

AMENDMENTS TO ASSEMBLY BILL NO. 1778

Amendment 1

In the title, in line 1, strike out "relating to housing." and insert:

to add Title 6.8 (commencing with Section 64500) to the Government Code, relating to redevelopment.

Amendment 2

On page 1, before line 1, insert:

SECTION 1. Title 6.8 (commencing with Section 64500) is added to the Government Code, to read:

TITLE 6.8. COMMUNITY REDEVELOPMENT LAW OF 2018

64500. This title shall be known, and may be cited, as the Community Redevelopment Law of 2018.

64501. For purposes of this title, all of the following definitions shall apply:

(a) "Affected taxing entity" means any governmental taxing agency which levied or had levied on its behalf a property tax on all or a portion of the property located in the proposed agency in the fiscal year before the designation of the agency or community college district. For the purposes of this section, "special district" means an agency of the state formed for the performance of governmental or proprietary functions within limited geographic boundaries.

(b) "Agency" means a redevelopment agency created by this title.

(c) "County" means a county or a city and county.

(d) "Landowner" or "owner of land" means any person shown as the owner of land on the last equalized assessment roll or otherwise known to be the owner of the land by the governing board. The governing board has no obligation to obtain other information as to the ownership of land, and its determination of ownership shall be final and conclusive for the purposes of this title. A public agency is not a landowner or owner of land for purposes of this title, unless the public agency owns all of the land to be included within the proposed agency.

(e) "Legislative body" means the city council of the city or board of supervisors of the county.

(f) "Transit-oriented development projects" means commercial, residential, or mixed-use development that is undertaken in connection with existing, planned, or proposed intermodal transit facilities and is located one quarter mile or less from the external boundaries of the facility.

64502. The Legislature declares that this title constitutes the Community Redevelopment Law within the meaning of Section 16 of Article XVI of the California Constitution, and that a redevelopment agency formed pursuant to this title shall have all powers granted to a redevelopment agency pursuant to that section.



64503. (a) The legislative body of a city or county may propose to form an agency pursuant to this title by adopting a resolution of intention to establish the agency. The resolution of intention shall contain all of the following:

(1) A statement that a redevelopment agency is proposed to be established in accordance with the terms of this title.

(2) A preliminary project plan prepared by the legislative body. The preliminary project plan shall, at a minimum, include all of the following:

(A) A description of the proposed boundaries of the project area. This may be accomplished by reference to a map on file in the office of the clerk of the city or in the office of the recorder of the county, as applicable.

(B) Evidence that the proposed redevelopment is consistent with the general plan of each applicable city or county in which the projects are proposed to be located.

(C) A description of the affordable housing or transit-oriented development projects that are proposed to be financed by the agency.

(3) A financing section that shall contain all of the following information:

(A) A projection of the amount of tax revenues expected to be received by the agency in each year during which the agency will receive tax revenues, including an estimate of the amount of tax revenues attributable to each affected taxing entity for each year.

(B) A plan for financing the affordable housing or transit-oriented development projects to be assisted by the agency, including a detailed description of any intention to incur debt.

(C) A limit on the total number of dollars of taxes that may be allocated to the agency pursuant to the plan.

(D) The date on which the agency will cease to exist, by which time all tax allocation to the agency will end.

(E) An analysis of the costs to the city or county of providing facilities and services to the area of the agency while the area is being developed and after the area is developed. The plan shall also include an analysis of the tax, fee, charge, and other revenues expected to be received by the city or county as a result of expected development in the area of the agency.

(F) An analysis of the projected fiscal impact of the agency and the associated development upon each affected taxing entity.

(4) A statement that a public hearing shall be held on the proposal, and a statement of the time and place of that hearing.

(b) The legislative body shall direct the city clerk or county recorder, as applicable, to mail a copy of the resolution of intention to both of the following:

(1) Each affected taxing entity.

(2) Each owner of land within the district.

64504. (a) The city or county that adopted the resolution of intention pursuant to Section 64503 shall consult with each affected taxing entity. Any affected taxing entity may suggest revisions to be included in the resolution of formation.

(b) (1) The legislative body shall, no sooner than _____ days after the resolution of intention was submitted to each affected taxing entity pursuant to subdivision (a), hold a public hearing on the proposal.

(2) The legislative body shall provide notice of the public hearing by publication not less than once a week for four successive weeks in a newspaper of general

circulation published in each city or county in which the proposed agency is located. The notice shall state that the agency will be used to finance affordable housing or transit-oriented development projects, briefly describe the proposed affordable housing or transit-oriented development projects, briefly describe the proposed financial arrangements, including the proposed commitment of incremental tax revenue, describe the boundaries of the proposed agency and state the day, hour, and place when and where any persons having any objections to the proposed agency or the regularity of any of the prior proceedings may appear before the legislative body and object to the formation of the agency.

(3) At the conclusion of the public hearing, the legislative body may adopt a resolution of formation of the agency. The resolution of formation shall contain all the information described in Section 64503, and shall consider the recommendations, if any, of affected taxing entities, and all evidence and testimony for and against the formation of the agency.

