(B) The rules and regulations shall additionally include provisions for an independent entity or person to perform the notification requirements pursuant to paragraph (6) of subdivision (d), for the operator to provide for baseline and followup water testing upon request as specified in paragraph (7) of subdivision (d).

(C) (i) In order to identify the acid matrix stimulation treatments that are subject to this section, the rules and regulations shall establish threshold values for acid volume applied per treated foot of any individual stage of the well or for total acid volume of the treatment, or both, based upon a quantitative assessment of the risks posed by acid matrix stimulation treatments that exceed the specified threshold value or values in order to prevent, as far as possible, damage to life, health, property, and natural resources pursuant to Section 3106.

(ii) On or before January 1, 2020, the division shall review and evaluate the threshold values for acid volume applied per treated foot and total acid volume of the treatment, based upon data collected in the state, for acid matrix stimulation treatments. The division shall revise the values through the regulatory process, if necessary, based upon the best available scientific information, including the results of the independent scientific study pursuant to subparagraph (B) of paragraph (3) of subdivision (a).

(2) Full disclosure of the composition and disposition of well stimulation fluids, including, but not limited to, hydraulic fracturing fluids and acid stimulation treatment fluids, shall, at a minimum, include:

(A) The date of the well stimulation treatment.

(B) A complete list of the names, Chemical Abstract Service (CAS) numbers, and maximum concentration, in percent by mass, of each and every chemical constituent of the well stimulation treatment fluids used. If a CAS number does not exist for a chemical constituent, the well owner or operator may provide another unique identifier, if available.

(C) The trade name, the supplier, concentration, and a brief description of the intended purpose of each additive contained in the well stimulation treatment fluid.

(D) The total volume of base fluid used during the well stimulation treatment, and the identification of whether the base fluid is water suitable for irrigation or domestic purposes, water not suitable for irrigation or domestic purposes, or a fluid other than water.

(E) The source, volume, and specific composition and disposition of all water, including, but not limited to, all water used as base fluid during the well stimulation treatment and recovered from the well following the well stimulation treatment that is not otherwise reported as produced water pursuant to Section 3227. Any repeated reuse of treated or untreated water for well stimulation treatments and well stimulation treatment-related activities shall be identified.

(F) The specific composition and disposition of all well stimulation treatment fluids, including waste fluids, other than water.

(G) Any radiological components or tracers injected into the well as part of, or in order to evaluate, the well stimulation treatment, a description of the recovery method, if any, for those components or tracers, the recovery rate, and specific disposal information for recovered components or tracers.

(H) The radioactivity of the recovered well stimulation fluids.

(I) The location of the portion of the well subject to the well stimulation treatment and the extent of the fracturing or other modification, if any, surrounding the well induced by the treatment.

(c) (1) Through the consultation process described in paragraph (1) of subdivision (b), the division shall collaboratively identify and delineate the existing statutory authority and regulatory responsibility relating to well stimulation treatments and well stimulation treatment-related activities of the Department of Toxic Substances Control, the State Air Resources Board, any local air districts, the State Water Resources Control Board, the Department of Resources Recycling and Recovery, any regional water quality control board, and other public entities, as applicable. This shall specify how the respective authority, responsibility, and notification and reporting requirements associated with well stimulation treatments and well stimulation treatment-related activities are divided among each public entity.

(2) On or before January 1, 2015, the division shall enter into formal agreements with the Department of Toxic Substances Control, the State Air Resources Board, any local air districts where well stimulation treatments may occur, the State Water Resources Control Board, the Department of Resources Recycling and Recovery, and any regional water quality control board where well stimulation treatments may occur, clearly delineating respective authority, responsibility, and notification and reporting requirements associated with well stimulation treatments and well stimulation treatment-related activities, including air and water quality monitoring, in order to promote regulatory transparency and accountability.

(3) The agreements under paragraph (2) shall specify the appropriate public entity responsible for air and water quality monitoring and the safe and lawful disposal of materials in landfills, include trade secret handling protocols, if necessary, and provide for ready public access to information related to well stimulation treatments and related activities.

(4) Regulations, if necessary, shall be revised appropriately to incorporate the agreements under paragraph (2).

(d) (1) Notwithstanding any other law or regulation, before performing a well stimulation treatment on a well, the operator shall apply for a permit

to perform a well stimulation treatment with the supervisor or district deputy. The well stimulation treatment permit application shall contain the pertinent data the supervisor requires on printed forms supplied by the division or on other forms acceptable to the supervisor. The information provided in the well stimulation treatment permit application shall include, but is not limited to, the following:

(A) The well identification number and location.

(B) The time period during which the well stimulation treatment is planned to occur.

(C) A water management plan that shall include all of the following:

(i) An estimate of the amount of water to be used in the treatment. Estimates of water to be recycled following the well stimulation treatment may be included.

(ii) The anticipated source of the water to be used in the treatment.

(iii) The disposal method identified for the recovered water in the flowback fluid from the treatment that is not produced water included in the statement pursuant to Section 3227.

(D) A complete list of the names, Chemical Abstract Service (CAS) numbers, and estimated concentrations, in percent by mass, of each and every chemical constituent of the well stimulation fluids anticipated to be used in the treatment. If a CAS number does not exist for a chemical constituent, the well owner or operator may provide another unique identifier, if available.

(E) The planned location of the well stimulation treatment on the wellbore, the estimated length, height, and direction of the induced fractures or other planned modification, if any, and the location of existing wells, including plugged and abandoned wells, that may be impacted by these fractures and modifications.

(F) A groundwater monitoring plan. Required groundwater monitoring in the vicinity of the well subject to the well stimulation treatment shall be satisfied by one of the following:

(i) The well is located within the boundaries of an existing oil or gas field-specific or regional monitoring program developed pursuant to Section 10783 of the Water Code.

(ii) The well is located within the boundaries of an existing oil or gas field-specific or regional monitoring program developed and implemented by the well owner or operator meeting the model criteria established pursuant to Section 10783 of the Water Code.

(iii) Through a well-specific monitoring plan implemented by the owner or operator meeting the model criteria established pursuant to Section 10783 of the Water Code, and submitted to the appropriate regional water board for review.

(G) The estimated amount of treatment-generated waste materials that are not reported in subparagraph (C) and an identified disposal method for the waste materials.

(2) (A) At the supervisor's discretion, and if applied for concurrently, the well stimulation treatment permit described in this section may be

combined with the well drilling and related operation notice of intent required pursuant to Section 3203 into a single combined authorization. The portion of the combined authorization applicable to well stimulation shall meet all of the requirements of a well stimulation treatment permit pursuant to this section.

(B) The time period available for approval of the combined authorization applicable to well stimulation is subject to the terms of this section, and not Section 3203.

(3) (A) The supervisor or district deputy shall review the well stimulation treatment permit application and may approve the permit if the application is complete. An incomplete application shall not be approved.

(B) A well stimulation treatment or repeat well stimulation treatment shall not be performed on any well without a valid permit that the supervisor or district deputy has approved.

(C) In considering the permit application, the supervisor shall evaluate the quantifiable risk of the well stimulation treatment.

(D) In the absence of state implementation of a regional groundwater monitoring program pursuant to paragraph (1) of subdivision (h) of Section 10783 of the Water Code, the supervisor or district deputy may approve a permit application for well stimulation treatment pursuant to subparagraph (A) before the approval by the State Water Resources Control Board or a regional water quality control board of an area-specific groundwater monitoring program developed by an owner or operator pursuant to paragraph (2) of subdivision (h) of Section 10783 of the Water Code, but the well stimulation treatment shall not commence until the state board or the regional water board approves the area-specific groundwater monitoring program.

(4) The well stimulation treatment permit shall expire one year from the date that the permit is issued.

(5) Within five business days of issuing a permit to perform a well stimulation treatment, the division shall provide a copy of the permit to the appropriate regional water quality control board or boards and to the local planning entity where the well, including its subsurface portion, is located. The division shall also post the permit on the publicly accessible portion of its internet website within five business days of issuing a permit.

(6) (A) It is the policy of the state that a copy of the approved well stimulation treatment permit and information on the available water sampling and testing be provided to every tenant of the surface property and every surface property owner or authorized agent of that owner whose property line location is one of the following:

(i) Within a 1,500 foot radius of the wellhead.

(ii) Within 500 feet from the horizontal projection of all subsurface portions of the designated well to the surface.

(B) (i) The well owner or operator shall identify the area requiring notification and shall contract with an independent entity or person who is responsible for, and shall perform, the notification required pursuant to subparagraph (A).

(ii) The independent entity or person shall identify the individuals notified, the method of notification, the date of the notification, a list of those notified, and shall provide a list of this information to the division.

(iii) The performance of the independent entity or persons shall be subject to review and audit by the division.

(C) A well stimulation treatment shall not commence before 30 calendar days after the permit copies pursuant to subparagraph (A) are provided.

(7) (A) A property owner notified pursuant to paragraph (6) may request water quality sampling and testing from a designated qualified contractor on any water well suitable for drinking or irrigation purposes and on any surface water suitable for drinking or irrigation purposes as follows:

(i) Baseline measurements before the commencement of the well stimulation treatment.

(ii) Followup measurements after the well stimulation treatment on the same schedule as the pressure testing of the well casing of the treated well.

(B) The State Water Resources Control Board shall designate one or more qualified independent third-party contractor or contractors that adhere to board-specified standards and protocols to perform the water sampling and testing. The well owner or operator shall pay for the sampling and testing. The sampling and testing performed shall be subject to audit and review by the State Water Resources Control Board or applicable regional water quality control board, as appropriate.

(C) The results of the water testing shall be provided to the division, appropriate regional water board, and the property owner or authorized agent. A tenant notified pursuant to paragraph (6) shall receive information on the results of the water testing to the extent authorized by the tenant's lease and, where the tenant has lawful use of the ground or surface water identified in subparagraph (A), the tenant may independently contract for similar groundwater or surface water testing.

(8) The division shall retain a list of the entities and property owners notified pursuant to paragraphs (5) and (6).

(9) The operator shall provide notice to the division at least 72 hours before the actual start of the well stimulation treatment in order for the division to witness the treatment.

(e) The Secretary of the Natural Resources Agency shall notify the Joint Legislative Budget Committee and the Chairs of the Assembly Natural Resources, Senate Environmental Quality, and Senate Natural Resources and Water Committees on the progress of the independent scientific study on well stimulation and related activities. The first progress report shall be provided to the committees on or before April 1, 2014, and progress reports shall continue every four months thereafter until the independent study is completed, including a peer review of the study by independent scientific experts.

(f) If a well stimulation treatment is performed on a well, a supplier that performs any part of the stimulation or provides additives directly to the operator for a well stimulation treatment shall furnish the operator with information suitable for public disclosure needed for the operator to comply

with subdivision (g). This information shall be provided as soon as possible but no later than 30 days following the conclusion of the well stimulation treatment.

(g) Within 60 days following cessation of a well stimulation treatment on a well, the operator shall post or cause to have posted to an internet website designated or maintained by the division and accessible to the public all of the well stimulation fluid composition and disposition information required to be collected pursuant to rules and regulations adopted under subdivision (b), including well identification number and location. This shall include the collected water quality data, which the operator shall report electronically to the State Water Resources Control Board.

(h) The operator is responsible for compliance with this section.

(i) (1) All geologic features within a distance reflecting an appropriate safety factor of the fracture zone for well stimulation treatments that fracture the formation and that have the potential to either limit or facilitate the migration of fluids outside of the fracture zone shall be identified and added to the well history. Geologic features include seismic faults identified by the California Geologic Survey.

(2) For purposes of this section, the "fracture zone" is defined as the volume surrounding the wellbore where fractures were created or enhanced by the well stimulation treatment. The safety factor shall be at least five and may vary depending upon geologic knowledge.

(3) The division shall review the geologic features important to assessing well stimulation treatments identified in the independent study pursuant to paragraph (5) of subdivision (a). Upon completion of the review, the division shall revise the regulations governing the reporting of geologic features pursuant to this subdivision accordingly.

(j) (1) Public disclosure of well stimulation treatment fluid information claimed to contain trade secrets is governed by Section 1060 of the Evidence Code, or the Uniform Trade Secrets Act (Title 5 (commencing with Section 3426) of Part 1 of Division 4 of the Civil Code), and the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(2) Notwithstanding any other law or regulation, none of the following information shall be protected as a trade secret:

(A) The identities of the chemical constituents of additives, including CAS identification numbers.

(B) The concentrations of the additives in the well stimulation treatment fluids.

(C) Any air or other pollution monitoring data.

(D) Health and safety data associated with well stimulation treatment fluids.

(E) The chemical composition of the flowback fluid.

(3) If a trade secret claim is invalid or invalidated, the division shall release the information to the public by revising the information released pursuant to subdivision (g). The supplier shall notify the division of any change in status within 30 days.

(4) (A) If a supplier believes that information regarding a chemical constituent of a well stimulation fluid is a trade secret, the supplier shall nevertheless disclose the information to the division in conjunction with a well stimulation treatment permit application, if not previously disclosed, within 30 days following cessation of a well stimulation on a well, and shall notify the division in writing of that belief.

(B) A trade secret claim shall not be made after initial disclosure of the information to the division.

(C) To comply with the public disclosure requirements of this section, the supplier shall indicate where trade secret information has been withheld and provide substitute information for public disclosure. The substitute information shall be a list, in any order, of the chemical constituents of the additive, including CAS identification numbers. The division shall review and approve the supplied substitute information.

(D) This subdivision does not permit a supplier to refuse to disclose the information required pursuant to this section to the division.

(5) In order to substantiate the trade secret claim, the supplier shall provide information to the division that shows all of the following:

(A) The extent to which the trade secret information is known by the supplier's employees and others involved in the supplier's business and outside the supplier's business.

(B) The measures taken by the supplier to guard the secrecy of the trade secret information.

(C) The value of the trade secret information to the supplier and its competitors.

(D) The amount of effort or money the supplier expended developing the trade secret information and the ease or difficulty with which the trade secret information could be acquired or duplicated by others.

(6) If the division determines that the information provided in support of a request for trade secret protection pursuant to paragraph (5) is incomplete, the division shall notify the supplier and the supplier shall have 30 days to complete the submission. An incomplete submission does not meet the substantive criteria for trade secret designation.

(7) If the division determines that the information provided in support of a request for trade secret protection does not meet the substantive criteria for trade secret designation, the department shall notify the supplier by certified mail of its determination. The division shall release the information to the public, but not earlier than 60 days after the date of mailing the determination, unless, before the expiration of the 60-day period, the supplier obtains an action in an appropriate court for a declaratory judgment that the information is subject to protection or for a preliminary injunction prohibiting disclosure of the information to the public and provides notice to the division of the court order.

(8) The supplier is not required to disclose trade secret information to the operator.

(9) Upon receipt of a request for the release of trade secret information to the public, the following procedure applies:

(A) The division shall notify the supplier of the request in writing by certified mail, return receipt requested.

(B) The division shall release the information to the public, but not earlier than 60 days after the date of mailing the notice of the request for information, unless, before the expiration of the 60-day period, the supplier obtains an action in an appropriate court for a declaratory judgment that the information is subject to protection or for a preliminary injunction prohibiting disclosure of the information to the public and provides notice to the division of that action.

(10) The division shall develop a timely procedure to provide trade secret information in the following circumstances:

(A) To an officer or employee of the division, the state, local governments, including, but not limited to, local air districts, or the United States, in connection with the official duties of that officer or employee, to a health professional under any law for the protection of health, or to contractors with the division or other government entities and their employees if, in the opinion of the division, disclosure is necessary and required for the satisfactory performance of a contract, for performance of work, or to protect health and safety.

(B) To a health professional in the event of an emergency or to diagnose or treat a patient.

(C) In order to protect public health, to any health professional, toxicologist, or epidemiologist who is employed in the field of public health and who provides a written statement of need. The written statement of need shall include the public health purposes of the disclosure and shall explain the reason the disclosure of the specific chemical and its concentration is required.

(D) A health professional may share trade secret information with other persons as may be professionally necessary, in order to diagnose or treat a patient, including, but not limited to, the patient and other health professionals, subject to state and federal laws restricting disclosure of medical records including, but not limited to, Chapter 2 (commencing with Section 56.10) of Part 2.6 of Division 1 of the Civil Code.

(E) For purposes of this paragraph, "health professional" means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, the Osteopathic Initiative Act, the Chiropractic Initiative Act, or the Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act (Division 2.5 (commencing with Section 1797) of the Health and Safety Code).

(F) A person in possession of, or having access to, confidential trade secret information pursuant to this subdivision may disclose this information to any person who is authorized to receive it. A written confidentiality agreement shall not be required.

(k) A well granted confidential status pursuant to Section 3234 shall not be required to disclose well stimulation treatment fluid information pursuant to subdivision (g) until the confidential status of the well ceases.

Notwithstanding the confidential status of a well, it is public information that a well will be or has been subject to a well stimulation treatment.

(*l*) The division shall perform random periodic spot check inspections to ensure that the information provided on well stimulation treatments is accurately reported, including that the estimates provided before the commencement of the well stimulation treatment are reasonably consistent with the well history.

(m) Where the division shares jurisdiction over a well or the well stimulation treatment on a well with a federal entity, the division's rules and regulations shall apply in addition to all applicable federal laws and regulations.

(n) This article does not relieve the division or any other agency from complying with any other provision of existing laws, regulations, and orders.

SEC. 368. Section 3234 of the Public Resources Code is amended to read:

3234. (a) (1) Except as otherwise provided in this section, all the well records, including production reports, of any owner or operator that are filed pursuant to this chapter are public records for purposes of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(2) Those records are public records when filed with the division unless the owner or operator requests, in writing, that the division maintain the well records of onshore exploratory wells or offshore exploratory wells as confidential information. The records of other wells may be maintained as confidential information if, based upon information in a written request of the owner or operator, the supervisor determines there are extenuating circumstances. For onshore wells, the confidential period shall not exceed two years from the cessation of drilling operations as defined in subdivision (e). For offshore wells, the confidential period shall not exceed five years from the cessation of drilling operations as specified in subdivision (e).

(3) Well records maintained as confidential information by the division shall be open to inspection by those persons who are authorized by the owner or operator in writing. Confidential status shall not apply to state officers charged with regulating well operations, the director, or as provided in subdivision (c).

(4) On receipt by the supervisor of a written request documenting extenuating circumstances relating to a particular well, including a well on an expired or terminated lease, the supervisor may extend the period of confidentiality for six months. For onshore wells, the total period of confidentiality, including all extensions, shall not exceed four years from the cessation of drilling operations as specified in subdivision (e), and for offshore wells the total period of confidentiality, including all extensions, shall not exceed seven years from the cessation of drilling operations as specified in subdivision (e), unless the director approves a longer period after a 30-day public notice and comment period. The director shall initiate and conduct a public hearing on receipt of a written complaint.

(b) Notwithstanding the provisions of subdivision (a) regarding the period of confidentiality, the well records for onshore and offshore wells shall become public records when the supervisor is notified that the lease has expired or terminated.

(c) Production reports filed pursuant to Section 3227 shall be open to inspection by the State Board of Equalization or its duly appointed representatives when making a survey pursuant to Section 1815 of the Revenue and Taxation Code or when valuing state-assessed property pursuant to Section 755 of the Revenue and Taxation Code, and by the assessor of the county in which a well referred to in Section 3227 is located.

(d) For the purposes of this section, "well records" does not include either experimental logs and tests or interpretive data not generally available to all operators, as defined by the supervisor by regulation.

(e) The cessation of drilling operations occurs on the date of removal of drilling machinery from the well site.

SEC. 369. Section 3752 of the Public Resources Code is amended to read:

3752. (a) (1) Except as otherwise provided in this section, all the well records, including production records, of an owner or operator that are filed pursuant to this chapter are public records for purposes of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(2) Those records are public records when filed with the division, unless the owner or operator requests, in writing, that the division maintain the well records as confidential information. The confidential period shall not exceed five years from the cessation of drilling operations as specified in subdivision (e).

(3) Well records that are maintained as confidential information by the division shall be open to inspection by those persons whom the owner or operator authorizes in writing. Confidential status shall not apply to state officers charged with regulating well operations, the director, or as provided in subdivision (c).

(4) On receipt by the supervisor of a written request documenting extenuating circumstances relating to a particular well, including a well on an expired or terminated lease, the supervisor may extend the period of confidentiality for six months. The total period of confidentiality, including all extensions, shall not exceed seven years from the cessation of drilling operations as specified in subdivision (e), unless the director approves a longer period after a 30-day public notice and comment period. The director shall initiate and conduct a public hearing on receipt of a written complaint.

(b) Notwithstanding subdivision (a), the well records shall become public records when the supervisor is notified that the lease has expired or terminated.

(c) Production reports filed pursuant to Section 3745 shall be open to inspection by the State Board of Equalization or its duly appointed representative when making a survey pursuant to Section 1815 of the Revenue and Taxation Code or when valuing state-assessed property

pursuant to Section 755 of the Revenue and Taxation Code, and by the assessor of the county in which a well referred to in Section 3745 is located.

(d) For the purposes of this section, "well records" does not include either experimental logs and tests or interpretive data not generally available to all operators, as defined by the supervisor by regulation.

(e) For purposes of this section, the cessation of drilling operations occurs on the date of removal of drilling machinery from the well site.

SEC. 370. Section 4604 of the Public Resources Code is amended to read:

4604. (a) The department shall provide an initial inspection of the area in which timber operations are to be conducted within 10 days from the date of filing of the timber harvesting plan or nonindustrial timber management plan, or a longer period as may be mutually agreed upon by the department and the person submitting the plan, except that the inspection need not be made pursuant to the filing of a timber harvesting plan if the department determines that the inspection would not add substantive information that is necessary to enforce this chapter. The department shall provide for inspections, as needed, as follows:

(1) During the period of commencement of timber operations.

(2) When timber operations are well under way.

(3) Following completion of timber operations.

(4) At any other times as determined to be necessary to enforce this chapter.

(b) (1) The Department of Fish and Game, the California regional water quality control boards, or the State Water Resources Control Board, if accompanied by Department of Forestry and Fire Protection personnel and after 24-hour advance notification is given to the landowner, may enter and inspect land during normal business hours at any time after commencement of timber harvest plan activities on the land and before the director issues a report of satisfactory completion of stocking pursuant to Section 4588 or at any time before the end of the first winter period following the filing of a work completion report pursuant to Section 4585, whichever is later. Any member of the inspection party may utilize whatever measurement and evaluation devices, including, but not limited to, photographic equipment and temperature measurement devices, that are determined to be necessary, when participating in an inspection of an area pursuant to subdivision (a) or after commencement of timber harvesting plan activities pursuant to this subdivision.

(2) Photographs taken during inspections shall be clearly labeled as to time, date, and location and shall be the property of the department and part of the inspection record. The inspection record shall be subject to all provisions of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(3) This subdivision is not a limitation upon the authority of any agency to inspect pursuant to any other provision of law.

(c) This section shall become operative on January 1, 1991, or on the effective date of the rules and regulations adopted by the State Board of

Forestry and Fire Protection pursuant to Senate Bill 1566, whichever date occurs first.

SEC. 371. Section 5080.24 of the Public Resources Code is amended to read:

5080.24. (a) The department may enter into an interim agreement with the Pacific Grove-Asilomar Operating Corporation on the same basis as the cancelled contract, except that it shall be modified as specified by subdivisions (b) to (e), inclusive, until the department awards a contract pursuant to Section 5080.25.

(b) Any interim agreement pursuant to subdivision (a) shall provide that the amount of compensation received by the general manager of the Pacific Grove-Asilomar Operating Corporation shall be subject to determination by the Legislature in the annual Budget Act.

(c) Any interim agreement pursuant to subdivision (a) shall require the Pacific Grove-Asilomar Operating Corporation to continue to set rates and to take reservations for dates beyond the date for which the interim agreement is operative.

(d) Any interim agreement pursuant to subdivision (a) shall provide that the meetings of the board of directors of the Pacific Grove-Asilomar Operating Corporation shall be conducted in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code) and the board of directors shall be considered a state body under subdivision (b) of Section 11121 of the Government Code.

(e) Any interim agreement pursuant to subdivision (a) shall provide that all business and financial records of the Pacific Grove-Asilomar Operating Corporation, including existing records, but not including records that would be personal information under Section 1798.3 of the Civil Code if maintained by an agency, shall be treated as public records subject to disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code). The term "employment contract" as used in Section 7928.400 of the Government Code shall be deemed to mean an employment contract between the Pacific Grove-Asilomar Operating Corporation and its employee.

SEC. 372. Section 5080.25 of the Public Resources Code is amended to read:

5080.25. (a) The department shall enter into a contract for the construction, maintenance, and operation of concessions at the Asilomar Conference Grounds. The contract shall be awarded pursuant to this article, except this section shall prevail in case of conflict between this section and this article.

(b) The contract shall not be advertised for bid, negotiated, renegotiated, or amended in any material respect unless it has been submitted to the Legislature for review.

(c) The contract shall require the concessionaire to pay for administrative costs, capital expenditures, and department staff necessary for the operation

of, and improvements to, the Asilomar State Beach and Conference Center, including restoration projects.

(d) The contract shall require all capital improvements to the Asilomar State Beach and Conference Center to be solely the property of the state.

(e) The contract shall require the concessionaire to honor all rates and reservations made by the Pacific Grove-Asilomar Operating Corporation under the interim agreement described in Section 5080.24.

(f) The contract shall require the concessionaire to give preference to the employees of the Pacific Grove-Asilomar Operating Corporation when staffing the operation of the concessionaire.

(g) The contract shall emphasize the importance of protecting the natural and cultural values of the Asilomar State Beach and Conference Center.

(h) In awarding the contract, the department shall consider bids or proposals from both nonprofit and for-profit entities.

(i) If the contract is awarded to a concessionaire governed by a board of directors, the contract shall require the department to be present at meetings of the board of directors relating to the construction, maintenance, finances, or operation of concessions at the Asilomar Conference Grounds, and shall require those meetings to be conducted in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code). If the contract is awarded to a concessionaire that is not governed by a board of directors, the contract shall require the concessionaire to hold quarterly meetings at the Asilomar Conference Grounds, relating to the construction, maintenance, finances, or operation of concessions at the Asilomar Conference Grounds, at which the department shall be present, that shall be conducted in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

(j) The contract shall provide that all business and financial records of the concessionaire relating to the construction, maintenance, or operation of concessions at the Asilomar Conference Grounds, including existing records, but not including records that would be personal information under Section 1798.3 of the Civil Code if maintained by an agency, shall be treated as public records subject to disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code). The term "employment contract" as used in Section 7928.400 of the Government Code shall be deemed to mean an employment contract between the concessionaire and its employee.

(k) In awarding the contract, the department shall consider without prejudice any bid or proposal submitted by the Pacific Grove-Asilomar Operating Corporation.

(*l*) The department shall, for the purpose of ensuring that all bidders are afforded an equal opportunity to compete for the contract, consider the estimated amount of fees or taxes that might be paid to the state or to a local government by a bidder as a result of the contract among those factors to be used to evaluate the bidder's bid or proposal for the contract. The

department shall consult with the Department of Finance and the Board of Equalization to obtain information necessary to estimate the amount of fees or taxes that might be paid by a bidder as a result of the contract.

(m) Any revenues received by the department pursuant to the contract that are identified by the department as funds in excess of the approved operating budget and the approved capital improvement budget for the Asilomar Conference Grounds shall be deposited in the State Parks and Recreation Fund.

(n) On or before January 1, 1995, the department shall submit a request for proposal for the contract to the Assembly Water, Parks, and Wildlife Committee, the Senate Natural Resources Committee, the Assembly Ways and Means Committee, and the Senate Budget and Fiscal Review Committee for review.

SEC. 373. Section 5096.512 of the Public Resources Code is amended to read:

5096.512. (a) In addition to the review by the Department of General Services pursuant to Section 1348.2 of the Fish and Game Code, the appraisal prepared for a major acquisition of land shall be reviewed by a qualified independent appraiser retained by the acquisition agency for this purpose, and who meets the following conditions:

(1) The review appraiser did not conduct the appraisal pursuant to Section 5096.510 and has no financial interest in the major acquisition.

(2) The review appraiser is licensed pursuant to Part 3 (commencing with Section 11300) of Division 4 of the Business and Professions Code.

(b) The review appraiser shall review the appraisal and prepare an appraisal review report, in a narrative format, that does all of the following:

(1) Summarizes the appraisal.

(2) States the basis on which the value of the land was established.

(3) Describes the standards used to prepare the appraisal.

(4) Determines whether or not the appraisal meets the standards established under the Uniform Standards of Professional Appraisal Practice.

(c) The appraisal review report need not include any proprietary information provided by or on behalf of the seller or that is otherwise exempt from public disclosure pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(d) (1) If a major acquisition of conservation lands will be approved by more than one acquisition agency and each acquisition agency complies with paragraph (2), not more than one independent appraisal is required pursuant to Section 5096.510, and not more than one appraisal review report is required pursuant to this section.

(2) Paragraph (1) is applicable if each acquisition agency does all of the following:

(A) Utilizes the independent appraisal and appraisal review report, as required by this chapter.

(B) Makes an independent determination of whether to approve the major acquisition of conservation lands.

(C) Complies with all of the public disclosure and independent review requirements of this chapter.

(e) An acquisition agency shall not utilize property acreage as a categorical threshold to impose an independent review of an appraisal pursuant to this section. However, this prohibition does not prohibit an agency from otherwise considering possible impacts from the acquisition of a large acreage property.

SEC. 374. Section 5096.513 of the Public Resources Code is amended to read:

5096.513. Not less than 30 calendar days prior to holding a public hearing for the purpose of authorizing a major acquisition of conservation lands, an acquisition agency shall make available for public review information, except information that is exempt from being disclosed pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), that includes, but is not limited to, all of the following:

(a) A copy of the independent appraisal review prepared pursuant to Section 5096.512.

(b) A summary of the basis for the recommendation of approval for the major acquisition of the land made by the acquisition agency.

(c) Any relevant environmental studies, documents, or other information.

SEC. 375. Section 14547 of the Public Resources Code is amended to read:

14547. (a) (1) Between January 1, 2022, and December 31, 2024, inclusive, the total number of plastic beverage containers filled with a beverage sold by a beverage manufacturer subject to the California Redemption Value, pursuant to Chapter 5 (commencing with Section 14560), for sale in the state shall, on average, contain no less than 15 percent postconsumer recycled plastic per year.

(2) Between January 1, 2025, and December 31, 2029, inclusive, the total number of plastic beverage containers filled with a beverage sold by a beverage manufacturer subject to the California Redemption Value, pursuant to Chapter 5 (commencing with Section 14560), for sale in the state shall, on average, contain no less than 25 percent postconsumer recycled plastic per year.

(3) On and after January 1, 2030, the total number of plastic beverage containers filled with a beverage sold by a beverage manufacturer subject to the California Redemption Value, pursuant to Chapter 5 (commencing with Section 14560), for sale in the state shall, on average, contain no less than 50 percent postconsumer recycled plastic per year.

(4) (A) Beginning January 1, 2025, the director may, on an annual basis, review and determine to adjust the minimum postconsumer recycled content percentage required pursuant to paragraphs (2) and (3). The director's review may be initiated by the director or at the petition of the beverage manufacturing industry not more than annually. The department shall adopt regulations to establish the petition process and requirements. The director shall not adjust the minimum postconsumer recycled content requirements

above the minimum postconsumer recycled plastic content percentages required pursuant to paragraphs (2) and (3). In making a determination pursuant to this paragraph, the director shall consider, at a minimum, all of the following factors:

(i) Changes in market conditions, including supply and demand for postconsumer recycled plastics, collection rates, and bale availability both domestically and globally.

(ii) Recycling rates.

(iii) The availability of recycled plastic suitable to meet the minimum recycled content requirements pursuant to paragraphs (2) and (3), including the availability of high-quality recycled plastic, and food-grade recycled plastic from the state's and other beverage container recycling programs.

(iv) The capacity of recycling or processing infrastructure.

(v) The progress made by beverage manufacturers in achieving the goals of this subdivision.

(B) Notwithstanding subparagraph (A), the director shall not review or adjust a minimum postconsumer recycled content standard while the department is reducing payments pursuant to subdivision (c) of Section 14581.

(C) The department may enter into a contract for the services required to implement this section and related regulations developed by the department.

(D) For purposes of this paragraph, "beverage manufacturing industry" means an association that represents companies that manufacture beverages.

(b) (1) Beginning January 1, 2023, a beverage manufacturer that does not meet the minimum recycled plastic content requirements pursuant to subdivision (a) shall be subject to an annual administrative penalty pursuant to this subdivision. Beginning March 1, 2024, the administrative penalty shall be collected annually, if a reduction has not been approved pursuant to subdivision (e), and calculated in accordance with subdivision (c).

(2) A beverage manufacturer that is assessed penalties pursuant to this subdivision may pay those penalties to the department in quarterly installments or arrange an alternative payment schedule subject to the approval of the department, not to exceed a 12-month payment plan unless an extension is needed due to unforeseen circumstances, such as a public health emergency, state of emergency, or natural disaster.

(c) Beginning March 1, 2024, and annually thereafter, the department shall invoice any assessed administrative penalties for the previous calendar year based on the postconsumer recycled plastic content requirement of the previous calendar year. The department shall calculate the amount of the penalty based upon the amount in pounds in the aggregate of virgin and postconsumer recycled plastic material used by the beverage manufacturer to produce beverage containers sold or offered for sale in the state, in accordance with the following:

(1) The annual administrative penalty amount assessed to a beverage manufacturer shall equal the product of both of the following:

(A) The total pounds of plastic used multiplied by the relevant minimum postconsumer recycled plastic percentage, less the pounds of postconsumer recycled plastic used.

(B) Twenty cents ($0.20).

(2) For purposes of paragraph (1), both of the following shall apply:

(A) The total pounds of plastic used shall equal the sum of the amount of virgin plastic and postconsumer recycled plastic used by the beverage manufacturer, as reported pursuant to subdivision (a) of Section 14549.3.

(B) If the product calculated pursuant to paragraph (1) is equal to or less than zero, an administrative penalty shall not be assessed.

(d) (1) The department may conduct audits and investigations and take an enforcement action against a beverage manufacturer for the purpose of ensuring compliance with this section and the information reported pursuant to Section 14549.3. The department may take an enforcement action against a beverage manufacturer that fails to pay or underpays the assessed or audited administrative penalty only after notice and hearing in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(2) The department shall keep confidential all business trade secrets and proprietary information about manufacturing processes and equipment that the department gathers or becomes aware of through the course of conducting audits or investigations pursuant to paragraph (1). Business trade secrets and proprietary information obtained pursuant to this subdivision shall not be subject to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(3) A beverage manufacturer may obtain a copy of the department's audit of that beverage manufacturer conducted pursuant to paragraph (1).

(e) (1) The department shall consider granting a reduction of the administrative penalties assessed pursuant to subdivision (b) for the purpose of meeting the minimum recycled content requirements required pursuant to paragraphs (1) to (3), inclusive, of subdivision (a).

(2) In determining whether to grant the reduction pursuant to paragraph (1), the department shall consider, at a minimum, all of the following factors:

(A) Anomalous market conditions.

(B) Disruption in, or lack of supply of, recycled plastics.

(C) Other factors that have prevented a beverage manufacturer from meeting the requirements.

(3) In order to receive a reduction of the administrative penalty, a beverage manufacturer shall submit to the department a corrective action plan detailing the reasons why the beverage manufacturer will fail to meet or has failed to meet the minimum postconsumer recycled content standard and the steps the beverage manufacturer will take to comply with the minimum postconsumer recycled content standard within the next reporting year. The department may approve the corrective action plan, and may reduce the administrative penalties once it approves the corrective action plan and the beverage manufacturer implements the plan. Administrative penalties shall accrue from the point of noncompliance with the minimum

postconsumer recycled content standard if the department disapproves the corrective action plan or if the beverage manufacturer fails to implement the plan.

(f) The Recycling Enhancement Penalty Account is hereby created in the State Treasury. Notwithstanding subdivision (d) of Section 14580 and paragraph (3) of subdivision (a) of Section 14591.1, administrative penalties collected pursuant to this section shall be deposited into the Recycling Enhancement Penalty Account. Moneys in the Recycling Enhancement Penalty Account shall be expended upon appropriation by the Legislature in the annual Budget Act for the sole purpose of supporting the recycling, infrastructure, collection, and processing of plastic beverage containers in the state.

(g) (1) If the Legislature makes an appropriation in the annual Budget Act before June 15, 2027, for this purpose, the department may contract with a research university to study the polyethylene terephthalate and high-density polyethylene markets for all of the following:

(A) Analyzing market conditions and opportunities in the state's recycling industry for meeting the minimum recycled plastic content requirements for plastic beverage containers required pursuant to subdivision (a).

(B) Determining the data needs and tracking opportunities to increase the transparency and support of a more effective, fact-based public understanding of the recycling industry.

(C) Recommending further policy modifications and measures to achieve the state's recycling targets with the least cost and optimal efficiency.

(2) If the Legislature makes the appropriation specified in paragraph (1) and the department undertakes the study, the study shall be completed no later than May 1, 2028.

(3) The department may allocate moneys from the fund, upon appropriation by the Legislature as specified in paragraph (1), for the study by June 30, 2027, if all of the following apply:

(A) The department finds that there are sufficient moneys in the fund.

(B) The fund is not operating at a deficit.

(C) The director is not exercising authority to implement proportional reductions subject to the requirements of subdivision (c) of Section 14581.

(h) A city, county, or other local government jurisdiction shall not adopt an ordinance regulating the minimum recycled plastic content requirements for plastic beverage containers.

(i) This section does not apply to either of the following:

(1) A refillable plastic beverage container.

(2) A beverage manufacturer that meets the requirements of subparagraph (A) of paragraph (3) of subdivision (g) of Section 14575, as that section read on January 1, 2020.

(j) The Legislature encourages beverage manufacturers to use plastic beverage containers that contain 100 percent recycled plastic content.

SEC. 376. Section 14551.4 of the Public Resources Code is amended to read:

14551.4. The department shall make available the information collected pursuant to subdivision (a) of Section 14551, concerning the volumes of materials collected from certified recycling centers, only to a governmental agency that requests the information, including a city or county, or an entity specifically designated by the city or county to receive the information if the entity requests the information, if all of the following conditions are met:

(a) The request is made in writing.

(b) All information provided by the department is provided using the aggregate amounts collected in the city or county unless the city or county, or an entity specifically designated by the city or county to receive the information, requests the information provided by each individual certified recycling center.

(c) All information provided to the governmental agency, including a city or county, or an entity specifically designated by the city or county to receive the information, is considered proprietary and confidential in nature and protected in accordance with the requirements of subdivision (b) of Section 14551 of the Public Resources Code, Section 14554 of the Public Resources Code, and paragraph (5) of subdivision (c) of Section 7921.505 of the Government Code.

SEC. 377. Section 14554 of the Public Resources Code is amended to read:

14554. The department shall establish procedures to protect any privileged, confidential, commercial, or financial information obtained while collecting information for carrying out the requirements of this division. Any privileged, confidential, commercial, or financial information obtained in confidence by the department is not a public record for purposes of Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code.

SEC. 378. Section 21082.3 of the Public Resources Code is amended to read:

21082.3. (a) Any mitigation measures agreed upon in the consultation conducted pursuant to Section 21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to paragraph (2) of subdivision (b), and shall be fully enforceable.

(b) If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:

(1) Whether the proposed project has a significant impact on an identified tribal cultural resource.

(2) Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource.

(c) (1) Any information, including, but not limited to, the location, description, and use of the tribal cultural resources, that is submitted by a California Native American tribe during the environmental review process

shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Sections 7927.000 and 7927.005 of the Government Code, and subdivision (d) of Section 15120 of Title 14 of the California Code of Regulations, without the prior consent of the tribe that provided the information. If the lead agency publishes any information submitted by a California Native American tribe during the consultation or environmental review process, that information shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. This subdivision does not prohibit the confidential exchange of the submitted information between public agencies that have lawful jurisdiction over the preparation of the environmental document.

(2) (A) This subdivision does not prohibit the confidential exchange of information regarding tribal cultural resources submitted by a California Native American tribe during the consultation or environmental review process among the lead agency, the California Native American tribe, the project applicant, or the project applicant's agent. Except as provided in subparagraph (B) or unless the California Native American tribe providing the information consents, in writing, to public disclosure, the project applicant or the project applicant's legal advisers, using a reasonable degree of care, shall maintain the confidentiality of the information exchanged for the purposes of preventing looting, vandalism, or damage to tribal cultural resources and shall not disclose to a third party confidential information regarding tribal cultural resources.