64505. An agency may finance both of the following:

- (a) The acquisition, construction, or rehabilitation of affordable housing.
- (b) Transit-oriented development projects.

64506. It is the intent of the Legislature to enact legislation that would provide for the composition of the governing board of the agency.

64507. After adopting the resolution pursuant to Section 64504, the governing board of the agency shall designate an appropriate official, such as an engineer of a city or county that is an affected taxing entity, to prepare a redevelopment project plan.

64508. Any redevelopment project plan may contain a provision that taxes, if any, levied upon taxable property in the area included within the agency each year by or for the benefit of the State of California, or any affected taxing entity after the effective date of the ordinance approving the redevelopment project plan, shall be divided as follows:

(a) That portion of the taxes that would be produced by the rate upon which the tax is levied each year by or for each of the affected taxing entities upon the total sum of the assessed value of the taxable property in the agency as shown upon the assessment roll used in connection with the taxation of the property by the affected taxing entity, last equalized prior to the effective date of the formation of the agency, shall be allocated to, and when collected shall be paid to, the respective affected taxing entities as taxes by or for the affected taxing entities on all other property are paid. For the purpose of allocating taxes levied by or for any affected taxing entity or entities that did not include the territory in a redevelopment project on the effective date of the ordinance but to which that territory has been annexed or otherwise included after that effective date, the assessment roll of the county last equalized on the effective date of the ordinance shall be used in determining the assessed valuation of the taxable property in the project on the effective date.

(b) That portion of the levied taxes each year in excess of the amount specified in subdivision (a) shall be allocated to, and when collected shall be paid into, a special fund of the agency to pay the principal of and interest on loans, moneys advanced to, or indebtedness (whether funded, refunded, assumed, or otherwise) incurred by the agency to finance or refinance, in whole or in part, the redevelopment project. Unless and until the total assessed valuation of the taxable property in a redevelopment project exceeds the total assessed value of the taxable property in that project as shown by the

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Substantive

- (3) The date the bonds will bear.
- (4) The date of maturity of the bonds.
- (5) The denomination of the bonds.
- (6) The form of the bonds.
- (7) The manner of execution of the bonds.
- (8) The medium of payment in which the bonds are payable.
- (9) The place or manner of payment and any requirements for registration of the bonds.

64510. (a) Every two years after the issuance of debt pursuant to Section 64509, the agency shall contract for an independent financial and performance audit. The audit shall be conducted according to guidelines established by the Controller. A copy of the completed audit shall be provided to the Controller, the Director of Finance, and the Joint Legislative Budget Committee.

(b) Upon the request of the Governor or of the Legislature, the Bureau of State Audits may conduct financial and performance audits of districts. The results of the audits shall be provided to the agency, the Controller, the Director of Finance, and the Joint Legislative Budget Committee.

Amendment 3

On page 1, strike out lines 1 to 6, inclusive, and strike out page 2

LEGISLATIVE COUNSEL'S DIGEST

AB 2019, as amended, Aguiar-Curry. Health care districts.

The Local Health Care District Law provides for local health care districts that govern certain health care facilities. Each health care district has a board of directors with specific duties and powers respecting the creation, administration, and maintenance of the district. Existing law requires the board of directors to establish and maintain an Internet Web site that may include specified information, such as a list of current board members and recipients of grant funding or assistance provided by the district, if any, and to adopt annual policies for providing assistance or grant funding, as specified. Existing law authorizes certain health care districts to use the design-build process when contracting for the construction of a hospital or other buildings in those districts, as specified.

This bill would require the board of directors to include specified information, such as the district's policy for providing assistance or grant funding, on the district's Internet Web site. The bill would require that policy to contain, among other things, the district's plan for distributing grant funds for each fiscal year and a process for providing, accepting, and reviewing grant applications. The bill would also require the board to, upon filing a petition under federal bankruptcy law, provide written notice within 10 business days to the local agency formation commission of the principal county in which the district is located. The bill would require a district that is authorized and elects to use the design-build process, as specified, for the construction of housing to require that at least 20% of the residential units constructed be subject to a recorded affordability restriction for at least 55 years and be affordable to lower income households, very low income households, extremely low income households, and persons and families of low or moderate income, as defined, unless the city, county, or city and county in which the district is predominantly located has adopted a local ordinance that requires a greater percentage of the units be affordable to those groups. By increasing the duties of the board of directors, including duties related to disclosure of public records, this bill would impose a state-mandated local program.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.



The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

~~Existing law, the Local Health Care District Law, regulates local health care districts. Existing law authorizes local health care districts to exercise specified powers, including purchasing and using property for the benefit of the district and exercising the power of eminent domain to acquire real or personal property necessary to the exercise of the district's powers. Existing law authorizes a district to include incorporated or unincorporated territory, or both, or territory in one or more counties, subject to specified limitations.~~

~~This bill would make technical, nonsubstantive changes to a provision of the Local Health Care District Law.~~

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



AMENDMENTS TO ASSEMBLY BILL NO. 2073

Amendment 1

In the title, in line 1, strike out "amend" and insert:

add

Amendment 2

In the title, in line 1, strike out "338 of the Code of Civil Procedure," and insert:

3494.5 to the Civil Code,

Amendment 3

In the title, in line 2, strike out "civil actions." and insert:

nuisance.

Amendment 4

On page 1, before line 1, insert:

SECTION 1. Section 3494.5 is added to the Civil Code, to read:
3494.5. Any property owner, or agent thereof, who participates in a program to abate lead-based paint created as a result of a judgment or settlement in any public nuisance or similar litigation shall be immune from liability in any lawsuit seeking to recover inspection, abatement, or any other costs associated with that abatement program and the activities conducted pursuant to that abatement program.

Amendment 5

On page 1, strike out lines 1 to 9, inclusive, and strike out pages 2 to 4, inclusive



AMENDMENTS TO ASSEMBLY BILL NO. 2074

Amendment 1

In the heading, in line 1, strike out "Chiu" and insert:

Bonta

Amendment 2

In the title, in line 1, strike out "amend Section 1487" and insert:

add Chapter 3 (commencing with Section 3362) to Title 2 of Part 1 of Division 4

Amendment 3

In the title, strike out line 2 and insert:

damages.

Amendment 4

On page 1, before line 1, insert:

SECTION 1. The Legislature finds and declares the following:

(a) Lead is highly toxic and causes serious health harms that are irreversible and cumulative. As the American Academy of Pediatrics explained in 2016, "[n]o treatments have been shown to be effective in ameliorating the permanent developmental effects of lead toxicity."

(b) Government agencies and health organizations, including the federal Centers for Disease Control and Prevention, the World Health Organization, and the American Academy of Pediatrics, agree that there is no safe level of lead exposure.

(c) Young children are especially susceptible to lead due to their smaller size, the vulnerability of their developing nervous systems, and their high rates of lead absorption.

(d) Each year, the State of California identifies tens of thousands of young children in California whose health has been irreversibly harmed due to lead exposure and these children represent the minimum number of children in California whose health has been irreversibly harmed due to lead exposure.

(e) The economic costs of childhood lead exposure are substantial. These costs include: (1) health care costs associated with treating health problems caused by lead exposure; (2) special education costs incurred due to slower development, lower educational success, and behavioral problems caused by lead exposure; (3) loss of tax revenue due to decreased lifetime earnings resulting from decreased intelligence caused by lead exposure; and (4) costs of criminal activity connected to lead exposure. According to the American Academy of Pediatrics, the estimated annual cost of childhood lead exposure in the United States is \$50 billion.



(f) The substantial economic costs of childhood lead exposure fall disproportionately on the state and local governments in California. Because young children who suffer from lead exposure are often poor, their health care and special education costs are typically borne by the state and local governments. Likewise, many of the economic costs of criminal behavior closely connected to lead exposure are shouldered by the state and local governments. Finally, the costs to the state and local governments in California from childhood lead exposure are exacerbated by the loss of tax revenues due to loss of income associated with childhood lead exposure.

(g) Studies indicate that lead-based paint is the source of approximately 70 percent of childhood exposure to lead in the United States, including California.

(h) Virtually all government agencies, scientists, and public health officials agree that lead-based paint on residential surfaces is the predominant source of lead exposure in young children.

(i) Based on extensive evidence presented at trial, a California judge in 2014 found that certain lead pigment paint manufacturers caused lead-based paint to be applied on certain residential surfaces by promoting that paint for use on those surfaces even though they knew about the serious health harms to children that would result (Superior Court, Santa Clara County, No. CV788657).

(j) A California appellate court unanimously affirmed that finding by the judge in 2017 (*People v. Conagra Grocery Products Company* (2017) 17 Cal.App.5th 51).

(k) Although at least tens of thousands of young children in California continue to suffer serious and irreversible health harms due to their ingestion of lead-based paint each year, these children are unable to identify the precise manufacturer of the lead paint pigment they ingested due to the number of manufacturers, the passage of time, and the loss of records.

(l) As a result, these children are unable to establish causation under traditional common law tort principles.

(m) Recognizing that this would exempt lead paint pigment manufacturers from liability even though they likely contributed to the actual injury to these children and would unfairly shift the cost of the injury to the innocent child, the Wisconsin Supreme Court in *Thomas ex rel. Gramling v. Mallett* ((2005) 285 Wis.2d 236) applied a risk contribution theory of liability to injuries caused by lead-based paint.

(n) The reasoning of the Wisconsin Supreme Court in *Thomas* solely as applied to injuries to person or property caused by lead-based paint is both fair and appropriate and should be applied in California.

SEC. 2. Chapter 3 (commencing with Section 3362) is added to Title 2 of Part 1 of Division 4 of the Civil Code, to read:

CHAPTER 3. LEAD-BASED PAINT

3362. (a) In any action to recover damages for injury to person or property caused by lead-based paint, the injured party may establish a prima facie case that a particular party is the cause of the injury if the injured party proves by a preponderance of the evidence that a particular party produced, sold, distributed, or promoted the type of lead paint pigment that caused the injury.