(B) This paragraph does not apply to data or information that are or become publicly available, are already in the lawful possession of the project applicant before the provision of the information by the California Native American tribe, are independently developed by the project applicant or the project applicant's agents, or are lawfully obtained by the project applicant from a third party that is not the lead agency, a California Native American tribe, or another public agency.

(3) This subdivision does not affect or alter the application of Section 7927.000 or 7927.005 of the Government Code, or subdivision (d) of Section 15120 of Title 14 of the California Code of Regulations.

(4) This subdivision does not prevent a lead agency or other public agency from describing the information in general terms in the environmental document so as to inform the public of the basis of the lead agency's or other public agency's decision without breaching the confidentiality required by this subdivision.

(d) In addition to other provisions of this division, the lead agency may certify an environmental impact report or adopt a mitigated negative declaration for a project with a significant impact on an identified tribal cultural resource only if one of the following occurs:

(1) The consultation process between the California Native American tribe and the lead agency has occurred as provided in Sections 21080.3.1

and 21080.3.2 and concluded pursuant to subdivision (b) of Section 21080.3.2.

(2) The California Native American tribe has requested consultation pursuant to Section 21080.3.1 and has failed to provide comments to the lead agency, or otherwise failed to engage, in the consultation process.

(3) The lead agency has complied with subdivision (d) of Section 21080.3.1 and the California Native American tribe has failed to request consultation within 30 days.

(e) If the mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of the consultation or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to subdivision (b) of Section 21084.3.

(f) Consistent with subdivision (c), the lead agency shall publish confidential information obtained from a California Native American tribe during the consultation process in a confidential appendix to the environmental document and shall include a general description of the information, as provided in paragraph (4) of subdivision (c) in the environmental document for public review during the public comment period provided pursuant to this division.

(g) This section is not intended, and may not be construed, to limit consultation between the state and tribal governments, existing confidentiality provisions, or the protection of religious exercise to the fullest extent permitted under state and federal law.

SEC. 379. Section 21089 of the Public Resources Code is amended to read:

21089. (a) A lead agency may charge and collect a reasonable fee from a person proposing a project subject to this division in order to recover the estimated costs incurred by the lead agency in preparing a negative declaration or an environmental impact report for the project and for procedures necessary to comply with this division on the project. Litigation expenses, costs, and fees incurred in actions alleging noncompliance with this division under Section 21167 are not recoverable under this section.

(b) The Department of Fish and Game may charge and collect filing fees, as provided in Section 711.4 of the Fish and Game Code. Notwithstanding Section 21080.1, a finding required under Section 21081, or a project approved under a certified regulatory program authorized pursuant to Section 21080.5 is not operative, vested, or final until the filing fees required pursuant to Section 711.4 of the Fish and Game Code are paid.

(c) (1) A public agency may charge and collect a reasonable fee from members of the public for a copy of an environmental document not to exceed the cost of reproducing the environmental document. A public agency may provide the environmental document in an electronic format as provided pursuant to Sections 7922.570 to 7922.580, inclusive, of the Government Code.

(2) For purposes of this subdivision, "environmental document" means an initial study, negative declaration, mitigated negative declaration, draft and final environmental impact report, a document prepared as a substitute for an environmental impact report, negative declaration, or mitigated negative declaration under a program certified pursuant to Section 21080.5, and a document prepared under the federal National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.) and used by a state or local agency in the place of the initial study, negative declaration, mitigated negative declaration, or an environmental impact report.

SEC. 380. Section 21160 of the Public Resources Code is amended to read:

21160. (a) Whenever any person applies to any public agency for a lease, permit, license, certificate, or other entitlement for use, the public agency may require that person to submit data and information that may be necessary to enable the public agency to determine whether the proposed project may have a significant effect on the environment or to prepare an environmental impact report.

(b) If any or all of the information so submitted is a "trade secret" as defined in Section 7924.510 of the Government Code by those submitting that information, it shall not be included in the impact report or otherwise disclosed by any public agency. This section shall not be construed to prohibit the exchange of properly designated trade secrets between public agencies who have lawful jurisdiction over the preparation of the impact report.

SEC. 381. Section 21167.6.2 of the Public Resources Code is amended to read:

21167.6.2. (a) (1) Notwithstanding Section 21167.6, upon the written request of a project applicant received no later than 30 days after the date that the lead agency makes a determination pursuant to subdivision (a) of Section 21080.1, Section 21094.5, or Chapter 4.2 (commencing with Section 21155) and with the consent of the lead agency as provided in subdivision (e), the lead agency shall prepare and certify the record of proceedings in the following manner:

(A) The lead agency for the project shall prepare the record of proceedings pursuant to this division concurrently with the administrative process.

(B) All documents and other materials placed in the record of proceedings shall be posted on, and be downloadable from, an internet website maintained by the lead agency commencing with the date of the release of the draft environmental document for the project. If the lead agency cannot maintain an internet website with the information required pursuant to this section, the lead agency shall provide a link on the agency's internet website to that information.

(C) The lead agency shall make available to the public in a readily accessible electronic format the draft environmental document for the project, and all other documents submitted to, cited by, or relied on by the lead agency, in the preparation of the draft environmental document for the project.

(D) A document prepared by the lead agency or submitted by the applicant after the date of the release of the draft environmental document for the project that is a part of the record of the proceedings shall be made available to the public in a readily accessible electronic format within five business days after the document is released or received by the lead agency.

(E) The lead agency shall encourage written comments on the project to be submitted in a readily accessible electronic format, and shall make any comment available to the public in a readily accessible electronic format within five business days of its receipt.

(F) Within seven business days after the receipt of any comment that is not in an electronic format, the lead agency shall convert that comment into a readily accessible electronic format and make it available to the public in that format.

(G) The lead agency shall certify the record of proceedings within 30 days after the filing of the notice required pursuant to Section 21108 or 21152.

(2) This subdivision does not require the disclosure or posting of any trade secret as defined in Section 7924.510 of the Government Code, information about the location of archaeological sites or sacred lands, or any other information that is subject to the disclosure restrictions of any provision listed in Section 7920.505 of the Government Code.

(b) Any dispute regarding the record of proceedings prepared pursuant to this section shall be resolved by the court in an action or proceeding brought pursuant to subdivision (b) or (c) of Section 21167.

(c) The content of the record of proceedings shall be as specified in subdivision (e) of Section 21167.6.

(d) The negative declaration, mitigated negative declaration, draft and final environmental impact report, or other environmental document shall include a notice in no less than 12-point type stating the following:

"THIS DOCUMENT IS SUBJECT TO SECTION 21167.6.2 OF THE PUBLIC RESOURCES CODE, WHICH REQUIRES THE RECORD OF PROCEEDINGS FOR THIS PROJECT TO BE PREPARED CONCURRENTLY WITH THE ADMINISTRATIVE PROCESS; DOCUMENTS PREPARED BY, OR SUBMITTED TO, THE LEAD AGENCY TO BE POSTED ON THE LEAD AGENCY'S INTERNET WEBSITE, AND THE LEAD AGENCY TO ENCOURAGE WRITTEN COMMENTS ON THE PROJECT TO BE SUBMITTED TO THE LEAD AGENCY IN A READILY ACCESSIBLE ELECTRONIC FORMAT."

(e) (1) The lead agency shall respond to a request by the project applicant within 10 business days from the date that the request pursuant to subdivision (a) is received by the lead agency.

(2) A project applicant and the lead agency may mutually agree, in writing, to extend the time period for the lead agency to respond pursuant to paragraph (1), but they shall not extend that period beyond the commencement of the public review period for the proposed negative

declaration, mitigated negative declaration, draft environmental impact report, or other environmental document.

(3) The request to prepare a record of proceedings pursuant to this section shall be deemed denied if the lead agency fails to respond within 10 business days of receiving the request or within the time period agreed upon pursuant to paragraph (2), whichever ends later.

(f) The written request of the applicant submitted pursuant to subdivision (a) shall include an agreement to pay all of the lead agency's costs of preparing and certifying the record of proceedings pursuant to this section and complying with the requirements of this section, in a manner specified by the lead agency.

(g) The costs of preparing the record of proceedings pursuant to this section and complying with the requirements of this section are not recoverable costs pursuant to Section 1032 of the Code of Civil Procedure.

(h) Pursuant to subdivision (f) and Section 21089, the lead agency may charge and collect a reasonable fee from the person making the request pursuant to subdivision (a) to recover the costs incurred by the lead agency in preparing the record of proceedings pursuant to this section.

SEC. 382. Section 21189.70.1 of the Public Resources Code is amended to read:

21189.70.1. (a) For purposes of this section, the following definitions apply:

(1) "Employment center project" means a project with a floor area ratio of no less than 0.75 and that is located within a transit priority area.

(2) "Floor area ratio" has the same meaning as in Section 21099.

(3) "Transit priority area" has the same meaning as in Section 21099.

(b) Except as provided in subdivision (c), the requirements of this division are satisfied by an environmental impact statement prepared pursuant to the notice of intent described in subdivision (i) of Section 21189.70 and that meets the requirements of subdivision (d) for a transit-oriented development project, including a residential, employment center, or mixed-use development project, approved by the lead agency, located in the Old Town Center site, if the transit-oriented development project meets all of the following criteria:

(1) The transit-oriented development project is proposed within a transit priority area.

(2) (A) The transit-oriented development project is undertaken to implement and is consistent with the land use standards approved by the Navy and SANDAG for the Old Town Center site and the site plan for which the environmental impact report has been certified on or before December 31, 2022.

(B) The site plan shall meet a vehicle miles traveled reduction of 25 percent below the regional average vehicle miles traveled identified in the sustainable communities strategy or alternative planning strategy applicable at the time of the approval of the site plan.

(3) The transit-oriented development project is consistent with the general use designation, density, building intensity, and applicable policies specified

in the Old Town Center site in either a sustainable communities strategy or an alternative planning strategy for which the State Air Resources Board, pursuant to subparagraph (H) of paragraph (2) of subdivision (b) of Section 65080 of the Government Code, has accepted SANDAG's determination that the sustainable communities strategy or the alternative planning strategy would, if implemented, achieve the greenhouse gas emissions reduction targets.

(4) (A) For a transit-oriented development project undertaken by a public agency, except as provided in subparagraph (B), an entity shall not be prequalified or short-listed or awarded a contract by the public agency to perform any portion of the transit-oriented development project unless the entity provides an enforceable commitment to the public agency that the entity and its subcontractors at every tier will use a skilled and trained workforce to perform all work on the transit-oriented development project or contract that falls within an apprenticeable occupation in the building and construction trades.

(B) Subparagraph (A) does not apply if any of the following requirements are met:

(i) The public agency has entered into a project labor agreement that will bind all contractors and subcontractors performing work on the transit-oriented development project or contract to use a skilled and trained workforce, and the entity agrees to be bound by that project labor agreement.

(ii) The transit-oriented development project or contract is being performed under the extension or renewal of a project labor agreement that was entered into by the public agency before January 1, 2021.

(iii) The entity has entered into a project labor agreement that will bind the entity and all of its subcontractors at every tier performing the transit-oriented development project or contract to use a skilled and trained workforce.

(5) For a transit-oriented development project undertaken by a private entity, the transit-oriented development project applicant shall do both of the following:

(A) Certify to the lead agency that either of the following is true:

(i) The entirety of the transit-oriented development project is a public work for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(ii) If the transit-oriented development project is not in its entirety a public work, all construction workers employed in the execution of the transit-oriented development project will be paid at least the general prevailing rate of per diem wages for the type of work and geographic area, as determined by the Director of Industrial Relations pursuant to Sections 1773 and 1773.9 of the Labor Code, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate. If the transit-oriented development project is subject to this clause, then, for those portions of the transit-oriented development project that are not a public work, all of the following shall apply:

(I) The transit-oriented development project applicant shall ensure that the prevailing wage requirement is included in all contracts for the performance of the work.

(II) All contractors and subcontractors shall pay to all construction workers employed in the execution of the work at least the general prevailing rate of per diem wages, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate.

(III) Except as provided in subclause (V), all contractors and subcontractors shall maintain and verify payroll records pursuant to Section 1776 of the Labor Code and make those records available for inspection and copying as provided by that section.

(IV) Except as provided in subclause (V), the obligation of the contractors and subcontractors to pay prevailing wages may be enforced by the Labor Commissioner through the issuance of a civil wage and penalty assessment pursuant to Section 1741 of the Labor Code, which may be reviewed pursuant to Section 1742 of the Labor Code, within 18 months after the completion of the transit-oriented development project, by an underpaid worker through an administrative complaint or civil action, or by a joint labor-management committee through a civil action under Section 1771.2 of the Labor Code. If a civil wage and penalty assessment is issued, the contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages pursuant to Section 1742.1 of the Labor Code.

(V) Subclauses (III) and (IV) do not apply if all contractors and subcontractors performing work on the transit-oriented development project are subject to a project labor agreement that requires the payment of prevailing wages to all construction workers employed in the execution of the transit-oriented development project and provides for enforcement of that obligation through an arbitration procedure.

(VI) Notwithstanding subdivision (c) of Section 1773.1 of the Labor Code, the requirement that employer payments not reduce the obligation to pay the hourly straight time or overtime wages found to be prevailing shall not apply if otherwise provided in a bona fide collective bargaining agreement covering the worker. The requirement to pay at least the general prevailing rate of per diem wages does not preclude the use of an alternative workweek schedule adopted pursuant to Section 511 or 514 of the Labor Code.

(B) Certify to the lead agency that a skilled and trained workforce will be used to perform all construction work on the transit-oriented development project. All of the following requirements shall apply to the transit-oriented development project:

(i) The transit-oriented development project applicant shall require in all contracts for the performance of work that every contractor and subcontractor at every tier will individually use a skilled and trained workforce to complete the transit-oriented development project.

(ii) Every contractor and subcontractor shall use a skilled and trained workforce to complete the transit-oriented development project.

(iii) (I) Except as provided in subclause (II), the transit-oriented development project applicant shall provide to the lead agency, on a monthly basis while the transit-oriented development project or contract is being performed, a report demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code. A monthly report provided to the lead agency pursuant to this subclause shall be a public record under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) and shall be open to public inspection. A transit-oriented development project applicant that fails to provide a monthly report demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code shall be subject to a civil penalty of ten thousand dollars ($10,000) per month for each month for which the report has not been provided. Any contractor or subcontractor that fails to use a skilled and trained workforce shall be subject to a civil penalty of two hundred dollars ($200) per day for each worker employed in contravention of the skilled and trained workforce requirement. Penalties may be assessed by the Labor Commissioner within 18 months of completion of the transit-oriented development project using the same procedures for issuance of civil wage and penalty assessments pursuant to Section 1741 of the Labor Code, and may be reviewed pursuant to the same procedures in Section 1742 of the Labor Code. Penalties shall be paid to the State Public Works Enforcement Fund.

(II) Subclause (I) does not apply if all contractors and subcontractors performing work on the transit-oriented development project are subject to a project labor agreement that requires compliance with the skilled and trained workforce requirement and provides for enforcement of that obligation through an arbitration procedure.

(c) Further environmental review, including the preparation of a supplemental environmental impact report, if appropriate, shall be conducted only if any of the events specified in Section 21166 have occurred.

(d) (1) Pursuant to Section 21083.5, the environmental impact statement prepared by the Navy for the redevelopment of the Old Town Center site pursuant to the federal National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.) may be used in lieu of all or any part of an environmental impact report prepared pursuant to this division for the redevelopment of the Old Town Center site if that statement complies with the applicable requirements of this division and the guidelines adopted pursuant to this division and its use for purposes of compliance with this division shall not in and of itself constitute a prejudicial abuse of discretion so long as the lead agency consults with the Navy, notifies the Navy regarding any scoping meetings for the proposed transit-oriented development project, and a discussion of mitigation measures or growth-inducing impacts are included in the environmental impact statement.

(2) Paragraph (1) is not intended to exempt approvals of public agencies from the requirements of Section 21081, 21081.6, 21100, or 21151, or to limit judicial review of those approvals under Section 21168.

(3) Any significant impacts identified in the Navy's environmental impact statement for the redevelopment of the Old Town Center site that are offsite of the Old Town Center site and that are incorporated by the lead agency into the environmental impact report shall be subject to the applicable mitigation requirements and enforcement provisions of this division.

(e) The approval of a transit-oriented development project shall be preceded by a determination under subdivisions (b) and (c).

SEC. 383. Section 25223 of the Public Resources Code is amended to read:

25223. The commission shall make available any information filed or submitted pursuant to this division under the provisions of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code); provided, however, that the commission shall keep confidential any information submitted to the Division of Oil and Gas of the Department of Conservation that the division determines, pursuant to Section 3752, to be proprietary.

SEC. 384. Section 25322 of the Public Resources Code is amended to read:

25322. (a) The data collection system managed pursuant to Section 25320 shall include the following requirements regarding the confidentiality of the information collected by the commission:

(1) Any person required to present information to the commission pursuant to this section may request that specific information be held in confidence. The commission shall grant the request in any of the following circumstances:

(A) The information is exempt from disclosure under the California Public Records Act, Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code.

(B) The information satisfies the confidentiality requirements of Article 2 (commencing with Section 2501) of Chapter 7 of Division 2 of Title 20 of the California Code of Regulations, as those regulations existed on January 1, 2002.

(C) On the facts of the particular case, the public interest served by not disclosing the information clearly outweighs the public interest served by disclosure of the information.

(2) The commission may, by regulation, designate certain categories of information as confidential, which removes the obligation to request confidentiality for that information.

(3) Any confidential information pertinent to the responsibilities of the commission specified in this chapter that is obtained by another state agency, or the California Independent System Operator or its successor, shall be available to the commission and shall be treated in a confidential manner.

(4) Information presented to or developed by the commission and deemed confidential pursuant to this section shall be held in confidence by the

commission. Confidential information shall be aggregated or masked to the extent necessary to ensure confidentiality if public disclosure of the specific information would result in an unfair competitive disadvantage to the person supplying the information.

(b) Requests for records of information shall be handled as follows:

(1) If the commission receives a written request to publicly disclose information that is being held in confidence pursuant to paragraph (1) or (2) of subdivision (a), the commission shall provide the person making the request with written justification for the confidential designation and a description of the process to seek disclosure.

(2) If the commission receives a written request to publicly disclose a disaggregated or unmasked record of information designated as confidential under paragraph (1) or (2) of subdivision (a), notice of the request shall be provided to the person that submitted the record. Upon receipt of the notice, the person that submitted the record may, within five working days of receipt of the notice, provide a written justification of the claim of confidentiality.

(3) The commission or its designee shall rule on a request made pursuant to paragraph (2) on or before 20 working days after its receipt. The commission shall deny the request if the disclosure will result in an unfair competitive disadvantage to the person that submitted the information.

(4) If the commission grants the request pursuant to paragraph (3), it shall withhold disclosure for a reasonable amount of time, not to exceed 14 working days, to allow the submitter of the information to seek judicial review.

(c) No information submitted to the commission pursuant to this section is confidential if the person submitting the information has made it public.

(d) The commission shall establish, maintain, and use appropriate security practices and procedures to ensure that the information it has designated as confidential, or received with a confidential designation from another government agency, is protected against disclosure other than that authorized using the procedures in subdivision (b). The commission shall incorporate the following elements into its security practices and procedures:

(1) Commission employees shall sign a confidential data disclosure agreement providing for various remedies, including, but not limited to, fines and termination for wrongful disclosure of confidential information.

(2) Commission employees, or contract employees of the commission, shall only have access to confidential information when it is appropriate to their job assignments and if they have signed a nondisclosure agreement.

(3) Computer data systems that hold confidential information shall include sufficient security measures to protect the data from inadvertent or wrongful access by unauthorized commission employees and the public.

(e) Data collected by the commission on petroleum fuels in Section 25320 shall be subject to the confidentiality provisions of Sections 25364 to 25366, inclusive.

SEC. 385. Section 25364 of the Public Resources Code is amended to read:

25364. (a) Any person required to present information to the commission pursuant to Section 25354 may request that specific information be held in confidence. Information requested to be held in confidence shall be presumed to be confidential.

(b) Information presented to the commission pursuant to Section 25354 shall be held in confidence by the commission or aggregated to the extent necessary to ensure confidentiality if public disclosure of the specific information or data would result in unfair competitive disadvantage to the person supplying the information.

(c) (1) Whenever the commission receives a request to publicly disclose unaggregated information, or otherwise proposes to publicly disclose information submitted pursuant to Section 25354, notice of the request or proposal shall be provided to the person submitting the information. The notice shall indicate the form in which the information is to be released. Upon receipt of notice, the person submitting the information shall have 10 working days in which to respond to the notice to justify the claim of confidentiality on each specific item of information covered by the notice on the basis that public disclosure of the specific information would result in unfair competitive disadvantage to the person supplying the information.

(2) The commission shall consider the respondent's submittal in determining whether to publicly disclose the information submitted to it to which a claim of confidentiality is made. The commission shall issue a written decision which sets forth its reasons for making the determination whether each item of information for which a claim of confidentiality is made shall remain confidential or shall be publicly disclosed.

(d) The commission shall not make public disclosure of information submitted to it pursuant to Section 25354 within 10 working days after the commission has issued its written decision required in this section.

(e) No information submitted to the commission pursuant to Section 25354 shall be deemed confidential if the person submitting the information or data has made it public.

(f) With respect to petroleum products and blendstocks reported by type pursuant to paragraph (1) or (2) of subdivision (a) of Section 25354 and information provided pursuant to subdivision (h) or (i) of Section 25354, neither the commission nor any employee of the commission may do any of the following:

(1) Use the information furnished under paragraph (1) or (2) of subdivision (a) of Section 25354 or under subdivision (h) or (i) of Section 25354 for any purpose other than the statistical purposes for which it is supplied.

(2) Make any publication whereby the information furnished by any particular establishment or individual under paragraph (1) or (2) of subdivision (a) of Section 25354 or under subdivision (h) or (i) of Section 25354 can be identified.

(3) Permit anyone other than commission members and employees of the commission to examine the individual reports provided under paragraph

(1) or (2) of subdivision (a) of Section 25354 or under subdivision (h) or (i) of Section 25354.

(g) Notwithstanding any other law, the commission may disclose confidential information received pursuant to subdivision (a) of Section 25304 or Section 25354 to the State Air Resources Board if the state board agrees to keep the information confidential. With respect to the information it receives, the state board shall be subject to all pertinent provisions of this section.

(h) Notwithstanding any other law, the commission may disclose confidential information received pursuant to paragraph (1) of subdivision (f) of Section 25354 to the administrator for oil spill response, appointed pursuant to Section 8670.4 of the Government Code, upon request for oil spill planning and preparedness purposes, and to first responders in the event of an accident or spill. Information disclosed to the administrator or first responders pursuant to this subdivision that has been identified as confidential under subdivision (a) shall not be disclosed to any other entity except pursuant to a request in accordance with the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code). Upon receipt of a records request seeking information disclosed pursuant to this subdivision, the administrator or first responder receiving the request shall provide the destination facility who provided the confidential information to the commission with an opportunity to submit, within a reasonable time, a response and information in support of exemption from disclosure before making the determination whether the requested records are exempt from disclosure. No requirement or deadline contained in the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) shall be extended or waived as a result of this subdivision.

SEC. 386. Section 25402.10 of the Public Resources Code is amended to read:

25402.10. (a) For the purposes of this section, the following terms have the following meanings:

(1) To "benchmark," in reference to energy use, means to obtain information on the energy use in an entire building for a specific period to enable that usage to be tracked or compared against other buildings.

(2) "Covered building" means either or both of the following:

(A) Any building with no residential utility accounts.

(B) Any building with five or more active utility accounts, residential or nonresidential.

(3) "Energy" means electricity, natural gas, steam, or fuel oil sold by a utility to a customer for end uses addressed by the ENERGY STAR Portfolio Manager system.

(4) "ENERGY STAR Portfolio Manager" means the tool developed and maintained by the United States Environmental Protection Agency to track and assess the energy performance of buildings.

(b) On and after January 1, 2016, each utility shall maintain records of the energy usage data of all buildings to which they provide service for at least the most recent 12 complete calendar months.

(c) (1) Subject to the requirements of paragraph (2), beginning no later than January 1, 2017, each utility shall, upon the request and written authorization or secure electronic authorization of the owner, owner's agent, or operator of a covered building, deliver or otherwise provide aggregated energy usage data for a covered building to the owner, owner's agent, building operator, or to the owner's account in the ENERGY STAR Portfolio Manager. The commission may specify additional information to be delivered by utilities to enable building owners to complete benchmarking of the energy use in their buildings and in other systems or formats for information delivery and automation.

(2) The delivery of information by utilities pursuant to this section shall be subject to the following requirements:

(A) For covered buildings with three or more active utility accounts, each utility shall deliver information showing the aggregated energy usage data of all utility customers in the same building for each of the 12 prior months. Notwithstanding any other law, energy usage data aggregated in this manner shall not be deemed customer utility usage information or confidential information by the utility for purposes of delivery to the owner, owner's agent, or operator of a building. The building owner and utility shall not have any liability for any use or disclosure of aggregated energy usage data delivered as required by this section.

(B) For covered buildings not subject to subparagraph (A), each utility shall deliver the information showing the aggregated energy usage data of all utility customers in each covered building for each of the prior 12 months if the accountholder provides written or electronic consent for the delivery of the accountholder's energy usage data to the owner, owner's agent, operator, or utility.

(C) Each utility shall deliver, upload, or otherwise provide aggregated energy usage data within four weeks of receiving a request from an owner, owner's agent, or operator of a covered building.

(D) Each utility shall make available the covered building energy usage data aggregated at a monthly level unless otherwise specified by the commission.

(E) The building owner and utility shall not have any liability for any use or disclosure by others of usage information delivered as required by this section.

(d) The commission shall adopt regulations providing for the delivery to the commission and public disclosure of benchmarking of energy use for covered buildings, as follows:

(1) This subdivision does not require the owner of a building with 16 or fewer residential utility accounts to collect or deliver energy usage information to the commission.

(2) The commission may do, but is not limited to doing, all of the following in regulations adopted pursuant to this subdivision:

(A) Identify and provide for the collection of the energy usage data for calculations for purpose of benchmarking of energy use.

(B) Identify and provide for the collection of the covered building characteristic information deemed necessary by the commission for the calculations for the purposes of the benchmarking of energy use.

(C) Specify the manner in which certain benchmarking of energy use shall be publicly disclosed.

(D) Determine which covered buildings, in addition to those described in paragraph (1), are not subject to the public disclosure requirement.

(E) Set a schedule to implement the requirements for public disclosure adopted by the commission.

(F) Determine if compliance with a local or county benchmarking program fulfills the commission's requirements adopted pursuant to this subdivision.

(G) Identify categories of information it receives pursuant to this section that are protected from release under either the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) or the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code).

(3) The commission shall determine who will deliver the energy usage data and related information for any covered building to the commission.

(e) The commission may ensure timely and accurate compliance with the data submission requirements of this section by using the enforcement measures identified in Section 25321. An owner of a covered building, or its agents or operators, shall not be liable for any noncompliance due to the failure of a utility to provide the information required for compliance.

(f) For buildings that are not covered buildings, and for customer information that is not aggregated pursuant to subparagraph (A) of paragraph (2) of subdivision (c), the commission may adopt regulations prescribing how utilities shall either obtain the customer's permission or determine that a building owner has obtained the customer's permission, for the owner to receive aggregated energy usage data or, where applicable, individual customer usage information, including by use of electronic authorization and in a lease agreement between the owner and the customer.

(g) The reasonable costs of an electrical or gas corporation in delivering electrical or gas usage data pursuant to this section or other information as required under state or federal law or by an order of the commission shall be recoverable in rates evaluated and approved by the Public Utilities Commission.

(h) The reasonable costs of local publicly owned electric utilities in disclosing electrical usage data pursuant to this section may be considered "cost-effective demand-side management services to promote energy efficiency and energy conservation" and thereby reimbursable by their general fund.

(i) (1) For purposes of adopting or revising regulations pursuant to subdivision (d), the commission may include two or more buildings located

on a single parcel or adjacent parcels with the same owner of record and with five or more active utility accounts, in aggregate, residential or nonresidential, as a single covered building, as defined in subparagraph (B) of paragraph (2) of subdivision (a).

(2) An electrical or gas utility shall provide to the owner, owner's agent, or operator of a property containing two or more buildings on a single parcel or adjacent parcels with five or more active utility accounts, in aggregate, residential or nonresidential, upon request of the owner, agent, or operator, aggregate energy usage data on all such buildings in a manner provided pursuant to subdivision (c) as if those buildings are a single covered building as defined in subparagraph (B) of paragraph (2) of subdivision (a).

(j) This section does not prevent a city or county from establishing its own benchmarking program requiring collection, delivery, and disclosure of building information.

SEC. 387. Section 26213 of the Public Resources Code is amended to read:

26213. (a) The board shall meet at least four times per year or as often as the chair or the board deems necessary to conduct its business.

(b) The chair shall, with the assistance of staff, prepare the agenda for each board meeting. Meeting agendas shall be prepared in advance of each meeting based on input from board members, staff, and the public.

(c) The board and any committees established by the board shall comply with, and be subject to, the requirements of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

(d) The board shall comply with, and be subject to, the requirements of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

SEC. 388. Section 29754 of the Public Resources Code is amended to read:

29754. The commission shall establish and maintain an office within the Delta or the City of Rio Vista, and for this purpose the commission may rent or own property and equipment. Any rule, regulation, procedure, plan, or other record of the commission that constitutes a public record under state law shall be available for inspection and copying pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

SEC. 389. Section 40062 of the Public Resources Code is amended to read:

40062. (a) Upon the request of any person furnishing any report, notice, application, plan, or other document required by this division, including any research or survey information requested by the board for the purpose of implementing its programs, neither the board nor an enforcement agency, in accordance with subdivisions (c) and (d), shall make available for inspection by the public any portion of the report, notice, application, plan, or other document that contains a trade secret, as defined in subdivision (d)

of Section 3426.1 of the Civil Code, that has been identified pursuant to subdivision (b).

(b) Any person furnishing information, as described in subdivision (a), to the board or an enforcement agency pursuant to this division shall, at the time of submission, identify all information that the person believes is a trade secret. Any information not identified by the person as a trade secret shall be made available to the public, unless exempted from disclosure by another provision of law.

(c) (1) With regard to information that has been identified as a trade secret pursuant to subdivision (b), the board, upon its own initiative, or upon receipt of a request for public information pursuant to Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code, shall determine whether any or all of the information has been properly identified as a trade secret. If the board determines that the information is not a trade secret, the board shall notify the person who furnished the information by certified mail.

(2) The person who furnished the information shall have 30 days from the date of receipt of the notice required by paragraph (1) to provide the board with a complete justification and statement of the grounds on which the trade secret privilege is claimed. The justification and statement shall be submitted to the board by certified mail.

(3) The board shall determine whether the information is protected as a trade secret within 15 days from the date of receipt of the justification and statement or, if no justification and statement is filed, within 45 days from the date of the notice required by paragraph (1). The board shall notify the person who furnished the information and any party who has requested the information pursuant to Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code of that determination by certified mail. If the board has determined that the information is not protected as a trade secret, this final notice shall also specify a date, not sooner than 15 days from the date of the mailing of the final notice, when the information shall be available to the public.

(d) Except as provided in subdivision (c), the board or an enforcement agency may release information submitted and designated as a trade secret only to the following public agencies under the following conditions:

(1) To other public agencies in connection with the responsibilities of the board or an enforcement agency under this division or for use in making reports.

(2) To the state or any state agency in judicial review for enforcement proceedings involving the person furnishing the information.

(e) For the purpose of implementing this section, the disclosure of information shall be consistent with Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code.

SEC. 390. Section 41821.5 of the Public Resources Code is amended to read:

41821.5. (a) Disposal facility operators shall submit information on the disposal tonnages by jurisdiction or region of origin that are disposed of at

each disposal facility to the department, and to counties that request the information, in a form prescribed by the department. To enable disposal facility operators to provide that information, solid waste handlers and transfer station operators shall provide information to disposal facility operators on the origin of the solid waste that they deliver to the disposal facility.

(b) (1) Recycling and composting operations and facilities shall submit periodic information to the department on the types and quantities of materials that are disposed of, sold, or transferred to other recycling or composting facilities, end users inside of the state or outside of the state, or exporters, brokers, or transporters for sale inside of the state or outside of the state.

(2) Exporters, brokers, self-haulers, and transporters of recyclables or compost shall submit periodic information to the department on the types, quantities, and destinations of materials that are disposed of, sold, or transferred. The department shall develop regulations implementing this section that define "self-hauler" to include, at a minimum, a person or entity that generates and transports, utilizing its own employees and equipment, more than one cubic yard per week of its own food waste to a location or facility that is not owned and operated by that person or entity.

(3) The information in the reports submitted pursuant to this subdivision may be provided to the department on an aggregated facilitywide basis and may exclude financial data, such as contract terms and conditions (including information on pricing, credit terms, volume discounts, and other proprietary business terms), the jurisdiction of the origin of the materials, or information on the entities from which the materials are received. The department may provide this information to jurisdictions, aggregated by company, upon request. The aggregated information, other than that aggregated by company, is public information.

(c) The department shall adopt regulations pursuant to this section requiring practices and procedures that are reasonable and necessary to implement this section, and that provide a representative accounting of solid wastes and recyclable materials that are handled, processed, or disposed. Those regulations approved by the department shall not impose an unreasonable burden on waste and recycling handling, processing, or disposal operations or otherwise interfere with the safe handling, processing, and disposal of solid waste and recyclables. The department shall include in those regulations both of the following:

(1) Procedures to ensure that an opportunity to comply is provided prior to initiation of enforcement authorized by Section 41821.7.

(2) Factors to be considered in determining penalty amounts that are similar to those provided in Section 45016.

(d) Any person who refuses or fails to submit information required by regulations adopted pursuant to this section is liable for a civil penalty of not less than five hundred dollars ($500) and not more than five thousand dollars ($5,000) for each violation of a separate provision or, for continuing violations, for each day that the violation continues.

(e) Any person who knowingly or willfully files a false report, or any person who refuses to permit the department or any of its representatives to make inspection or examination of records, or who fails to keep any records for the inspection of the department, or who alters, cancels, or obliterates entries in the records for the purpose of falsifying the records as required by regulations adopted pursuant to this section, is liable for a civil penalty of not less than five hundred dollars ($500) and not more than ten thousand dollars ($10,000) for each violation of a separate provision or, for continuing violations, for each day that the violation continues.

(f) Liability under this section may be imposed in a civil action, or liability may be imposed administratively pursuant to this article.

(g) (1) Notwithstanding Title 5 (commencing with Section 3426) of Part 1 of Division 4 of the Civil Code and Article 11 (commencing with Section 1060) of Chapter 4 of Division 8 of the Evidence Code, all records that the facility or operator is reasonably required to keep to allow the department to verify information in, or verification of, the reports required pursuant to subdivisions (a) and (b) and implementing regulations shall be subject to inspection and copying by the department, but shall be confidential and shall not be subject to disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(2) Notwithstanding Title 5 (commencing with Section 3426) of Part 1 of Division 4 of the Civil Code and Article 11 (commencing with Section 1060) of Chapter 4 of Division 8 of the Evidence Code, an employee of a government entity may, at the disposal facility, inspect and copy records related to tonnage received at the facility on or after July 1, 2015, and originating within the government entity's geographic jurisdiction. Those records shall be limited to weight tags that identify the hauler, vehicle, quantity, date, type, and origin of waste received at a disposal facility. Those records shall be available to those government entities for the purposes of subdivision (a) and as necessary to enforce the collection of local fees, but those records shall be confidential and shall not be subject to disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code). Names of haulers using specific landfills shall not be disclosed by a government entity unless necessary as part of an administrative or judicial enforcement proceeding to fund local programs or enforce local franchises.

(3) A government entity may petition the superior court for injunctive or declaratory relief to enforce its authority under paragraph (2). The times for responsive pleadings and hearings in these proceedings shall be set by the judge of the court with the object of securing a decision as to these matters at the earliest possible time.

(4) For purposes of this section, a government entity is an entity identified in Section 40145 or an entity formed pursuant to Section 40976.

(5) For purposes of this subdivision, "disposal" and "disposal facility" have the same meanings as prescribed by Sections 40120.1 and 40121, respectively.

(6) Nothing in this subdivision shall be construed to limit or expand the authority of a government entity that may have been provided by this section and implementing regulations as they read on December 31, 2015.

(7) The records subject to inspection and copying by the department pursuant to paragraph (1) or by an employee of a government entity pursuant to paragraph (2) may be redacted by the operator before inspection to exclude confidential pricing information contained in the records, such as contract terms and conditions (including information on pricing, credit terms, volume discounts, and other proprietary business terms), if the redacted information is not information that is otherwise required to be reported to the department.

(h) Notwithstanding the Uniform Electronic Transactions Act (Title 2.5 (commencing with Section 1633.1) of Part 2 of Division 3 of the Civil Code), reports required by this section shall be submitted electronically, using an electronic reporting format system established by the department.

(i) All records provided in accordance with this section shall be subject to Section 40062.

SEC. 391. Section 41821.6 of the Public Resources Code is amended to read:

41821.6. In order to ensure that records required pursuant to this article are properly maintained, in addition to inspecting all relevant records, the department may conduct audits, perform site inspections, observe facility operations, and otherwise investigate the recordkeeping and reporting of persons subject to the requirements of this article. Any records, reports, notes, studies, drawings, schematics, photographs, or trade secrets, as defined in Section 3426.1 of the Civil Code, obtained, produced, or created by the department in connection with or arising from those audits, inspections, or observations are confidential and shall not be subject to disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

SEC. 392. Section 42036.4 of the Public Resources Code is amended to read:

42036.4. Proprietary information submitted to the department under this chapter shall be protected by all parties as confidential and shall be exempt from public disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code). The department and other parties may only disclose proprietary information in an aggregated form that does not directly or indirectly identify financial, production, or sales data of an individual covered entity or stewardship organization. Proprietary information may be disclosed to the party that submitted the proprietary information.

SEC. 393. Section 42987.3 of the Public Resources Code is amended to read:

42987.3. (a) The department shall review the plan for compliance with this chapter and shall approve, disapprove, or conditionally approve the plan within 90 days of receipt of the plan. If the department fails to act within 90 days of the receipt of the plan, the plan shall be deemed approved.

(b) If the department disapproves the plan pursuant to subdivision (a), the department shall explain, in writing, how the plan does not comply with this chapter, and the mattress recycling organization shall resubmit a plan to the department. If the department finds that the plan resubmitted by the organization does not comply with the requirements of this chapter, the mattress recycling organization shall not be deemed in compliance with this chapter until the organization submits a plan that the department finds complies with the requirements of this chapter.

(c) The approved plan shall be a public record, except that financial, production, or sales data reported to the department by the mattress recycling organization is not public record for purposes of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) and shall not be open to public inspection. The department may release financial, production, or sales data in summary form only so the information cannot be attributable to a specific manufacturer or retailer or to any other entity.

SEC. 394. Section 48704 of the Public Resources Code is amended to read:

48704. (a) The department shall review the plan within 90 days of receipt, and make a determination whether or not to approve the plan. The department shall approve the plan if it provides for the establishment of a paint stewardship program that meets the requirements of Section 48703.

(b) (1) The approved plan shall be a public record, except that financial, production, or sales data reported to the department by a manufacturer or the stewardship organization is not a public record under the California Public Records Act, as described in Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code and shall not be open to public inspection.

(2) Notwithstanding paragraph (1), the department may release a summary form of financial, production, or sales data if it does not disclose financial, production, or sales data of a manufacturer or stewardship organization.

(c) On or before July 1, 2012, or three months after a plan is approved pursuant to subdivision (a), whichever date is later, the manufacturer or stewardship organization shall implement the architectural paint stewardship program described in the approved plan.

(d) The department shall enforce this chapter.

(e) (1) The stewardship organization shall pay the department a quarterly administrative fee pursuant to paragraph (2).

(2) The department shall impose fees in an amount that is sufficient to cover the full administrative and enforcement costs of the requirements of this chapter, including any program development costs or regulatory costs incurred by the department prior to the submittal of the stewardship plans. The stewardship organization shall pay the fee on or before the last day of the month following the end of each quarter. Fee revenues collected under this section shall only be used to administer and enforce this chapter.

(f) (1) A civil penalty may be administratively imposed by the department on any person who violates this chapter in an amount of up to one thousand dollars ($1,000) per violation per day.

(2) A person who intentionally, knowingly, or negligently violates this chapter may be assessed a civil penalty by the department of up to ten thousand dollars ($10,000) per violation per day.

SEC. 395. Section 345.5 of the Public Utilities Code is amended to read:

345.5. (a) The Independent System Operator, as a nonprofit, public benefit corporation, shall conduct its operations consistent with applicable state and federal laws and consistent with the interests of the people of the state.

(b) To ensure the reliability of electric service and the health and safety of the public, the Independent System Operator shall manage the transmission grid and related energy markets in a manner that is consistent with all of the following:

(1) Making the most efficient use of available energy resources. For purposes of this section, "available energy resources" include energy, capacity, ancillary services, and demand bid into markets administered by the Independent System Operator. "Available energy resources" do not include a schedule submitted to the Independent System Operator by an electrical corporation or a local publicly owned electric utility to meet its own customer load.

(2) Reducing, to the extent possible, overall economic cost to the state's consumers.

(3) Applicable state law intended to protect the public's health and the environment.

(4) Maximizing availability of existing electric generation resources necessary to meet the needs of the state's electricity consumers.

(5) Conducting internal operations in a manner that minimizes cost impact on ratepayers to the extent practicable and consistent with the provisions of this chapter.

(6) Communicating with all balancing area authorities in California in a manner that supports electrical reliability.

(c) The Independent System Operator shall do all of the following:

(1) Consult and coordinate with appropriate state and local agencies to ensure that the Independent System Operator operates in furtherance of state law regarding consumer and environmental protection.

(2) Ensure that the purposes and functions of the Independent System Operator are consistent with the purposes and functions of nonprofit, public benefit corporations in the state, including duties of care and conflict-of-interest standards for officers and directors of a corporation.

(3) Maintain open meeting standards and meeting notice requirements consistent with the general policies of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code) and affording the public the greatest possible access, consistent with other duties of the corporation. The Independent System Operator's Open Meeting Policy, as adopted on April

23, 1998, and in effect as of May 1, 2002, meets the requirements of this paragraph. The Independent System Operator shall maintain a policy that is no less consistent with the Bagley-Keene Open Meeting Act than its policy in effect as of May 1, 2002.

(4) Provide public access to corporate records consistent with the general policies of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) and affording the public the greatest possible access, consistent with the other duties of the corporation. The Independent System Operator's Information Availability Policy, as adopted on October 22, 1998, and in effect as of May 1, 2002, meets the requirements of this paragraph. The Independent System Operator shall maintain a policy that is no less consistent with the California Public Records Act than its policy in effect as of May 1, 2002.

SEC. 396. Section 349.5 of the Public Utilities Code is amended to read:

349.5. (a) Beginning January 15, 2002, and at least once monthly thereafter, the Independent System Operator shall notify each air pollution control district and air quality management district of the name and address of each entity within the district's boundaries within the Independent System Operator's control area with whom the Independent System Operator enters into an interruptible service contract or similar arrangement.

(b) For the purposes of this section, "interruptible service contract or similar arrangement" means any arrangement in which a nonresidential entity agrees to reduce or consider reducing its electrical consumption during periods of peak demand or at the request of the Independent System Operator in exchange for compensation, or for assurances not to be blacked out or other similar nonmonetary assurances.

(c) The local air pollution control district or air quality management district shall maintain in a confidential manner the information received pursuant to this section. However, nothing in this subdivision shall affect the applicability of Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code, or of any other similar open records statute or ordinance, to information provided pursuant to this section.

SEC. 397. Section 399.25 of the Public Utilities Code is amended to read:

399.25. The Energy Commission shall do all of the following:

(a) Certify eligible renewable energy resources that it determines meet the criteria described in subdivision (e) of Section 399.12.

(b) Design and implement an accounting system to verify compliance with the renewables portfolio standard by retail sellers and local publicly owned electric utilities, to ensure that electricity generated by an eligible renewable energy resource is counted only once for the purpose of meeting the renewables portfolio standard of this state or any other state, to certify renewable energy credits produced by eligible renewable energy resources, and to verify retail product claims in this state or any other state. In establishing the guidelines governing this accounting system, the Energy Commission shall collect data from electricity market participants that it deems necessary to verify compliance of retail sellers and local publicly

owned electric utilities, in accordance with the requirements of this article and the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code). In seeking data from electrical corporations, the Energy Commission shall request data from the commission. The commission shall collect data from electrical corporations and remit the data to the Energy Commission within 90 days of the request.

(c) Establish a system for tracking and verifying renewable energy credits that, through the use of independently audited data, verifies the generation of electricity associated with each renewable energy credit and protects against multiple counting of the same renewable energy credit. The Energy Commission shall consult with other western states and with the WECC in the development of this system.

(d) Certify, for purposes of compliance with the renewables portfolio standard requirements by a retail seller, the eligibility of renewable energy credits associated with eligible renewable energy resources procured by a local publicly owned electric utility, if the Energy Commission determines that all of the conditions of Section 399.31 have been met.

SEC. 398. Section 743.3 of the Public Utilities Code is amended to read:

743.3. (a) Beginning January 15, 2002, and at least once monthly thereafter, an electrical corporation shall notify each air pollution control district and air quality management district of the name and address of each entity within the district's boundaries within the electrical corporation's control or service area with whom the electrical corporation enters into an interruptible service contract or similar arrangement.

(b) For the purposes of this section, "interruptible service contract or similar arrangement" means any arrangement in which a nonresidential electrical customer agrees to reduce or consider reducing its electrical consumption during periods of peak demand or at the request of the Independent System Operator in exchange for compensation, or for assurances not to be blacked out or other similar nonmonetary assurances.

(c) The local air pollution control district or air quality management district shall maintain in a confidential manner the information received pursuant to this section. However, nothing in this subdivision shall affect the applicability of Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code, or of any other similar open records statute or ordinance, to information provided pursuant to this section.

SEC. 399. Section 3328 of the Public Utilities Code is amended to read:

3328. The California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) applies to all records of the authority.

SEC. 400. Section 6354 of the Public Utilities Code is amended to read:

6354. (a) Surcharges calculated pursuant to Section 6353 shall be recovered from the transportation customer through the energy transporter's normal billing process.

(b) Surcharges collected from the transportation customer shall be remitted to the municipality granting a franchise pursuant to this division in the manner and at the time prescribed for payment of franchise fees in

the energy transporter's franchise agreement. In recognition of costs to be incurred by energy transporters in administering the surcharge established by this chapter, the energy transporter may retain interest earned on cash balances resulting from the timing difference between the monthly collection of the surcharge and the remittance thereof, as required by individual franchise agreements.

(c) In the event that payment on a transportation customer closed account becomes more than 90 days delinquent, or a transportation customer notifies the utility that they refuse to pay the surcharge, the energy transporter shall, within 30 days, notify the municipality of the delinquency and provide information on the name and address of the delinquent transportation customer and the surcharge amount owed. The energy transporter shall not be liable for these delinquent surcharges.

(d) The municipality, including its authorized officials, employees, and agents shall use the delinquent transportation customer information only for the purpose of enforcing the surcharge and shall not disclose the information to any officials, employees, agents, or any third parties who are not responsible for and involved in the enforcement of the municipality's franchise agreements. Nothing herein precludes the municipality, through appropriate officials, employees, or agents, from contacting the transportation customers in order to collect any surcharges due from the transportation customer.

(e) By March 31 of each year, every person, firm, or corporation that transports gas or electricity to any other person, firm, or corporation within a municipality, upon request of the municipality, shall provide the names and addresses of each of its transportation customers and other information for the preceding calendar year as may be necessary for the municipality to enforce its taxes and fees. The municipality, including its authorized employees and agents, shall use the transportation customer information and any other customer specific information only for the purpose of enforcing its taxes and fees and shall not disclose the information to any officials, employees, agents, or any third parties not responsible for, and involved in, the enforcement of the taxes and fees. Nothing in this subdivision shall prohibit the municipality, through appropriate officials, employees, or agents, from contacting the customers in order to collect any taxes and fees due from the customer.

(f) Notwithstanding any other provision of law, any transportation customer information provided by an energy transporter to a municipality pursuant to this chapter or pursuant to a utility user tax ordinance is not a public record within the definitions contained in the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(g) In acknowledgment of the potential for systems startup costs to be incurred by the energy transporters in implementing this chapter, authorization is hereby granted for each energy transporter to retain 10 percent of the added fees collected pursuant to this chapter on transported gas or electricity for systems startup costs not to exceed seven hundred fifty

thousand dollars ($750,000), provided that the portion of collections withheld by the energy transporter shall be apportioned to all municipalities based upon each municipality's share of total franchise fees allocated by the transporter in the prior calendar year.

(h) Surcharges collected pursuant to this chapter shall be separately identified on the transportation customer's normal bill. At the request of the energy transporter, the municipality shall publish notice in a newspaper of general circulation announcing the change in method of collecting franchise fees brought about by deregulation. Energy transporters may send out notice to transportation customers announcing the change in method of collecting franchise fees through the surcharge. The mailing costs incurred by the energy transporter shall be considered to be part of the implementation costs referenced in subdivision (g).

(i) In the case of partial payment by a transportation customer, the transportation customer payment shall first be applied to the energy transporter charges. Only after all energy transporter charges have been satisfied, shall remaining payment amounts be used to satisfy the municipality's surcharge requirement.

(j) Energy transporter collection of the surcharge shall begin on or before April 1, 1994. During the interim period between expiration of the targeted sales program and implementation of the energy transporters surcharge collection program, upon request of the municipality, the energy transporter shall provide the municipality with a monthly list of the names and addresses of the transportation customers within the municipality's jurisdiction, the volume of transported gas in therms, the applicable tariffed core subscription weighted average cost of gas (WACOG) exclusive of any California sourced franchise factor, and the franchise fee factor authorized by the commission to enable the municipality to collect the surcharge directly from the transportation customers. Notwithstanding any other provision of law, except as provided in Section 6352, a municipality is hereby authorized to collect an interim surcharge computed in accordance with Section 6353 until the energy transporter commences billing of the surcharge pursuant to this chapter.

SEC. 401. Section 7665.4 of the Public Utilities Code is amended to read:

7665.4. (a) By January 1, 2008, every rail operator shall develop and implement an infrastructure protection program to protect rail infrastructure in the state from acts of sabotage, terrorism, or other crimes.

(b) (1) The infrastructure protection program shall address the security of all critical infrastructure.

(2) The infrastructure protection program shall provide training to all employees of the rail operator performing work at a rail facility on how to recognize, prevent, and respond to acts of sabotage, terrorism, or other crimes.

(c) (1) All employees of a contractor or subcontractor of a rail operator, and any other person performing work at a rail facility that is not the employee of the rail operator, shall receive training equivalent to that

received by employees of the rail operator pursuant to paragraph (2) of subdivision (b), within a reasonable period of time. The commission, in consultation with the director, may adopt reasonable rules or orders to implement this requirement.

(2) All employees of a contractor or subcontractor of a rail operator, and any other person performing work at a rail facility that is not the employee of the rail operator, shall undergo an equivalent evaluation of their background, skills, and fitness as the rail operator implements for its employees pursuant to its infrastructure protection plan. The commission, in consultation with the director, may adopt reasonable rules or orders to implement this requirement.

(d) Each rail operator in the state shall provide to the commission and the director a copy of its infrastructure protection program. Notwithstanding Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code, the commission and the director shall keep this information confidential.

(e) The infrastructure protection program shall be updated by the rail operator at least once every year, and the updated plan shall be submitted to the commission and the director.

(f) The commission, in consultation with the office, shall review the infrastructure protection program submitted by a rail operator, may conduct inspections to facilitate the review, and may order a rail operator to improve, modify, or change its program to comply with the requirements of this article.

(g) The commission may fine a rail operator for failure to comply with the requirements of this section or an order of the commission pursuant to this section.

SEC. 402. Section 9614 of the Public Utilities Code is amended to read:

9614. (a) Beginning January 15, 2002, and at least once monthly thereafter, a local publicly owned electric utility shall notify each air pollution control district and air quality management district of the name and address of each entity within the district's boundaries within the local publicly owned electric utility's control or service area with whom the utility enters into an interruptible service contract or similar arrangement.

(b) For the purposes of this section, "interruptible service contract or similar arrangement" means any arrangement in which a nonresidential electrical customer agrees to reduce or consider reducing its electrical consumption during periods of peak demand or at the request of the local publicly owned electric utility in exchange for compensation, or for assurances not to be blacked out or other similar nonmonetary assurances.

(c) The local air pollution control district or air quality management district shall maintain in a confidential manner the information received pursuant to this section. However, nothing in this subdivision shall affect the applicability of Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code, or of any other similar open records statute or ordinance, to information provided pursuant to this section.

SEC. 403. Section 9618 of the Public Utilities Code is amended to read:

9618. (a) (1) Except as provided in paragraph (2), a local publicly owned electric utility that provides electric service to 250,000 or more customers within the Los Angeles Basin shall make publicly available, upon request of any person, electrical grid data necessary or useful to enable distributed energy resource providers to target solutions that support reliability in the area where electrical reliability has been impacted as a result of reductions in gas storage capacity and gas deliverability resulting from the well failure at the Aliso Canyon natural gas storage facility first reported to the commission in October 2015.

(2) A local publicly owned electric utility shall not make data available pursuant to paragraph (1) that is prohibited from being disclosed pursuant to state or federal law.

(3) The data made available pursuant to this subdivision shall be available pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), commencing within 60 days of the effective date of this section.

(b) For purposes of this section, "Los Angeles Basin" means the area identified as the "Aliso Canyon Delivery Area" on page 11 of the Aliso Canyon Risk Assessment Technical Report, dated April 5, 2016.

SEC. 404. Section 28844 of the Public Utilities Code is amended to read:

28844. Any investigatory file compiled by the BART Inspector General is an investigatory file compiled by a local law enforcement agency subject to disclosure pursuant to Article 1 (commencing with Section 7923.600) of Chapter 1 of Part 5 of Division 10 of Title 1 of the Government Code.

SEC. 405. Section 99246 of the Public Utilities Code is amended to read:

99246. (a) (1) The transportation planning agency shall designate entities other than itself, a county transportation commission, a transit development board, or an operator to make a performance audit of its activities and the activities of each operator to whom it allocates funds. The transportation planning agency shall consult with the entity to be audited prior to designating the entity to make the performance audit.

(2) Where a transit development board created pursuant to Division 11 (commencing with Section 120000) or a county transportation commission exists, the board or commission, as the case may be, shall designate entities other than itself, a transportation planning agency, or an operator to make a performance audit of its activities and those of operators located in the area under its jurisdiction to whom it directs the allocation of funds. The board or commission shall consult with the entity to be audited prior to designating the entity to make the performance audit.

(b) The performance audit shall evaluate the efficiency, effectiveness, and economy of the operation of the entity being audited and shall be conducted in accordance with the efficiency, economy, and program results portions of the Comptroller General's "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions." Performance audits shall be conducted triennially pursuant to a schedule established by the

transportation planning agency, transit development board, or county transportation commission having jurisdiction over the operator.

(c) The performance audit of the transportation planning agency, county transportation commission, or transit development board shall be submitted to the director. The transportation planning agency, county transportation commission, or transit development board, as the case may be, shall certify in writing to the director that the performance audit of operators located in the area under its jurisdiction has been completed.

(d) (1) With respect to an operator providing public transportation services, the performance audit shall include, but not be limited to, a verification of the operator's operating cost per passenger, operating cost per vehicle service hour, passengers per vehicle service hour, passengers per vehicle service mile, and vehicle service hours per employee, as defined in Section 99247. The performance audit shall include, but not be limited to, consideration of the needs and types of the passengers being served and the employment of part-time drivers and the contracting with common carriers of persons operating under a franchise or license to provide services during peak hours, as defined in subdivision (a) of Section 99260.2.

(2) The performance audit may include performance evaluations both for the entire system and for the system excluding special, new, or expanded services instituted to test public transportation service growth potential.

(e) The performance audit prepared pursuant to this section shall be made available to the public pursuant to the provisions of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

SEC. 406. Section 130051.28 of the Public Utilities Code is amended to read:

130051.28. (a) The Los Angeles County Metropolitan Transportation Authority shall appoint an inspector general to a term of office of four years. The inspector general shall be removed from office only if either or both of the following occur:

(1) A two-thirds majority of the members of the authority votes for removal.

(2) The inspector general violates a federal or state law or regulation, a local ordinance, or a policy or practice of the authority, relative to ethical practices, including, but not limited to, the acceptance of gifts or contributions.

(b) The inspector general shall, at a noticed public hearing of the authority, report quarterly on the expenditures of the authority for travel, meals and refreshments, private club dues, membership fees and other charges, and any other expenditures which are specified by the authority.

(c) Any investigatory file compiled by the inspector general is an investigatory file compiled by a local law enforcement agency subject to disclosure pursuant to Article 1 (commencing with Section 7923.600) of Chapter 1 of Part 5 of Division 10 of Title 1 of the Government Code.

SEC. 407. Section 132354.1 of the Public Utilities Code is amended to read:

132354.1. (a) The board shall arrange for a post audit of the financial transactions and records of the consolidated agency to be made at least annually by a certified public accountant.

(b) (1) The audit committee shall appoint an independent performance auditor, subject to approval by the board, who may only be removed for cause by a vote of at least two-thirds of the audit committee and the board.

(2) The independent performance auditor shall have authority to conduct or to cause to be conducted performance audits of all departments, offices, boards, activities, agencies, and programs of the consolidated agency. The auditor shall prepare annually an audit plan and conduct audits in accordance therewith and perform those other duties as may be required by ordinance or as provided by the California Constitution and general laws of the state. The auditor shall follow government auditing standards. All officers and employees of the consolidated agency shall furnish to the auditor unrestricted access to employees, information, and records, including electronic data, within their custody regarding powers, duties, activities, organization, property, financial transactions, contracts, and methods of business required to conduct an audit or otherwise perform audit duties. It is also the duty of any consolidated agency officer, employee, or agent to fully cooperate with the auditor, and to make full disclosure of all pertinent information.

(3) The auditor shall have the power to appoint, employ, and remove assistants, employees, and personnel as deemed necessary for the efficient and effective administration of the affairs of the office and to prescribe their duties, scope of authority, and qualifications.

(4) The auditor may investigate any material claim of financial fraud, waste, or impropriety within the consolidated agency and for that purpose may summon any officer, agent, or employee of the consolidated agency, any claimant, or other person, and examine the person upon oath or affirmation relative thereto. All consolidated agency contracts with consultants, vendors, or agencies will be prepared with an adequate audit provision to allow the auditor access to the entity's records needed to verify compliance with the terms specified in the contract. Results of all audits and reports shall be made available to the public in accordance with the requirements of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(c) The board shall develop and adopt internal control guidelines to prevent and detect financial errors and fraud based on the internal control guidelines developed by the Controller pursuant to Section 12422.5 of the Government Code and the standards adopted by the American Institute of Certified Public Accountants.

(d) The board shall develop and adopt an administration policy that includes a process to conduct staff performance evaluations on a regular basis to determine if the knowledge, skills, and abilities of staff members are sufficient to perform their respective functions, and shall monitor the evaluation process on a regular basis.

(e) The board members shall make an annual report to their member agencies at a public meeting pursuant to Chapter 9 (commencing with

Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code, that includes a summary of activities by the consolidated agency including, but not limited to, program developments, project updates, changes to voter-approved expenditure plans, and potential ballot measures.

SEC. 408. Section 132360.5 of the Public Utilities Code is amended to read:

132360.5. All documents created in compliance with this article shall be made available and ready for public review in compliance with the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

SEC. 409. Section 132660 of the Public Utilities Code is amended to read:

132660. The authority and any entity contracted with to serve as the operator of any transit connectivity developed and delivered pursuant to this chapter shall be subject to all of the following:

(a) The Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code).

(b) The California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(c) The Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

SEC. 410. Section 408.2 of the Revenue and Taxation Code is amended to read:

408.2. (a) Except as otherwise provided in Sections 63.1, 69.5, 451, and 481 of this code and in the provisions listed in Section 7920.505 of the Government Code, any information and records in the assessor's office that are required by law to be kept or prepared by the assessor, other than homeowners' exemption claims, are public records and shall be open to public inspection. Property receiving the homeowners' exemption shall be clearly identified on the assessment roll. The assessor shall maintain records that shall be open to public inspection to identify those claimants who have been granted the homeowners' exemption.

(b) The assessor may provide any appraisal data in the assessor's possession to the assessor of any county and shall provide any market data in the assessor's possession to an assessee of property or an assessee's designated representative upon request. The assessor shall permit an assessee of property or an assessee's designated representative to inspect at the assessor's office any information and records, whether or not required to be kept or prepared by the assessor, relating to the appraisal and the assessment of the assessee's property. Except as provided in Section 408.1, an assessee or an assessee's designated representative, however, shall not be provided or permitted to inspect information and records, other than market data, which also relate to the property or business affairs of another person, unless that disclosure is ordered by a competent court in a proceeding initiated by a taxpayer seeking to challenge the legality of the taxpayer's assessment.

(c) The assessor shall disclose information, furnish abstracts, or permit access to all records in the assessor's office to law enforcement agencies, the county grand jury, the board of supervisors or their duly authorized agents, employees, or representatives when conducting an investigation of the assessor's office pursuant to Section 25303 of the Government Code, the Controller, probate referees, employees of the Franchise Tax Board for tax administration purposes only, the State Board of Equalization, and other duly authorized legislative or administrative bodies of the state pursuant to their authorization to examine the records.

(d) For purposes of this section, "market data" means any information in the assessor's possession, whether or not required to be prepared or kept by the assessor, relating to the sale of any property comparable to the property of the assessee, if the assessor bases the assessment of the assessee's property, in whole or in part, on that comparable sale or sales. The assessor shall provide the names of the seller and buyer of each property on which the comparison is based, the location of that property, the date of the sale, and the consideration paid for the property, whether paid in money or otherwise, but for purposes of providing market data, the assessor shall not display any document relating to the business affairs or property of another.

(e) This section applies only to a county with a population that exceeds 4,000,000.

SEC. 411. Section 408.3 of the Revenue and Taxation Code is amended to read:

408.3. (a) Except as otherwise provided in Sections 451 and 481 and in the provisions listed in Section 7920.505 of the Government Code, property characteristics information maintained by the assessor is a public record and shall be open to public inspection.

(b) For purposes of this section, "property characteristics," includes, but is not limited to, the year of construction of improvements to the property, their square footage, the number of bedrooms and bathrooms of all dwellings, the property's acreage, and other attributes of or amenities to the property, such as swimming pools, views, zoning classifications or restrictions, use code designations, and the number of dwelling units of multiple family properties.

(c) (1) Notwithstanding subdivision (a) of Section 7922.530 of the Government Code or any other provision of law, if the assessor provides property characteristics information at the request of any party, the assessor may require that a fee reasonably related to the actual cost of developing and providing the information be paid by the party receiving the information.

(2) The actual cost of providing the information is not limited to duplication or production costs, but may include recovery of developmental and indirect costs, as overhead, personnel, supply, material, office, storage, and computer costs. All revenue collected by the assessor for providing information under this section shall be used solely to support, maintain, improve, and provide for the creation, retention, automation, and retrieval of assessor information.

(d) The Legislature finds and declares that information concerning property characteristics is maintained solely for assessment purposes and is not continuously updated by the assessor. Therefore, neither the county nor the assessor shall incur any liability for errors, omissions, or approximations with respect to property characteristics information provided by the assessor to any party pursuant to this section. Further, this subdivision shall not be construed to imply liability on the part of the county or the assessor for errors, omissions, or other defects in any other information or records provided by the assessor pursuant to the provisions of this part.

SEC. 412. Section 409 of the Revenue and Taxation Code is amended to read:

409. (a) (1) Notwithstanding subdivision (a) of Section 7922.530 of the Government Code or any other statutory provision, if the assessor, pursuant to the request of any party, provides information or records that the assessor is not required by law to prepare or keep, the county may require that a fee reasonably related to the actual cost of developing and providing that information be paid by the party receiving the information.

(2) The actual cost of providing the information is not limited to duplication or reproduction costs, but may include recovery of developmental and indirect costs, such as overhead, personnel, supply, material, office, storage, and computer costs.

(3) It is the intent of this section that the county may impose this fee for information and records maintained for county use, as well as for information and records not maintained for county use.

(4) Nothing herein shall be construed to require an assessor to provide information to any party beyond that the assessor is otherwise statutorily required to provide.

(b) For purposes of this section, "market data," as defined in Section 408.1, shall be deemed to be information the assessor is required by law to prepare or keep when requested by the assessee or a designated representative of the assessee.

(c) This section shall not apply to requests of the State Board of Equalization for information.

SEC. 413. Section 7284.6 of the Revenue and Taxation Code is amended to read:

7284.6. (a) It is unlawful for any local jurisdiction, including any employee, officer, authorized agent, or contractor of the local jurisdiction, to permit any utility user's tax return or copy thereof, or any records of any payment of utility user's tax, to be seen or examined by, or disclosed to, any person who is not one of the following:

(1) An employee, officer, authorized agent, or contractor of the local jurisdiction with administrative or compliance responsibilities relating to the utility user's tax ordinance.

(2) An employee of the utility or other company that is required to report or pay a utility user's tax to the local jurisdiction, and that furnished the records or information.

(b) Notwithstanding subdivision (a), this section does not prohibit a local jurisdiction from doing any of the following:

(1) Disclosing to a taxpayer information derived from the records of a utility or other utility service provider, if the information is used to calculate the utility user's tax of that taxpayer; or, disclosing that information in a tax collection action, provided that that information is subject to a protective order issued by a court.

(2) Disclosing to a tax officer of the state or federal government, pursuant to a written reciprocal agreement, information derived from the records of a utility or other utility service provider, if the information is used to calculate the local utility user's tax.

(3) Disclosing the gross utility user's tax revenues collected from the customers of a utility that is owned or operated by the local jurisdiction that imposes the utility user's tax.

(c) For purposes of this section:

(1) "Local jurisdiction" means any city, county, city and county, including any chartered city or city and county, district, or public or municipal corporation.

(2) "District" means any agency of the state, formed pursuant to general law or a special act, for the local performance of governmental or proprietary functions within limited boundaries.

(d) Any violation of this section is a misdemeanor and is punishable by a fine not exceeding one thousand dollars ($1,000), by imprisonment in a county jail not exceeding one year, or by both, in the discretion of the court.

(e) This section shall not be construed to prohibit the divulging of information to the State Board of Equalization for the purposes of its administration of the Energy Resources Surcharge Law (Part 19 (commencing with Section 40001) of Division 2).

(f) Any information subject to subdivision (a) shall be exempt from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), except that nothing in this section shall be construed to prohibit the disclosure of records pursuant to Section 7927.410 of the Government Code.

SEC. 414. Section 7284.7 of the Revenue and Taxation Code is amended to read:

7284.7. (a) It is unlawful for any employee, officer, authorized agent, or contractor of a local jurisdiction levying a utility user's tax, that obtains access to information contained in utility user tax records of a local jurisdiction, to disclose any information obtained from the records of a utility or other company required to report or pay a utility user's tax to the local jurisdiction as a result of an audit, or any other information obtained in the course of an on-site audit, to any person who is not an employee, officer, authorized agent, or contractor of the local jurisdiction with administrative or compliance responsibilities relating to the utility user's tax ordinance.

(b) Any violation of this section is a misdemeanor and is punishable by a fine not exceeding one thousand dollars ($1,000), by imprisonment in a county jail not exceeding one year, or by both, in the discretion of the court.

(c) This section shall not be construed to prohibit the divulging of information to the State Board of Equalization for the purposes of its administration of the Energy Resources Surcharge Law (Part 19 (commencing with Section 40001) of Division 2).

(d) Notwithstanding subdivisions (a) and (b), this section shall not be construed to prohibit an employee, officer, authorized agent, or contractor of a local jurisdiction levying a utility user's tax from doing any of the following:

(1) Disclosing to a taxpayer information derived from the records of a utility or other utility service provider, if the information is used to calculate the utility user's tax of that taxpayer; or, disclosing that information in a tax collection action, provided that the information is subject to a protective order issued by a court.

(2) Disclosing to a tax officer of the state or federal government, pursuant to a written reciprocal agreement, information obtained from the records of a utility or other utility service provider, if the information is used to calculate the local utility user's tax.

(3) Disclosing the gross utility user's tax revenues collected from the customers of a utility that is owned or operated by the local jurisdiction that imposes the utility user's tax.

(e) For purposes of this section:

(1) "Local jurisdiction" means any city, county, city and county, including any chartered city or city and county, district, or public or municipal corporation.

(2) "District" means any agency of the state, formed pursuant to general law or a special act, for the local performance of governmental or proprietary functions within limited boundaries.

(f) Nothing in this section shall be construed to create an exemption from disclosure under Section 7927.705 of the Government Code, or to prohibit the disclosure of records pursuant to Section 7925.000 or 7927.410 of the Government Code.

SEC. 415. Section 7284.10 of the Revenue and Taxation Code, as added by Section 1 of Chapter 61 of the Statutes of 2018, is amended to read:

7284.10. For the purposes of this chapter, all of the following definitions shall apply:

(a) "Alcoholic beverages" has the same meaning as that term is defined in Section 23004 of the Business and Professions Code.

(b) "Cannabis products" has the same meaning as that term is defined in Section 11018.1 of the Health and Safety Code.

(c) "Cigarettes" has the same meaning as that term is defined in Section 30121.

(d) "Electronic cigarettes" has the same meaning as that term is defined in Section 30121.

(e) (1) "Groceries" means any raw or processed food or beverage including its packaging, wrapper, or container, or any ingredient thereof, intended for human consumption, including, but is not limited to, meat, poultry, fish, fruits, vegetables, grains, bread, milk, cheese and other dairy products, carbonated and noncarbonated nonalcoholic beverages, kombucha with less than 0.5 percent alcohol by volume, condiments, spices, cereals, seasonings, leavening agents, eggs, cocoa, teas, and coffees whether raw or processed, including its packaging, wrapper, or container.

(2) "Groceries" does not include alcoholic beverages, cannabis products, cigarettes, tobacco products, and electronic cigarettes.

(f) "Local agency" has the same meaning as provided in Section 7920.510 of the Government Code, and includes the electorate of a local agency in exercising the initiative power.

(g) "Tax, fee, or other assessment on groceries" includes, but is not limited to, a sales tax, gross receipts tax, business and occupation tax, business license tax, excise tax, privilege tax, surcharge, or any other similar levy, charge, or exaction of any kind on groceries or the manufacture, supply, distribution, sale, acquisition, possession, ownership, transfer, transportation, delivery, use, or consumption thereof.

(h) "Tobacco products" has the same meaning as that term is defined in Section 30121.

SEC. 416. Section 7284.10 of the Revenue and Taxation Code, as added by Section 1 of Chapter 88 of the Statutes of 2018, is amended to read:

7284.10. For the purposes of this chapter, all of the following definitions shall apply:

(a) "Alcoholic beverages" has the same meaning as that term is defined in Section 23004 of the Business and Professions Code.

(b) "Cannabis" has the same meaning as that term is defined in Section 26001 of the Business and Professions Code.

(c) "Cannabis products" has the same meaning as that term is defined in Section 26001 of the Business and Professions Code.

(d) "Cigarettes" has the same meaning as that term is defined in Section 30121.

(e) "Electronic cigarettes" has the same meaning as that term is defined in Section 30121.

(f) (1) "Groceries" means any raw or processed food or beverage including its packaging, wrapper, or container, or any ingredient thereof, intended for human consumption, including, but is not limited to, meat, poultry, fish, fruits, vegetables, grains, bread, milk, cheese and other dairy products, carbonated and noncarbonated nonalcoholic beverages, kombucha with less than 0.5 percent alcohol by volume, condiments, spices, cereals, seasonings, leavening agents, eggs, cocoa, teas, and coffees whether raw or processed, including its packaging, wrapper, or container.

(2) "Groceries" does not include alcoholic beverages, cannabis, cannabis products, cigarettes, tobacco products, and electronic cigarettes.

(g) "Local agency" has the same meaning as provided in Section 7920.510 of the Government Code, and includes the electorate of a local agency in exercising the initiative power.

(h) "Tax, fee, or other assessment on groceries" includes, but is not limited to, sales and use taxes, a gross receipts tax, business and occupation tax, business license tax, excise tax, privilege tax, surcharge, or any other similar levy, charge, or exaction of any kind on groceries or the manufacture, supply, distribution, sale, acquisition, possession, ownership, transfer, transportation, delivery, use, or consumption thereof.

(i) "Tobacco products" has the same meaning as that term is defined in Section 30121.

SEC. 417. Section 18410.2 of the Revenue and Taxation Code is amended to read:

18410.2. (a) The California Competes Tax Credit Committee is hereby established. The committee shall consist of the Treasurer, the Director of Finance, and the Director of the Governor's Office of Business and Economic Development, who shall serve as chair of the committee, or their designated representatives, and one appointee each by the Speaker of the Assembly and the Senate Committee on Rules. A Member of the Legislature shall not be appointed.

(b) For purposes of Sections 17059.2 and 23689, the California Competes Tax Credit Committee shall do all of the following:

(1) Approve or reject any written agreement for a tax credit allocation by resolution at a duly noticed public meeting held in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code), but only after receipt of the fully executed written agreement between the taxpayer and the Governor's Office of Business and Economic Development.

(2) Approve or reject any recommendation to recapture, in whole or in part, a tax credit allocation by resolution at a duly noticed public meeting held in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code), but only after receipt of the recommendation from the Governor's Office of Business and Economic Development pursuant to the terms of the fully executed written agreement.

(c) For purposes of Sections 17059.2 and 23689, the Governor's Office of Business and Economic Development shall provide a member of the committee, or their designated representatives, listed in subdivision (a), upon request of that member, with any information necessary to fulfill their duties or otherwise comply with the requirements of this section. Nothing in this subdivision shall be construed to require the Governor's Office of Business and Economic Development to provide information to the member or their designated representative that the applicant considers to be a trade secret, confidential, privileged, or otherwise exempt from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

SEC. 418. Section 19195 of the Revenue and Taxation Code is amended to read:

19195. (a) Notwithstanding any other provision of law, including Section 7920.500 and Article 3 (commencing with Section 7928.200) of Chapter 14 of Part 5 of Division 10 of Title 1 of the Government Code, the Franchise Tax Board shall make available as a matter of public record at least twice each calendar year a list of the 500 largest tax delinquencies in excess of one hundred thousand dollars ($100,000) under Part 10 and Part 11 of this division. For purposes of compiling the list, a tax delinquency means the total amount owed by a taxpayer to the State of California for which a notice of state tax lien has been recorded in any county recorder's office in this state, pursuant to Chapter 14 (commencing with Section 7150) of Division 7 of Title 1 of the Government Code.

(b) For purposes of the list, a tax delinquency does not include any of the following and may not be included on the list:

(1) A delinquency for which payment arrangements have been agreed to by both the taxpayer and the Franchise Tax Board and the taxpayer is in compliance with the arrangement.

(2) A delinquency for which the taxpayer has filed for bankruptcy protection pursuant to Title 11 of the United States Code.

(3) A delinquency for which the person or persons liable for the tax have contacted the Franchise Tax Board and for which resolution of the tax delinquency has been accepted by the Franchise Tax Board.

(c) Each list shall, with respect to each delinquency, include all the following:

(1) The name of the person or persons liable for payment of the tax and that person's or persons' address.

(2) The amount of tax delinquency as shown on the notice or notices of state tax lien and any applicable interest or penalties, less any amounts paid.

(3) The earliest date that a notice of state tax lien was filed.

(4) The type of tax that is delinquent.

(5) The type, status, and license number of any occupational or professional license held by the person or persons liable for payment of the tax.

(6) The names and titles of the principal officers of the person liable for payment of the tax if that person is a limited liability company or corporation. The Franchise Tax Board shall refer to the limited liability company's or the corporation's Statement of Information filed with the Secretary of State or to the limited liability company's or the corporation's tax return filed pursuant to this part to determine the principal officers of the limited liability company or corporation. Principal officers appearing on a list solely pursuant to this paragraph shall not be subject to Section 494.5 of the Business and Professions Code, or Section 10295.4 of the Public Contract Code.

(d) Prior to making a tax delinquency a matter of public record as required by this section, the Franchise Tax Board shall provide a preliminary written notice to the person or persons liable for the tax by certified mail, return receipt requested. If within 30 days after issuance of the notice, the person

or persons do not remit the amount due or make arrangements with the Franchise Tax Board for payment of the amount due, the tax delinquency shall be included on the list.

(e) The list described in subdivision (a) shall include the following:

(1) The telephone number and address of the Franchise Tax Board office to contact if a person believes placement of the person's name on the list is in error.

(2) The aggregate number of persons that have appeared on the list who have satisfied their delinquencies in their entirety and the dollar amounts, in the aggregate, that have been paid attributable to those delinquencies.

(f) As promptly as feasible, but no later than five business days from the occurrence of any of the following, the Franchise Tax Board shall remove that taxpayer's name from the list of tax delinquencies:

(1) Tax delinquencies for which the person liable for the tax has contacted the Franchise Tax Board and resolution of the delinquency has been arranged.

(2) Tax delinquencies for which the Franchise Tax Board has verified that an active bankruptcy proceeding has been initiated.

(3) Tax delinquencies for which the Franchise Tax Board has verified that a bankruptcy proceeding has been completed and there are no assets available with which to pay the delinquent amount or amounts.

(4) Tax delinquencies that the Franchise Tax Board has determined to be uncollectible.

(g) A person whose delinquency appears on the list, and who satisfies that delinquency in whole or in part, may request the Franchise Tax Board to include in its list any payments that person made to satisfy the delinquency. Upon receipt of that request, the Franchise Tax Board shall include those payments on the list as promptly as feasible.

(h) Notwithstanding subdivision (a), a person whose delinquency appeared on the list and whose name has been removed pursuant to paragraph (1) of subdivision (f) shall comply with the terms of the arranged resolution. If the person fails to do so, the Franchise Tax Board may add that person's name to the list of delinquencies without providing the prior written notice otherwise required by subdivision (d).

SEC. 419. Section 19528 of the Revenue and Taxation Code is amended to read:

19528. (a) Notwithstanding any other law, the Franchise Tax Board may require any board, as defined in Section 22 of the Business and Professions Code, and the State Bar, the Bureau of Real Estate, and the Insurance Commissioner (hereinafter referred to as licensing board) to provide to the Franchise Tax Board the following information with respect to every licensee:

(1) Name.

(2) Address or addresses of record.

(3) Federal employer identification number, if the licensee is a partnership, or the licensee's individual taxpayer identification number or social security number of all other licensees.

(4) Type of license.
(5) Effective date of license or renewal.
(6) Expiration date of license.
(7) Whether license is active or inactive, if known.
(8) Whether license is new or renewal.

(b) The Franchise Tax Board may do the following:

(1) Send a notice to any licensee failing to provide the federal employer identification number, individual taxpayer identification number, or social security number as required by subdivision (a) of Section 30 of the Business and Professions Code and subdivision (a) of Section 1666.5 of the Insurance Code, describing the information that was missing, the penalty associated with not providing it, and that failure to provide the information within 30 days will result in the assessment of the penalty.

(2) After 30 days following the issuance of the notice described in paragraph (1), assess a one-hundred-dollar ($100) penalty, due and payable upon notice and demand, for any licensee failing to provide either its federal employer identification number (if the licensee is a partnership) or the licensee's individual taxpayer identification number or social security number (for all others) as required in Section 30 of the Business and Professions Code and Section 1666.5 of the Insurance Code.

(c) Notwithstanding Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code, the information furnished to the Franchise Tax Board pursuant to Section 30 of the Business and Professions Code or Section 1666.5 of the Insurance Code shall not be deemed to be a public record and shall not be open to the public for inspection.