(b) If the injured party establishes a prima facie case of causation under subdivision (a), the burden of proof shall shift to the particular party that produced, sold, distributed or promoted the type of lead paint pigment that caused the injury to prove by a preponderance of the evidence that it did not produce, sell, distribute, or promote the lead paint pigment during the relevant time period or in the geographical market in which the injury occurred.

(c) If more than one party that produced, sold, distributed or promoted lead paint pigments is found liable for an injury to person or property caused by lead-based paint, each party shall be jointly and severally liable.

(d) The provisions of this section are made expressly retroactive.

SEC. 3. The provisions of this act are severable. If any provision of this act 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.

Amendment 5

On page 1, strike out lines 1 to 5, inclusive

AMENDMENTS TO ASSEMBLY BILL NO. 2128

Amendment 1

In the title, in line 1, strike out "Section" and insert:

Sections

Amendment 2

In the title, in line 1, after "44932" insert:

and 44944

Amendment 3

On page 2, in line 2, strike out "Code." and insert:

Code, or sexual harassment, as defined in Section 212.5.

Amendment 4

On page 2, below line 31, insert:

SEC. 2. Section 44944 of the Education Code is amended to read:

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

(b) (1) (A) In a dismissal or suspension proceeding initiated pursuant to Section 44934, if a hearing is requested by the employee, the hearing shall be commenced within six months from the date of the employee's demand for a hearing. A continuance shall not extend the date for the commencement of the hearing more than six months from the date of the employee's request for a hearing, except for extraordinary circumstances, as determined by the administrative law judge. If extraordinary circumstances are found that extend the date for the commencement of the hearing, the deadline for concluding the hearing and closing the record pursuant to this subdivision shall be extended for a period of time equal to the continuance. The hearing date shall be established after consultation with the employee and the governing board of the school district, or their representatives, except that if the parties are not able to reach an agreement on a date, the Office of Administrative Hearings shall unilaterally set a date in compliance with this section. The hearing shall be completed by a closing of the record within seven months of the date of the employee's demand for a hearing. A continuance shall not extend the date for the close of the record more than seven months from the date of the employee's request for a hearing, except for good cause, as determined by the administrative law judge.

(B) If substantial progress has been made in completing the previously scheduled days of the hearing within the seven-month period but the hearing cannot be completed, for good cause shown, within the seven-month period, the period for completing the



hearing may be extended by the presiding administrative law judge. If the administrative law judge grants a continuance under this subparagraph, he or she shall establish a reasonable timetable for the completion of the hearing and the closing of the record. The hearing shall be initiated and conducted, and a decision made, in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the Commission on Professional Competence shall have all of the power granted to an agency pursuant to that chapter, except as described in this article.

(2) (A) A witness shall not be permitted to testify at the hearing except upon oath or affirmation. Testimony shall not be given or evidence shall not be introduced relating to matters that occurred more than four years before the date of the filing of the notice, except allegations of inappropriate physical contact, an inappropriate verbal remark, sending a sexually suggestive or inappropriate communication to a pupil, or an act described in Section ~~44010~~ of this code 212.5 or 44010, or Sections 11165.2 to 11165.6, inclusive, of the Penal Code.

(B) Evidence of records regularly kept by the governing board of the school district concerning the employee may be introduced, but no decision relating to the dismissal or suspension of an employee shall be made based on charges or evidence of any nature relating to matters occurring more than four years before the filing of the notice, except allegations of inappropriate physical contact, an inappropriate verbal remark, sending a sexually suggestive or inappropriate communication to a pupil, or an act described in Section ~~44010~~ of this code 212.5 or 44010, or Sections 11165.2 to 11165.6, inclusive, of the Penal Code.

(c) (1) The hearing provided for in this section shall be conducted by a Commission on Professional Competence, unless the parties submit a statement in writing to the Office of Administrative Hearings, indicating that both parties waive the right to convene a Commission on Professional Competence and stipulate to having the hearing conducted by a single administrative law judge. If the parties elect to waive a hearing before the Commission on Professional Competence, the hearing shall be initiated and conducted, and a decision made, in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the administrative law judge conducting the hearing shall have all the powers granted to a Commission on Professional Competence pursuant to that chapter, except as described in this article.

(2) If the parties elect not to waive a hearing before a Commission on Professional Competence, one member of the commission shall be selected by the employee, one member shall be selected by the governing board of the school district, and one member shall be an administrative law judge of the Office of Administrative Hearings who shall be chairperson and a voting member of the commission and shall be responsible for assuring that the legal rights of the parties are protected at the hearing.

(3) The governing board of the school district and the employee shall select Commission on Professional Competence members no later than 45 days before the date set for hearing, and shall serve notice of their selection upon all other parties and upon the Office of Administrative Hearings. Failure to meet this deadline shall constitute a waiver of the right to selection, and the county board of education or its specific designee shall immediately make the selection. If the county board of education is also the governing board of the school district or has by statute been granted the powers of

a governing board, the selection shall be made by the Superintendent, who shall be reimbursed by the school district for all costs incident to the selection.