SEC. 420. Section 36612 of the Streets and Highways Code is amended to read:

36612. "Owners' association" means a private nonprofit entity that is under contract with a city to administer or implement improvements, maintenance, and activities specified in the management district plan. An owners' association may be an existing nonprofit entity or a newly formed nonprofit entity. An owners' association is a private entity and may not be considered a public entity for any purpose, nor may its board members or staff be considered to be public officials for any purpose. Notwithstanding this section, an owners' association shall comply with the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code), at all times when matters within the subject matter of the district are heard, discussed, or deliberated, and with the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), for all records relating to activities of the district.

SEC. 421. Section 36740 of the Streets and Highways Code is amended to read:

36740. Notwithstanding any other provision of this part, an owners' association shall comply with the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code), at all times when matters within the subject matter of

the district are heard, discussed, or deliberated, and with the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), for all documents relating to activities of the district.

SEC. 422. Section 10205 of the Unemployment Insurance Code is amended to read:

10205. The panel shall do all of the following:

(a) Establish a three-year plan that shall be updated annually, based on the demand of employers for trained workers, changes in the state's economy and labor markets, and continuous reviews of the effectiveness of panel training contracts. The updated plan shall be submitted to the Governor and the Legislature not later than January 1 of each year. In carrying out this section, the panel shall review information in the following areas:

(1) Labor market information, including the state-local labor market information program in the Employment Development Department and other relevant regional or statewide initiatives and collaboratives.

(2) Evaluations of the effectiveness of training as measured by increased security of employment for workers and benefits to the California economy.

(3) The demand for training by industry, type of training, and size of employer.

(4) Changes in skills necessary to perform jobs, including changes in basic literacy skills.

(5) Changes in the demographics of the labor force and the population entering the labor market.

(6) Proposed expenditures by other agencies of federal Workforce Investment Act funds and other state and federal training and vocational education funds on eligible participants.

(b) Maintain a system to continuously monitor economic and other data required under this plan. If this data changes significantly during the life of the plan, the plan shall be amended by the panel. Each plan shall include all of the following:

(1) The panel's objectives with respect to the criteria and priorities specified in Section 10200 and the distribution of funds between new-hire training and retraining.

(2) The identification of specific industries, production and quality control techniques, and regions of the state where employment training funds would most benefit the state's economy and plans to encourage training in these areas, including specific standards and a system for expedited review of proposals that meet the standards.

(3) A system for expedited review of proposals that are substantially similar with respect to employer needs, training curriculum, duration of training, and costs of training, in order to encourage the development of proposals that meet the needs identified in paragraph (2).

(4) The panel's goals, operational objectives, and strategies to meet the needs of small businesses, including, but not limited to, those small businesses with 100 or fewer employees. These strategies proposed by the panel may include, but not be limited to, pilot demonstration projects

designed to identify potential barriers that small businesses may experience in accessing panel programs and workforce training resources, including barriers that may exist within small businesses.

(5) The research objectives of the panel that contribute to the effectiveness of this chapter in benefiting the economy of the state as a whole.

(6) A priority list of skills or occupations that are in such short supply that employers are choosing to not locate or expand their businesses in the state or are importing labor in response to these skills shortages.

(7) A review of the panel's efforts to coordinate with the California Workforce Investment Board and local boards to achieve an effective and coordinated approach in the delivery of the state's workforce resources.

(A) The panel will consider specific strategies to achieve this goal that include the development of initiatives to engage local workforce investment boards in enhancing the utilization of panel training resources by companies in priority sectors, special populations, and in geographically underserved areas of the state.

(B) Various approaches to foster greater program integration between workforce investment boards and the panel will also be considered, which may include marketing agreements, expanded technical assistance, modification of program regulations and policy, and expanded use of multiple employer contracts.

(c) Solicit proposals and write contracts on the basis of proposals made directly to it. Contracts for the purpose of providing employment training may be written with any of the following:

(1) An employer or group of employers.

(2) A training agency.

(3) A local workforce investment board with the approval of the appropriate local elected officials in the local workforce investment area.

(4) A grant recipient or administrative entity selected pursuant to the federal Workforce Investment Act of 1998, with the approval of the local workforce investment board and the appropriate local elected officials.

These contracts shall be in the form of fixed-fee performance contracts. Notwithstanding any provision of law to the contrary, contracts entered into pursuant to this chapter shall not be subject to competitive bidding procedures. Contracts for training may be written for a period not to exceed 24 months for the purpose of administration by the panel and the contracting employer or any group of employers acting jointly or any training agency for the purpose of providing employment training.

(d) Fund training projects that best meet the priorities identified annually. In doing so, the panel shall seek to facilitate the employment of the maximum number of eligible participants.

(e) Establish minimum standards for the consideration of proposals, which shall include, but not be limited to, evidence of labor market demand, the number of jobs available, the skill requirements for the identified jobs, the projected cost per person trained, hired, and retained in employment, the wages paid successful trainees upon placement, and the curriculum for the training. No proposal shall be considered or approved that proposes

training for employment covered by a collective bargaining agreement unless the signatory labor organization agrees in writing.

(f) Ensure the provision of adequate fiscal and accounting controls for, monitoring and auditing of, and other appropriate technical and administrative assistance to, projects funded by this chapter.

(g) Provide for evaluation of projects funded by this chapter. The evaluations shall assess the effectiveness of training previously funded by the panel to improve job security and stability for workers, and benefit participating employers and the state's economy, and shall compare the wages of trainees in the 12-month period prior to training as well as the 12-month period subsequent to completion of training, as reflected in the department's unemployment insurance tax records. Individual project evaluations shall contain a summary description of the project, the number of persons entering training, the number of persons completing training, the number of persons employed at the end of the project, the number of persons still employed three months after the end of the project, the wages paid, the total costs of the project, and the total reimbursement received from the Employment Training Fund.

(h) Report annually to the Legislature, by November 30, on projects operating during the previous state fiscal year. These annual reports shall provide separate summaries of all of the following:

(1) Projects completed during the year, including their individual and aggregate performance and cost.

(2) Projects not completed during the year, briefly describing each project and identifying approved contract amounts by contract and for this category as a whole, and identifying any projects in which funds are expected to be disencumbered.

(3) Projects terminated prior to completion and the reasons for the termination.

(4) A description of the amount, type, and effectiveness of literacy training funded by the panel.

(5) Results of complete project evaluations.

(6) A description of pilot projects, and the strategies that were identified through these projects, to increase access by small businesses to panel training contracts.

(7) A listing of training projects that were funded in high unemployment areas and a detailed description of the policies and procedures that were used to designate geographic regions and municipalities as high unemployment areas.

In addition, based upon its experience in administering job training projects, the panel shall include in these reports policy recommendations concerning the impact of job training and the panel's program on economic development, labor-management relations, employment security, and other related issues.

(i) Conduct ongoing reviews of panel policies with the goal of developing an improved process for developing, funding, and implementing panel contracts as described in this chapter.

(j) Expedite the processing of contracts for firms considering locating or expanding businesses in the state, in accordance with the priorities for employment training programs set forth in subdivision (b) of Section 10200.

(k) Coordinate and consult regularly with business groups and labor organizations, the California Workforce Investment Board, the State Department of Education, the office of the Chancellor of the California Community Colleges, and the Employment Development Department.

(*l*) Adopt by regulation procedures for the conduct of panel business, including the scheduling and conduct of meetings, the review of proposals, the disclosure of contacts between panel members and parties at interest concerning particular proposals, contracts or cases before the panel or its staff, the awarding of contracts, the administration of contracts, and the payment of amounts due to contractors. All decisions by the panel shall be made by resolution of the panel and any adverse decision shall include a statement of the reason for the decision.

(m) Adopt regulations and procedures providing reasonable confidentiality for the proprietary information of employers seeking training funds from the panel if the public disclosure of that information would result in an unfair competitive disadvantage to the employer supplying the information. The panel may not withhold information from the public regarding its operations, procedures, and decisions that would otherwise be subject to disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(n) Review and comment on the budget and performance of any program, project, or activity funded by the panel utilizing funds collected pursuant to Section 976.6.

SEC. 423. Section 14109 of the Unemployment Insurance Code is amended to read:

14109. For purposes of implementing the SEED Initiative, no entity or person shall seek information that is unnecessary to determine eligibility, including whether the individual is unlawfully present in the United States. Information that may be collected from individuals participating in the SEED Initiative shall not constitute a record subject to disclosure under Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code.

SEC. 424. Section 12801.9 of the Vehicle Code is amended to read:

12801.9. (a) Notwithstanding Section 12801.5, the department shall issue an original driver's license to a person who is unable to submit satisfactory proof that the applicant's presence in the United States is authorized under federal law if the person meets all other qualifications for licensure and provides satisfactory proof to the department of the person's identity and California residency.

(b) The department shall adopt emergency regulations to carry out the purposes of this section, including, but not limited to, procedures for (1) identifying documents acceptable for the purposes of proving identity and California residency, (2) procedures for verifying the authenticity of the documents, (3) issuance of a temporary license pending verification of any

document's authenticity, and (4) hearings to appeal a denial of a license or temporary license.

(c) Emergency regulations adopted for purposes of establishing the documents acceptable to prove identity and residency pursuant to subdivision (b) shall be promulgated by the department in consultation with appropriate interested parties, in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), including law enforcement representatives, immigrant rights representatives, labor representatives, and other stakeholders, which may include, but are not limited to, the Department of the California Highway Patrol, the California State Sheriffs' Association, and the California Police Chiefs Association. The department shall accept various types of documentation for this purpose, including, but not limited to, the following documents:

(1) A valid, unexpired consular identification document issued by a consulate from the applicant's country of citizenship, or a valid, unexpired passport from the applicant's country of citizenship.

(2) An original birth certificate, or other proof of age, as designated by the department.

(3) A home utility bill, lease or rental agreement, or other proof of California residence, as designated by the department.

(4) The following documents, which, if in a language other than English, shall be accompanied by a certified translation or an affidavit of translation into English:

(A) A marriage license or divorce certificate.

(B) A foreign federal electoral photo card issued on or after January 1, 1991.

(C) A foreign driver's license.

(5) A United States Department of Homeland Security Form I-589, Application for Asylum and for Withholding of Removal.

(6) An official school or college transcript that includes the applicant's date of birth or a foreign school record that is sealed and includes a photograph of the applicant at the age the record was issued.

(7) A United States Department of Homeland Security Form I-20 or Form DS-2019.

(8) A deed or title to real property.

(9) A property tax bill or statement issued within the previous 12 months.

(10) An income tax return.

(d) (1) A license issued pursuant to this section, including a temporary license issued pursuant to Section 12506, shall include a recognizable feature on the front of the card, such as the letters "DP" instead of, and in the same font size as, the letters "DL," with no other distinguishable feature.

(2) The license shall bear the following notice: "This card is not acceptable for official federal purposes. This license is issued only as a license to drive a motor vehicle. It does not establish eligibility for employment, voter registration, or public benefits."

(3) The notice described in paragraph (2) shall be in lieu of the notice provided in Section 12800.5.

(e) If the United States Department of Homeland Security determines a license issued pursuant to this section does not satisfy the requirements of Section 37.71 of Title 6 of the Code of Federal Regulations, adopted pursuant to paragraph (11) of subdivision (d) of Section 202 of the Real ID Act of 2005 (Public Law 109-13), the department shall modify the license only to the extent necessary to satisfy the requirements of that section.

(f) Notwithstanding Section 40300 or any other law, a peace officer shall not detain or arrest a person solely on the belief that the person is an unlicensed driver, unless the officer has reasonable cause to believe the person driving is under 16 years of age.

(g) The inability to obtain a driver's license pursuant to this section does not abrogate or diminish in any respect the legal requirement of every driver in this state to obey the motor vehicle laws of this state, including laws with respect to licensing, motor vehicle registration, and financial responsibility.

(h) It is a violation of law to discriminate against a person because the person holds or presents a license issued under this section, including, but not limited to, the following:

(1) It is a violation of the Unruh Civil Rights Act (Section 51 of the Civil Code), for a business establishment to discriminate against a person because the person holds or presents a license issued under this section.

(2) (A) It is a violation of the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code) for an employer or other covered person or entity, pursuant to Section 12940 of the Government Code and subdivision (v) of Section 12926 of the Government Code, to discriminate against a person because the person holds or presents a driver's license issued pursuant to this section, or for an employer or other covered entity to require a person to present a driver's license, unless possessing a driver's license is required by law or is required by the employer and the employer's requirement is otherwise permitted by law. This section shall not be construed to limit or expand an employer's authority to require a person to possess a driver's license.

(B) Notwithstanding subparagraph (A), this section shall not be construed to alter an employer's rights or obligations under Section 1324a of Title 8 of the United States Code regarding obtaining documentation evidencing identity and authorization for employment. An action taken by an employer that is required by the federal Immigration and Nationality Act (8 U.S.C. Sec. 1324a) is not a violation of law.

(3) It is a violation of Section 11135 of the Government Code for a state or local governmental authority, agent, or person acting on behalf of a state or local governmental authority, or a program or activity that is funded directly or receives financial assistance from the state, to discriminate against an individual because the individual holds or presents a license issued pursuant to this section, including by notifying a law enforcement agency of the individual's identity or that the individual carries a license issued

under this section if a notification is not required by law or would not have been provided if the individual held a license issued pursuant to Section 12801.

(i) Driver's license information obtained by an employer shall be treated as private and confidential, is exempt from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), and shall not be disclosed to any unauthorized person or used for any purpose other than to establish identity and authorization to drive.

(j) Information collected pursuant to this section is not a public record and shall not be disclosed by the department, except as required by law.

(k) Documents provided by applicants to prove identity or residency pursuant to this section shall not be disclosed except in response to a subpoena for individual records in a criminal proceeding or a court order, or in response to a law enforcement request to address an urgent health or safety need if the law enforcement agency certifies in writing the specific circumstances that do not permit authorities time to obtain a court order.

(*l*) A license issued pursuant to this section shall not be used as evidence of an individual's citizenship or immigration status for any purpose.

(m) On or before January 1, 2018, the California Research Bureau shall compile and submit to the Legislature and the Governor a report of any violations of subdivisions (h) and (k). Information pertaining to any specific individual shall not be provided in the report.

(n) In addition to the fees required by Section 14900, a person applying for an original license pursuant to this section may be required to pay an additional fee determined by the department that is sufficient to offset the reasonable administrative costs of implementing the provisions of the act that added this section. If this additional fee is assessed, it shall only apply until June 30, 2017.

(o) This section shall become operative on January 1, 2015, or on the date that the director executes a declaration pursuant to Section 12801.11, whichever is sooner.

(p) This section shall become inoperative on the effective date of a final judicial determination made by any court of appellate jurisdiction that any provision of the act that added this section, or its application, either in whole or in part, is enjoined, found unconstitutional, or held invalid for any reason. The department shall post this information on its internet website.

SEC. 425. Section 21362.5 of the Vehicle Code is amended to read:

21362.5. (a) (1) Railroad and rail transit grade crossings may be equipped with an automated rail crossing enforcement system if the system is identified by signs clearly indicating the system's presence and visible to traffic approaching from each direction.

(2) Only a governmental agency, in cooperation with a law enforcement agency, may operate an automated rail crossing enforcement system.

(b) Notwithstanding Article 1 (commencing with Section 7922.500) and Article 2 (commencing with Section 7922.525) of Chapter 1 of Part 3 of Division 10 of Title 1 of the Government Code, or any other provision of

law, photographic records made by an automated rail crossing enforcement system shall be confidential, and shall be made available only to governmental agencies and law enforcement agencies for the purposes of this section.

SEC. 426. Section 21455.5 of the Vehicle Code is amended to read:

21455.5. (a) The limit line, the intersection, or a place designated in Section 21455, where a driver is required to stop, may be equipped with an automated traffic enforcement system if the governmental agency utilizing the system meets all of the following requirements:

(1) Identifies the system by signs posted within 200 feet of an intersection where a system is operating that clearly indicate the system's presence and are visible to traffic approaching from all directions in which the automated traffic enforcement system is being utilized to issue citations. A governmental agency utilizing this type of system does not need to post signs visible to traffic approaching the intersection from directions not subject to the automated traffic enforcement system. Automated traffic enforcement systems installed as of January 1, 2013, shall be identified no later than January 1, 2014.

(2) Locates the system at an intersection and ensures that the system meets the criteria specified in Section 21455.7.

(b) Prior to issuing citations under this section, a local jurisdiction utilizing an automated traffic enforcement system shall commence a program to issue only warning notices for 30 days. The local jurisdiction shall also make a public announcement of the automated traffic enforcement system at least 30 days prior to the commencement of the enforcement program.

(c) Only a governmental agency, in cooperation with a law enforcement agency, may operate an automated traffic enforcement system. A governmental agency that operates an automated traffic enforcement system shall do all of the following:

(1) Develop uniform guidelines for screening and issuing violations and for the processing and storage of confidential information, and establish procedures to ensure compliance with those guidelines. For systems installed as of January 1, 2013, a governmental agency that operates an automated traffic enforcement system shall establish those guidelines by January 1, 2014.

(2) Perform administrative functions and day-to-day functions, including, but not limited to, all of the following:

(A) Establishing guidelines for the selection of a location. Prior to installing an automated traffic enforcement system after January 1, 2013, the governmental agency shall make and adopt a finding of fact establishing that the system is needed at a specific location for reasons related to safety.

(B) Ensuring that the equipment is regularly inspected.

(C) Certifying that the equipment is properly installed and calibrated, and is operating properly.

(D) Regularly inspecting and maintaining warning signs placed under paragraph (1) of subdivision (a).

(E) Overseeing the establishment or change of signal phases and the timing thereof.

(F) Maintaining controls necessary to ensure that only those citations that have been reviewed and approved by law enforcement are delivered to violators.

(d) The activities listed in subdivision (c) that relate to the operation of the system may be contracted out by the governmental agency, if it maintains overall control and supervision of the system. However, the activities listed in paragraph (1) of, and subparagraphs (A), (D), (E), and (F) of paragraph (2) of, subdivision (c) shall not be contracted out to the manufacturer or supplier of the automated traffic enforcement system.

(e) The printed representation of computer-generated information, video, or photographic images stored by an automated traffic enforcement system does not constitute an out-of-court hearsay statement by a declarant under Division 10 (commencing with Section 1200) of the Evidence Code.

(f) (1) Notwithstanding Article 1 (commencing with Section 7922.500) and Article 2 (commencing with Section 7922.525) of Chapter 1 of Part 3 of Division 10 of Title 1 of the Government Code, or any other law, photographic records made by an automated traffic enforcement system shall be confidential, and shall be made available only to governmental agencies and law enforcement agencies and only for the purposes of this article.

(2) Confidential information obtained from the Department of Motor Vehicles for the administration or enforcement of this article shall be held confidential, and shall not be used for any other purpose.

(3) Except for court records described in Section 68152 of the Government Code, the confidential records and information described in paragraphs (1) and (2) may be retained for up to six months from the date the information was first obtained, or until final disposition of the citation, whichever date is later, after which time the information shall be destroyed in a manner that will preserve the confidentiality of any person included in the record or information.

(g) Notwithstanding subdivision (f), the registered owner or any individual identified by the registered owner as the driver of the vehicle at the time of the alleged violation shall be permitted to review the photographic evidence of the alleged violation.

(h) (1) A contract between a governmental agency and a manufacturer or supplier of automated traffic enforcement equipment shall not include provision for the payment or compensation to the manufacturer or supplier based on the number of citations generated, or as a percentage of the revenue generated, as a result of the use of the equipment authorized under this section.

(2) Paragraph (1) does not apply to a contract that was entered into by a governmental agency and a manufacturer or supplier of automated traffic enforcement equipment before January 1, 2004, unless that contract is renewed, extended, or amended on or after January 1, 2004.

(3) A governmental agency that proposes to install or operate an automated traffic enforcement system shall not consider revenue generation, beyond recovering its actual costs of operating the system, as a factor when considering whether or not to install or operate a system within its local jurisdiction.

(i) A manufacturer or supplier that operates an automated traffic enforcement system pursuant to this section shall, in cooperation with the governmental agency, submit an annual report to the Judicial Council that includes, but is not limited to, all of the following information if this information is in the possession of, or readily available to, the manufacturer or supplier:

(1) The number of alleged violations captured by the systems they operate.

(2) The number of citations issued by a law enforcement agency based on information collected from the automated traffic enforcement system.

(3) For citations identified in paragraph (2), the number of violations that involved traveling straight through the intersection, turning right, and turning left.

(4) The number and percentage of citations that are dismissed by the court.

(5) The number of traffic collisions at each intersection that occurred prior to, and after the installation of, the automated traffic enforcement system.

(j) If a governmental agency utilizing an automated traffic enforcement system has posted signs on or before January 1, 2013, that met the requirements of paragraph (1) of subdivision (a) of this section, as it read on January 1, 2012, the governmental agency shall not remove those signs until signs are posted that meet the requirements specified in this section, as it reads on January 1, 2013.

SEC. 427. Section 40240 of the Vehicle Code is amended to read:

40240. (a) Subject to subdivision (g), the City and County of San Francisco and the Alameda-Contra Costa Transit District may install automated forward facing parking control devices on city-owned or district-owned public transit vehicles, as defined by Section 99211 of the Public Utilities Code, for the purpose of video imaging of parking violations occurring in transit-only traffic lanes. Citations shall be issued only for violations captured during the posted hours of operation for a transit-only traffic lane. The devices shall be angled and focused so as to capture video images of parking violations and not unnecessarily capture identifying images of other drivers, vehicles, and pedestrians. The devices shall record the date and time of the violation at the same time as the video images are captured.

(b) Prior to issuing notices of parking violations pursuant to subdivision (a) of Section 40241, the City and County of San Francisco and the Alameda-Contra Costa Transit District shall commence a program to issue only warning notices for 30 days. The City and County of San Francisco and the Alameda-Contra Costa Transit District shall also make a public

announcement of the program at least 30 days prior to commencement of issuing notices of parking violations.

(c) A designated employee of the City and County of San Francisco, or a contracted law enforcement agency for the Alameda-Contra Costa Transit District, who is qualified by the city and county or the district to issue parking citations, shall review video image recordings for the purpose of determining whether a parking violation occurred in a transit-only traffic lane. A violation of a statute, regulation, or ordinance governing vehicle parking under this code, under a federal or state statute or regulation, or under an ordinance enacted by the City and County of San Francisco or the Alameda-Contra Costa Transit District occurring in a transit-only traffic lane observed by the designated employee in the recordings is subject to a civil penalty.

(d) The registered owner shall be permitted to review the video image evidence of the alleged violation during normal business hours at no cost.

(e) (1) Except as it may be included in court records described in Section 68152 of the Government Code, or as provided in paragraph (2), the video image evidence may be retained for up to six months from the date the information was first obtained, or 60 days after final disposition of the citation, whichever date is later, after which time the information shall be destroyed.

(2) Notwithstanding Section 26202.6 of the Government Code, video image evidence from forward facing automated enforcement devices that does not contain evidence of a parking violation occurring in a transit-only traffic lane shall be destroyed within 15 days after the information was first obtained.

(f) Notwithstanding Article 1 (commencing with Section 7922.500) and Article 2 (commencing with Section 7922.525) of Chapter 1 of Part 3 of Division 10 of Title 1 of the Government Code, or any other law, the video image records are confidential. Public agencies shall use and allow access to these records only for the purposes authorized by this article.

(g) The authority for the Alameda-Contra Costa Transit District to implement an automated enforcement system to enforce parking violations occurring in transit-only traffic lanes exists only until January 1, 2022.

(h) The following definitions shall apply for purposes of this article:

(1) "Local agency" means the City and County of San Francisco and the Alameda-Contra Costa Transit District.

(2) "Transit-only traffic lane" means any designated transit-only lane on which use is restricted to mass transit vehicles, or other designated vehicles including taxis and vanpools, during posted times.

SEC. 428. Section 5206 of the Water Code is amended to read:

5206. Personal information included in a report of groundwater extraction shall have the same protection from disclosure as is provided for information concerning utility customers of local agencies pursuant to Section 7927.410 of the Government Code.

SEC. 429. Section 6102.5 of the Water Code is amended to read:

6102.5. (a) The department shall inspect dams, reservoirs, and appurtenant structures to verify their safety in accordance with the following schedule:

(1) A facility that has been determined by the department, pursuant to Section 6160, to have a hazard classification of significant, high, or extremely high, shall be inspected at least once per fiscal year.

(2) A facility that has been determined by the department, pursuant to Section 6160, to have a hazard classification of low shall be inspected at least once every two fiscal years.

(b) The department shall require owners to perform, at the owner's expense, work as necessary to disclose information sufficient to enable the department to determine conditions of dams, reservoirs, and critical appurtenant structures regarding their safety and to perform, at the owner's expense, other work necessary to secure maintenance and operation that will safeguard life and property. An inspection pursuant to subdivision (a) shall include, but is not limited to, visual inspection of major features of the dam, including its groins, abutments, and toe areas, the dam's spillway, and the dam's outlet works. The inspection shall also evaluate seepage and instrumentation, and include a review of available geological data and existing geological conditions.

(c) An owner of a dam shall operate critical outlet and spillway control features on an annual basis and shall demonstrate their full operability in the presence of the department every three years or as directed by the department.

(d) (1) Except as provided in paragraph (2), dam inspection reports conducted by the Division of Safety of Dams shall be public records subject to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(2) (A) Notwithstanding paragraph (1), the department, in accordance with applicable law and in consultation with the dam owner and relevant local, state, or federal public safety entities, may withhold from public release sensitive data, images, or other information that discloses a dam's vulnerability or poses a security threat.

(B) If the department withholds information pursuant to subparagraph (A), the department shall include in the public release a statement of findings that the withheld information would disclose a dam's vulnerability or pose a security threat, as described in subparagraph (A).

SEC. 430. Section 6161 of the Water Code is amended to read:

6161. (a) (1) An owner of a state jurisdictional dam, except an owner of a dam classified by the department pursuant to Section 6160 as a low hazard dam, shall submit electronically to the department an inundation map that shows the area that would be subject to flooding under various failure scenarios unique to the dam and the critical appurtenant structures of the dam.

(2) Before approval of an inundation map, the department shall review the map and may require the owner to make changes that the department deems necessary.

(3) Upon approval of the inundation map or maps by the department, the owner of the dam shall develop and submit electronically to the department and the Office of Emergency Services an emergency action plan that is based upon the approved inundation map or maps.

(4) If an owner of a dam has an existing emergency action plan as of March 1, 2017, the department shall review any inundation map or maps contained in the plan. If the department determines the inundation map or maps are sufficient, as described in subparagraphs (A) or (B), the owner of the dam shall submit the emergency action plan associated with the inundation map or maps to the Office of Emergency Services to review the emergency action plan as follows:

(A) If an emergency action plan existing as of March 1, 2017, contains an inundation map for the dam and all critical appurtenant structures, if critical appurtenant structures exist, and the department determines that the inundation map or maps for the dam and all existing critical appurtenant structures are sufficient, the owner of the dam shall submit the complete emergency action plan reflecting all critical appurtenant structures to the Office of Emergency Services for review within 30 days of department approval.

(B) (i) If an emergency action plan existing as of March 1, 2017, contains an inundation map for the dam but not for all critical appurtenant structures, if critical appurtenant structures exist, the department shall review a map included in the existing emergency action plan for sufficiency. If the department approves the map, the owner of the dam shall submit the existing emergency action plan associated with the approved map to the Office of Emergency Services. The owner of the dam shall continue to prepare inundation maps with due diligence for any remaining critical appurtenant structures and submit the map or maps to the department for review and approval. The Office of Emergency Services may defer review and approval of the new or updated emergency action plan until the Office of Emergency Services has received inundation maps approved by the department for the dam and all critical appurtenant structures. If the Office of Emergency Services approves an emergency action plan when the owner of the dam is continuing to prepare inundation maps with due diligence pursuant to this subparagraph, an owner of a dam may use that emergency action plan that existed as of March 1, 2017, on an interim basis, pending approval of a new or updated emergency action plan that includes maps for the dam and all critical appurtenant structures.

(ii) For the purposes of this subparagraph, "due diligence" means that the owner of a dam is progressing toward completion of the inundation map or maps for all critical appurtenant structures according to a reasonable schedule proposed by the owner of the dam and approved by the department. When evaluating the time schedule proposed by the owner of the dam, the department may consider, among other relevant factors, the hazard classification of the dam, the number of critical appurtenant structure inundation maps that are outstanding, and the complexity of the failure scenarios. The owner of a dam shall submit a proposed time schedule to the

department no later than 60 days after the effective date of the act that added this subparagraph. Failure to submit a proposed time schedule to the department or to comply with a time schedule approved by the department may result in the imposition of penalties, restrictions, or liens pursuant to Chapter 8 (commencing with Section 6425). After the department approves maps for the critical appurtenant structures, the dam owner shall submit a new or updated emergency action plan including the approved maps to the Office of Emergency Services within 60 days.

(b) (1) The Office of Emergency Services shall review and approve an emergency action plan no later than 60 days after receipt of the plan from the dam owner pursuant to Section 8589.5 of the Government Code. To the extent possible, the Office of Emergency Services shall give priority to a dam with the highest hazard classification as determined by the department pursuant to Section 6160.

(2) If the Office of Emergency Services determines a proposed emergency action plan does not meet the requirements of Section 8589.5 of the Government Code, the Office of Emergency Services shall inform the owner of the dam and require the owner of the dam to amend and resubmit the emergency action plan for approval. The Office of Emergency Services shall review and, if the emergency action plan meets the requirements of Section 8589.5 of the Government Code, approve a resubmitted emergency action plan within 30 days of receipt from the owner of the dam.

(3) Upon approval by the Office of Emergency Services of an emergency action plan, the Office of Emergency Services shall notify the department and the owner of the dam of the approval. The owner of the dam shall ensure that the approved emergency action plan is disseminated to appropriate public safety and emergency management agencies in potentially affected jurisdictions, to the extent these agencies want to receive approved emergency action plans.

(c) (1) The department shall make available to the public an approved inundation map and any schedule submitted pursuant to clause (ii) of subparagraph (B) of paragraph (4) of subdivision (a).

(2) Nothing in Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code shall be construed to require disclosure of an emergency action plan.

(d) (1) Pursuant to the classification by the department under Section 6160, an owner of a dam shall complete and submit an emergency action plan as follows:

(A) On or before January 1, 2018, if the hazard classification of the dam is extremely high.

(B) On or before January 1, 2019, if the hazard classification of the dam is high.

(C) On or before January 1, 2021, if the hazard classification of the dam is significant.

(2) An owner of a dam who has an existing emergency action plan as of March 1, 2017, that the department determines has a sufficient inundation map and that the Office of Emergency Services determines has a sufficient

emergency action plan pursuant to paragraph (4) of subdivision (a) is not subject to the timelines set forth in paragraph (1).

(e) An owner of a dam shall update an emergency action plan, including an inundation map, no less frequently than every 10 years, and sooner under conditions that include, but are not limited to, the following:

(1) A significant modification to the dam or a critical appurtenant structure, as determined by the department.

(2) A significant change to downstream development that involves people and property.

SEC. 431. Section 10730.8 of the Water Code is amended to read:

10730.8. (a) Nothing in this chapter shall affect or interfere with the authority of a groundwater sustainability agency to levy and collect taxes, assessments, charges, and tolls as otherwise provided by law.

(b) Personal information included in a report or record pursuant to this chapter has the same protection from disclosure as is provided for information concerning utility customers of local agencies pursuant to Section 7927.410 of the Government Code.

SEC. 432. Section 81671 of the Water Code is amended to read:

81671. San Francisco shall provide the authority with prompt access to any public records requested by the authority unless those records are exempt from disclosure pursuant to a provision listed in Section 7920.505 of the Government Code. San Francisco may not withhold public records from the authority pursuant to a balancing of the public interest in accordance with Section 7922.000 of the Government Code.

SEC. 433. Section 827.9 of the Welfare and Institutions Code is amended to read:

827.9. (a) It is the intent of the Legislature to reaffirm its belief that records or information gathered by law enforcement agencies relating to the taking of a minor into custody, temporary custody, or detention (juvenile police records) should be confidential. Confidentiality is necessary to protect those persons from being denied various opportunities, to further the rehabilitative efforts of the juvenile justice system, and to prevent the lifelong stigma that results from having a juvenile police record. Although these records generally should remain confidential, the Legislature recognizes that certain circumstances require the release of juvenile police records to specified persons and entities. The purpose of this section is to clarify the persons and entities entitled to receive a complete copy of a juvenile police record, to specify the persons or entities entitled to receive copies of juvenile police records with certain identifying information about other minors removed from the record, and to provide procedures for others to request a copy of a juvenile police record. This section does not govern the release of police records involving a minor who is the witness to or victim of a crime who is protected by other laws including, but not limited to, Section 841.5 of the Penal Code, Section 11167 et seq. of the Penal Code, and the provisions listed in Section 7920.505 of the Government Code.

(b) Except as provided in Sections 389, 781, and 786 of this code or Section 1203.45 of the Penal Code, a law enforcement agency shall release,

upon request, a complete copy of a juvenile police record, as defined in subdivision (m), without notice or consent from the person who is the subject of the juvenile police record to the following persons or entities:

(1) Other law enforcement agencies including the office of the Attorney General of California, any district attorney, the Department of Corrections and Rehabilitation, including the Division of Juvenile Justice, and any peace officer as specified in subdivision (a) of Section 830.1 of the Penal Code.

(2) School district police.

(3) Child protective agencies as defined in Section 11165.9 of the Penal Code.

(4) The attorney representing the juvenile who is the subject of the juvenile police record in a criminal or juvenile proceeding.

(5) The Department of Motor Vehicles.

(c) Except as provided in Sections 389, 781, and 786 of this code or Section 1203.45 of the Penal Code, law enforcement agencies shall release, upon request, a copy of a juvenile police record to the following persons and entities only if identifying information pertaining to any other juvenile, within the meaning of subdivision (n), has been removed from the record:

(1) The person who is the subject of the juvenile police record.

(2) The parents or guardian of a minor who is the subject of the juvenile police record.

(3) An attorney for a parent or guardian of a minor who is the subject of the juvenile police record.

(d) (1) (A) If a person or entity listed in subdivision (c) seeks to obtain a complete copy of a juvenile police record that contains identifying information concerning the taking into custody or detention of any other juvenile, within the meaning of subdivision (n), who is not a dependent child or a ward of the juvenile court, that person or entity shall submit a completed Petition to Obtain Report of Law Enforcement Agency, as developed pursuant to subdivision (i), to the appropriate law enforcement agency. The law enforcement agency shall send a notice to the following persons that a Petition to Obtain Report of Law Enforcement Agency has been submitted to the agency:

(i) The juvenile about whom information is sought.

(ii) The parents or guardian of any minor described in clause (i). The law enforcement agency shall make reasonable efforts to obtain the address of the parents or guardian.

(B) For purposes of responding to a request submitted pursuant to this subdivision, a law enforcement agency may check the Juvenile Automated Index or may contact the juvenile court to determine whether a person is a dependent child or a ward of the juvenile court and whether parental rights have been terminated or the juvenile has been emancipated.

(C) The notice sent pursuant to this subdivision shall include the following information:

(i) The identity of the person or entity requesting a copy of the juvenile police record.

(ii) A copy of the completed Petition to Obtain Report of Law Enforcement Agency.

(iii) The time period for submitting an objection to the law enforcement agency, which shall be 20 days if notice is provided by mail or confirmed fax, or 15 days if notice is provided by personal service.

(iv) The means to submit an objection.

A law enforcement agency shall issue notice pursuant to this section within 20 days of the request. If no objections are filed, the law enforcement agency shall release the juvenile police record within 15 days of the expiration of the objection period.

(D) If any objections to the disclosure of the other juvenile's information are submitted to the law enforcement agency, the law enforcement agency shall send the completed Petition to Obtain Report of Law Enforcement Agency, the objections, and a copy of the requested juvenile police record to the presiding judge of the juvenile court or, in counties with no presiding judge of the juvenile court, the judge of the juvenile court or the judge's designee, to obtain authorization from the court to release a complete copy of the juvenile police record.

(2) If a person or entity listed in subdivision (c) seeks to obtain a complete copy of a juvenile police record that contains identifying information concerning the taking into custody or detention of any other juvenile, within the meaning of subdivision (n), who is a dependent child or a ward of the juvenile court, that person or entity shall submit a Petition to Obtain Report of Law Enforcement Agency, as developed pursuant to subdivision (i), to the appropriate law enforcement agency. The law enforcement agency shall send that Petition to Obtain Report of Law Enforcement Agency and a completed petition for authorization to release the information to that person or entity along with a complete copy of the requested juvenile police record to the presiding judge of the juvenile court, or, in counties with no presiding judge of the juvenile court, the judge of the juvenile court or the judge's designees. The juvenile court shall provide notice of the petition for authorization to the following persons:

(A) If the person who would be identified if the information is released is a minor who is a dependent child of the juvenile court, notice of the petition shall be provided to the following persons:

(i) The minor.

(ii) The attorney of record for the minor.

(iii) The parents or guardian of the minor, unless parental rights have been terminated.

(iv) The child protective agency responsible for the minor.

(v) The attorney representing the child protective agency responsible for the minor.

(B) If the person who would be identified if the information is released is a ward of the juvenile court, notice of the petition shall be provided to the following:

(i) The ward.

(ii) The attorney of record for the ward.

(iii) The parents or guardian of the ward if the ward is under 18 years of age, unless parental rights have been terminated.

(iv) The district attorney.

(v) The probation department.

(e) Except as otherwise provided in this section or in Sections 389, 781, and 786 of this code or Section 1203.45 of the Penal Code, law enforcement agencies shall release copies of juvenile police records to any other person designated by court order upon the filing of a Petition to Obtain Report of Law Enforcement Agency with the juvenile court. The petition shall be filed with the presiding judge of the juvenile court, or, in counties with no presiding judge of the juvenile court, the judge of the juvenile court or the judge's designee, in the county where the juvenile police record is maintained.

(f) (1) After considering the petition and any objections submitted to the juvenile court pursuant to paragraph (1) or (2) of subdivision (d), the court shall determine whether the law enforcement agency may release a complete copy of the juvenile police record to the person or entity that submitted the request.

(2) In determining whether to authorize the release of a juvenile police record, the court shall balance the interests of the juvenile who is the subject of the record, the petitioner, and the public. The juvenile court may issue orders prohibiting or limiting the release of information contained in the juvenile police record. The court may also deny the existence of a juvenile police record where the record is properly sealed or the juvenile who is the subject of the record has properly denied its existence.

(3) Prior to authorizing the release of any juvenile police record, the juvenile court shall ensure that notice and an opportunity to file an objection to the release of the record has been provided to the juvenile who is the subject of the record or who would be identified if the information is released, that person's parents or guardian if the person is under 18 years of age, and any additional person or entity described in subdivision (d), as applicable. The period for filing an objection shall be 20 days from the date notice is given if notice is provided by mail or confirmed fax and 15 days from the date notice is given if notice is provided by personal service. If review of the petition is urgent, the petitioner may file a motion with the presiding judge of the juvenile court showing good cause why the objection period should be shortened. The court shall issue a ruling on the completed petition within 15 days of the expiration of the objection period.

(g) Any out-of-state entity comparable to the California entities listed in paragraphs (1) to (5), inclusive, of subdivision (b) shall file a petition with the presiding judge of the juvenile court in the county where the juvenile police record is maintained in order to receive a copy of a juvenile police record. A petition from that entity may be granted on an ex parte basis.

(h) Nothing in this section shall require the release of confidential victim or witness information protected by other laws including, but not limited to, Section 841.5 of the Penal Code, Section 11167 et seq. of the Penal Code, and the provisions listed in Section 7920.505 of the Government Code.

(i) The Judicial Council, in consultation with the California Law Enforcement Association of Record Supervisors (CLEARS), shall develop forms for distribution by law enforcement agencies to the public to implement this section. Those forms shall include, but are not limited to, the Petition to Obtain Report of Law Enforcement Agency. The material for the public shall include information about the persons who are entitled to a copy of the juvenile police record and the specific procedures for requesting a copy of the record if a petition is necessary. The Judicial Council shall provide law enforcement agencies with suggested forms for compliance with the notice provisions set forth in subdivision (d).

(j) Any information received pursuant to subdivisions (a) to (e), inclusive, and (g) of this section shall be received in confidence for the limited purpose for which it was provided and shall not be further disseminated. An intentional violation of the confidentiality provisions of this section is a misdemeanor, punishable by a fine not to exceed five hundred dollars ($500).