(4) Any party who believes that a selected Commission on Professional Competence member is not qualified may file an objection, including a statement describing the basis for the objection, with the Office of Administrative Hearings and serve the objection and statement upon all other parties within 10 days of the date that the notice of selection is filed. Within seven days after the filing of any objection, the administrative law judge assigned to the matter shall rule on the objection or convene a teleconference with the parties for argument.

(5) (A) The member selected by the governing board of the school district and the member selected by the employee shall not be related to the employee and shall not be employees of the school district initiating the dismissal or suspension. Each member shall hold a currently valid credential and have at least three years' experience within the past 10 years in the discipline of the employee.

(B) For purposes of this paragraph, the following terms have the following meanings:

(i) For an employee subject to dismissal whose most recent teaching assignment is in kindergarten or any of the grades 1 to 6, inclusive, "discipline" means a teaching assignment in kindergarten or any of the grades 1 to 6, inclusive.

(ii) For an employee subject to dismissal whose most recent assignment requires an education specialist credential or a services credential, "discipline" means an assignment that requires an education specialist credential or a services credential, respectively.

(iii) For an employee subject to dismissal whose most recent teaching assignment is in any of the grades 7 to 12, inclusive, "discipline" means a teaching assignment in any of grades 7 to 12, inclusive, in the same area of study, as that term is used in Section 51220, as the most recent teaching assignment of the employee subject to dismissal.

(d) (1) The decision of the Commission on Professional Competence shall be made by a majority vote, and the commission shall prepare a written decision containing findings of fact, determinations of issues, and a disposition that shall be, solely, one of the following:

(A) That the employee should be dismissed.

(B) That the employee should be suspended for a specific period of time without pay.

(C) That the employee should not be dismissed or suspended.

(2) The decision of the Commission on Professional Competence that the employee should not be dismissed or suspended shall not be based on nonsubstantive procedural errors committed by the school district or governing board of the school district unless the errors are prejudicial errors.

(3) The Commission on Professional Competence shall not have the power to dispose of the charge of dismissal by imposing probation or other alternative sanctions. The imposition of suspension pursuant to subparagraph (B) of paragraph (1) shall be available only in a suspension proceeding authorized pursuant to subdivision (b) of Section 44932 or Section 44933.

(4) The decision of the Commission on Professional Competence shall be deemed to be the final decision of the governing board of the school district.

(5) The governing board of the school district may adopt from time to time rules and procedures not inconsistent with this section as may be necessary to effectuate this section.

(6) The governing board of the school district and the employee shall have the right to be represented by counsel.

(e) (1) If the member selected by the governing board of the school district or the member selected by the employee is employed by any school district in this state, the member shall, during any service on a Commission on Professional Competence, continue to receive salary, fringe benefits, accumulated sick leave, and other leaves and benefits from the school district in which the member is employed, but shall not receive additional compensation or honorariums for service on the commission.

(2) If the member selected is a retired employee, the member shall receive pay at the daily substitute teacher rate in the school district that is a party to the hearing. Service on a Commission on Professional Competence shall not be credited toward retirement benefits.

(3) If service on a Commission on Professional Competence occurs during summer recess or vacation periods, the member shall receive compensation proportionate to that received during the current or immediately preceding contract period from the member's employing school district, whichever amount is greater.

(f) (1) If the Commission on Professional Competence determines that the employee should be dismissed or suspended, the governing board of the school district and the state shall share equally the expenses of the hearing, including the cost of the administrative law judge. The state shall pay any costs incurred under paragraphs (2) and (3) of subdivision (e), the reasonable expenses, as determined by the administrative law judge, of the member selected by the governing board of the school district and the member selected by the employee, including, but not limited to, payments or obligations incurred for travel, meals, and lodging, and the cost of the substitute or substitutes, if any, for the member selected by the governing board of the school district and the member selected by the employee. The Controller shall pay all claims submitted pursuant to this paragraph from the General Fund, and may prescribe reasonable rules, regulations, and forms for the submission of the claims. The employee and the governing board of the school district shall pay their own attorney's fees.

(2) If the Commission on Professional Competence determines that the employee should not be dismissed or suspended, the governing board of the school district shall pay the expenses of the hearing, including the cost of the administrative law judge, any costs incurred under paragraphs (2) and (3) of subdivision (e), the reasonable expenses, as determined by the administrative law judge, of the member selected by the governing board of the school district and the member selected by the employee, including, but not limited to, payments or obligations incurred for travel, meals, and lodging, the cost of the substitute or substitutes, if any, for the member selected by the governing board of the school district and the member selected by the employee, and reasonable attorney's fees incurred by the employee.

(3) As used in this section, "reasonable expenses" shall not be deemed "compensation" within the meaning of subdivision (e).

(4) If either the governing board of the school district or the employee petitions a court of competent jurisdiction for review of the decision of the Commission on

Professional Competence, the payment of expenses to members of the commission required by this subdivision shall not be stayed.

(5) If the decision of the Commission on Professional Competence is reversed or vacated by a court of competent jurisdiction, either the state, having paid the commission members' expenses, shall be entitled to reimbursement from the governing board of the school district for those expenses, or the governing board of the school district, having paid the expenses, shall be entitled to reimbursement from the state. If either the governing board of the school district or the employee petitions a court of competent jurisdiction for review of the decision to overturn the administrative law judge's decision, the payment of the expenses of the hearing, including the cost of the administrative law judge required by this paragraph, shall be stayed until no further appeal is sought, or all appeals are exhausted.

(g) The hearing provided for in this section shall be conducted in a place selected by agreement among the members of the Commission on Professional Competence. In the absence of agreement, the place shall be selected by the administrative law judge.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

AMENDMENTS TO ASSEMBLY BILL NO. 2167

Amendment 1

In the title, in line 1, after "act" insert:

to amend Sections 56.05 and 56.06 of, and to add Chapter 2.6 (commencing with Section 56.18) to Part 2.6 of Division 1 of, the Civil Code, to amend Section 121010 of the Health and Safety Code, and to amend Section 4903.6 of the Labor Code,

Amendment 2

On page 2, before line 1, insert:

SECTION 1. Section 56.05 of the Civil Code is amended to read:

56.05. For purposes of this part:

(a) "Authorization" means permission granted in accordance with Section 56.11 or 56.21 for the disclosure of medical information.

(b) "Authorized recipient" means any person who is authorized to receive medical information pursuant to Section 56.10 or 56.20.

(c) "Confidential communications request" means a request by a subscriber or enrollee that health care service plan communications containing medical information be communicated to him or her at a specific mail or email address or specific telephone number, as designated by the subscriber or enrollee.

(d) "Contractor" means any person or entity that is a medical group, independent practice association, pharmaceutical benefits manager, or a medical service organization and is not a health care service plan or provider of health care. "Contractor" does not include insurance institutions as defined in subdivision (k) of Section 791.02 of the Insurance Code or pharmaceutical benefits managers 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).

(e) "Digital health feedback system" means an ingestible sensor that collects and sends information about an individual that may be used in conjunction with either of the following:

(1) A sensor or device placed inside or worn on the body that collects and sends information about an individual.

(2) A software platform that is connected to the Internet, directly or indirectly, or to another device that receives and displays information collected or sent from a sensor or device as described in paragraph (1).

(e)

(f) "Endanger" means that the subscriber or enrollee fears that disclosure of his or her medical information could subject the subscriber or enrollee to harassment or abuse.

(f)

(g) "Enrollee" has the same meaning as that term is defined in Section 1345 of the Health and Safety Code.

(g)



(h) "Health care service plan" means any entity regulated 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).

(i)

(i) "Licensed health care 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 or the Chiropractic Initiative Act, or Division 2.5 (commencing with Section 1797) of the Health and Safety Code.

(j)

(j) "Marketing" means to make a communication about a product or service that encourages recipients of the communication to purchase or use the product or service.

"Marketing" does not include any of the following:

(1) Communications made orally or in writing for which the communicator does not receive direct or indirect remuneration, including, but not limited to, gifts, fees, payments, subsidies, or other economic benefits, from a third party for making the communication.

(2) Communications made to current enrollees solely for the purpose of describing a provider's participation in an existing health care provider network or health plan network of a Knox-Keene licensed health plan to which the enrollees already subscribe; communications made to current enrollees solely for the purpose of describing if, and the extent to which, a product or service, or payment for a product or service, is provided by a provider, contractor, or plan or included in a plan of benefits of a Knox-Keene licensed health plan to which the enrollees already subscribe; or communications made to plan enrollees describing the availability of more cost-effective pharmaceuticals.

(3) Communications that are tailored to the circumstances of a particular individual to educate or advise the individual about treatment options, and otherwise maintain the individual's adherence to a prescribed course of medical treatment, as provided in Section 1399.901 of the Health and Safety Code, for a chronic and seriously debilitating or life-threatening condition as defined in subdivisions (d) and (e) of Section 1367.21 of the Health and Safety Code, if the health care provider, contractor, or health plan receives direct or indirect remuneration, including, but not limited to, gifts, fees, payments, subsidies, or other economic benefits, from a third party for making the communication, if all of the following apply:

(A) The individual receiving the communication is notified in the communication in typeface no smaller than 14-point type of the fact that the provider, contractor, or health plan has been remunerated and the source of the remuneration.

(B) The individual is provided the opportunity to opt out of receiving future remunerated communications.

(C) The communication contains instructions in typeface no smaller than 14-point type describing how the individual can opt out of receiving further communications by calling a toll-free number of the health care provider, contractor, or health plan making the remunerated communications. No further communication may be made to an individual who has opted out after 30 calendar days from the date the individual makes the opt out request.

(k)

(k) "Medical information" means any individually identifiable information, in electronic or physical form, in possession of or derived from a provider of health care,

health care service plan, pharmaceutical company, or contractor regarding a patient's medical history, mental or physical condition, or treatment. "Medical information" also means any information in electronic or physical form, regardless of whether individually identifiable, in possession of or derived from a digital health feedback system. "Individually identifiable" means that the medical information includes or contains any element of personal identifying information sufficient to allow identification of the individual, such as the patient's name, address, electronic mail address, telephone number, or social security number, or other information that, alone or in combination with other publicly available information, reveals the individual's identity.