(k) A court shall consider any information relating to the taking of a minor into custody, if the information is not contained in a record that has been sealed, for purposes of determining whether an adjudication of the commission of a crime as a minor warrants a finding that there are circumstances in aggravation pursuant to Section 1170 of the Penal Code or to deny probation.

(*l*) When a law enforcement agency has been notified pursuant to Section 1155 that a minor has escaped from a secure detention facility, the law enforcement agency shall release the name of, and any descriptive information about, the minor to a person who specifically requests this information. The law enforcement agency may release the information on the minor without a request to do so if it finds that release of the information would be necessary to assist in recapturing the minor or that it would be necessary to protect the public from substantial physical harm.

(m) For purposes of this section, a "juvenile police record" refers to records or information relating to the taking of a minor into custody, temporary custody, or detention.

(n) For purposes of this section, with respect to a juvenile police record, "any other juvenile" refers to additional minors who were taken into custody or temporary custody, or detained and who also could be considered a subject of the juvenile police record.

(o) An evaluation of the efficacy of the procedures for the release of police records containing information about minors as described in this section shall be conducted by the juvenile court and law enforcement in Los Angeles County and the results of that evaluation shall be reported to the Legislature on or before December 31, 2006.

(p) This section shall only apply to Los Angeles County.

SEC. 434. Section 1764 of the Welfare and Institutions Code is amended to read:

1764. (a) Notwithstanding any other provision of law, any of the following information in the possession of the Youth Authority regarding persons 16 years of age or older who were committed to the Youth Authority

by a court of criminal jurisdiction, or who were committed to the Department of Corrections and were subsequently transferred to the Youth Authority, shall be disclosed to any member of the public, upon request, by the director or the director's designee:

(1) The name and age of the person.

(2) The court of commitment and the offense that was the basis of commitment.

(3) The date of commitment.

(4) Any institution where the person is or was confined.

(5) The actions taken by any paroling authority regarding the person, which relate to parole dates.

(6) The date the person is scheduled to be released to the community, including release to a reentry work furlough program.

(7) The date the person was placed on parole.

(8) The date the person was discharged from the jurisdiction of the Youth Authority and the basis for the discharge.

(9) In any case where the person has escaped from any institution under the jurisdiction of the Youth Authority, a physical description of the person and the circumstances of the escape.

(b) The provisions of this section shall not be construed to authorize the release of any information that could place any individual in personal peril; that could threaten Youth Authority security; or that is exempt from disclosure pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

SEC. 435. Section 4712.5 of the Welfare and Institutions Code is amended to read:

4712.5. (a) Except as provided in subdivision (c), within 10 working days of the concluding day of the state hearing, but not later than 80 days following the date the hearing request form was received, the hearing officer shall render a written decision and shall transmit the decision to each party and to the director of the responsible state agency, along with notification that this is the final administrative decision, that each party shall be bound thereby, and that either party may appeal the decision to a court of competent jurisdiction within 90 days of the receiving notice of the final decision.

(b) The hearing officer's decision shall be in ordinary and concise language and shall contain a summary of the facts, a statement of the evidence from the proceedings that was relied upon, a decision on each of the issues presented, and an identification of the statutes, regulations, and policies supporting the decision.

(c) Where the decision involves an issue arising from the federal home- and community-based service waiver program, the hearing officer's decision shall be a proposed decision submitted to the Director of Health Services as the single state agency for the Medicaid program. Within 90 days following the date the hearing request form is postmarked or received, whichever is earlier, the director may adopt the decision as written or decide the matter on the record. If the Director of Health Services does not act on the proposed decision within 90 days, the decision shall be deemed to be

adopted by the Director of Health Services. The final decision shall be immediately transmitted to each party, along with the notice described in subdivision (a). If the decision of the Director of Health Services differs from the proposed decision of the hearing officer, a copy of that proposed decision shall also be served upon each party.

(d) The department shall collect and maintain, or cause to be collected and maintained, redacted copies of all administrative hearing decisions issued under this division. Hearing decisions shall be categorized by the type of service or support that was the subject of the hearing and by the year of issuance. The department shall make copies of the decisions available to the public upon request at a cost per page not greater than that which it charges for document requests submitted pursuant to Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code. The department shall use this information in partial fulfillment of its obligation to monitor regional centers and in its evaluation of the contract for the provision of independent hearing officers.

SEC. 436. Section 4903 of the Welfare and Institutions Code is amended to read:

4903. (a) The protection and advocacy agency shall have access to the records of any of the following people with disabilities:

(1) Any person who is a client of the agency, or any person who has requested assistance from the agency, if that person or the agent designated by that person, or the guardian, conservator, limited conservator, or other legal representative of that person, has authorized the protection and advocacy agency to have access to the records and information. If a person with a disability who is able to authorize the protection and advocacy agency to access their records expressly denies this access after being informed by the protection and advocacy agency of their right to authorize or deny access, the protection and advocacy agency shall not have access to that person's records.

(2) Any person, including any individual who cannot be located, to whom all of the following conditions apply:

(A) The individual, due to their mental or physical condition, is unable to authorize the protection and advocacy agency to have access to their records.

(B) The individual does not have a guardian, conservator, limited conservator, or other legal representative, or the individual's representative is a public entity, including the state or one of its political subdivisions.

(C) The protection and advocacy agency is authorized pursuant to subdivision (a) of Section 4902 to exercise the authority specified in that section.

(3) Any person who is deceased. Probable cause to believe that the death of an individual with a disability resulted from abuse or neglect or any other specific cause is not required for the protection and advocacy agency to obtain access to the records. For the purposes of access pursuant to this paragraph, "person with a disability" includes a person who died in a

situation in which services, supports, or other assistance is, or has, customarily been provided to people with disabilities.

(4) Any person who has a guardian, conservator, limited conservator, or other legal representative with respect to whom a complaint has been received by the protection and advocacy agency, or with respect to whom the protection and advocacy agency has determined that probable cause exists to believe that the person has been or may be subjected to abuse or neglect, whenever all of the following conditions exist:

(A) The protection and advocacy agency made a good faith effort to contact the guardian, conservator, limited conservator, or other legal representative upon prompt receipt of the representative's contact information, which shall include, but not be limited to, the representative's name, address, telephone number, and email address.

(B) The protection and advocacy agency has offered assistance to the representatives to resolve the situation.

(C) The representative has failed or refused to consent on behalf of the person.

(5) Any other person with a disability under the circumstances described in subdivision (a) of Section 4902.

(b) Individual records that shall be available to the protection and advocacy agency under this division, whether written or in another medium, draft, preliminary, or final, including, but not limited to, handwritten notes, electronic files, photographs, videotapes, or audiotapes, shall include, but not be limited to, all of the following:

(1) Information and records prepared or received in the course of providing intake, assessment, evaluation, education, training, or other services, supports, or assistance, including, but not limited to, medical records, financial records, monitoring reports, or other reports, prepared or received by a member of the staff of a facility, program, or service provider. This includes records stored or maintained at sites other than that of the facility, program, or service provider and records that were not prepared by the facility, program, or service provider, but received by the facility, program, or service provider.

(2) Reports prepared by a federal, state, or local governmental agency or a private organization charged with investigating reports of incidents of abuse, neglect, injury, or death. The organizations whose reports are subject to this requirement include, but are not limited to, agencies in the foster care system, disabilities systems, prison and jail systems, facilities used to house or detain persons for purposes of civil immigration proceedings, public and private educational systems, emergency shelters, criminal and civil law enforcement agencies such as police departments, agencies overseeing juvenile justice facilities, juvenile detention facilities, all preadjudication and postadjudication juvenile facilities, state and federal licensing and certification agencies, and private accreditation organizations such as the Joint Commission on the Accreditation of Healthcare Organizations or by medical care evaluation or peer review committees, regardless of whether

they are protected by state law. The reports subject to this requirement describe any or all of the following:

(A) Abuse, neglect, injury, or death.

(B) The steps taken to investigate the incidents.

(C) Reports and records, including, but not limited to, personnel records prepared or maintained by the facility, program, or service provider in connection with reports of incidents, subject to the following:

(i) If a state statute specifies procedures with respect to personnel records, the protection and advocacy agency shall follow those procedures.

(ii) Personnel records shall be protected from disclosure in compliance with the fundamental right of privacy established pursuant to Section 1 of Article I of the California Constitution. The custodian of personnel records shall have a right and a duty to resist attempts to allow the unauthorized disclosure of personnel records, and may not waive the privacy rights that are guaranteed pursuant to Section 1 of Article I of the California Constitution.

(D) Supporting information that was relied upon in creating a report, including, but not limited to, all information and records that document interviews with persons who were interviewed, physical and documentary evidence that was reviewed, or related investigative findings.

(3) Discharge planning records.

(c) Information in the possession of a program, facility, or service provider that must be available to the agency investigating instances of abuse or neglect pursuant to subdivision (a) of Section 4902, whether written or in another medium, draft, preliminary, or final, including, but not limited to, handwritten notes, electronic files, photographs, videotapes, audiotapes, or records, shall include, but not be limited to, all of the following:

(1) Information in reports prepared by individuals and entities performing certification or licensure reviews, or by professional accreditation organizations, as well as related assessments prepared for a program, facility, or service provider by its staff, contractors, or related entities, including peer review committees.

(2) Information in professional, performance, building, or other safety standards, or demographic and statistical information, relating to the facility, program, or service provider.

(d) The authority of the protection and advocacy agency to have access to records does not supersede any prohibition on discovery specified in Sections 1157 and 1157.6 of the Evidence Code, nor does it supersede any prohibition on disclosure subject to the physician-patient privilege or the psychotherapist-patient privilege.

(e) An educational agency, including, but not limited to, public, private, and charter schools and public and private residential and nonresidential schools, shall provide the protection and advocacy agency with the name and contact information for the parent or guardian of a student for whom the protection and advocacy agency has authority to access, inspect, and copy records.

(f) (1) The protection and advocacy agency shall have access to records of individuals described in subdivision (a) of Section 4902 and in subdivision (a), and other records that are relevant to conducting an investigation, under the circumstances described in those subdivisions, not later than three business days after the agency makes a written request for the records involved.

(2) The protection and advocacy agency shall have immediate access to the records, including the right to inspect and copy the records, as described in subdivision (g), not later than 24 hours after the agency makes a request, without consent from another party, in a situation in which treatment, services, supports, or other assistance is provided to an individual with a disability, if the agency determines that the health or safety of the individual is in serious and immediate jeopardy, or in a case of the death of an individual with a disability.

(3) If the protection and advocacy agency's access to records is denied or delayed beyond the deadlines specified in paragraphs (1) and (2), the protection and advocacy agency shall, within two business days after the expiration of the deadline, be provided with a written statement of reasons for the denial or delay. In the case of a denial for alleged lack of authorization, the name, address, and telephone number of the guardian, conservator, limited conservator, or other legal representative of the individual with a disability shall be included in the statement.

(g) A protection and advocacy agency shall be permitted to inspect and copy information and records, subject to a reasonable charge to offset duplicating costs. If the facility, program, or service provider or its agents copy the records for the protection and advocacy agency, it shall not charge the protection and advocacy agency an amount that would exceed the amount authorized by the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) for reproducing documents. The protection and advocacy agency may make written notes when inspecting information and records, and may use its own photocopying equipment to obtain copies. For state-operated mental health facilities, the protection and advocacy agency may not use equipment or devices otherwise restricted in the facilities when copying records in a portion of the facility where the restriction applies. If a party other than the protection and advocacy agency performs the photocopying or other reproduction of records, it shall provide the photocopies or reproductions to the protection and advocacy agency within the timeframes specified in subdivision (f). In addition, if records are kept or maintained electronically, they shall be provided to the protection and advocacy agency electronically.

(h) (1) Confidential information kept or obtained by the protection and advocacy agency shall remain confidential and is not subject to disclosure.

(2) The protection and advocacy agency shall obtain written consent from the following individuals, as applicable, before releasing information concerning them to a person not otherwise authorized to receive it:

(A) An individual with a disability, a client, or the individual's or client's guardian, conservator, limited conservator, or other legal representative.

(B) An individual who has been provided general information or technical assistance on a particular matter.

(C) An individual who furnishes reports or information that form the basis for a determination of probable cause that an individual has been or may be subject to abuse or neglect, or is in serious and immediate jeopardy.

(3) This subdivision shall not, however, prevent the protection and advocacy agency from doing any of the following:

(A) Sharing the information with the individual client who is the subject of the record or report or other document, or with the client's legally authorized representative, subject to any limitation on disclosure to recipients of mental health services as provided in subsection (b) of Section 10806 of Title 42 of the United States Code.

(B) Issuing a public report of the results of an investigation that maintains the confidentiality of individual service recipients.

(C) Reporting the results of an investigation to responsible investigative or enforcement agencies in a manner that maintains the confidentiality of the individuals should an investigation reveal information concerning the facility, program, or service provider, or their staff or employees warranting possible sanctions or corrective action. The information may be reported to agencies that are responsible for facility, program, or service provider licensing or accreditation, employee discipline, employee licensing or certification suspension or revocation, or criminal investigation or prosecution.

(D) Pursuing alternative remedies, including the initiation of legal action.

(E) Reporting suspected elder or dependent adult abuse pursuant to the Elder Abuse and Dependent Adult Civil Protection Act (Chapter 11 (commencing with Section 15600) of Part 3 of Division 9).

(4) Notwithstanding the confidentiality requirements of this section, the protection and advocacy agency may make a report to investigative or enforcement agencies that reveals the identity of an individual with a disability, and information relating to their status or treatment in any of the following situations:

(A) When the agency has received a complaint that the individual has been or may be subject to abuse and neglect, or has probable cause to believe that the individual has been or may be subject to abuse or neglect.

(B) When the protection and advocacy agency determines that the health or safety of the individual is in serious and immediate jeopardy.

(C) In the case of the death of an individual whom the protection and advocacy agency believes may have had a disability.

(i) The protection and advocacy agency shall inform and train employees as appropriate regarding the confidentiality of client records.

(j) The authority provided pursuant to subdivision (b) shall include access to all of the following:

(1) An unredacted facility evaluation report form or an unredacted complaint investigation report form of the State Department of Social Services. This information shall remain confidential and subject to the confidentiality requirements of subdivision (h).

(2) An unredacted citation report, unredacted licensing report, unredacted survey report, unredacted plan of correction, or unredacted statement of deficiency of the State Department of Public Health, prepared by authorized licensing personnel or authorized representatives as described in subdivision (a) of Section 5328.15. The information shall remain confidential and subject to the confidentiality requirements of subdivision (h).

(k) Notwithstanding any other state law governing patient privacy, the sharing of health information and records with a protection and advocacy agency is permitted to the extent that the sharing is required by law and complies with the requirements of that law. The Legislature finds and declares that the federal Health Insurance Portability and Accountability Act of 1996 privacy rule permits the disclosure of protected health information to a protection and advocacy agency, without the authorization of the individual who is the subject of the protected health information, to the extent that the disclosure is required by law and the disclosure complies with the requirements of that law.

SEC. 437. Section 11478.1 of the Welfare and Institutions Code is amended to read:

11478.1. (a) It is the intent of the Legislature to protect individual rights of privacy, and to facilitate and enhance the effectiveness of the child and spousal support enforcement program, by ensuring the confidentiality of support enforcement and child abduction records, and to thereby encourage the full and frank disclosure of information relevant to all of the following:

(1) The establishment or maintenance of parent and child relationships and support obligations.

(2) The enforcement of the child support liability of absent parents.

(3) The enforcement of spousal support liability of the spouse or former spouse to the extent required by the state plan under Section 11475.2 of this code and Part 6 (commencing with Section 5700.101) of Division 9 of the Family Code.

(4) The location of absent parents.

(5) The location of parents and children abducted, concealed, or detained by them.

(b) (1) Except as provided in subdivision (c), all files, applications, papers, documents, and records established or maintained by any public entity pursuant to the administration and implementation of the child and spousal support enforcement program established pursuant to Part D (commencing with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the United States Code and this article, shall be confidential, and shall not be open to examination or released for disclosure for any purpose not directly connected with the administration of the child and spousal support enforcement program. No public entity shall disclose any file, application, paper, document, or record, or the information contained therein, except as expressly authorized by this section.

(2) In no case shall information be released or the whereabouts of one party or the child disclosed to another party, or to the attorney of any other party, if a protective order has been issued by a court or administrative

agency with respect to the former party, a good cause claim under Section 11477.04 has been approved or is pending, or the public agency responsible for establishing paternity or enforcing support has reason to believe that the release of the information may result in physical or emotional harm to the former party or the child.

(3) Notwithstanding any other provision of law, a proof of service filed by the district attorney shall not disclose the address where service of process was accomplished. Instead, the district attorney shall keep the address in the district attorney's own records. The proof of service shall specify that the address is on record at the district attorney's office and that the address may be released only upon an order from the court pursuant to paragraph (6) of subdivision (c). The district attorney shall, upon request by a party served, release to that person the address where service was effected.

(c) Disclosure of the information described in subdivision (b) is authorized as follows:

(1) All files, applications, papers, documents, and records as described in subdivision (b) shall be available and may be used by a public entity for all administrative, civil, or criminal investigations, actions, proceedings, or prosecutions conducted in connection with the administration of the child and spousal support enforcement program approved under Part D (commencing with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the United States Code, and any other plan or program described in Section 303.21 of Title 45 of the Code of Federal Regulations and to the county welfare department responsible for administering a program operated under a state plan pursuant to Subpart 1 or 2 of Part B or Part E of Subchapter IV of Chapter 7 of Title 42 of the United States Code.

(2) A document requested by a person who wrote, prepared, or furnished the document may be examined by or disclosed to that person or the person's designee.

(3) The payment history of an obligor pursuant to a support order may be examined by or released to the court, the obligor, or the person on whose behalf enforcement actions are being taken or that person's designee.

(4) Income and expense information of either parent may be released to the other parent for the purpose of establishing or modifying a support order.

(5) Public records subject to disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) may be released.

(6) After a noticed motion and a finding by the court, in a case in which establishment or enforcement actions are being taken, that release or disclosure to the obligor or obligee is required by due process of law, the court may order a public entity that possesses an application, paper, document, or record as described in subdivision (b) to make that item available to the obligor or obligee for examination or copying, or to disclose to the obligor or obligee the contents of that item. Article 9 (commencing with Section 1040) of Chapter 4 of Division 8 of the Evidence Code shall not be applicable to proceedings under this part. At any hearing of a motion filed pursuant to this section, the court shall inquire of the district attorney

and the parties appearing at the hearing if there is reason to believe that release of the requested information may result in physical or emotional harm to a party. If the court determines that harm may occur, the court shall issue any protective orders or injunctive orders restricting the use and disclosure of the information as are necessary to protect the individuals.

(7) To the extent not prohibited by federal law or regulation, information indicating the existence or imminent threat of a crime against a child; location of a concealed, detained, or abducted child; or the location of the concealing, detaining, or abducting person, may be disclosed to any district attorney, any appropriate law enforcement agency, or to any state or county child protective agency, or may be used in any judicial proceedings to prosecute that crime or to protect the child.

(8) (A) The social security number, most recent address, and the place of employment of the absent parent may be released to an authorized person as defined in Section 653(c) of Title 42 of the United States Code, only if the authorized person has filed a request for the information, and only if the information has been provided to the California Parent Locator Service by the federal Parent Locator Service pursuant to Section 653 of Title 42 of the United States Code.

(B) The information described in subparagraph (A) may be disclosed to the county child welfare agency and the county probation department responsible for administering a program operated under a state plan pursuant to Subpart 1 (commencing with Section 621) or 2 (commencing with Section 629) of Part B of, or pursuant to Part E (commencing with Section 670) of, Subchapter IV of Chapter 7 of Title 42 of the United States Code. Information exchanged between the California Parent Locator Service or the California Child Support Automation System, or its replacement, and the county welfare agency shall be through automated processes to the maximum extent feasible.

(C) On or before July 1, 2013, the State Department of Social Services and the Department of Child Support Services shall issue an all-county letter or similar instruction explaining that county child welfare and probation agencies are entitled to the information described in paragraph (9) of subdivision (c) of Section 17212 and subdivision (c) of Section 17506 of the Family Code.

(d) (1) "Administration and implementation of the child and spousal support enforcement program," as used in this section, means the carrying out of the state and local plans for establishing, modifying, and enforcing child support obligations, enforcing spousal support orders, and determining paternity pursuant to Part D (commencing with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the United States Code and this article.

(2) For purposes of this section, "obligor" means any person owing a duty of support.

(3) As used in this chapter, "putative parent" shall refer to any person reasonably believed to be the parent of a child for whom the local child support agency is attempting to establish paternity or establish, modify, or enforce support pursuant to Section 17400 of the Family Code.

(e) Any person who willfully, knowingly, and intentionally violates this section is guilty of a misdemeanor.

(f) Nothing in this section shall be construed to compel the disclosure of information relating to a deserting parent who is a recipient of aid under a public assistance program for which federal aid is paid to this state, if that information is required to be kept confidential by the federal law or regulations relating to the program.

SEC. 438. Section 12301.24 of the Welfare and Institutions Code is amended to read:

12301.24. (a) Effective November 1, 2009, all prospective providers shall complete a provider orientation at the time of enrollment, as developed by the department, in consultation with counties, which shall include, but is not limited to, all of the following:

(1) The requirements to be an eligible IHSS provider.

(2) A description of the IHSS program.

(3) The rules, regulations, and provider-related processes and procedures, including timesheets.

(4) The consequences of committing fraud in the IHSS program.

(5) The Medi-Cal toll-free telephone fraud hotline and internet website for reporting suspected fraud or abuse in the provision or receipt of supportive services.

(6) The applicable federal and state requirements regarding minimum wage and overtime pay, including paid travel time and wait time, and the requirements of Section 12300.4.

(b) In order to complete provider enrollment, at the conclusion of the provider orientation, all applicants shall sign a statement specifying that the provider agrees to all of the following:

(1) The prospective provider will provide to a recipient the authorized services.

(2) The prospective provider has received a demonstration of, and understands, timesheet requirements, including content, signature, and fingerprinting, when implemented.

(3) The prospective provider shall cooperate with state or county staff to provide any information necessary for assessment or evaluation of a case.

(4) The prospective provider understands and agrees to program expectations and is aware of the measures that the state or county may take to enforce program integrity.

(5) The prospective provider has attended the provider orientation and understands that failure to comply with program rules and requirements may result in the provider being terminated from providing services through the IHSS program.

(c) Between November 1, 2009, and June 30, 2010, all current providers shall receive the information described in this section. Following receipt of this information, a provider shall submit a signed agreement, consistent with the requirements of this section, to the appropriate county office.

(d) The county shall indefinitely retain this statement in the provider's file. Refusal of the provider to sign the statement described in subdivision

(b) shall result in the provider being ineligible to receive payment for the provision of services and participate as a provider in the IHSS program.

(e) Beginning no later than April 1, 2015, all of the following shall apply:

(1) The orientation described in subdivision (a) shall be an onsite orientation that all prospective providers shall attend in person.

(2) Prospective providers may attend the onsite orientation only after completing the application for the IHSS provider enrollment process described in subdivision (a) of Section 12305.81.

(3) Any oral presentation and written materials presented at the orientation shall be translated into all IHSS threshold languages in the county.

(4) (A) Representatives of the recognized employee organization in the county shall be permitted to make a presentation of up to 30 minutes at the beginning of the orientation. Prior to implementing the orientation requirements set forth in this subdivision, counties shall provide at least the level of access to, and the ability to make presentations at, provider orientations that they allowed the recognized employee organization in the county as of September 1, 2014. Counties shall not discourage prospective providers from attending, participating, or listening to the orientation presentation of the recognized employee organization. Prospective providers may, by their own accord, choose not to participate in the recognized employee organization presentation.

(B) Prior to scheduling a provider orientation, the county shall provide the recognized employee organization in the county with not less than 10 days advance notice of the planned date, time, and location of the orientation. If, within 3 business days of receiving that notice, the recognized employee organization notifies the county of its unavailability for the planned orientation, the county shall make reasonable efforts to schedule the orientation so the recognized employee organization can attend, so long as rescheduling the orientation does not delay provider enrollment by more than 10 business days. The requirement to make reasonable efforts to reschedule may be waived, as necessary, due to a natural disaster or other declared state of emergency, or by mutual agreement between the county and the recognized employee organization.

(C) Prior to the orientation, the recognized employee organization shall be provided with the information described in subdivision (b) of Section 7926.300 of the Government Code for prospective providers.

(f) To the extent that the orientation is modified from an onsite and in-person orientation, as required by paragraph (1) of subdivision (e), the recognized employee organization in the county shall be provided with the same right to make a presentation, the same advance notice of scheduling, and the same information regarding the applicants, providers, or prospective providers who will attend the orientation, as the organization would receive for an onsite orientation.

SEC. 439. Section 13302 of the Welfare and Institutions Code is amended to read:

13302. Notwithstanding any other law:

(a) Contracts or grants awarded pursuant to this chapter shall be exempt from the personal services contracting requirements of Article 4 (commencing with Section 19130) of Chapter 5 of Part 2 of Division 5 of Title 2 of the Government Code.

(b) Contracts or grants awarded pursuant to this chapter shall be exempt from the Public Contract Code and the State Contracting Manual, and shall not be subject to the approval of the Department of General Services.

(c) The client information and records of legal services provided pursuant to this chapter shall be subject to the requirements of Section 10850 and shall be exempt from inspection under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(d) The state shall be immune from any liability resulting from the implementation of this chapter.

(e) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement, interpret, or make specific this chapter without taking any regulatory action.

SEC. 440. Section 14005.27 of the Welfare and Institutions Code is amended to read:

14005.27. (a) Individuals enrolled in the Healthy Families Program pursuant to Part 6.2 (commencing with Section 12693) of Division 2 of the Insurance Code on June 27, 2012, and who are determined eligible to receive benefits pursuant to subdivision (a) of Section 14005.26, or, effective January 1, 2014, subdivision (b) of Section 14005.26, shall be transitioned into Medi-Cal, pursuant to this section.

(b) To the extent necessary and for the purposes of carrying out the provisions of this section, in performing initial eligibility determinations for children enrolled in the Healthy Families Program pursuant to Part 6.2 (commencing with Section 12693) of Division 2 of the Insurance Code, the department shall adopt the option pursuant to Section 1902(e)(13) of the federal Social Security Act (42 U.S.C. Sec. 1396a(e)(13)) to allow the department or county human services departments to rely upon findings made by the Managed Risk Medical Insurance Board (MRMIB) regarding one or more components of eligibility. The department shall seek federal approval of a state plan amendment to implement this subdivision.

(c) To the extent necessary, the department shall seek federal approval of a state plan amendment or a waiver to provide presumptive eligibility for the optional targeted low-income category of eligibility pursuant to Section 14005.26 for individuals presumptively eligible for or enrolled in the Healthy Families Program pursuant to Part 6.2 (commencing with Section 12693) of Division 2 of the Insurance Code. The presumptive eligibility shall be based upon the most recent information contained in the individual's Healthy Families Program file. The timeframe for the presumptive eligibility shall begin no sooner than January 1, 2013, and shall continue until a determination of Medi-Cal eligibility is made, which determination shall

be performed within one year of the individual's Healthy Families Program annual review date.

(d) (1) The California Health and Human Services Agency, in consultation with the Managed Risk Medical Insurance Board, the State Department of Health Care Services, the Department of Managed Health Care, and diverse stakeholders groups, shall provide the fiscal and policy committees of the Legislature with a strategic plan for the transition of the Healthy Families Program pursuant to this section by no later than October 1, 2012. This strategic plan shall, at a minimum, address all of the following:

(A) State, county, and local administrative components that facilitate a successful subscriber transition such as communication and outreach to subscribers and applicants, eligibility processing, enrollment, communication, and linkage with health plan providers, payments of applicable premiums, and overall systems operation functions.

(B) Methods and processes for diverse stakeholder engagement throughout the entire transition, including all phases of the transition.

(C) State monitoring of managed care health plans' performance and accountability for provision of services, and initial quality indicators for children and adolescents transitioning to Medi-Cal.

(D) Health care and dental delivery system components such as standards for informing and enrollment materials, network adequacy, performance measures and metrics, fiscal solvency, and related factors that ensure timely access to quality health and dental care for children and adolescents transitioning to Medi-Cal.

(E) Inclusion of applicable operational steps, timelines, and key milestones.

(F) A time certain for the transfer of the Healthy Families Advisory Board, as described in Part 6.2 (commencing with Section 12693) of Division 2 of the Insurance Code, to the State Department of Health Care Services.

(2) The intent of this strategic plan is to serve as an overall guide for the development of each plan for each phase of this transition, pursuant to paragraphs (1) to (8), inclusive, of subdivision (e), to ensure clarity and consistency in approach and subscriber continuity of care. This strategic plan may also be updated by the California Health and Human Services Agency as applicable and provided to the Legislature upon completion.

(e) (1) The department shall transition individuals from the Healthy Families Program to the Medi-Cal program in four phases, as follows:

(A) Phase 1. Individuals enrolled in a Healthy Families Program health plan that is a Medi-Cal managed care health plan shall be enrolled in the same plan no earlier than January 1, 2013, pursuant to the requirements of this section and Section 14011.6, and to the extent the individual is otherwise eligible under this chapter and Chapter 8 (commencing with Section 14200).

(B) Phase 2. Individuals enrolled in a Healthy Families Program managed care health plan that is a subcontractor of a Medi-Cal managed health care plan, to the extent possible, shall be enrolled into a Medi-Cal managed health care plan that includes the individuals' current plan pursuant to the requirements of this section and Section 14011.6, and to the extent the

individuals are otherwise eligible under this chapter and Chapter 8 (commencing with Section 14200). The transition of individuals described in this subparagraph shall begin no earlier than April 1, 2013.

(C) Phase 3. Individuals enrolled in a Healthy Families Program plan that is not a Medi-Cal managed care plan and does not contract or subcontract with a Medi-Cal managed care plan shall be enrolled in a Medi-Cal managed care plan in that county. Enrollment shall include consideration of the individuals' primary care providers pursuant to the requirements of this section and Section 14011.6, and to the extent the individuals are otherwise eligible under this chapter and Chapter 8 (commencing with Section 14200). The transition of individuals described in this subparagraph shall begin no earlier than August 1, 2013.

(D) Phase 4.

(i) Individuals residing in a county that is not a Medi-Cal managed care county shall be provided services under the Medi-Cal fee-for-service delivery system, subject to clause (ii). The transition of individuals described in this subparagraph shall begin no earlier than September 1, 2013.

(ii) In the event the department creates a managed health care system in the counties described in clause (i), individuals residing in those counties shall be enrolled in managed health care plans pursuant to this chapter and Chapter 8 (commencing with Section 14200).

(2) For the transition of individuals pursuant to subparagraphs (A), (B), (C), and (D) of paragraph (1), implementation plans shall be developed to ensure state and county systems readiness, health plan network adequacy, and continuity of care with the goal of ensuring there is no disruption of service and there is continued access to coverage for all transitioning individuals. If an individual is not retained with the individual's primary care provider, the implementation plan shall require the managed care plan to report to the department as to how continuity of care is being provided. Transition of individuals described in subparagraphs (A), (B), (C), and (D) of paragraph (1) shall not occur until 90 days after the department has submitted an implementation plan to the fiscal and policy committees of the Legislature. The implementation plans shall include, but not be limited to, information on health and dental plan network adequacy, continuity of care, eligibility and enrollment requirements, consumer protections, and family notifications.

(3) The following requirements shall be in place prior to implementation of Phase 1, and shall be required for all phases of the transition:

(A) Managed care plan performance measures shall be integrated and coordinated with the Healthy Families Program performance standards including, but not limited to, child-only Healthcare Effectiveness Data and Information Set (HEDIS) measures, and measures indicative of performance in serving children and adolescents. These performance measures shall also be in compliance with all performance requirements under the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code) and existing Medi-Cal managed care performance measurements and standards as set

forth in this chapter and Chapter 8 (commencing with Section 14200) of Title 22 of the California Code of Regulations, and all-plan letters, including, but not limited to, network adequacy and linguistic services, and shall be met prior to the transition of individuals pursuant to Phase 1.

(B) Medi-Cal managed care health plans shall allow enrollees to remain with their current primary care provider. If an individual does not remain with the current primary care provider, the plan shall report to the department as to how continuity of care is being provided.

(4) (A) As individuals are transitioned pursuant to subparagraphs (A), (B), (C), and (D) of paragraph (1), for individuals residing in all counties except the Counties of Sacramento and Los Angeles, their dental coverage shall transition to fee-for-service dental coverage and may be provided by their current provider if the provider is a Medi-Cal fee-for-service dental provider.

(B) For individuals residing in the County of Sacramento, their dental coverage shall continue to be provided by their current dental managed care plan if their plan is a Medi-Cal dental managed care plan. If their plan is not a Medi-Cal dental managed care plan, they shall select a Medi-Cal dental managed care plan. If they do not choose a Medi-Cal dental managed care plan, they shall be assigned to a plan with preference to a plan with which their current provider is a contracted provider. Any children in the Healthy Families Program transitioned into Medi-Cal dental managed care plans shall also have access to the beneficiary dental exception process, pursuant to Section 14089.09. Further, the Sacramento advisory committee, established pursuant to Section 14089.08, shall be consulted regarding the transition of children in the Healthy Families Program into Medi-Cal dental managed care plans.

(C) (i) For individuals residing in the County of Los Angeles, for purposes of continuity of care, their dental coverage shall continue to be provided by their current dental managed care plan if that plan is a Medi-Cal dental managed care plan. If their plan is not a Medi-Cal dental managed care plan, they may select a Medi-Cal dental managed care plan or choose to move into Medi-Cal fee-for-service dental coverage.

(ii) It is the intent of the Legislature that children transitioning to Medi-Cal under this section have a choice in dental coverage, as provided under existing law.

(5) Dental health plan performance measures and benchmarks shall be in accordance with Section 14459.6.

(6) Medi-Cal managed care health and dental plans shall report to the department, as frequently as specified by the department, specified information pertaining to transition implementation, enrollees, and providers, including, but not limited to, grievances related to access to care, continuity of care requests and outcomes, and changes to provider networks, including provider enrollment and disenrollment changes. The plans shall report this information by county, and in the format requested by the department.

(7) The department may develop supplemental implementation plans to separately account for the transition of individuals from the Healthy Families Program to specific Medi-Cal delivery systems.

(8) The department shall consult with the Legislature and stakeholders, including, but not limited to, consumers, families, consumer advocates, counties, providers, and health and dental plans, in the development of implementation plans described in paragraph (3) for individuals who are transitioned to Medi-Cal in Phase 2, Phase 3, and Phase 4, as described in subparagraphs (B), (C), and (D) of paragraph (1).

(9) (A) The department shall consult and collaborate with the Department of Managed Health Care in assessing Medi-Cal managed care health plan network adequacy in accordance with the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code) for purposes of the developed transition plans pursuant to paragraph (2) for each of the phases.

(B) For purposes of individuals transitioning in Phase 1, as described in subparagraph (A) of paragraph (1), network adequacy shall be assessed as described in this paragraph and findings from this assessment shall be provided to the fiscal and appropriate policy committees of the Legislature 60 days prior to the effective date of implementing this transition.

(10) The department shall provide monthly status reports to the fiscal and policy committees of the Legislature on the transition commencing no later than February 15, 2013. This monthly status transition report shall include, but not be limited to, information on health plan grievances related to access to care, continuity of care requests and outcomes, changes to provider networks, including provider enrollment and disenrollment changes, and eligibility performance standards pursuant to subdivision (n). A final comprehensive report shall be provided within 90 days after completion of the last phase of transition.

(f) (1) The department and MRMIB shall work collaboratively in the development of notices for individuals transitioned pursuant to paragraph (1) of subdivision (e).

(2) The state shall provide written notice to individuals enrolled in the Healthy Families Program of their transition to the Medi-Cal program at least 60 days prior to the transition of individuals in Phase 1, as described in subparagraph (A) of paragraph (1) of subdivision (e), and at least 90 days prior to transition of individuals in Phases 2, 3, and 4, as described in subparagraphs (B), (C), and (D) of paragraph (1) of subdivision (e).

(3) Notices developed pursuant to this subdivision shall ensure individuals are informed regarding the transition, including, but not limited to, how individuals' systems of care may change, when the changes will occur, and whom they can contact for assistance when choosing a Medi-Cal managed care plan, if applicable, including a toll-free telephone number, and with problems they may encounter. The department shall consult with stakeholders regarding notices developed pursuant to this subdivision. These notices shall be developed using plain language, and written translation of

the notices shall be available for those who are limited English proficient or non-English speaking in all Medi-Cal threshold languages.

(4) The department shall designate department liaisons responsible for the coordination of the Healthy Families Program and may establish a children's-focused section for this purpose and to facilitate the provision of health care services for children enrolled in Medi-Cal.

(5) The department shall provide a process for ongoing stakeholder consultation and make information publicly available, including the achievement of benchmarks, enrollment data, utilization data, and quality measures.

(g) (1) In order to aid the transition of Healthy Families Program enrollees, MRMIB, on the effective date of the act that added this section and continuing through the completion of the transition of Healthy Families Program enrollees to the Medi-Cal program, shall begin requesting and collecting from health plans contracting with MRMIB pursuant to Part 6.2 (commencing with Section 12693) of Division 2 of the Insurance Code, information about each health plan's provider network, including, but not limited to, the primary care and all specialty care providers assigned to individuals enrolled in the health plan. MRMIB shall obtain this information in a manner that coincides with the transition activities described in subdivision (d), and shall provide all of the collected information to the department within 60 days of the department's request for this information to ensure timely transitions of Healthy Families Program enrollees.

(2) The department shall analyze the existing Healthy Families Program delivery system network and the Medi-Cal fee-for-service provider networks, including, but not limited to, Medi-Cal dental providers, to determine overlaps of the provider networks in each county for which there are no Medi-Cal managed care plans or dental managed care plans. To the extent there is a lack of existing Medi-Cal fee-for-service providers available to serve the Healthy Families Program enrollees, the department shall work with the Healthy Families Program provider community to encourage participation of those providers in the Medi-Cal program, and develop a streamlined process to enroll them as Medi-Cal providers.

(3) (A) MRMIB, within 60 days of a request by the department, shall provide the department any data, information, or record concerning the Healthy Families Program as is necessary to implement the transition of enrollment required pursuant to this section.

(B) Notwithstanding any other law, all of the following shall apply:

(i) The term "data, information, or record" shall include, but is not limited to, personal information as defined in Section 1798.3 of the Civil Code.

(ii) Any data, information, or record shall be exempt from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) and any other law, to the same extent that it was exempt from disclosure or privileged prior to the provision of the data, information, or record to the department.

(iii) The provision of this data, information, or record to the department shall not constitute a waiver of any evidentiary privilege or exemption from disclosure.

(iv) The department shall keep all data, information, or records provided by MRMIB confidential to the full extent permitted by law, including, but not limited to, the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), and consistent with MRMIB's contractual obligations to keep the data, information, or records confidential.

(h) This section shall be implemented only to the extent that all necessary federal approvals and waivers have been obtained and the enhanced rate of federal financial participation under Title XXI of the federal Social Security Act (42 U.S.C. Sec. 1397aa et seq.) is available for targeted low-income children pursuant to that act.

(i) (1) (A) Except as provided in subparagraph (B), the department shall exercise the option pursuant to Section 1916A of the federal Social Security Act (42 U.S.C. Sec. 1396o-1) to impose premiums for individuals described in subdivision (a) of Section 14005.26 whose family income has been determined to be above 150 percent and up to and including 200 percent of the federal poverty level, after application of the income disregard pursuant to paragraph (2) of subdivision (a) of Section 14005.26. The department shall not impose premiums under this subdivision for individuals described in subdivision (a) of Section 14005.26 whose family income has been determined to be at or below 150 percent of the federal poverty level, after application of the income disregard pursuant to paragraph (2) of subdivision (a) of Section 14005.26. The department shall obtain federal approval for the implementation of this subdivision.

(B) Effective January 1, 2014, the family income range for the imposition of premiums pursuant to subparagraph (A) for individuals described in subdivision (a) or (b) of Section 14005.26 shall be above 160 percent and shall go up to and include 261 percent of the federal poverty level as determined, counted, and valued in accordance with the requirements of Section 14005.64. The department shall not impose premiums for eligible individuals whose family income has been determined to be at or below 160 percent of the federal poverty level.