(k)

(l) "Patient" means any natural person, whether or not still living, who received health care services from a provider of health care and to whom medical information pertains.

(m)

(n) "Pharmaceutical company" means any company or business, or an agent or representative thereof, that manufactures, sells, or distributes pharmaceuticals, medications, or prescription drugs. "Pharmaceutical company" does not include a pharmaceutical benefits manager, as included in subdivision (c), or a provider of health care.

(o)

(p) "Provider of health care" means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code; any person licensed pursuant to the Osteopathic Initiative Act or the Chiropractic Initiative Act; any person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code; any clinic, health dispensary, or health facility licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code. "Provider of health care" does not include insurance institutions as defined in subdivision (k) of Section 791.02 of the Insurance Code.

(q)

(r) "Sensitive services" means all health care services described in Sections 6924, 6925, 6926, 6927, 6928, and 6929 of the Family Code, and Sections 121020 and 124260 of the Health and Safety Code, obtained by a patient at or above the minimum age specified for consenting to the service specified in the section.

(s)

(t) "Subscriber" has the same meaning as that term is defined in Section 1345 of the Health and Safety Code.

SEC. 2. Section 56.06 of the Civil Code is amended to read:

56.06. (a) Any business organized for the purpose of maintaining medical information, as defined in subdivision ~~(j)~~ (k) of Section 56.05, in order to make the information available to an individual or to a provider of health care at the request of the individual or a provider of health care, for purposes of allowing the individual to manage his or her information, or for the diagnosis and treatment of the individual, shall be deemed to be a provider of health care subject to the requirements of this part. However, this section shall not be construed to make a business specified in this subdivision a provider of health care for purposes of any law other than this part, including laws that specifically incorporate by reference the definitions of this part.

(b) Any business that offers software or hardware to consumers, including a mobile application or other related device that is designed to maintain medical information, as defined in subdivision ~~(j)~~ (k) of Section 56.05, in order to make the information available to an individual or a provider of health care at the request of the individual or a provider of health care, for purposes of allowing the individual to manage his or her information, or for the diagnosis, treatment, or management of a medical condition of the individual, shall be deemed to be a provider of health care subject to the requirements of this part. However, this section shall not be construed to make a business specified in this subdivision a provider of health care for purposes of any law other than this part, including laws that specifically incorporate by reference the definitions of this part.

(c) Any business described in subdivision (a) or (b) shall maintain the same standards of confidentiality required of a provider of health care with respect to medical information disclosed to the business.

(d) Any business described in subdivision (a) or (b) is subject to the penalties for improper use and disclosure of medical information prescribed in this part.

SEC. 3. Chapter 2.6 (commencing with Section 56.18) is added to Part 2.6 of Division 1 of the Civil Code, to read:

CHAPTER 2.6. DIGITAL HEALTH FEEDBACK SYSTEMS

56.18. For purposes of this chapter, "unauthorized access, destruction, use, modification, or disclosure" means access, destruction, use, modification, or disclosure that is not authorized by the person about whom the information pertains unless the access, destruction, use, modification, or disclosure is authorized or required by law.

56.18.1. A manufacturer that sells or offers to sell a digital health feedback system to a consumer in California shall equip the system with reasonable security features appropriate to the nature of the system and the information it may collect, contain, or transmit that protect the system and any information contained therein from unauthorized access, destruction, use, modification, or disclosure.

SEC. 4. Section 121010 of the Health and Safety Code is amended to read:

121010. Notwithstanding Section 120975 or 120980, the results of an HIV test, as defined in subdivision (c) of Section 120775, to detect antibodies to the probable causative agent of AIDS may be disclosed to any of the following persons without written authorization of the subject of the test:

(a) To the subject of the test or the subject's legal representative, conservator, or to any person authorized to consent to the test pursuant to Section 120990 of this code and Section 6926 of the Family Code.

(b) To a test subject's provider of health care, as defined in subdivision ~~(j)~~ (n) of Section 56.05 of the Civil Code, except that for purposes of this section, "provider of health care" does not include a health care service plan regulated pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2.

(c) To an agent or employee of the test subject's provider of health care who provides direct patient care and treatment.

(d) To a provider of health care who procures, processes, distributes, or uses a human body part donated pursuant to the Uniform Anatomical Gift Act (Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7).

(e) (1) To the designated officer of an emergency response employee, and from that designated officer to an emergency response employee regarding possible exposure to HIV or AIDS, but only to the extent necessary to comply with provisions of the federal Ryan White Comprehensive AIDS Resources Emergency Act of 1990 (Public Law 101-381; 42 U.S.C. Sec. 201).

(2) For purposes of this subdivision, "designated officer" and "emergency response employee" have the same meaning as these terms are used in the federal Ryan White Comprehensive AIDS Resources Emergency Act of 1990 (Public Law 101-381; 42 U.S.C. Sec. 201).