(2) All premiums imposed under this section shall equal the family contributions described in paragraph (2) of subdivision (d) of Section 12693.43 of the Insurance Code and shall be reduced in conformity with subdivisions (e) and (f) of Section 12693.43 of the Insurance Code.

(j) The department shall not enroll targeted low-income children described in this section in the Medi-Cal program until all necessary federal approvals and waivers have been obtained, or no sooner than January 1, 2013.

(k) (1) (A) Except as provided in subparagraph (B), to the extent the new budget methodology pursuant to paragraph (6) of subdivision (a) of Section 14154 is not fully operational, for the purposes of implementing this section, for individuals described in subdivision (a) whose family income has been determined to be at or below 150 percent of the federal poverty

level, after application of the disregard pursuant to paragraph (2) of subdivision (a) of Section 14005.26, the department shall utilize the budgeting methodology for this population as contained in the November 2011 Medi-Cal Local Assistance Estimate for Medi-Cal county administration costs for eligibility operations.

(B) Effective January 1, 2014, the federal poverty level percentage used under subparagraph (A) for individuals described in subdivision (a) shall equal 160 percent of the federal poverty level as determined, counted, and valued in accordance with the requirements of Section 14005.64.

(2) (A) Except as provided in subparagraph (B), for purposes of implementing this section, the department shall include in the Medi-Cal Local Assistance Estimate an amount for Medi-Cal eligibility operations associated with the transfer of Healthy Families Program enrollees eligible pursuant to subdivision (a) of Section 14005.26 and whose family income is determined to be above 150 percent and up to and including 200 percent of the federal poverty level, after application of the income disregard pursuant to paragraph (2) of subdivision (a) of Section 14005.26. In developing an estimate for this activity, the department shall consider the projected number of final eligibility determinations each county will process and projected county costs. Within 60 days of the passage of the annual Budget Act, the department shall notify each county of their allocation for this activity based upon the amount allotted in the annual Budget Act for this purpose.

(B) Effective January 1, 2014, for purposes of implementing this section, the department shall include in the Medi-Cal Local Assistance Estimate an amount for Medi-Cal eligibility operations associated with the transfer of Healthy Families Program enrollees eligible pursuant to subdivision (a) or (b) of Section 14005.26 and whose family income is determined to be above 160 percent and up to and including 261 percent of the federal poverty level.

(*l*) When the new budget methodology pursuant to paragraph (6) of subdivision (a) of Section 14154 is fully operational, the new budget methodology shall be utilized to reimburse counties for eligibility determinations made for individuals pursuant to this section.

(m) Except as provided in subdivision (b), eligibility determinations and annual redeterminations made pursuant to this section shall be performed by county eligibility workers.

(n) In conducting the eligibility determinations for individuals pursuant to this section and Section 14005.26, the following reporting and performance standards shall apply to all counties:

(1) Counties shall report to the department, in a manner and for a time period determined by the department, in consultation with the County Welfare Directors Association, the number of applications processed on a monthly basis, a breakout of the applications based on income using the federal percentage of poverty levels, the final disposition of each application, including information on the approved Medi-Cal program, if applicable, and the average number of days it took to make the final eligibility

determination for applications submitted directly to the county and from the single point of entry (SPE).

(2) Notwithstanding any other law, the following performance standards shall be applied to counties for eligibility determinations for individuals eligible pursuant to this section:

(A) For children whose applications are received by the county human services department from the SPE, the following standards shall apply:

(i) Applications for children who are granted accelerated enrollment by the SPE shall be processed according to the timeframes specified in subdivision (d) of Section 14154.

(ii) Applications for children who are not granted accelerated enrollment by the SPE due to the existence of an already active Medi-Cal case shall be processed according to the timeframes specified in subdivision (d) of Section 14154.

(iii) For applications for children who are not described in clause (i) or (ii), 90 percent shall be processed within 10 working days of being received, complete and without client errors.

(iv) If an application described in this section also contains adults, and the adult applicants are required to submit additional information beyond the information provided for the children, the county shall process the eligibility for the child or children without delay, consistent with this section while gathering the necessary information to process eligibility for the adults.

(B) The department, in consultation with the County Welfare Directors Association, shall develop reporting requirements for the counties to provide regular data to the state regarding the timeliness and outcomes of applications processed by the counties that are received from the SPE.

(C) Performance thresholds and corrective action standards as set forth in Section 14154 shall apply.

(D) For applications received directly by the county, these applications shall be processed by the counties in accordance with the performance standards established under subdivision (d) of Section 14154.

(3) This subdivision shall be implemented no sooner than January 1, 2013.

(4) Twelve months after implementation of this section pursuant to subdivision (e), the department shall provide enrollment information regarding individuals determined eligible pursuant to subdivision (a) to the fiscal and appropriate policy committees of the Legislature.

(o) (1) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, for purposes of this transition, the department, without taking any further regulatory action, shall implement, interpret, or make specific this section by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions until the time regulations are adopted. It is the intent of the Legislature that the department be allowed temporary authority as necessary to implement program changes until completion of the regulatory process.

(2) To the extent otherwise required by Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code,

the department shall adopt emergency regulations implementing this section no later than July 1, 2014. The department may thereafter readopt the emergency regulations pursuant to that chapter. The adoption and readoption, by the department, of regulations implementing this section shall be deemed to be an emergency and necessary to avoid serious harm to the public peace, health, safety, or general welfare for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the department is hereby exempted from the requirement that it describe facts showing the need for immediate action and from review by the Office of Administrative Law.

(p) To implement this section, the department may enter into and continue contracts with the Healthy Families Program administrative vendor, for the purposes of implementing and maintaining the necessary systems and activities for providing health care coverage to optional targeted low-income children in the Medi-Cal program for purposes of accelerated enrollment application processing by single point of entry, noneligibility-related case maintenance and premium collection, maintenance of the Health-E-App web portal, call center staffing and operations, certified application assistant services, and reporting capabilities. To further implement this section, the department may also enter into a contract with the Health Care Options Broker of the department for purposes of managed care enrollment activities. The contracts entered into or amended under this section may initially be completed on a noncompetitive bid basis and are exempt from the Public Contract Code. Contracts thereafter shall be entered into or amended on a competitive bid basis and shall be subject to the Public Contract Code.

(q) (1) If at any time the director determines that this section or any part of this section may jeopardize the state's ability to receive federal financial participation under the federal Patient Protection and Affordable Care Act (Public Law 111-148), or any amendment or extension of that act, or any additional federal funds that the director, in consultation with the Department of Finance, determines would be advantageous to the state, the director shall give notice to the fiscal and policy committees of the Legislature and to the Department of Finance. After giving notice, this section or any part of this section shall become inoperative on the date that the director executes a declaration stating that the department has determined, in consultation with the Department of Finance, that it is necessary to cease to implement this section or a part or parts thereof in order to receive federal financial participation, any increase in the federal medical assistance percentage available on or after October 1, 2008, or any additional federal funds that the director, in consultation with the Department of Finance, has determined would be advantageous to the state.

(2) The director shall retain the declaration described in paragraph (1), shall provide a copy of the declaration to the Secretary of State, the Secretary of the Senate, the Chief Clerk of the Assembly, and the Legislative Counsel, and shall post the declaration on the department's internet website.

(3) In the event that the director makes a determination under paragraph (1) and this section ceases to be implemented, the children shall be enrolled back into the Healthy Families Program.

SEC. 441. Section 14087.5 of the Welfare and Institutions Code is amended to read:

14087.5. (a) The California Medical Assistance Commission may negotiate exclusive contracts with any county that seeks to provide, or arrange for the provision of, the health care services provided under this chapter. The California Medical Assistance Commission shall establish regulations concerning the time for submittal of proposed plans for a contract by a county, and for the time by which the California Medical Assistance Commission shall decide whether or not to accept the county's proposal.

(b) The department shall seek all federal waivers necessary to allow for federal financial participation in expenditures under this article. This article shall not be implemented until all necessary waivers have been approved by the federal government.

(c) (1) Notwithstanding subdivision (a) or any other provision of law, on and after the effective date of the act adding this subdivision, the department shall have exclusive authority to negotiate the rates, terms, and conditions of county organized health systems contracts and contract amendments under this article or under Article 7 (commencing with Section 14490) of Chapter 8. As of that date, all references in this article to the negotiator or the California Medical Assistance Commission shall mean the department.

(2) For contracts executed pursuant to this article, the department shall disclose, upon request, each negotiated contract or contract amendment executed by both parties after July 1, 2007, which shall be considered public records for the purposes of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), including contracts that reveal the department's rates of payment for health care services, the rates themselves, and rate manuals.

SEC. 442. Section 14087.36 of the Welfare and Institutions Code is amended to read:

14087.36. (a) The following definitions shall apply for purposes of this section:

(1) "County" means the City and County of San Francisco.

(2) "Board" means the Board of Supervisors of the City and County of San Francisco.

(3) "Department" means the State Department of Health Care Services.

(4) "Governing body" means the governing body of the health authority.

(5) "Health authority" means the separate public agency established by the board of supervisors to operate a health care system in the county and to engage in the other activities authorized by this section.

(b) The Legislature finds and declares that it is necessary that a health authority be established in the county to arrange for the provision of health care services in order to meet the problems of the delivery of publicly assisted medical care in the county, to enter into a contract with the department under Article 2.97 (commencing with Section 14093), or to contract with a health care service plan on terms and conditions acceptable

to the department, and to demonstrate ways of promoting quality care and cost efficiency.

(c) The county may, by resolution or ordinance, establish a health authority to act as and be the local initiative component of the Medi-Cal state plan pursuant to regulations adopted by the department. If the board elects to establish a health authority, all rights, powers, duties, privileges, and immunities vested in a county under Article 2.8 (commencing with Section 14087.5) and Article 2.97 (commencing with Section 14093) shall be vested in the health authority. The health authority shall have all power necessary and appropriate to operate programs involving health care services, including, but not limited to, the power to acquire, possess, and dispose of real or personal property, to employ personnel and contract for services required to meet its obligations, to sue or be sued, to take all actions and engage in all public and private business activities, subject to any applicable licensure, as permitted a health care service plan pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code, and to enter into agreements under Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

(d) (1) (A) The health authority shall be considered a public entity for purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, separate and distinct from the county, and shall file the statement required by Section 53051 of the Government Code. The health authority shall have primary responsibility to provide the defense and indemnification required under Division 3.6 (commencing with Section 810) of Title 1 of the Government Code for employees of the health authority who are employees of the county. The health authority shall provide insurance under terms and conditions required by the county in order to satisfy its obligations under this section.

(B) For purposes of this paragraph, "employee" shall have the same meaning as set forth in Section 810.2 of the Government Code.

(2) The health authority shall not be considered to be an agency, division, department, or instrumentality of the county and shall not be subject to the personnel, procurement, or other operational rules of the county.

(3) Notwithstanding any other provision of law, any obligations of the health authority, statutory, contractual, or otherwise, shall be the obligations solely of the health authority and shall not be the obligations of the county, unless expressly provided for in a contract between the authority and the county, nor of the state.

(4) Except as agreed to by contract with the county, no liability of the health authority shall become an obligation of the county upon either termination of the health authority or the liquidation or disposition of the health authority's remaining assets.

(e) (1) To the full extent permitted by federal law, the department and the health authority may enter into contracts to provide or arrange for health care services for any or all persons who are eligible to receive benefits under the Medi-Cal program. The contracts may be on an exclusive or nonexclusive basis, and shall include payment provisions on any basis negotiated between

the department and the health authority. The health authority may also enter into contracts for the provision of health care services to individuals including, but not limited to, those covered under Subchapter XVIII (commencing with Section 1395) of Chapter 7 of Title 42 of the United States Code, individuals employed by public agencies and private businesses, and uninsured or indigent individuals.

(2) Notwithstanding paragraph (1), or subdivision (f), the health authority may not operate health plans or programs for individuals covered under Subchapter XVIII (commencing with Section 1395) of Chapter 7 of Title 42 of the United States Code, or for private businesses, until the health authority is in full compliance with all of the requirements of the Knox-Keene Health Care Service Plan Act of 1975 under Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code, including tangible net equity requirements applicable to a licensed health care service plan. This limitation shall not preclude the health authority from enrolling persons pursuant to the county's obligations under Section 17000, or from enrolling county employees.

(f) The board of supervisors may transfer responsibility for administration of county-provided health care services to the health authority for the purpose of service of populations including uninsured and indigent persons, subject to the provisions of any ordinances or resolutions passed by the county board of supervisors. The transfer of administrative responsibility for those health care services shall not relieve the county of its responsibility for indigent care pursuant to Section 17000. The health authority may also enter into contracts for the provision of health care services to individuals including, but not limited to, those covered under Subchapter XVIII (commencing with Section 1395) of Chapter 7 of Title 42 of the United States Code, and individuals employed by public agencies and private businesses.

(g) Upon creation, the health authority may borrow from the county and the county may lend the authority funds, or issue revenue anticipation notes to obtain those funds necessary to commence operations or perform the activities of the health authority. Notwithstanding any other provision of law, both the county and the health authority shall be eligible to receive funding under subdivision (p) of Section 14163.

(h) The county may terminate the health authority, but only by an ordinance approved by a two-thirds affirmative vote of the full board.

(i) Prior to the termination of the health authority, the county shall notify the department of its intent to terminate the health authority. The department shall conduct an audit of the health authority's records within 30 days of notification to determine the liabilities and assets of the health authority. The department shall report its findings to the county and to the Department of Managed Health Care within 10 days of completion of the audit. The county shall prepare a plan to liquidate or otherwise dispose of the assets of the health authority and to pay the liabilities of the health authority to the extent of the health authority's assets, and present the plan to the

department and the Department of Managed Health Care within 30 days upon receipt of these findings.

(j) Any assets of the health authority derived from the contract entered into between the state and the authority pursuant to Article 2.97 (commencing with Section 14093), after payment of the liabilities of the health authority, shall be disposed of pursuant to the contract.

(k) (1) The governing body shall consist of 18 voting members, 14 of whom shall be appointed by resolution or ordinance of the board as follows:

(A) One member shall be a member of the board or any other person designated by the board.

(B) One member shall be a person who is employed in the senior management of a hospital not operated by the county or the University of California and who is nominated by the San Francisco Section of the West Bay Hospital Conference or any successor organization, or, if there is no successor organization, a person who shall be nominated by the Hospital Council of Northern and Central California.

(C) Two members, one of whom shall be a person employed in the senior management of San Francisco General Hospital and one of whom shall be a person employed in the senior management of St. Luke's Hospital (San Francisco). If San Francisco General Hospital or St. Luke's Hospital, at the end of the term of the person appointed from its senior management, is not designated as a disproportionate share hospital, and if the governing body, after providing an opportunity for comment by the West Bay Hospital Conference, or any successor organization, determines that the hospital no longer serves an equivalent patient population, the governing body may, by a two-thirds vote of the full governing body, select an alternative hospital to nominate a person employed in its senior management to serve on the governing body. Alternatively, the governing body may approve a reduction in the number of positions on the governing body as set forth in subdivision (p).

(D) Two members shall be employees in the senior management of either private nonprofit community clinics or a community clinic consortium, nominated by the San Francisco Community Clinic Consortium, or any successor organization.

(E) Two members shall be physicians, nominated by the San Francisco Medical Society, or any successor organization.

(F) One member shall be nominated by the San Francisco Labor Council, or any successor organization.

(G) Two members shall be persons nominated by the member advisory committee of the health authority. Nominees of the member advisory committee shall be enrolled in any of the health insurance or health care coverage programs operated by the health authority or be the parent or legal guardian of an enrollee in any of the health insurance or health care coverage programs operated by the health authority.

(H) Two members shall be persons knowledgeable in matters relating to either traditional safety net providers, health care organizations, the Medi-Cal

program, or the activities of the health authority, nominated by the program committee of the health authority.

(I) One member shall be a person nominated by the San Francisco Pharmacy Leadership Group, or any successor organization.

(2) One member, selected to fulfill the appointments specified in subparagraph (A), (G), or (H) shall, in addition to representing the member's specified organization or employer, represent the discipline of nursing, and shall possess or be qualified to possess a registered nursing license.

(3) The initial members appointed by the board under the subdivision shall be, to the extent those individuals meet the qualifications set forth in this subdivision and are willing to serve, those persons who are members of the steering committee created by the county to develop the local initiative component of the Medi-Cal state plan in San Francisco. Following the initial staggering of terms, each of those members shall be appointed to a term of three years, except the member appointed pursuant to subparagraph (A) of paragraph (1), who shall serve at the pleasure of the board. At the first meeting of the governing body, the members appointed pursuant to this subdivision shall draw lots to determine seven members whose initial terms shall be for two years. Each member shall remain in office at the conclusion of that member's term until a successor member has been nominated and appointed.

(*l*) In addition to the requirements of subdivision (k), one member of the governing body shall be appointed by the Mayor of the City of San Francisco to serve at the pleasure of the mayor, one member shall be the county's director of public health or designee, who shall serve at the pleasure of that director, one member shall be the Chancellor of the University of California at San Francisco or the chancellor's designee, who shall serve at the pleasure of the chancellor, and one member shall be the county director of mental health or the director's designee, who shall serve at the pleasure of that director.

(m) There shall be one nonvoting member of the governing body who shall be appointed by, and serve at the pleasure of, the health commission of the county.

(n) Each person appointed to the governing body shall, throughout the member's term, either be a resident of the county or be employed within the geographic boundaries of the county.

(o) (1) The composition of the governing body and nomination process for appointment of its members shall be subject to alteration upon a two-thirds vote of the full membership of the governing body. This action shall be concurred in by a resolution or ordinance of the county.

(2) Notwithstanding paragraph (1), no alteration described in that paragraph shall cause the removal of a member prior to the expiration of that member's term.

(p) A majority of the members of the governing body shall constitute a quorum for the transaction of business, and all official acts of the governing body shall require the affirmative vote of a majority of the members present and voting. However, no official shall be approved with less than the

affirmative vote of six members of the governing body, unless the number of members prohibited from voting because of conflicts of interest precludes adequate participation in the vote. The governing body may, by a two-thirds vote, adopt, amend, or repeal rules and procedures for the governing body. Those rules and procedures may require that certain decisions be made by a vote that is greater than a majority vote.

(q) For purposes of Section 87103 of the Government Code, members appointed pursuant to subparagraphs (B) to (E), inclusive, of paragraph (1) of subdivision (k) represent, and are appointed to represent, respectively, the hospitals, private nonprofit community clinics, and physicians that contract with the health authority, or the health care service plan with which the health authority contracts, to provide health care services to the enrollees of the health authority or the health care service plan. Members appointed pursuant to subparagraphs (F) and (G) of paragraph (1) of subdivision (k) represent, and are appointed to represent, respectively, the health care workers and enrollees served by the health authority or its contracted health care service plan, and traditional safety net and ancillary providers and other organizations concerned with the activities of the health authority.

(r) A member of the governing body may be removed from office by the board by resolution or ordinance, only upon the recommendation of the health authority, and for any of the following reasons:

(1) Failure to retain the qualifications for appointment specified in subdivisions (k) and (n).

(2) Death or a disability that substantially interferes with the member's ability to carry out the duties of office.

(3) Conviction of any felony or a crime involving corruption.

(4) Failure of the member to discharge legal obligations as a member of a public agency.

(5) Substantial failure to perform the duties of office, including, but not limited to, unreasonable absence from meetings. The failure to attend three meetings in a row of the governing body, or a majority of the meetings in the most recent calendar year, may be deemed to be unreasonable absence.

(s) Any vacancy on the governing body, however created, shall be filled for the unexpired term by the board by resolution or ordinance. Each vacancy shall be filled by an individual having the qualifications of the individual's predecessor, nominated as set forth in subdivision (k).

(t) The chair of the authority shall be selected by, and serve at the pleasure of, the governing body.

(u) The health authority shall establish all of the following:

(1) A member advisory committee to advise the health authority on issues of concern to the recipients of services.

(2) A program committee to advise the health authority on matters relating to traditional safety net providers, ancillary providers, and other organizations concerned with the activities of the health authority.

(3) Any other committees determined to be advisable by the health authority.

(v) (1) Notwithstanding any provision of state or local law, including, but not limited to, the county charter, a member of the health authority shall not be deemed to be interested in a contract entered into by the authority within the meaning of Article 4 (commencing with Section 1090) of Chapter 1 of Division 4 of Title 1 of the Government Code, or within the meaning of conflict-of-interest restrictions in the county charter, if all of the following apply:

(A) The member does not influence or attempt to influence the health authority or another member of the health authority to enter into the contract in which the member is interested.

(B) The member discloses the interest to the health authority and abstains from voting on the contract.

(C) The health authority notes the member's disclosure and abstention in its official records and authorizes the contract in good faith by a vote of its membership sufficient for the purpose without counting the vote of the interested member.

(D) The member has an interest in or was appointed to represent the interests of physicians, health care practitioners, hospitals, pharmacies, or other health care organizations.

(E) The contract authorizes the member or the organization the member has an interest in or represents to provide services to beneficiaries under the authority's program or administrative services to the authority.

(2) In addition, no person serving as a member of the governing body shall, by virtue of that membership, be deemed to be engaged in activities that are inconsistent, incompatible, or in conflict with their duties as an officer or employee of the county or the University of California, or as an officer or an employee of any private hospital, clinic, or other health care organization. The membership shall not be deemed to be in violation of Section 1126 of the Government Code.

(w) Notwithstanding any other provision of law, those records of the health authority and of the county that reveal the authority's rates of payment for health care services or the health authority's deliberative processes, discussions, communications, or any other portion of the negotiations with providers of health care services for rates of payment, or the health authority's peer review proceedings shall not be required to be disclosed pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), or any similar local law requiring the disclosure of public records. However, three years after a contract or amendment to a contract is fully executed, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(x) Notwithstanding any other provision of law, the health authority may meet in closed session to consider and take action on peer review proceedings and on matters pertaining to contracts and contract negotiations by the health authority's staff with providers of health care services concerning all matters relating to rates of payment. However, a decision as to whether to enter into, amend the services provisions of, or terminate, other than for reasons based

upon peer review, a contract with a provider of health care services, shall be made in open session.

(y) (1) (A) Notwithstanding the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code), the governing board of the health authority may meet in closed session for the purpose of discussion of, or taking action on matters involving, health authority trade secrets.

(B) The requirement that the authority make a public report of actions taken in closed session and the vote or abstention of every member present may be limited to a brief general description of the action taken and the vote so as to prevent the disclosure of a trade secret.

(C) For purposes of this subdivision, "health authority trade secret" means a trade secret, as defined in subdivision (d) of Section 3426.1 of the Civil Code, that also meets both of the following criteria:

(i) The secrecy of the information is necessary for the health authority to initiate a new service, program, marketing strategy, business plan, or technology, or to add a benefit or product.

(ii) Premature disclosure of the trade secret would create a substantial probability of depriving the health authority of a substantial economic benefit or opportunity.

(2) Those records of the health authority that reveal the health authority's trade secrets are exempt from disclosure pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), or any similar local law requiring the disclosure of public records. This exemption shall apply for a period of two years after the service, program, marketing strategy, business plan, technology, benefit, or product that is the subject of the trade secret is formally adopted by the governing body of the health authority, provided that the service, program, marketing strategy, business plan, technology, benefit, or product continues to be a trade secret. The governing board may delete the portion or portions containing trade secrets from any documents that were finally approved in the closed session held pursuant to this subdivision that are provided to persons who have made the timely or standing request.

(z) The health authority shall be deemed to be a public agency for purposes of all grant programs and other funding and loan guarantee programs.

(aa) Contracts under this article between the State Department of Health Services and the health authority shall be on a nonbid basis and shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code.

(ab) (1) The county controller or the controller's designee, at intervals the county controller deems appropriate, shall conduct a review of the fiscal condition of the health authority, shall report the findings to the health authority and the board, and shall provide a copy of the findings to any public agency upon request.

(2) Upon the written request of the county controller, the health authority shall provide full access to the county controller all health authority records

and documents as necessary to allow the county controller or the controller's designee to perform the activities authorized by this subdivision.

(ac) A Medi-Cal recipient receiving services through the health authority shall be deemed to be a subscriber or enrollee for purposes of Section 1379 of the Health and Safety Code.

SEC. 443. Section 14087.58 of the Welfare and Institutions Code is amended to read:

14087.58. (a) Notwithstanding any other provision of law, those records of a special commission formed pursuant to this article that reveal the commission's rates of payment for health care services or the commission's deliberative processes, discussions, communications, or any other portion of the negotiations with providers of health care services for rates of payment, shall not be required to be disclosed pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), or any similar local law requiring the disclosure of public records. However, three years after a contract or contract amendment has been executed, the portion of the contract or contract amendment relating to the rates of payment shall be open to inspection under Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code.

(b) Notwithstanding the California Public Records Act, or Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of, and Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of, the Government Code, or any other provision of state or local law requiring disclosure of public records, those health care peer review and quality assessment records of a special commission authorized by this article, or a committee thereof, shall not be subject to disclosure. These records and proceedings of any such commission or committee and individual members of the commission or committee thereof shall be afforded all immunities, privileges, and protections available to "peer review bodies" as defined under Section 805 of the Business and Professions Code, including the protections of Section 1157 of the Evidence Code.

SEC. 444. Section 14087.98 of the Welfare and Institutions Code is amended to read:

14087.98. (a) The purpose of this article is to provide a comprehensive program of managed health care plan services to Medi-Cal recipients residing in the following counties that currently receive Medi-Cal services on a fee-for-service basis: Alpine, Amador, Butte, Calaveras, Colusa, Del Norte, El Dorado, Glenn, Humboldt, Imperial, Inyo, Lake, Lassen, Mariposa, Modoc, Nevada, Mono, Placer, Plumas, San Benito, Shasta, Sierra, Siskiyou, Sutter, Tehama, Trinity, Tuolumne, and Yuba.

(b) The director may enter into exclusive or nonexclusive contracts on a bid or negotiated basis with one or more managed health care plans to provide a comprehensive program of managed health care plan services to Medi-Cal recipients residing in the counties described in subdivision (a).

The director shall give special consideration to managed health care plans that meet all of the following:

(1) Have demonstrated experience in effectively serving Medi-Cal beneficiaries, including diverse populations.

(2) Have demonstrated experience in effectively partnering with public and traditional safety net health care providers.

(3) Have demonstrated experience in working with local stakeholders, including consumers, providers, advocates, and county officials, in plan oversight and in delivery of care.

(4) Have the lowest administrative costs.

(5) Show support from local county officials as demonstrated by an action of the county board of supervisors.

(6) Show recent successful experience with expansion of managed care to a rural area.

(7) Offer a quality improvement program for primary care providers.

(c) Contracts entered into or amended pursuant to this section shall be exempt from the provisions of Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code and Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of Title 2 of the Government Code.

(d) The managed health care plans that the department contracts with under this article shall comply with the requirements of Section 14087.48 and meet all of the following:

(1) Have Medi-Cal managed health care plan contract experience, or evidence of the ability to meet these contracting requirements.

(2) Be in good financial standing and meet licensure requirements under the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code), if applicable.

(3) Meet quality measures, which may include Medi-Cal and Medicare Healthcare Effectiveness Data and Information Set measures and other quality measures determined or developed by the department and the federal Centers for Medicare and Medicaid Services.

(e) The managed health care plans that the department contracts with under this article shall provide Medi-Cal beneficiaries with information about enrollment rights and options, plan benefits and rules, and care plan elements so that beneficiaries have the ability to make informed choices. This information shall be delivered in a format and language accessible to beneficiaries. The managed health care plans shall provide access to providers in compliance with applicable state and federal laws, including, but not limited to, physical accessibility and the provision of health plan information in alternative formats.

(f) The department shall conduct a stakeholder process including relevant stakeholders to ensure that beneficiaries, health care providers, and managed health care plans have an opportunity to provide input into the delivery model for these counties and to help ensure smooth care transitions for beneficiaries.

(g) Enrollment in a Medi-Cal managed health care plan or plans under this article shall be mandatory in order to receive services under Medi-Cal, except as otherwise provided by law.

(h) Each beneficiary or eligible applicant shall be informed that the beneficiary or applicant may choose to continue an established patient-provider relationship if the person's treating provider is a primary care provider or clinic contracting with the managed health care plan, has the available capacity, and agrees to continue to treat that beneficiary or eligible applicant. The managed health care plans shall comply with continuity of care requirements in Section 1373.96 of the Health and Safety Code.

(i) (1) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific this section and amend regulations and orders adopted by the department by means of plan letters, plan or provider bulletins, or similar instructions, without taking regulatory action, until the time regulations are adopted. It is the intent of the Legislature that the department have temporary authority as necessary to implement program changes until completion of the regulatory process.

(2) The department shall adopt emergency regulations no later than July 1, 2014. The department may readopt any emergency regulation authorized by this section that is the same as or substantially equivalent to an emergency regulation previously adopted pursuant to this section. The initial adoption of emergency regulations implementing this section shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. Initial emergency regulations and the one readoption of emergency regulations authorized by this section shall be exempt from review by the Office of Administrative Law.

(3) The initial emergency regulations and the one readoption of emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and each shall remain in effect for no more than 180 days, by which time final regulations may be adopted.

(j) The cost of any program established under this section shall not exceed the total amount that the department estimates it would pay for all services and requirements within the same geographic area under the fee-for-service Medi-Cal program.

(k) The department shall have exclusive authority to set the rates, terms, and conditions of managed health care plan contracts and contract amendments under this article. The director may include in the contract a provision for quality assurance withholding from the plan payment, to be paid only if quality measures identified in the plan contract are met.

(*l*) The department shall provide the fiscal and appropriate policy committees of the Legislature with quarterly updates, commencing January 1, 2014, and ending January 1, 2016, regarding the expansion of Medi-Cal managed care into the new counties authorized pursuant to this section.

These updates shall include, but not be limited to, continuity of care requests, grievance and appeal rates, and utilization reports for the new counties.

(m) The department shall seek all necessary federal approvals to allow for federal financial participation in expenditures under this article. This article shall not be implemented until all necessary federal approvals have been obtained.

(n) This section shall be implemented only to the extent federal financial participation or funding is available.

(o) Notwithstanding Section 7926.220 of the Government Code, a contract or contract amendments executed by both parties after the effective date of the act adding this subdivision shall be considered a public record for purposes of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) and shall be disclosed upon request. This subdivision applies to contracts that reveal the department's rates of payment for health care services, the rates themselves, and rate manuals.

(p) To implement this section, the department may contract with public or private entities. Contracts or amendments entered into under this section may be on an exclusive or nonexclusive basis and a noncompetitive bid basis and shall be exempt from the following:

(1) Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code and any policies, procedures, or regulations authorized by that part.

(2) Article 4 (commencing with Section 19130) of Chapter 5 of Part 2 of Division 5 of Title 2 of the Government Code.

(3) Review or approval of contracts by the Department of General Services.

SEC. 445. Section 14089 of the Welfare and Institutions Code is amended to read:

14089. (a) The purpose of this article is to provide a comprehensive program of managed health care plan services to Medi-Cal recipients residing in clearly defined geographical areas. It is, further, the purpose of this article to create maximum accessibility to health care services by permitting Medi-Cal recipients the option of choosing from among two or more managed health care plans or fee-for-service managed case arrangements, including, but not limited to, health maintenance organizations, prepaid health plans, and primary care case management plans. Independent practice associations, health insurance carriers, private foundations, and university medical centers systems, not-for-profit clinics, and other primary care providers, may be offered as choices to Medi-Cal recipients under this article if they are organized and operated as managed care plans, for the provision of preventive managed health care plan services.

(b) The department may seek proposals and then shall enter into contracts based on relative costs, extent of coverage offered, quality of health services to be provided, financial stability of the health care plan or carrier, recipient access to services, cost-containment strategies, peer and community participation in quality control, emphasis on preventive and managed health

care services and the ability of the health plan to meet all requirements for both of the following:

(1) Certification, where legally required, by the Director of the Department of Managed Health Care and the Insurance Commissioner.

(2) Compliance with all of the following:

(A) The health plan shall satisfy all applicable state and federal legal requirements for participation as a Medi-Cal managed care contractor.

(B) The health plan shall meet any standards established by the department for the implementation of this article.

(C) The health plan receives the approval of the department to participate in the pilot project under this article.

(c) (1) (A) The proposals shall be for the provision of preventive and managed health care services to specified eligible populations on a capitated, prepaid, or postpayment basis.

(B) Enrollment in a Medi-Cal managed health care plan under this article shall be voluntary for beneficiaries eligible for the federal Supplemental Security Income for the Aged, Blind, and Disabled Program (Subchapter 16 (commencing with Section 1381) of Chapter 7 of Title 42 of the United States Code).

(2) The cost of each program established under this section shall not exceed the total amount that the department estimates it would pay for all services and requirements within the same geographic area under the fee-for-service Medi-Cal program.

(d) (1) An eligible beneficiary shall be entitled to enroll in any health care plan contracted for pursuant to this article that is in effect for the geographic area in which the beneficiary resides. The department shall make available to recipients information summarizing the benefits and limitations of each health care plan available pursuant to this section in the geographic area in which the recipient resides. A Medi-Cal or CalWORKs applicant or beneficiary shall be informed of the health care options available regarding methods of receiving Medi-Cal benefits. The county shall ensure that each beneficiary is informed of these options and informed that a health care options presentation is available.

(2) No later than 30 days following the date a Medi-Cal or CalWORKs recipient is informed of the health care options described in paragraph (1), the recipient shall indicate the recipient's choice, in writing, of one of the available health care plans and the recipient's choice of primary care provider or clinic contracting with the selected health care plan. Notwithstanding the 30-day deadline set forth in this paragraph, if a beneficiary requests a directory for the entire service area within 30 days of the date of receiving an enrollment form, the deadline for choosing a plan shall be extended an additional 30 days from the date of that request.

(3) The health care options information described in this subdivision shall include the following elements:

(A) Each beneficiary or eligible applicant shall be provided, at a minimum, with the name, address, telephone number, and specialty, if any, of each primary care provider, by specialty or clinic participating in each

managed health care plan option through a personalized provider directory for that beneficiary or applicant. This information shall be presented under the geographic area designations by the name of the primary care provider and clinic, and shall be updated based on information electronically provided monthly by the health care plans to the department, setting forth changes in the health care plan provider network. The geographic areas shall be based on the applicant's residence address, the minor applicant's school address, the applicant's work address, or any other factor deemed appropriate by the department, in consultation with health plan representatives, legislative staff, and consumer stakeholders. In addition, directories of the entire service area, including, but not limited to, the name, address, and telephone number of each primary care provider and hospital, of all Geographic Managed Care health plan provider networks shall be made available to beneficiaries or applicants who request them from the health care options contractor. Each personalized provider directory shall include information regarding the availability of a directory of the entire service area, provide telephone numbers for the beneficiary to request a directory of the entire service area, and include a postage-paid mail card to send for a directory of the entire service area. The personalized provider directory shall be implemented as a pilot project in Sacramento County pursuant to this article, and in Los Angeles County (Two-Plan Model) pursuant to Article 2.7 (commencing with Section 14087.305). The content, form, and geographic areas used shall be determined by the department in consultation with a workgroup to include health plan representatives, legislative staff, and consumer stakeholders, with an emphasis on the inclusion of stakeholders from Los Angeles and Sacramento Counties. The personalized provider directories may include a section for each health plan. Prior to implementation of the pilot project, the department, in consultation with consumer stakeholders, legislative staff, and health plans, shall determine the parameters, methodology, and evaluation process of the pilot project. The pilot project shall thereafter be in effect for a minimum of two years. Following two years of operation as a pilot project in two counties, the department, in consultation with consumer stakeholders, legislative staff, and health plans, shall determine whether to implement personalized provider directories as a permanent program statewide. If necessary, the pilot project shall continue beyond the initial two-year period until this determination is made. This pilot project shall only be implemented to the extent that it is budget neutral to the department.

(B) Each beneficiary or eligible applicant shall be informed that the beneficiary or applicant may choose to continue an established patient-provider relationship in a managed care option, if the treating provider is a primary care provider or clinic contracting with any of the health plans available and has the available capacity and agrees to continue to treat that beneficiary or eligible applicant.

(C) Each beneficiary or eligible applicant shall be informed that if the beneficiary or applicant fails to make a choice, the beneficiary or applicant shall be assigned to, and enrolled in, a health care plan.

(4) At the time the beneficiary or eligible applicant selects a health care plan, the department shall, when applicable, encourage the beneficiary or eligible applicant to also indicate, in writing, that person's choice of primary care provider or clinic contracting with the selected health care plan.

(5) Commencing with the implementation of a geographic managed care project in a designated county, a Medi-Cal or CalWORKs beneficiary who does not make a choice of health care plans in accordance with paragraph (2), shall be assigned to and enrolled in an appropriate health care plan providing service within the area in which the beneficiary resides.

(6) If a beneficiary or eligible applicant does not choose a primary care provider or clinic, or does not select a primary care provider who is available, the health care plan selected by or assigned to the beneficiary shall ensure that the beneficiary selects a primary care provider or clinic within 30 days after enrollment or is assigned to a primary care provider within 40 days after enrollment.

(7) A Medi-Cal or CalWORKs beneficiary dissatisfied with the primary care provider or health care plan shall be allowed to select or be assigned to another primary care provider within the same health care plan. In addition, the beneficiary shall be allowed to select or be assigned to another health care plan contracted for pursuant to this article that is in effect for the geographic area in which the beneficiary resides in accordance with Section 1903(m)(2)(F)(ii) of the Social Security Act.

(8) The department or its contractor shall notify a health care plan when it has been selected by or assigned to a beneficiary. The health care plan that has been selected or assigned by a beneficiary shall notify the primary care provider that has been selected or assigned. The health care plan shall also notify the beneficiary of the health care plan and primary care provider selected or assigned.

(9) This section shall be implemented in a manner consistent with any federal waiver that is required to be obtained by the department to implement this section.

(e) A participating county may include within the plan or plans providing coverage pursuant to this section, employees of county government, and others who reside in the geographic area and who depend upon county funds for all or part of their health care costs.

(f) Funds may be provided to prospective contractors to assist in the design, development, and installation of appropriate programs. The award of these funds shall be based on criteria established by the department.

(g) In implementing this article, the department may enter into contracts for the provision of essential administrative and other services. Contracts entered into under this subdivision may be on a noncompetitive bid basis and shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code.

(h) Notwithstanding any other provision of law, on and after the effective date of the act adding this subdivision, the department shall have exclusive authority to set the rates, terms, and conditions of geographic managed care contracts and contract amendments under this article. As of that date, all

references to this article to the negotiator or to the California Medical Assistance Commission shall be deemed to mean the department.

(i) Notwithstanding Section 7926.220 of the Government Code, a contract or contract amendments executed by both parties after the effective date of the act adding this subdivision shall be considered a public record for purposes of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) and shall be disclosed upon request. This subdivision includes contracts that reveal the department's rates of payment for health care services, the rates themselves, and rate manuals.

SEC. 446. Section 14089.07 of the Welfare and Institutions Code is amended to read:

14089.07. (a) The Sacramento County Department of Health and Human Services may establish a stakeholder advisory committee to provide input on the delivery of health care services provided in the county pursuant to this article, Section 14182, and Part 3.6 (commencing with Section 15909). The advisory committee shall include, but not be limited to, Medi-Cal beneficiaries, patient representatives, health care providers, and representatives of Medi-Cal managed care health plans.

(b) The advisory committee may submit written input to the State Department of Health Care Services regarding policies that improve coordination with traditional and safety net providers, enhance the capacity of the county's health care delivery system, and improve health care services and health outcomes.

(c) The advisory committee may request, in writing, and receive final reports submitted to the department by any managed care health plan operating in Sacramento County as long as the report is not exempt from disclosure pursuant to Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code, or any other contractual, statutory, or legal exemption, or privilege. The advisory committee may review and provide written comments to the department on these reports, that may include issues such as evaluation of access, quality, and consumer protections.

(d) No state General Fund moneys shall be used to fund advisory committee costs, nor to fund any related administrative costs incurred by the county.

SEC. 447. Section 14105.8 of the Welfare and Institutions Code is amended to read:

14105.8. (a) The department may enter into contracts with manufacturers of enteral nutrition products that can be used as a therapeutic regimen to prevent serious disability or death in patients with medically diagnosed conditions that preclude the full use of regular food, on a bid or nonbid basis. The department shall maintain a list of those products for which contracts have been executed. For those contracts that generate rebates, those rebates shall be managed through the department's drug rebate accounting system.

(b) (1) To ensure that the health needs of Medi-Cal beneficiaries are met, the department shall, when evaluating a decision to execute a contract, and when evaluating enteral nutrition products for retention on, addition to, or deletion from, the list of enteral nutrition products, consider all of the following criteria:

(A) The safety of the product.

(B) The effectiveness of the product.

(C) The essential need for the product.

(D) The potential for misuse of the product.

(E) The immediate or long-term cost effectiveness of the product.

(2) The deficiency of a product when measured by one of the criteria specified in paragraph (1) may be sufficient to support a decision that the product should be deleted from, should not be added to, or should not be retained on, the list of medical supplies. However, the superiority of a product under one criterion may be sufficient to warrant the addition or retention of the product, notwithstanding a deficiency in another criterion.

(c) In order that Medi-Cal beneficiaries may have access to a comprehensive range of enteral nutrition products pursuant to subdivision (a), the department shall ensure that there is representation on the list of both general use and specialized use enteral nutrition products. The department deems all products designed to meet the normal needs of infants, and all products that are an incomplete source of nutrition, including modular products, and all products intended for use in weight loss, are not benefits of the Medi-Cal program. The department may deem an incomplete product a benefit for patients with diagnoses, including, but not limited to, malabsorption and inborn errors of metabolism, when the product either appropriately lacks only an offending nutrient, or has been shown to not be investigational nor experimental when used as part of a therapeutic regimen to prevent serious disability or death, or when both conditions apply.

(d) In order to achieve maximum cost savings, the Legislature declares that an expedited process for contracts under this section is necessary. Therefore, contracts entered into on a nonbid basis shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code.

(e) Deletions made to the list of enteral nutrition products shall become effective no sooner than 30 days after publication of the changes in provider bulletins.

(f) Changes made to the list of enteral nutrition products under this or any other section are exempt from the requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), and shall not be subject to the review and approval of the Office of Administrative Law.

(g) The department may provide beneficiaries continuing care for products deleted from the list of enteral nutrition products. The department shall assess the need for continuing care based on the criteria in subdivision (b)

and the potential impact on beneficiary access to appropriate therapy. To be eligible for continuing care status under this subdivision, a beneficiary must be taking the enteral nutrition product when the product is deleted. Additionally, the department shall have received a claim for the enteral nutrition product with a date of service that is within 100 days prior to the date the product was deleted. A beneficiary shall remain eligible for continuing care status provided that a claim is submitted for the enteral nutrition product in question at least every 100 days and the date of service of the claim is within 100 days of the date of service of the last claim submitted for the same enteral nutrition product.

(h) The department shall provide individual notice to Medi-Cal beneficiaries at least 60 calendar days prior to the effective date of the deletion of any enteral nutrition product from the list of enteral nutrition products. The notice shall include a description of the beneficiary's right to a fair hearing and shall encourage the beneficiary to consult a physician to determine if an appropriate substitute enteral nutrition product is available from Medi-Cal.

(i) Enteral nutrition products authorized pursuant to subdivision (a) shall be available only through prior authorization. The department may designate those enteral nutrition products that are without a contract as not being a benefit of the Medi-Cal program, except in the case of continuing care as described in subdivision (h) of this section.

(j) Contracts executed pursuant to this section shall be confidential and shall be exempt from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(k) (1) Manufacturers shall calculate and pay interest on late or unpaid rebates.

(2) Interest pursuant to paragraph (1) shall begin accruing 38 calendar days from the date of mailing of the quarterly invoice, including supporting utilization data sent to the manufacturer. Interest shall continue to accrue until the date of mailing of the manufacturer's payment.

(3) Interest rates and calculations pursuant to paragraph (1) shall be identical and shall be equal to the drug rebate interest rates as determined by the federal Centers for Medicare and Medicaid Services' Medicaid Drug Rebate Program Releases or regulations.

(4) If the date of mailing of a state rebate payment is 69 days or more from the date of mailing of the invoice, including supporting utilization data sent to the manufacturer, the interest rate shall be as specified in paragraph (3), however the interest rate shall be increased by 10 percentage points.

(*l*) The department may adopt emergency regulations to implement this section in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

SEC. 448. Section 14105.22 of the Welfare and Institutions Code is amended to read:

14105.22. (a) (1) Reimbursement for clinical laboratory or laboratory services, as defined in Section 51137.2 of Title 22 of the California Code of Regulations, shall not exceed 80 percent of the lowest maximum allowance established by the federal Medicare Program for the same or similar services.

(2) This subdivision shall be implemented only until the new rate methodology under subdivision (b) is approved by the federal Centers for Medicare and Medicaid Services (CMS).

(b) (1) It is the intent of the Legislature that the department develop reimbursement rates for clinical laboratory or laboratory services that are comparable to the payment amounts received from other payers for clinical laboratory or laboratory services. Development of these rates will enable the department to reimburse clinical laboratory or laboratory service providers in compliance with state and federal law.

(2) (A) The provisions of Section 51501(a) of Title 22 of the California Code of Regulations shall not apply to laboratory providers reimbursed under the new rate methodology developed for clinical laboratories or laboratory services pursuant to this subdivision.

(B) In addition to subparagraph (A), laboratory providers reimbursed under any payment reductions implemented pursuant to this section shall not be subject to the provisions of Section 51501(a) of Title 22 of the California Code of Regulations until July 1, 2015.

(3) Reimbursement to providers for clinical laboratory or laboratory services shall not exceed the lowest of the following:

(A) The amount billed.

(B) The charge to the general public.

(C) Eighty percent of the lowest maximum allowance established by the federal Medicare Program for the same or similar services.

(D) A reimbursement rate based on an average of the lowest amount that other payers and other state Medicaid programs are paying for similar clinical laboratory or laboratory services.

(4) (A) In addition to the payment reductions implemented pursuant to Section 14105.192, payments shall be reduced by up to 10 percent for clinical laboratory or laboratory services, as defined in Section 51137.2 of Title 22 of the California Code of Regulations, for dates of service on and after July 1, 2012. The payment reductions pursuant to this paragraph shall continue until the new rate methodology under this subdivision has been approved by CMS.

(B) Notwithstanding subparagraph (A), the Family Planning, Access, Care, and Treatment (Family PACT) Program pursuant to subdivision (aa) of Section 14132 shall be exempt from the payment reduction specified in this section.

(5) (A) For purposes of establishing reimbursement rates for clinical laboratory or laboratory services pursuant to subparagraph (D) of paragraph (3), laboratory service providers shall submit data reports according to the following schedule:

(i) The data initially provided shall be for the 2018 calendar year. For each subsequent reporting year the data shall be based on the previous calendar year.

(ii) For purposes of clause (i), "reporting year" means 2019 and every third year thereafter.

(B) A data report submitted pursuant to subparagraph (A) shall specify the provider's lowest amounts other payers are paying, including other state Medicaid programs and private insurance, minus discounts and rebates. The specific data required for submission under this subparagraph and the format for the data submission shall be determined and specified by the department after receiving stakeholder input pursuant to paragraph (7).

(C) The data submitted pursuant to subparagraph (A) may be used to determine reimbursement rates by procedure code based on an average of the lowest amount other payers are paying providers for similar clinical laboratory or laboratory services, excluding significant deviations of cost or volume factors and with consideration to geographical areas. The department shall have the discretion to determine the specific methodology and factors used in the development of the lowest average amount under this subparagraph to ensure compliance with federal Medicaid law and regulations as specified in paragraph (10).

(D) For purposes of subparagraph (C), the department may contract with a vendor for the purposes of collecting payment data reports from clinical laboratories, analyzing payment information, and calculating a proposed rate.

(E) The proposed rates calculated by the vendor described in subparagraph (D) may be used in determining the lowest reimbursement rate for clinical laboratories or laboratory services in accordance with paragraph (3).

(F) Data reports submitted to the department shall be certified by the provider's certified financial officer or an authorized individual.

(G) Clinical laboratory providers that fail to submit data reports within 30 working days from the time requested by the department shall be subject to the suspension provisions of subdivisions (a) and (c) of Section 14123.

(6) Data reports provided to the department pursuant to this section shall be confidential and shall be exempt from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(7) The department shall seek stakeholder input on the ratesetting methodology.

(8) (A) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department shall, without taking any further regulatory action, implement, interpret, or make specific this section by means of provider bulletins or similar instructions until regulations are adopted. It is the intent of the Legislature that the department have temporary authority as necessary to implement program changes until completion of the regulatory process.

(B) The department shall adopt emergency regulations no later than June 30, 2016. The department may readopt any emergency regulation authorized

by this section that is the same as or substantially equivalent to an emergency regulation previously adopted pursuant to this section. The initial adoption of emergency regulations implementing the amendments to this section and the one readoption of emergency regulations authorized by this section shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. Initial emergency regulations and the one readoption of emergency regulations authorized by this section shall be exempt from review by the Office of Administrative Law.

(C) The initial emergency regulations and the one readoption of emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and each shall remain in effect for no more than 180 days, by which time final regulations may be adopted.

(9) To the extent that the director determines that the new methodology or payment reductions are not consistent with the requirements of Section 1396a(a)(30)(A) of Title 42 of the United States Code, the department may revert to the methodology under subdivision (a) to ensure access to care is not compromised.

(10) (A) The department shall implement this section in a manner that is consistent with federal Medicaid law and regulations. The director shall seek any necessary federal approvals for the implementation of this section. This section shall be implemented only to the extent that federal approval is obtained.

(B) In determining whether federal financial participation is available, the director shall determine whether the rates and payments comply with applicable federal Medicaid requirements, including those set forth in Section 1396a(a)(30)(A) of Title 42 of the United States Code.

(C) To the extent that the director determines that the rates and payments do not comply with applicable federal Medicaid requirements or that federal financial participation is not available with respect to any reimbursement rate, the director retains the discretion not to implement that rate or payment and may revise the rate or payment as necessary to comply with federal Medicaid requirements. The department shall notify the Joint Legislative Budget Committee 10 days prior to revising the rate or payment to comply with federal Medicaid requirements.

(c) Reimbursement rates developed pursuant to subparagraph (D) of paragraph (3) of subdivision (b) and the changes made by the act that added this subdivision shall be effective beginning on July 1, 2020, and on July 1 of every third year thereafter.

SEC. 449. Section 14105.33 of the Welfare and Institutions Code is amended to read:

14105.33. (a) The department may enter into contracts with manufacturers of single-source and multiple-source drugs, on a bid or nonbid basis, for drugs from each major therapeutic category, and shall maintain a list of those drugs for which contracts have been executed.

(b) (1) Contracts executed pursuant to this section shall be for the manufacturer's best price, as defined in Section 14105.31, which shall be specified in the contract, and subject to agreed-upon price escalators, as defined in that section. The contracts shall provide for a state rebate, as defined in Section 14105.31, to be remitted to the department quarterly. The department shall submit an invoice to each manufacturer for the state rebate, including supporting utilization data from the department's prescription drug paid claims tapes within 30 days of receipt of the federal Centers for Medicare and Medicaid Services' file of manufacturer rebate information. In lieu of paying the entire invoiced amount, a manufacturer may contest the invoiced amount pursuant to procedures established by the federal Centers for Medicare and Medicaid Services' Medicaid Drug Rebate Program Releases or regulations by mailing a notice, that shall set forth its grounds for contesting the invoiced amount, to the department within 38 days of the department's mailing of the state invoice and supporting utilization data. For purposes of state accounting practices only, the contested balance shall not be considered an accounts receivable amount until final resolution of the dispute pursuant to procedures established by the federal Centers for Medicare and Medicaid Services' Medicaid Drug Rebate Program Releases or regulations that results in a finding of an underpayment by the manufacturer. Manufacturers may request, and the department shall timely provide, at cost, Medi-Cal provider level drug utilization data, and other Medi-Cal utilization data necessary to resolve a contested department-invoiced rebate amount.

(2) The department shall provide for an annual audit of utilization data used to calculate the state rebate to verify the accuracy of that data. The findings of the audit shall be documented in a written audit report to be made available to manufacturers within 90 days of receipt of the report from the auditor. Any manufacturer may receive a copy of the audit report upon written request. Contracts between the department and manufacturers shall provide for any equalization payment adjustments determined necessary pursuant to an audit.

(3) (A) Utilization data used to determine the state rebate shall exclude data from both of the following:

(i) Health maintenance organizations, as defined in Section 300e(a) of Title 42 of the United States Code, including those organizations that contract under Section 1396b(m) of Title 42 of the United States Code.

(ii) Capitated plans that include a prescription drug benefit in the capitated rate, and that have negotiated contracts for rebates or discounts with manufacturers.

(B) This paragraph shall become inoperative on July 1, 2014.

(4) Commencing July 1, 2014, utilization data used to determine the state rebate shall include data from all programs, including, but not limited to, fee-for-service Medi-Cal, and utilization data, as limited in paragraph (5), from health plans contracting with the department to provide services to beneficiaries pursuant to this chapter, Chapter 8 (commencing with Section 14200), or Chapter 8.75 (commencing with Section 14591), that qualify for

federal drug rebates pursuant to Section 1927 of the federal Social Security Act (42 U.S.C. Sec. 1396r-8) or that otherwise qualify for federal funds under Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.) pursuant to the Medicaid state plan or waivers.

(5) Health plan utilization data shall be limited to those drugs for which a health plan is authorizing a prescription drug described in subparagraph (A), and pursuant to the coverage policies established in subparagraph (B):

(A) A prescription drug for which the department reimburses the health plan through a separate capitated payment or other supplemental payment. Payment shall not be withheld for decisions determined pursuant to Section 1374.34 of the Health and Safety Code.

(B) The department shall develop coverage policies, consistent with the criteria set forth in paragraph (1) of subdivision (c) of Section 14105.39 and in consultation with clinical experts, Medi-Cal managed care plans, and other stakeholders, for prescription drugs described in subparagraph (A). These coverage policies shall apply to the entire Medi-Cal program, including fee-for-service and Medi-Cal managed care, through the Medi-Cal List of Contract Drugs or through provider bulletins, all plan letters, or similar instructions. Coverage policies developed pursuant to this section shall be revised on a semiannual basis or upon approval by the Food and Drug Administration of a new drug subject to subparagraph (A). For the purposes of this section, "coverage policies" include, but are not limited to, clinical guidelines and treatment and utilization policies.

(6) For prescription drugs not subject to the requirements of paragraph (5), utilization data used to determine the state rebate shall include all data from health plans, except for health maintenance organizations, as defined in Section 300e(a) of Title 42 of the United States Code, including those organizations that contract pursuant to Section 1396b(m) of Title 42 of the United States Code.

(7) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department, without taking any further regulatory action, shall implement, interpret, or make specific paragraph (5) by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions, until the time regulations are adopted. The department shall adopt regulations by October 1, 2017, in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Notwithstanding Section 10231.5 of the Government Code, beginning six months after the effective date of this section, the department shall provide a status report to the Legislature on a semiannual basis, in compliance with Section 9795 of the Government Code, until regulations have been adopted.

(c) In order that Medi-Cal beneficiaries may have access to a comprehensive range of therapeutic agents, the department shall ensure that there is representation on the list of contract drugs in all major therapeutic categories. Except as provided in subdivision (a) of Section 14105.35, the department shall not be required to contract with all manufacturers who negotiate for a contract in a particular category. The department shall ensure

that there is sufficient representation of single-source and multiple-source drugs, as appropriate, in each major therapeutic category.

(d) The department shall select the therapeutic categories to be included on the list of contract drugs, and the order in which it seeks contracts for those categories. The department may establish different contracting schedules for single-source and multiple-source drugs within a given therapeutic category.

(e) (1) In order to fully implement subdivision (d), the department shall, to the extent necessary, negotiate or renegotiate contracts to ensure there are as many single-source drugs within each therapeutic category or subcategory as the department determines necessary to meet the health needs of the Medi-Cal population. The department may determine in selected therapeutic categories or subcategories that no single-source drugs are necessary because there are currently sufficient multiple-source drugs in the therapeutic category or subcategory on the list of contract drugs to meet the health needs of the Medi-Cal population. However, in no event shall a beneficiary be denied continued use of a drug that is part of a prescribed therapy in effect as of September 2, 1992, until the prescribed therapy is no longer prescribed.

(2) In the development of decisions by the department on the required number of single-source drugs in a therapeutic category or subcategory, and the relative therapeutic merits of each drug in a therapeutic category or subcategory, the department shall consult with the Medi-Cal Contract Drug Advisory Committee. The committee members shall communicate their comments and recommendations to the department within 30 business days of a request for consultation, and shall disclose any associations with pharmaceutical manufacturers or any remuneration from pharmaceutical manufacturers.

(f) In order to achieve maximum cost savings, the Legislature declares that an expedited process for contracts under this section is necessary. Therefore, contracts entered into on a nonbid basis shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code.

(g) In no event shall a beneficiary be denied continued use of a drug that is part of a prescribed therapy in effect as of September 2, 1992, until the prescribed therapy is no longer prescribed.

(h) Contracts executed pursuant to this section shall be confidential and shall be exempt from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(i) The department shall provide individual notice to Medi-Cal beneficiaries at least 60 calendar days prior to the effective date of the deletion or suspension of any drug from the list of contract drugs. The notice shall include a description of the beneficiary's right to a fair hearing and shall encourage the beneficiary to consult a physician to determine if an appropriate substitute medication is available from Medi-Cal.

(j) In carrying out the provisions of this section, the department may contract either directly, or through the fiscal intermediary, for pharmacy consultant staff necessary to initially accomplish the treatment authorization request reviews.

(k) (1) Manufacturers shall calculate and pay interest on late or unpaid rebates. The interest shall not apply to any prior period adjustments of unit rebate amounts or department utilization adjustments.

(2) For state rebate payments, manufacturers shall calculate and pay interest on late or unpaid rebates for quarters that begin on or after the effective date of the act that added this subdivision.

(3) Following final resolution of any dispute pursuant to procedures established by the federal Centers for Medicare and Medicaid Services' Medicaid Drug Rebate Program Releases or regulations regarding the amount of a rebate, any underpayment by a manufacturer shall be paid with interest calculated pursuant to subdivisions (m) and (n), and any overpayment, together with interest at the rate calculated pursuant to subdivisions (m) and (n), shall be credited by the department against future rebates due.

(*l*) Interest pursuant to subdivision (k) shall begin accruing 38 calendar days from the date of mailing of the invoice, including supporting utilization data sent to the manufacturer. Interest shall continue to accrue until the date of mailing of the manufacturer's payment.

(m) Except as specified in subdivision (n), interest rates and calculations pursuant to subdivision (k) for Medicaid rebates and state rebates shall be identical and shall be determined by the federal Centers for Medicare and Medicaid Services' Medicaid Drug Rebate Program Releases or regulations.

(n) If the date of mailing of a state rebate payment is 69 days or more from the date of mailing of the invoice, including supporting utilization data sent to the manufacturer, the interest rate and calculations pursuant to subdivision (k) shall be as specified in subdivision (m), however the interest rate shall be increased by 10 percentage points. This subdivision shall apply to payments for amounts invoiced for any quarters that begin on or after the effective date of the act that added this subdivision.

(o) If the rebate payment is not received, the department shall send overdue notices to the manufacturer at 38, 68, and 98 days after the date of mailing of the invoice, and supporting utilization data. If the department has not received a rebate payment, including interest, within 180 days of the date of mailing of the invoice, including supporting utilization data, the manufacturer's contract with the department shall be deemed to be in default and the contract may be terminated in accordance with the terms of the contract. For all other manufacturers, if the department has not received a rebate payment, including interest, within 180 days of the date of mailing of the invoice, including supporting utilization data, all of the drug products of those manufacturers shall be made available only through prior authorization effective 270 days after the date of mailing of the invoice, including utilization data sent to manufacturers.

(p) If the manufacturer provides payment or evidence of payment to the department at least 40 days prior to the proposed date the drug is to be made

available only through prior authorization pursuant to subdivision (o), the department shall terminate its actions to place the manufacturers' drug products on prior authorization.

(q) The department shall direct the state's fiscal intermediary to remove prior authorization requirements imposed pursuant to subdivision (o) and notify providers within 60 days after payment by the manufacturer of the rebate, including interest. If a contract was in place at the time the manufacturers' drugs were placed on prior authorization, removal of prior authorization requirements shall be contingent upon good faith negotiations and a signed contract with the department.

(r) A beneficiary may obtain drugs placed on prior authorization pursuant to subdivision (o) if the beneficiary qualifies for continuing care status. To be eligible for continuing care status, a beneficiary must be taking the drug when its manufacturer is placed on prior authorization status. Additionally, the department shall have received a claim for the drug with a date of service that is within 100 days prior to the date the manufacturer was placed on prior authorization.

(s) A beneficiary may remain eligible for continuing care status, provided that a claim is submitted for the drug in question at least every 100 days and the date of service of the claim is within 100 days of the date of service of the last claim submitted for the same drug.

(t) Drugs covered pursuant to Sections 14105.43 and 14133.2 shall not be subject to prior authorization pursuant to subdivision (o), and any other drug may be exempted from prior authorization by the department if the director determines that an essential need exists for that drug, and there are no other drugs currently available without prior authorization that meet that need.

(u) It is the intent of the Legislature in enacting subdivisions (k) to (t), inclusive, that the department and manufacturers shall cooperate and make every effort to resolve rebate payment disputes within 90 days of notification by the manufacturer to the department of a dispute in the calculation of rebate payments.

SEC. 450. Section 14105.45 of the Welfare and Institutions Code is amended to read:

14105.45. (a) For purposes of this section, the following definitions shall apply:

(1) "Actual acquisition cost" has the same meaning as that term is defined in Section 447.502 of Title 42 of the Code of Federal Regulations. The actual acquisition cost shall not be considered confidential and shall be subject to disclosure pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(2) "Average manufacturers price" means the price reported to the department by the federal Centers for Medicare and Medicaid Services pursuant to Section 1927 of the Social Security Act (42 U.S.C. Sec. 1396r-8).

(3) "Average wholesale price" means the price for a drug product listed as the average wholesale price in the department's primary price reference source.

(4) "Blood factors" has the same meaning as that term is defined in Section 14105.86.

(5) "Federal upper limit" means the maximum per unit reimbursement when established by the federal Centers for Medicare and Medicaid Services.

(6) "Generically equivalent drugs" means drug products with the same active chemical ingredients of the same strength and dosage form, and of the same generic drug name, as determined by the United States Adopted Names (USAN) Council and accepted by the federal Food and Drug Administration (FDA), as those drug products having the same chemical ingredients.

(7) "Legend drug" means any drug whose labeling states "Caution: Federal law prohibits dispensing without prescription," "Rx only," or words of similar import.

(8) "Maximum allowable ingredient cost" (MAIC) means the maximum amount the department will reimburse Medi-Cal pharmacy providers for generically equivalent drugs.

(9) "Innovator multiple source drug," "noninnovator multiple source drug," and "single source drug" have the same meaning as those terms are defined in Section 1396r-8(k)(7) of Title 42 of the United States Code.

(10) "Nonlegend drug" means any drug whose labeling does not contain the statement referenced in paragraph (7).

(11) "Pharmacy warehouse" means a physical location licensed as a wholesaler for prescription drugs that acts as a central warehouse and performs intracompany sales or transfers of those drugs to a group of pharmacies under common ownership and control.

(12) "Professional dispensing fee" has the same meaning as that term is defined in Section 447.502 of Title 42 of the Code of Federal Regulations.

(13) "Specialty drugs" means drugs determined by the department pursuant to subdivision (f) of Section 14105.3 to generally require special handling, complex dosing regimens, specialized self-administration at home by a beneficiary or caregiver, or specialized nursing facility services, or may include extended patient education, counseling, monitoring, or clinical support.

(14) "Volume weighted average" means the aggregated average volume for a group of legend or nonlegend drugs, weighted by each drug's percentage of the group's total volume in the Medi-Cal fee-for-service program during the previous six months. For purposes of this paragraph, volume is based on the standard billing unit used for the legend or nonlegend drugs.

(15) "Wholesaler" has the same meaning as that term is defined in Section 4043 of the Business and Professions Code.

(16) "Wholesaler acquisition cost" means the price for a drug product listed as the wholesaler acquisition cost in the department's primary price reference source.

(b) (1) Reimbursement to Medi-Cal pharmacy providers for legend and nonlegend drugs shall not exceed the lowest of either of the following:

(A) The drug ingredient cost plus a professional dispensing fee.

(B) The pharmacy's usual and customary charge as defined in Section 14105.455.

(2) (A) Effective for dates of service on or before March 31, 2017, the professional dispensing fee shall be seven dollars and twenty-five cents ($7.25) per dispensed prescription, and the professional dispensing fee for legend drugs dispensed to a beneficiary residing in a skilled nursing facility or intermediate care facility shall be eight dollars ($8) per dispensed prescription. For purposes of this paragraph, "skilled nursing facility" and "intermediate care facility" have the same meaning as those terms are defined in Division 5 (commencing with Section 70001) of Title 22 of the California Code of Regulations.

(B) Effective for dates of service on or after April 1, 2017, the professional dispensing fee shall be based upon a pharmacy's total, both Medicaid and non-Medicaid, annual claim volume of the previous year as follows:

(i) Less than 90,000 claims per year, the professional dispensing fee shall be thirteen dollars and twenty cents ($13.20).

(ii) Ninety thousand or more claims per year, the professional dispensing fee shall be ten dollars and five cents ($10.05).

(C) If the department determines that a change in the amount of the professional dispensing fee is necessary pursuant to this section in order to meet federal Medicaid requirements, the department shall establish a new professional dispensing fee through the state budget process.

(i) When establishing the new professional dispensing fee or fees, the department shall establish the professional dispensing fee or fees consistent with Section 447.518(d) of Title 42 of the Code of Federal Regulations.

(ii) The department shall consult with interested parties and appropriate stakeholders in implementing this subparagraph.

(3) The department shall establish the drug ingredient cost of legend and nonlegend drugs as follows:

(A) Effective for dates of service on or before March 31, 2017, the drug ingredient cost shall be equal to the lowest of the average wholesale price minus 17 percent, the actual acquisition cost, the federal upper limit, or the MAIC.

(B) Effective for dates of service on or after April 1, 2017, the drug ingredient cost shall be equal to the lowest of the actual acquisition cost, the federal upper limit, or the MAIC.

(C) For blood factors, the drug ingredient cost shall be established pursuant to Section 14105.86.

(D) Average wholesale price shall not be used to establish the drug ingredient cost once the department has determined that the actual acquisition cost methodology has been fully implemented.

(4) For purposes of paragraph (3), the department may establish a list of MAICs for generically equivalent drugs. If the department establishes a list

of MAICs for generically equivalent drugs, the department shall update the list of MAICs and establish additional MAICs in accordance with all of the following:

(A) The department shall establish a MAIC only when three or more generically equivalent drugs are available for purchase and dispensing by retail pharmacies in California.

(B) The department shall base the MAIC on the mean of the average manufacturer's price of drugs generically equivalent to the particular innovator drug plus a percent markup determined by the department to be necessary for the MAIC to represent the average purchase price paid by retail pharmacies in California.

(C) If average manufacturer prices are unavailable, the department shall establish the MAIC in one of the following ways:

(i) Based on the volume weighted average of wholesaler acquisition costs of drugs generically equivalent to the particular innovator drug plus a percent markup determined by the department to be necessary for the MAIC to represent the average purchase price paid by retail pharmacies in California.

(ii) Pursuant to a contract with a vendor for the purpose of surveying drug price information, collecting data, and calculating a proposed MAIC.

(iii) Based on the volume weighted actual acquisition cost of drugs generically equivalent to the particular innovator drug adjusted by the department to represent the average purchase price paid by Medi-Cal pharmacy providers.

(D) The department shall publish the list of MAICs in pharmacy provider bulletins and manuals, update the MAICs at least annually, and notify Medi-Cal providers at least 30 days prior to the effective date of a MAIC.

(E) The department shall establish a process for providers to seek a change to a specific MAIC when the providers believe the MAIC does not reflect current available market prices. If the department determines a MAIC change is warranted, the department may update a specific MAIC prior to notifying providers.

(F) In determining the average purchase price, the department shall consider the provider-related costs of the products that include, but are not limited to, shipping, handling, and storage. Costs of the provider that are included in the costs of the dispensing shall not be used to determine the average purchase price.

(5) (A) The department may establish the actual acquisition cost in one of the following ways:

(i) Based on the volume weighted actual acquisition cost adjusted by the department to verify that the actual acquisition cost represents the average purchase price paid by retail pharmacies in California.

(ii) Based on the proposed actual acquisition cost as calculated by the vendor pursuant to subparagraph (B).

(iii) Based on a national pricing benchmark obtained from the federal Centers for Medicare and Medicaid Services or on a similar benchmark listed in the department's primary price reference source adjusted by the

department to verify that the actual acquisition cost represents the average purchase price paid by retail pharmacies in California.

(B) For the purposes of paragraph (3), the department may contract with a vendor for the purposes of surveying drug price information, collecting data from providers, wholesalers, or drug manufacturers, and calculating a proposed actual acquisition cost.

(C) (i) Medi-Cal pharmacy providers shall submit drug price information to the department or a vendor designated by the department for the purposes of establishing the actual acquisition cost. The information submitted by pharmacy providers shall include, but not be limited to, invoice prices and all discounts, rebates, and refunds known to the provider that would apply to the acquisition cost of the drug products purchased during the calendar quarter. Pharmacy warehouses shall be exempt from the survey process, but shall provide drug cost information upon audit by the department for the purposes of validating individual pharmacy provider acquisition costs.

(ii) Pharmacy providers that fail to submit drug price information to the department or the vendor as required by this subparagraph shall receive notice that if they do not provide the required information within five working days, they shall be subject to suspension under subdivisions (a) and (c) of Section 14123.

(D) (i) For new drugs or new formulations of existing drugs, if drug price information is unavailable pursuant to clause (i) of subparagraph (C), drug manufacturers and wholesalers shall submit drug price information to the department or a vendor designated by the department for the purposes of establishing the actual acquisition cost. Drug price information shall include, but not be limited to, net unit sales of a drug product sold to retail pharmacies in California divided by the total number of units of the drug sold by the manufacturer or wholesaler in a specified period of time determined by the department.

(ii) Drug products from manufacturers and wholesalers that fail to submit drug price information to the department or the vendor as required by this subparagraph shall not be a reimbursable benefit of the Medi-Cal program for those manufacturers and wholesalers until the department has established the actual acquisition cost for those drug products.

(E) Drug pricing information provided to the department or a vendor designated by the department for the purposes of establishing the actual acquisition cost pursuant to this section shall be confidential and shall be exempt from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(F) Prior to the implementation of an actual acquisition cost methodology, the department shall collect data through a survey of pharmacy providers for purposes of establishing a professional dispensing fee or fees in compliance with federal Medicaid requirements.

(i) The department shall seek stakeholder input on the retail pharmacy factors and elements used for the pharmacy survey relative to both actual acquisition costs and professional dispensing costs.

(ii) For drug products provided by pharmacy providers pursuant to subdivision (f) of Section 14105.3, a differential professional fee or payment for services to provide specialized care may be considered as part of the contracts established pursuant to that section.

(G) When the department implements the actual acquisition cost methodology, the department shall update the Medi-Cal claims processing system to reflect the actual acquisition cost of drugs not later than 30 days after the department has established actual acquisition cost pursuant to subparagraph (A).

(H) Notwithstanding any other law, if the department implements actual acquisition cost pursuant to clause (i) or (ii) of subparagraph (A), the department shall update actual acquisition costs at least every three months and notify Medi-Cal providers at least 30 days prior to the effective date of any change in an actual acquisition cost.

(I) The department shall make available a process for providers to seek a change to a specific actual acquisition cost when the providers believe the actual acquisition cost does not reflect current available market prices. If the department determines an actual acquisition cost change is warranted, the department may update a specific actual acquisition cost prior to notifying providers.

(c) The director shall implement this section in a manner that is consistent with federal Medicaid law and regulations. The director shall seek any necessary federal approvals for the implementation of this section. This section shall be implemented only to the extent that federal approval is obtained.

(d) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific this section by means of a provider bulletin or notice, policy letter, or other similar instructions, without taking regulatory action.

(e) The department may enter into contracts with a vendor for the purposes of implementing this section on a bid or nonbid basis. In order to achieve maximum cost savings, the Legislature declares that an expedited process for contracts under this section is necessary. Therefore, contracts entered into to implement this section, and all contract amendments and change orders, shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code.

(f) (1) The rates provided for in this section shall be implemented only if the director determines that the rates will comply with applicable federal Medicaid requirements and that federal financial participation will be available.

(2) In determining whether federal financial participation is available, the director shall determine whether the rates comply with applicable federal Medicaid requirements, including those set forth in Section 1396a(a)(30)(A) of Title 42 of the United States Code.

(3) To the extent that the director determines that the rates do not comply with applicable federal Medicaid requirements or that federal financial

participation is not available with respect to any rate of reimbursement described in this section, the director retains the discretion not to implement that rate and may revise the rate as necessary to comply with federal Medicaid requirements.

(g) The director shall seek any necessary federal approvals for the implementation of this section.

(h) This section shall not be construed to require the department to collect cost data, to conduct cost studies, or to set or adjust a rate of reimbursement based on cost data that has been collected.

(i) Effective for dates of service on or after April 1, 2017, adjustments to pharmacy drug product payments pursuant to Section 14105.192 shall no longer apply.

(j) Prior to implementation of this section, the department shall provide the appropriate fiscal and policy committees of the Legislature with information on the department's plan for implementation of the actual acquisition cost methodology pursuant to this section.

SEC. 451. Section 14105.334 of the Welfare and Institutions Code is amended to read:

14105.334. (a) Notwithstanding any other law, upon approval of the Department of Finance, the department shall seek the necessary federal approvals to establish and administer a drug rebate program to collect rebate payments from drug manufacturers with respect to drugs furnished to selected populations of California residents that are ineligible for full-scope Medi-Cal benefits under this chapter.

(b) The department shall administer the drug rebate program for qualified non-Medi-Cal populations consistent with the applicable requirements and procedures of the federal Medicaid Drug Rebate Program implemented pursuant to Section 14105.33 and Section 1396r-8 of Title 42 of the United States Code.

(c) The department, in consultation with the Department of Finance, shall determine the non-Medi-Cal populations to be included in the drug rebate program administered pursuant to this section based on the level to which the department can demonstrate that their inclusion furthers the goals and objectives of the Medi-Cal program, increases the efficiency and economy of the Medi-Cal program, and sufficiently benefits the Medi-Cal population as a whole.

(d) The department shall seek any federal approvals from the federal Centers for Medicare and Medicaid Services, via submission of State Plan Amendments or other applicable mechanism, it deems necessary to implement this section. This section shall be implemented only to the extent that any necessary federal approvals are obtained and federal financial participation is available and is not otherwise jeopardized.

(e) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific this section, in whole or in part, by means of provider bulletins or other similar instructions, without taking regulatory action.

(f) For purposes of implementing this section, the department may enter into exclusive or nonexclusive contracts, or amend existing contracts, on a bid or negotiated basis with manufacturers of single-source and multiple-source drugs. Contracts entered into or amended pursuant to this section shall be exempt from Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of Title 2 of the Government Code, Section 19130 of the Government Code, Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code, and the State Administrative Manual, and shall be exempt from the review or approval of any division of the Department of General Services. Contracts entered into or amended pursuant to this section shall be confidential and shall be exempt from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(g) Any rebate payments collected from manufacturers pursuant to this section shall be deposited in the Medi-Cal Drug Rebate Fund, created pursuant to Section 14105.36.

SEC. 452. Section 14107.11 of the Welfare and Institutions Code is amended to read:

14107.11. (a) Upon receipt of a credible allegation of fraud as defined in subdivision (d) and for which an investigation is pending under the Medi-Cal program against a provider as defined in Section 14043.1, or the commencement of a suspension under Section 14123, the provider shall be temporarily placed under payment suspension, unless it is determined there is a good cause exception, as defined in subdivision (g), not to suspend the payments or to suspend them only in part, and the department may do any of the following:

(1) Collect any Medi-Cal program overpayment identified through an audit or examination, or any portion thereof from any provider. Notwithstanding Section 100171 of the Health and Safety Code, a provider may appeal the collection of overpayments under this section pursuant to procedures established in Article 5.3 (commencing with Section 14170). Overpayments collected under this section shall not be returned to the provider during the pendency of any appeal and may be offset to satisfy audit or appeal findings if the findings are against the provider. Overpayments will be returned to a provider with interest if findings are in favor of the provider.

(2) Give notification of the payment suspension for any goods, services, supplies, or merchandise, or any portion thereof. The department shall notify the provider within five days of any payment suspension under this section. The department may delay notification to the provider by 30 days if it is requested to do so in writing by any law enforcement agency, which may be renewed in writing up to two times and in no event may exceed 90 days. The notice to the provider shall do all of the following:

(A) State that the payment suspension is being imposed in accordance with this subdivision and that the payment suspension is for a temporary period and will not continue if it is determined that no credible allegation

of fraud remains against the provider or when legal proceedings relating to the allegation are complete.

(B) Cite the circumstances under which the payment suspension will be terminated.

(C) Specify, when appropriate, the type or types of claims for which payment is being suspended.

(D) Inform the provider of the right to submit written evidence that would be admissible under the administrative adjudication provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, for consideration by the department.

(b) Notwithstanding Section 100171 of the Health and Safety Code, a provider may appeal a payment suspension pursuant to Section 14043.65. Payments suspended under this section shall not be returned to the provider during the pendency of any appeal and may be offset to satisfy audit or appeal findings.

(c) A payment suspension may be lifted when a resolution of an investigation for fraud or abuse occurs as defined in subdivision (p) of Section 14043.1.

(d) An allegation of fraud shall be considered credible if it exhibits indicia of reliability as recognized by state or federal courts or by other law sufficient to meet the constitutional prerequisite to a law enforcement search or seizure of comparable business assets. The department shall carefully consider the allegations, facts, data, and evidence with the same thoroughness as a state or federal court would use in approving a warrant for a search or seizure.

(e) (1) On a quarterly basis, the Department of Justice, and any other law enforcement agency that has accepted referrals for investigation from the department, shall submit a report to the department listing each referral and stating whether the referral continues to be under investigation and whether it involves a credible allegation of fraud. If the Department of Justice or a law enforcement agency fails to submit a report under this subdivision, the department may request the report from the Department of Justice or the law enforcement agency on no more than a quarterly basis. The Department of Justice or the law enforcement agency, as applicable, shall provide the report within 30 days of the request.

(2) Notwithstanding paragraph (1), no quarterly report shall be required from a law enforcement agency, unless that law enforcement agency has either received a referral from the department or reported an open case to the department and has not yet reported rejection or closure of that referral or open case.

(f) A report, request, or notification submitted under this section shall be exempt from the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code). These records may be disclosed to law enforcement agencies or other government entities that execute an agreement conforming to paragraph (5) of subdivision (c) of Section 7921.505 of the Government Code.

(g) For purposes of this section, all of the following apply:

(1) "Provider" has the same meaning as that term is defined in Section 14043.1.

(2) "Good cause exception" means a reason determined by the department that falls under Section 455.23(e) or (f) of Title 42 of the Code of Federal Regulations.

(3) "Law enforcement agency" includes any agency employing peace officers, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code.

(h) The director may, in consultation with interested parties, adopt regulations to implement this section as necessary. These regulations may be adopted as emergency regulations in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) and the adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. The director shall transmit these emergency regulations directly to the Secretary of State for filing and the regulations shall become effective immediately upon filing. Upon completion of the formal regulation adoption process and prior to the expiration of the 120-day duration period of emergency regulations, the director shall transmit directly to the Secretary of State the adopted regulations, the rulemaking file, and the certification of compliance as required by subdivision (e) of Section 11346.1 of the Government Code.

SEC. 453. Section 14124.24 of the Welfare and Institutions Code is amended to read:

14124.24. (a) For purposes of this chapter, "Drug Medi-Cal reimbursable services" means the substance use disorder services described in the California Medicaid State Plan and includes, but is not limited to, all of the following services, administered by the department, and to the extent consistent with state and federal law:

(1) Narcotic treatment program services, as described in subdivision (a) of Section 14021.51.

(2) Intensive outpatient treatment services.

(3) Perinatal residential services for pregnant women and women in the postpartum period.

(4) Naltrexone services.

(5) Outpatient drug-free services.

(6) Other services upon approval of a federal Medicaid state plan amendment or waiver authorizing federal financial participation.

(b) (1) While seeking federal approval for any federal Medicaid state plan amendment or waiver associated with Drug Medi-Cal services, the department shall consult with the counties and stakeholders in the development of the state plan amendment or waiver.

(2) Upon federal approval of a federal Medicaid state plan amendment authorizing federal financial participation for the following services, and subject to appropriation of funds, "Drug Medi-Cal reimbursable services"

shall also include the following services, administered by the department, and to the extent consistent with state and federal law:

(A) Medication-assisted treatment services, including both of the following:

(i) Any medication approved under Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 355), and all biological products licensed under Section 351 of the Public Health Service Act (42 U.S.C. Sec. 262) to treat opioid use disorders.

(ii) Counseling services and behavioral therapy.

(B) Case management services, including supportive services to assist a person with substance use disorder diagnoses in gaining access to medical, social, educational, and other needed services.

(C) Aftercare services.

(c) (1) The nonfederal share for Drug Medi-Cal services shall be funded through a county's Behavioral Health Subaccount of the Support Services Account of the Local Revenue Fund 2011, and any available county funds eligible under federal law for federal Medicaid reimbursement. The funds contained in each county's Behavioral Health Subaccount of the Support Services Account of the Local Revenue Fund 2011 shall be considered state funds distributed by the principal state agency for the receipt of the federal block grant funds for prevention and treatment of substance abuse found at Subchapter XVII of Chapter 6A of Title 42 of the United States Code. Pursuant to applicable federal Medicaid law and regulations, including Section 433.51 of Title 42 of the Code of Federal Regulations, a county may claim allowable Medicaid federal financial participation for Drug Medi-Cal services based on the county's certification of their actual total funds expenditures for eligible Drug Medi-Cal services to the department.

(2) (A) If the director determines that a county's provision of Drug Medi-Cal treatment services are disallowed by the federal government or by state or federal audit or review, the impacted county shall be responsible for repayment of all disallowed federal funds. In addition to any other recovery methods available, including, but not limited to, offset of Medicaid federal financial participation funds owed to the impacted county, the director may offset these amounts in accordance with Section 12419.5 of the Government Code.

(B) A county subject to an action by the director pursuant to subparagraph (A) may challenge that action by requesting a hearing in writing no later than 30 days from receipt of notice of the department's action. The proceeding shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director shall have the powers granted therein. Upon a county's timely request for hearing, the county's obligation to make payment as determined by the director shall be stayed pending the county's exhaustion of administrative remedies provided but no longer than necessary to ensure the department's compliance with Section 1903(d)(2)(C) of the federal Social Security Act (42 U.S.C. Sec. 1396b).

(d) Drug Medi-Cal services are only reimbursable to a Drug Medi-Cal provider with an approved Drug Medi-Cal contract.

(e) A county shall negotiate contracts only with providers certified to provide Drug Medi-Cal services.

(f) The department shall develop methods to ensure timely payment of Drug Medi-Cal claims.

(g) (1) A county or a contracted provider, except for a provider subject to the requirements of subdivision (h), shall submit accurate and complete cost reports for the previous fiscal year by November 1, following the end of the fiscal year. The department may settle Drug Medi-Cal reimbursable services, based on the cost report as the final amendment to the approved county Drug Medi-Cal contract.

(2) Any amount paid for any service provided to a Drug Medi-Cal beneficiary shall be audited by the department in the manner and form described in Section 14170.

(3) Administrative appeals to review grievances or complaints arising from the findings of an audit or examination made pursuant to this section shall be subject to Section 14171.

(h) A certified narcotic treatment program provider that is exclusively billing the state or the county for services rendered to persons subject to Section 1210.1 or 3063.1 of the Penal Code or Section 14021.52 shall submit accurate and complete performance reports for the previous state fiscal year by November 1 following the end of that fiscal year. That provider shall estimate its budgets using the uniform state daily reimbursement rate. The format and content of the performance reports shall be mutually agreed to by the department, the County Behavioral Health Directors Association of California, and representatives of the treatment provider.

(i) Any contract entered into pursuant to this section shall be exempt from the requirements of Chapter 1 (commencing with Section 10100) and Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code.

(j) Annually, the department shall publish procedures for contracting for Drug Medi-Cal services with certified providers and for claiming payments, including procedures and specifications for electronic data submission for services rendered.

(k) If the department commences or concludes a preliminary criminal investigation of a certified provider, the department shall promptly notify each county that currently contracts with the provider for Drug Medi-Cal services that a preliminary criminal investigation has commenced or concluded.

(1) Notice of the commencement and conclusion of a preliminary criminal investigation shall be made to the county behavioral health director or their equivalent.

(2) Communication between the department and a county specific to the commencement or conclusion of a preliminary criminal investigation shall be confidential and shall not be subject to any disclosure request, including, but not limited to, the Information Practices Act of 1977 (Chapter 1

(commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code), the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), requests pursuant to a subpoena, or for any other public purpose, including, but not limited to, court testimony.

(3) Information shared by the department with a county on a preliminary criminal investigation shall be maintained in a manner to ensure protection of the confidentiality of the criminal investigation.

(4) The information provided to a county pursuant to this section shall only include the provider name, national provider identifier number, address, and the notice that an investigation has commenced or concluded.

(5) A county shall not take any adverse action against a provider based solely upon the preliminary criminal investigation information disclosed to the county.

(6) In the event of a preliminary criminal investigation of a county owned or operated program, the department has the option, but is not required, to notify the county when the department commences or concludes a preliminary criminal investigation.

(7) This section does not limit the voluntary or otherwise legally mandated or contractually mandated sharing of information between the department and a county of information on an audit or investigation of a Drug Medi-Cal provider.

(8) "Commenced" means the time at which a complaint or allegation is assigned to an investigator for a field investigation.

(9) "Preliminary criminal investigation" means an investigation to gather information to determine if criminal law or statutes have been violated.

(*l*) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department, without taking any further regulatory action, may implement, interpret, or make specific this section, in whole or in part, by means of bulletins or similar instructions, until the time that any necessary regulations are adopted.

(m) The department shall adopt regulations necessary to implement this section by July 1, 2023.

(n) This section shall be implemented to the extent that any necessary federal approval of state plan amendments or other federal approvals, including waivers, are obtained, and federal financial participation is available and not otherwise jeopardized.

SEC. 454. Section 14129.2 of the Welfare and Institutions Code is amended to read:

14129.2. (a) (1) Commencing with the state fiscal quarter beginning on July 1, 2018, and continuing each state fiscal quarter thereafter for which this article is implemented, there shall be imposed a quality assurance fee for each emergency medical transport provided by each emergency medical transport provider subject to the fee in accordance with this section.

(2) The director shall ensure that the quality assurance fee per emergency medical transport imposed pursuant to this article is collected.

(b) (1) On or before June 15, 2018, and continuing each June 15 thereafter for which this article is implemented, the director shall calculate the annual quality assurance fee rate applicable to the following state fiscal year based on the most recently collected data from emergency medical transport providers pursuant to Section 14129.1. The director may correct any identified material or significant errors in the data collected from emergency medical transport providers pursuant to Section 14129.1 for the purposes of calculating the annual quality assurance fee rate. The director's determination whether to exercise the director's discretion to correct any data pursuant to this paragraph shall not be subject to judicial review, except that an emergency medical transport provider may bring a writ of mandate under Section 1085 of the Code of Civil Procedure to rectify an abuse of discretion by the director in correcting that emergency medical transport provider's data when that correction results in a greater fee amount for that provider pursuant to this section.

(A) For the state fiscal year beginning on July 1, 2018, the annual quality assurance fee rate shall be calculated by multiplying the projected total annual gross receipts for all emergency medical transport providers subject to the fee by 5.1 percent, which resulting product shall be divided by the projected total annual emergency medical transports by all emergency medical transport providers subject to the fee for the state fiscal year.

(B) For state fiscal years beginning July 1, 2019, and continuing each state fiscal year thereafter, the annual quality assurance fee rate shall be calculated by a ratio, the numerator of which shall be the sum of: (i) the product of the projected aggregate fee schedule amount and the effective state medical assistance percentage and (ii) the amount described in subparagraph (A) of paragraph (2) of subdivision (f) for the state fiscal year, and the denominator of which shall be 90 percent of the projected total annual emergency medical transports by all emergency medical transport providers subject to the fee for the state fiscal year.

(2) On or before June 15, 2018, and continuing each June 15 thereafter for which this article is implemented, the director shall publish the annual quality assurance fee rate on its internet website.

(3) In no case shall the fees calculated pursuant to this subdivision and collected pursuant to this article exceed the amounts allowable under federal law. If, on or before June 15 of each year, the director makes a determination that the fees collected pursuant to this subdivision exceed the amounts allowable under federal law, the director may reduce the add-on increase to the fee-for-service payment schedule described in Section 14129.3 only to the extent necessary to reflect the amount of fees allowable under federal law in an applicable state fiscal year.

(4) If, during a state fiscal year for which this article is operative, the actual or projected available fee amount exceeds or is less than the actual or projected aggregate fee schedule amount by more than 1 percent, the director shall adjust the annual quality assurance fee rate so that the available fee amount for the state fiscal year will approximately equal the aggregate fee schedule amount for the state fiscal year. The available fee amount for

a state fiscal year shall be considered to equal the aggregate fee schedule amount for the state fiscal year if the difference between the available fee amount for the state fiscal year and the aggregate fee schedule amount for the state fiscal year constitutes less than 1 percent of the aggregate fee schedule amount for the state fiscal year.

(c) (1) Each emergency medical transport provider subject to the fee shall remit to the department an amount equal to the annual quality assurance fee rate for the 2018–19 state fiscal year multiplied by the number of transports reported or that should have been reported by the emergency medical transport provider pursuant to subdivision (b) of Section 14129.1 in the quarter beginning on April 1, 2018, based on a schedule established by the director. The schedule established by the director for the fee payment described in this paragraph shall require remittance of the fee payment according to the following guidelines:

(A) The director shall require an emergency medical transport provider that rendered 35,000 or more Medi-Cal fee-for-service emergency medical transports during the 2016–17 state fiscal year to remit the fee payment described in this paragraph on or after July 1, 2018.

(B) The director shall require an emergency medical transport provider that rendered fewer than 35,000 Medi-Cal fee-for-service emergency medical transports during the 2016–17 state fiscal year to remit 50 percent or less of the fee payment described in this paragraph on or after August 1, 2018.

(C) The director shall require an emergency medical transport provider that rendered fewer than 35,000 Medi-Cal fee-for-service emergency medical transports during the 2016–17 state fiscal year to remit any remaining fee payment amount described in this paragraph on or after August 15, 2018.

(2) Commencing with the state fiscal quarter beginning on October 1, 2018, and continuing each state fiscal quarter thereafter, on or before the first day of each state fiscal quarter, each emergency medical transport provider subject to the fee shall remit to the department an amount equal to the annual quality assurance fee rate for the applicable state fiscal year multiplied by the number of transports reported or that should have been reported by the emergency medical transport provider pursuant to subdivision (b) of Section 14129.1 in the immediately preceding quarter.

(d) (1) Interest shall be assessed on quality assurance fees not paid on the date due at the greater of 10 percent per annum or the rate at which the department assesses interest on Medi-Cal program overpayments pursuant to subdivision (h) of Section 14171. Interest shall begin to accrue the day after the date the payment was due and shall be deposited in the Medi-Cal Emergency Medical Transport Fund established in subdivision (f).

(2) In the event that any fee payment is more than 60 days overdue, the department may deduct the unpaid fee and interest owed from any Medi-Cal reimbursement payments owed to the emergency medical transport provider until the full amount of the fee, interest, and any penalties assessed under this article are recovered. Any deduction made pursuant to this subdivision shall be made only after the department gives the emergency medical transport provider written notification. Any deduction made pursuant to this

subdivision may be deducted over a period of time that takes into account the financial condition of the emergency medical transport provider.

(3) In the event that any fee payment is more than 60 days overdue, a penalty equal to the interest charge described in paragraph (1) shall be assessed and due for each month for which the payment is not received after 60 days. Any funds resulting from a penalty imposed pursuant to this paragraph shall be deposited into the Medi-Cal Emergency Medical Transport Fund created pursuant to subdivision (f).

(4) The director may waive a portion or all of either the interest or penalties, or both, assessed under this article in the event the director determines, in the director's sole discretion, that the emergency medical transport provider has demonstrated that imposition of the full amount of the quality assurance fee pursuant to the timelines applicable under this article has a high likelihood of creating an undue financial hardship for the provider. Waiver of some or all of the interest or penalties pursuant to this paragraph shall be conditioned on the emergency medical transport provider's agreement to make fee payments on an alternative schedule developed by the department.

(e) The department shall accept an emergency medical transport provider's payment even if the payment is submitted in a rate year subsequent to the rate year in which the fee was assessed.

(f) (1) The director shall deposit the quality assurance fees collected pursuant to this section in the Medi-Cal Emergency Medical Transport Fund, which is hereby created in the State Treasury and, notwithstanding Section 13340 of the Government Code, is continuously appropriated without regard to fiscal years to the department for the purposes specified in this article. Notwithstanding Section 16305.7 of the Government Code, the fund shall also include interest and dividends earned on moneys in the fund.

(2) The moneys in the Medi-Cal Emergency Medical Transport Fund, including any interest and dividends earned on money in the fund, shall be available exclusively to enhance federal financial participation for ambulance services under the Medi-Cal program and to provide additional reimbursement to, and to support quality improvement efforts of, emergency medical transport providers, and to pay for the state's administrative costs and to provide funding for health care coverage for Californians, in the following order of priority:

(A) To pay for the department's staffing and administrative costs directly attributable to implementing this article, not to exceed the following amounts:

(i) For the 2018–19 state fiscal year, one million three thousand dollars ($1,003,000), exclusive of any federal matching funds.

(ii) For the 2019–20 state fiscal year and each state fiscal year thereafter, three hundred seventy-four thousand dollars ($374,000), exclusive of any federal matching funds.

(B) To pay for the health care coverage in each applicable state fiscal year in the amount of 10 percent of the annual quality assurance fee collection amount, exclusive of any federal matching funds.

(C) To make increased payments to emergency medical transport providers pursuant to this article.

(g) In the event of a merger, acquisition, or similar transaction involving an emergency medical transport provider that has outstanding quality assurance fee payment obligations pursuant to this article, including any interest and penalty amounts owed, the resultant or successor emergency medical transport provider shall be responsible for paying to the department the full amount of outstanding quality assurance fee payments, including any applicable interest and penalties, attributable to the emergency medical transport provider for which it was assessed, upon the effective date of the transaction. An entity considering a merger, acquisition, or similar transaction involving an emergency medical transport provider may submit a request pursuant to Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code to ascertain the outstanding quality assurance fee payment obligations of the emergency medical transport provider pursuant to this article as of the date of the department's response to that request.

SEC. 455. Section 14167.37 of the Welfare and Institutions Code is amended to read:

14167.37. (a) (1) The department shall make available all public documentation it uses to administer and audit the program authorized under Article 5.230 (commencing with Section 14169.50) pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(2) In addition, upon request from a hospital, the department shall require Medi-Cal managed care plans to furnish hospitals with the amounts the plan intends to pay to the hospital pursuant to Article 5.230 (commencing with Section 14169.50). Nothing in this paragraph shall require the department to reconcile payments made to individual hospitals from Medi-Cal managed care plans.

(b) Notwithstanding subdivision (a), the department shall post all of the following on the department's internet website:

(1) Within 10 business days after receipt of approval of the hospital quality assurance fee program under Article 5.230 (commencing with Section 14169.50) from the federal Centers for Medicare and Medicaid Services (CMS), the hospital quality assurance fee final model and upper payment limit calculations.

(2) Quarterly updates on payments, fee schedules, and model updates when applicable.

(3) Within 10 business days after receipt, information on managed care rate approvals.

(c) For purposes of this section, the following definitions shall apply:

(1) "Fee schedules" mean the dates on which the hospital quality assurance fee will be due from the hospitals and the dates on which the department will submit fee-for-service payments to the hospitals. "Fee schedules" also include the dates on which the department is expected to submit payments to managed care plans.

(2) "Hospital quality assurance fee final model" means the spreadsheet calculating the supplemental amounts based on the upper payment limit calculation from claims and hospital data sources of days and hospital services once CMS approves the program under Article 5.230 (commencing with Section 14169.50).

(3) "Upper payment limit calculation" means the determination of the federal upper payment limit on the amount of the Medicaid payment for which federal financial participation is available for a class of service and a class of health care providers, as specified in Part 447 of Title 42 of the Code of Federal Regulations, and that has been approved by CMS.

SEC. 456. Section 14301.1 of the Welfare and Institutions Code is amended to read:

14301.1. (a) For rates established on or after August 1, 2007, the department shall pay capitation rates to health plans participating in the Medi-Cal managed care program using actuarial methods and may establish health-plan- and county-specific rates. Notwithstanding any other law, this section shall apply to any managed care organization, licensed under the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code), that has contracted with the department as a primary care case management plan pursuant to Article 2.9 (commencing with Section 14088) of Chapter 7 to provide services to beneficiaries who are HIV positive or who have been diagnosed with AIDS for rates established on or after July 1, 2012. The department shall utilize a county- and model-specific rate methodology to develop Medi-Cal managed care capitation rates for contracts entered into between the department and any entity pursuant to Article 2.7 (commencing with Section 14087.3), Article 2.8 (commencing with Section 14087.5), and Article 2.91 (commencing with Section 14089) of Chapter 7 that includes, but is not limited to, all of the following:

(1) Health-plan-specific encounter and claims data.

(2) Supplemental utilization and cost data submitted by the health plans.

(3) Fee-for-service data for the underlying county of operation or other appropriate counties as deemed necessary by the department.

(4) Department of Managed Health Care financial statement data specific to Medi-Cal operations.

(5) Other demographic factors, such as age, gender, or diagnostic-based risk adjustments, as the department deems appropriate.

(b) To the extent that the department is unable to obtain sufficient actual plan data, it may substitute plan model, similar plan, or county-specific fee-for-service data.

(c) The department shall develop rates that include administrative costs, and may apply different administrative costs with respect to separate aid code groups.

(d) The department shall develop rates that shall include, but are not limited to, assumptions for underwriting, return on investment, risk, contingencies, changes in policy, and a detailed review of health plan

financial statements to validate and reconcile costs for use in developing rates.

(e) The department may develop rates that pay plans based on performance incentives, including quality indicators, access to care, and data submission.

(f) The department may develop and adopt condition-specific payment rates for health conditions, including, but not limited to, childbirth delivery.

(g) (1) Prior to finalizing Medi-Cal managed care capitation rates, the department shall provide health plans with information on how the rates were developed, including rate sheets for that specific health plan, and provide the plans with the opportunity to provide additional supplemental information.

(2) For contracts entered into between the department and any entity pursuant to Article 2.8 (commencing with Section 14087.5) of Chapter 7, the department, by June 30 of each year, or, if the budget has not passed by that date, no later than five working days after the budget is signed, shall provide preliminary rates for the upcoming fiscal year.

(h) For the purposes of developing capitation rates through implementation of this ratesetting methodology, Medi-Cal managed care health plans shall provide the department with financial and utilization data in a form and substance as deemed necessary by the department to establish rates. This data shall be considered proprietary and shall be exempt from disclosure as official information pursuant to Section 7927.705 of the Government Code as contained in the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(i) Notwithstanding any other law, on and after the effective date of the act adding this subdivision, the department may apply this section to the capitation rates it pays under any managed care health plan contract.

(j) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may set and implement managed care capitation rates, and interpret or make specific this section and any applicable federal waivers and state plan amendments by means of plan letters, plan or provider bulletins, or similar instructions, without taking regulatory action.

(k) The department shall report, upon request, to the fiscal and policy committees of the respective houses of the Legislature regarding implementation of this section.

(*l*) Prior to October 1, 2011, the risk-adjusted countywide capitation rate shall comprise no more than 20 percent of the total capitation rate paid to each Medi-Cal managed care plan.

(m) (1) It is the intent of the Legislature to preserve the policy goal to support and strengthen traditional safety net providers who treat high volumes of uninsured and Medi-Cal patients when Medi-Cal enrollees are defaulted into Medi-Cal managed care plans.

(2) As the department adds additional factors, such as managed care plan costs, to the Medi-Cal managed care plan default assignment algorithm, it

shall consult with the Auto Assignment Performance Incentive Program stakeholder workgroup to develop cost factor disregards related to intergovernmental transfers and required wraparound payments that support safety net providers.

(n) (1) The department shall develop and pay capitation rates to entities contracted pursuant to Chapter 8.75 (commencing with Section 14591), using actuarial methods and in a manner consistent with this section, except as provided in this subdivision.

(2) (A) The department may develop capitation rates using a standardized rate methodology across managed care plan models for comparable populations. The specific rate methodology applied to PACE organizations shall address features of PACE that distinguishes it from other managed care plan models.

(B) The rate methodology shall be consistent with actuarial rate development principles and shall provide for all reasonable, appropriate, and attainable costs for each PACE organization within a region.

(3) The department may develop statewide rates and apply geographic adjustments, using available data sources deemed appropriate by the department. Consistent with actuarial methods, the primary source of data used to develop rates for each PACE organization shall be its Medi-Cal cost and utilization data or other data sources as deemed necessary by the department.

(4) Rates developed pursuant to this subdivision shall reflect the level of care associated with the specific populations served under the contract.

(5) The rate methodology developed pursuant to this subdivision shall contain a mechanism to account for the costs of high-cost drugs and treatments.

(6) Rates developed pursuant to this subdivision shall be actuarially certified prior to implementation.

(7) The department shall consult with those entities contracted pursuant to Chapter 8.75 (commencing with Section 14591) in developing a rate methodology according to this subdivision.

(8) Consistent with the requirements of federal law, the department shall calculate an upper payment limit for payments to PACE organizations. In calculating the upper payment limit, the department shall correct the applicable data as necessary and shall consider the risk of nursing home placement for the comparable population when estimating the level of care and risk of PACE participants.

(9) The department shall pay the entity at a rate within the certified actuarially sound rate range developed with respect to that entity, to the extent consistent with federal requirements and subject to paragraph (11), as necessary to mitigate the impact to the entity of the methodology developed pursuant to this subdivision.

(10) During the first two years in which a new PACE organization or existing PACE organization enters a previously unserved area, the department shall pay at a rate within the certified actuarially sound rate range developed with respect to that entity, to the extent consistent with

federal requirements and subject to paragraph (11), to reflect the lower enrollment and higher operating costs associated with a new PACE organization relative to a PACE organization with higher enrollment and more experience providing managed care interventions to its beneficiaries.

(11) This subdivision shall be implemented only to the extent that any necessary federal approvals are obtained and federal financial participation is available.

(12) This subdivision shall apply for rates implemented no earlier than January 1, 2017.

SEC. 457. Section 14456.3 of the Welfare and Institutions Code is amended to read:

14456.3. (a) The department shall share with the Department of Managed Health Care its findings from medical audits and monthly provider files of a Medi-Cal managed care plan that provides services to Medi-Cal beneficiaries pursuant to Chapter 7 (commencing with Section 14000) or this chapter and is subject to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code.

(b) To the extent that the department communicates its preliminary investigative audit findings to the Department of Managed Health Care under subdivision (a), those communications shall be exempt from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

SEC. 458. Section 14499.6 of the Welfare and Institutions Code is amended to read:

14499.6. (a) The Santa Barbara Regional Health Authority may arrange with out-of-county Selective Provider Contracting Program hospitals that have negotiated hospital contracts and per diem rates under Article 5.1 (commencing with Section 14165) of Chapter 7, to provide medically justified emergency services or to provide specialized hospital services not available within Santa Barbara County to Medi-Cal beneficiaries who reside in Santa Barbara County. The authority may arrange medically justified inpatient hospital services with out-of-county program hospitals for those beneficiaries whose county of residence for purposes of eligibility determination is Santa Barbara, but who for medical or legal reasons physically reside in a county other than Santa Barbara.

(b) The out-of-county program hospitals shall not charge the authority more than their program negotiated rates when providing hospital services to authority patients under this section, except as provided in subdivision (c).

(c) In cases where an out-of-county program hospital can demonstrate that the cost of the services it is rendering to authority patients was not contemplated in the case mix and acuity assumptions on which the program rates are based, the program hospital and the authority shall negotiate in good faith equitable rates for payment for the provision of hospital services to authority patients. The established program rate shall serve as the base for those negotiations.

(d) (1) Notwithstanding any other provision of law, any records maintained by the authority that would enable a determination to be made regarding rates negotiated pursuant to Article 5.1 (commencing with Section 14165) of Chapter 7, shall be exempt from the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(2) The authority shall establish guidelines to ensure that these rates are maintained as confidential records and that access to these records is restricted.

(3) The authority shall submit the established guidelines to the department for approval.

SEC. 459. Section 15805 of the Welfare and Institutions Code is amended to read:

15805. (a) (1) The Managed Risk Medical Insurance Board shall provide the State Department of Health Care Services any data, information, or record concerning the Healthy Families Program or the Access for Infants and Mothers Program as are necessary to implement this part and clause (ii) of subparagraph (A) of paragraph (6) of subdivision (a) of Section 12693.70 of the Insurance Code.

(2) All books, documents, files, property, data, information, or record in possession of the Managed Risk Medical Insurance Board, except for personnel records related to staff transferred to the California Health Benefits Exchange pursuant to Section 12739.61 or 12739.78 of the Insurance Code, shall be transferred to the State Department of Health Care Services on July 1, 2014.

(3) Until the transition of duties from the Managed Risk Medical Insurance Board to the State Department of Health Care Services required under subdivision (a) of Section 15800 is complete, any book, document, file, property, data, information, or record in the possession of the Managed Risk Medical Insurance Board pertaining to functions, programs, and subscribers to be transferred to the State Department of Health Care Services pursuant to subdivision (a) of Section 15800 shall immediately be made available to the State Department of Health Care Services upon request for review, inspection, and copying, including electronic transmittal, including records otherwise not subject to disclosure under Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code.

(b) Notwithstanding any other law, all of the following shall apply:

(1) The term "book, document, file, property, data, information, or record" shall include, but is not limited to, personal information as defined in Section 1798.3 of the Civil Code.

(2) Any book, document, file, property, data, information, or record shall be exempt from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) and any other law, to the same extent that it was exempt from disclosure or privileged prior to the provision of the book, document, file, property, data, information, or record to the department.

(3) The provision of any book, document, file, property, data, information, or record to the department shall not constitute a waiver of any evidentiary privilege or exemption from disclosure.

(4) The department shall keep all books, documents, files, property, data, information, or records provided by the Managed Risk Medical Insurance Board confidential to the full extent permitted by law, including, but not limited to, the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), and consistent with the Managed Risk Medical Insurance Board's contractual obligations to keep books, documents, files, property, data, information, or records confidential.

SEC. 460. Section 16519.55 of the Welfare and Institutions Code is amended to read:

16519.55. (a) Subject to subdivision (d), to encourage the recruitment of resource families, to protect their personal privacy, and to preserve the security of confidentiality of the placements with resource families, the names, addresses, and other identifying information of resource families shall be considered personal information for purposes of the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). This information shall not be disclosed by any state or local agency pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), except as necessary for administering the resource family approval program, facilitating the placement of children with resource families, and providing names and addresses, upon request, only to bona fide professional foster parent organizations and to professional organizations educating foster parents, including the Foster and Kinship Care Education Program of the California Community Colleges.

(b) The application form signed by a resource family applicant of a county shall be signed with a declaration by the applicant that the information submitted is true, correct, and contains no material omissions of fact to the best knowledge and belief of the applicant. Any person who willfully and knowingly, with the intent to deceive, makes a false statement or fails to disclose a material fact in their application is guilty of a misdemeanor.

(c) (1) Before approving a resource family, a county may conduct a reference check of the applicant to determine whether it is safe and appropriate for the county to approve the applicant to be a resource family by contacting the following:

(A) Any foster family agencies that have certified the applicant.

(B) Any state or county licensing offices that have licensed the applicant as a foster family home.

(C) Any counties that have approved the applicant as a relative or nonrelative extended family member.

(D) Any foster family agencies or counties that have approved the applicant as a resource family.

(E) Any state licensing offices that have licensed the applicant as a community care facility, child daycare center, or family child care home.

(F) Any Indian tribe or tribal agency that has approved or licensed an applicant in any of the categories described in subparagraphs (A) to (E), inclusive.

(2) Notwithstanding subdivision (d), within 20 business days of being contacted by a county, a foster family agency that has previously certified the applicant or approved the applicant as a resource family shall divulge information, as specified in the written directives or regulations adopted by the department pursuant to Section 16519.5 of the Welfare and Institutions Code and unless otherwise prohibited by law, regarding the applicant to the county that is conducting a reference check.

(d) The department, a county, a foster family agency, an Indian tribe, or a tribal agency may request information from, or divulge information to, the department, a county, a foster family agency, an Indian tribe, or a tribal agency regarding a prospective resource family for the purpose of and as necessary to conduct a reference check to determine whether it is safe and appropriate to approve an applicant to be a resource family.

(e) For purposes of this section, the term Indian tribe means Indian tribe as defined in subdivision (a) of Section 224.1 of the Welfare and Institutions Code.

SEC. 461. Section 16809.4 of the Welfare and Institutions Code is amended to read:

16809.4. (a) Counties voluntarily participating in the County Medical Services Program pursuant to Section 16809 may establish the County Medical Services Program Governing Board pursuant to procedures contained in this section. The governing board shall govern the County Medical Services Program.

(b) The membership of the governing board shall be comprised of all of the following:

(1) Three members who shall each be a member of a county board of supervisors.

(2) Three members who shall be county administrative officers.

(3) Two members who shall be county welfare directors.

(4) Two members who shall be county health officials.

(5) One member who shall be the Secretary of the Health and Welfare Agency, or the secretary's designee, and who shall serve as an ex officio, nonvoting member.

(c) The governing board may establish its own bylaws and operating procedures.

(d) The voting membership of the governing board shall meet all of the following requirements:

(1) All of the members shall hold office or employment in counties that participate in the County Medical Services Program.

(A) The three county supervisor members shall be elected by the boards of supervisors of the CMSP counties, with each county having one vote and convened at the call of the chair of the governing board.

(B) The three county administrative officers shall be elected by the administrative officers of the CMSP counties convened at the call of the chair of the governing board.

(C) The two county health officials shall be selected by the health officials of the CMSP counties convened at the call of the chair of the governing board.

(D) The two county welfare directors shall be elected by the welfare directors of the CMSP counties convened at the call of the chair of the governing board.

(2) Governing board members shall serve three-year terms.

(3) No two persons from the same county may serve as members of the governing board at the same time.

(4) The governing board may elect a permanent chair.

(e) (1) The governing board is hereby established with the following powers:

(A) Determine program eligibility and benefit levels.

(B) Establish reserves and participation fees.

(C) Establish procedures for the entry into, and disenrollment of counties from, the County Medical Services Program. Disenrollment procedures shall be fair and equitable.

(D) Establish cost containment and case management procedures, including, but not limited to, alternative methods for delivery of care and alternative methods and rates from those used by the department.

(E) Sue and be sued in the name of the governing board.

(F) Apportion jurisdictional risk to each county.

(G) Utilize procurement policies and procedures of any of the participating counties as selected by the governing board.

(H) Make rules and regulations.

(I) Make and enter into contracts or stipulations of any nature with a public agency or person for the purposes of governing or administering the County Medical Services Program.

(J) Purchase supplies, equipment, materials, property, or services.

(K) Appoint and employ staff to assist the governing board.

(L) Establish rules for its proceedings.

(M) Accept gifts, contributions, grants, or loans from any public agency or person for the purposes of this program.

(N) Negotiate and set rates, charges, or fees with service providers, including alternative methods of payment to those used by the department.

(O) Establish methods of payment that are compatible with the administrative requirements of the department's fiscal intermediary during the term of any contract with the department for the administration of the County Medical Services Program.

(P) Use generally accepted accounting procedures.

(Q) Develop and implement procedures and processes to monitor and enforce the appropriate billing and payment of rates, charges, and fees.

(R) Investigate and pursue repayment of fees billed and paid through improper means, including, but not limited to, fraudulent billing and collection practices by providers.

(S) Pursue third-party recoveries and estate recoveries for services provided under the County Medical Services Program, including the filing and perfecting of liens to secure reimbursement for the reasonable value of benefits provided.

(T) Establish and maintain pilot projects to identify or test alternative approaches for determining eligibility or for providing or paying for services.

(U) Establish provisions for payment to participating counties for making eligibility determinations, as determined by the governing board.

(V) Develop and implement alternative products with varying levels of eligibility criteria and benefits outside of the County Medical Services Program for counties contracting with the governing board for those products, provided that any alternative products shall be funded separately from the County Medical Services Program and shall not impair the financial stability of that program.

(2) The Legislature finds and declares that the amendment of subparagraph (N) of paragraph (1) in 1995, and the addition of subparagraphs (Q), (R), (S), (T), and (U) in 2006, are declaratory of existing law.

(f) (1) The governing board shall be considered a "public entity" for purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, and a "local public entity" for purposes of Part 3 (commencing with Section 900) of Division 3.6 of Title 1 of the Government Code, but shall not be considered a "state agency" for purposes of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code and shall be exempt from that chapter. No participating county shall have any liability for civil judgments awarded against the County Medical Services Program or the governing board. Nothing in this paragraph shall be construed to expand the liability of the state with respect to the County Medical Services Program beyond that set forth in Section 16809. Nothing in this paragraph shall be construed to relieve any county of the obligation to provide health care to indigent persons pursuant to Section 17000, or the obligation of any county to pay its participation fees and share of apportioned and allocated risk.

(2) Before initiating any proceeding to challenge rates of payment, charges, or fees set by the governing board, to seek reimbursement or release of any funds from the County Medical Services Program, or to challenge any other action by the governing board, any prospective claimant shall first notify the governing board, in writing, of the nature and basis of the challenge and the amount claimed. The governing board shall consider the matter within 60 days after receiving the notice and shall promptly thereafter provide written notice of the governing board's decision. If the governing board contracts with the department for administration of the program in accordance with Section 16809, this paragraph shall have no application to provider audit appeals conducted pursuant to Article 1.5 (commencing with Section 51016) of Chapter 3 of Division 3 of Title 22 of the California Code

of Regulations and shall apply to all claims not reviewed pursuant to Section 51003 or 51015 of Title 22 of the California Code of Regulations.

(3) All regulations adopted by the governing board shall clearly specify by reference the statute, court decision, or other provision of law that the governing board is seeking to implement, interpret, or make specific by adopting, amending, or repealing the regulation.

(4) No regulation adopted by the governing board is valid and effective unless the regulation meets the standards of necessity, authority, clarity, consistency, and nonduplication, as defined in paragraph (5).

(5) The following definitions govern the interpretation of this subdivision:

(A) "Necessity" means the record of the regulatory proceeding that demonstrates by substantial evidence the need for the regulation. For purposes of this standard, evidence includes, but is not limited to, facts, studies, and expert opinion.

(B) "Authority" means the provision of law that permits or obligates the CMSP Governing Board to adopt, amend, or repeal a regulation.

(C) "Clarity" means that the regulation is written or displayed so that the meaning of the regulation can be easily understood by those persons directly affected by it.

(D) "Consistency" means being in harmony with, and not in conflict with, or contradictory to, existing statutes, court decisions, or other provisions of law.

(E) "Nonduplication" means that a regulation does not serve the same purpose as a state or federal statute or another regulation. This standard requires that the governing board identify any state or federal statute or regulation that is overlapped or duplicated by the proposed regulation and justify any overlap or duplication. This standard is not intended to prohibit the governing board from printing relevant portions of enabling legislation in regulations when the duplication is necessary to satisfy the clarity standard in subparagraph (C). This standard is intended to prevent the indiscriminate incorporation of statutory language in a regulation.

(g) The requirements of the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code) shall apply to the meetings of the governing board, including meetings held pursuant to subdivision (i), except the board may meet in closed session to consider and take action on matters pertaining to contracts and contract negotiations with providers of health care services.

(h) (1) The governing board shall comply with the following procedures for public meetings held to eliminate or reduce the level of services, restrict eligibility for services, or adopt regulations:

(A) Provide prior public notice of those meetings.

(B) Provide that notice not less than 30 days prior to those meetings.

(C) Publish that notice in a newspaper of general circulation in each participating CMSP county.

(D) Include in the notice, at a minimum, the amount and type of each proposed change, the expected savings, and the number of persons affected.

(E) Either hold those meetings in the county seats of at least four regionally distributed CMSP participating counties, or, alternatively, hold two meetings in Sacramento County.

(2) For meetings held outside Sacramento County, the requirements for public meetings pursuant to this subdivision to eliminate or reduce the level of services, or to restrict the eligibility for services or hear testimony regarding regulations to implement any of these service charges, are satisfied if at least three voting members of the governing board hold the meetings as required and report the testimony from those meetings to the full governing board at its next regular meeting. No action shall be taken at any meeting held outside Sacramento County pursuant to this paragraph.

(i) Records of the County Medical Services Program and of the governing board that relate to rates of payment or to the board's negotiations with providers of health care services or to the governing board's deliberative processes regarding either shall not be subject to disclosure pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(j) The following definitions shall govern the construction of this part, unless the context requires otherwise:

(1) "CMSP" or "program" means the County Medical Services Program, which is the program by which health care services are provided to eligible persons in those counties electing to participate in the CMSP pursuant to Section 16809.

(2) "CMSP county" means a county that has elected to participate pursuant to Section 16809 in the CMSP.

(3) "Governing Board" means the County Medical Services Program Governing Board established pursuant to this section.

SEC. 462. Section 17852 of the Welfare and Institutions Code is amended to read:

17852. (a) The state, a city, county, city and county, or hospital district may collect information for the purposes of this part only as required to assess eligibility for, or to administer, public services or programs. This shall include coordinating services or programs across state and local agencies, ensuring that public services or programs adequately service individuals and diverse communities, enforcing civil rights protections, and providing access to services, programs, or benefits for which an individual may be eligible or that address needs for health, social, or other services. This section shall include third parties under contract with a public officer or agency.

(b) All types of information, whether written or oral, concerning a person made or kept by any public officer or agency for the purpose of assessing eligibility for, or administering the services authorized by, this part are exempt from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), are confidential, and shall not be disclosed except as required to administer the services or as required by law, as required by a federal or state court order, or to the state or local public health officer to carry out

the duties of investigation, control, or surveillance of disease, as determined by the state or local public health agency.

(c) This section shall not prohibit the sharing of data as long as it is disclosed in a manner that could not be used to determine the identities of the persons to whom the data pertains, alone, or in combination with other data.

(d) This section shall not prohibit the sharing of personal information when the subject of that information has provided signed, written consent allowing the information to be provided to the person requesting the information.

SEC. 463. This act shall only become operative if the California Public Records Act recodification bill (Assembly Bill 473 of the 2021–22 Regular Session) is enacted and that bill would reorganize and make other nonsubstantive changes to the California Public Records Act that become operative on January 1, 2023, in which case this act shall also become operative on January 1, 2023.

SEC. 464. The California Public Records Act recodification bill (Assembly Bill 473 of the 2021–22 Regular Session) would recodify the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) in a more user-friendly manner without changing its substance. This act would make conforming revisions throughout the codes to reflect that recodification.

Consistent with subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature finds and declares:

(a) The California Public Records Act recodification bill (Assembly Bill 473 of the 2021–22 Regular Session) and this act continue the existing substantive balance between the public's right of access to information concerning the conduct of public business and competing interests. Neither the California Public Records Act recodification bill (Assembly Bill 473) nor this act imposes any new limitation on the public's right of access, which would require findings demonstrating the interest protected by the new limitation and the need for protecting that interest.

(b) By making the California Public Records Act more user-friendly, the California Public Records Act recodification bill (Assembly Bill 473) and this act further the public's right of access to information concerning the conduct of public business.

SEC. 465. Any section of any act enacted by the Legislature during the 2021 calendar year, other than a section of the annual maintenance of the codes bill or another bill with a subordination clause, that takes effect on or before January 1, 2022, and that amends, amends and renumbers, amends and repeals, adds, repeals and adds, or repeals a section that is amended, amended and renumbered, amended and repealed, added, repealed and added, or repealed by this act, shall prevail over this act, whether that act is chaptered before or after this act.

O