(3) The designated officer shall be subject to the confidentiality requirements specified in Section 120980, and may be personally liable for unauthorized release of any identifying information about the HIV results. Further, the designated officer shall inform the exposed emergency response employee that the employee is also subject to the confidentiality requirements specified in Section 120980, and may be personally liable for unauthorized release of any identifying information about the HIV test results.

SEC. 5. Section 4903.6 of the Labor Code, as amended by Section 7 of Chapter 287 of the Statutes of 2013, is amended to read:

4903.6. (a) Except as necessary to meet the requirements of Section 4903.5, a lien claim or application for adjudication shall not be filed or served under subdivision (b) of Section 4903 until both of the following have occurred:

(1) Sixty days have elapsed after the date of acceptance or rejection of liability for the claim, or expiration of the time provided for investigation of liability pursuant to subdivision (b) of Section 5402, whichever date is earlier.

(2) Either of the following:

(A) The time provided for payment of medical treatment bills pursuant to Section 4603.2 has expired and, if the employer objected to the amount of the bill, the reasonable fee has been determined pursuant to Section 4603.6, and, if authorization for the medical treatment has been disputed pursuant to Section 4610, the medical necessity of the medical treatment has been determined pursuant to Sections 4610.5 and 4610.6.

(B) The time provided for payment of medical-legal expenses pursuant to Section 4622 has expired and, if the employer objected to the amount of the bill, the reasonable fee has been determined pursuant to Section 4603.6.

(b) All lien claimants under Section 4903 shall notify the employer and the employer's representative, if any, and the employee and his or her representative, if any, and the appeals board within five working days of obtaining, changing, or discharging representation by an attorney or nonattorney representative. The notice shall set forth the legal name, address, and telephone number of the attorney or nonattorney representative.

(c) A declaration of readiness to proceed shall not be filed for a lien under subdivision (b) of Section 4903 until the underlying case has been resolved or where the applicant chooses not to proceed with his or her case.

(d) With the exception of a lien for services provided by a physician as defined in Section 3209.3, a lien claimant shall not be entitled to any medical information, as defined in subdivision ~~(g)~~ (k) of Section 56.05 of the Civil Code, about an injured

worker without prior written approval of the appeals board. Any order authorizing disclosure of medical information to a lien claimant other than a physician shall specify the information to be provided to the lien claimant and include a finding that the information is relevant to the proof of the matter for which the information is sought. The appeals board shall adopt reasonable regulations to ensure compliance with this section, and shall take any further steps as may be necessary to enforce the regulations, including, but not limited to, impositions of sanctions pursuant to Section 5813.

(e) The prohibitions of this section shall not apply to lien claims, applications for adjudication, or declarations of readiness to proceed filed by or on behalf of the employee, or to the filings by or on behalf of the employer.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Amendment 3
On page 2, strike out lines 1 to 9, inclusive

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AMENDMENTS TO ASSEMBLY BILL NO. 2188

Amendment 1

In the title, in line 1, strike out "Section 82025 of" and insert:

Sections 84504.3, 84504.4, and 84510 of, and to add Section 84504.6 to,

Amendment 2

On page 1, before line 1, insert:

SECTION 1. Section 84504.3 of the Government Code is amended to read:
84504.3. (a) An electronic media advertisement, other than an Internet Web site, paid for by a committee, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, shall comply with both of the following:

(1) Include the text "Who funded this ad?" in a contrasting color and a font size that is easily readable by the average viewer.

(2) ~~Such~~ The text shall be a hyperlink to an Internet Web site containing the disclosures required by Sections 84502, 84503, and 84506.5 in a contrasting color and in no less than 8 point font.

(b) Notwithstanding subdivision (a), the text required by paragraph (1) of subdivision (a) is not required if including the language would be impracticable. In such circumstances the advertisement need only include a hyperlink to an Internet Web site containing the disclosures required by Sections 84502, 84503, and 84506.5.

(c) Notwithstanding subdivisions (a) and (b), an Internet Web site paid for by a committee, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, shall include the disclosures required by Sections 84502, 84503, and 84506.5 in a contrasting color and in no less than 8 point font.

(d) An Internet Web site that is hyperlinked as provided for in paragraph (2) of subdivision (a) shall remain online and available to the public until 30 days after the date of the election in which the candidate or ballot measure supported or opposed by the advertisement was voted upon.

(e) An advertisement made via a form of electronic media that is audio only and therefore cannot include either of the disclaimers in subdivision (a) shall comply with the disclaimer requirements for radio advertisements in Section 84504.

(f) An advertisement made via a form of electronic media that allows users to engage in discourse and post content, or any other type of social media, shall only be required to include the disclosures required by Sections 84502, 84503, and 84506.5 in a contrasting color that is easily readable by the average viewer and in no less than 8 10 point font on the cover or header photo of the committee's profile, landing page, or similar location and shall not be required to include the disclaimer required by subdivision (a) on each individual post, comment, or other similar communication. The disclosures specified in this subdivision shall be fully visible on the cover or header



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photo when the profile, landing page, or similar location is viewed from any electronic device that is commonly used to view this form of electronic media.

(g) The disclaimer required by this section does not apply to advertisements made via social media for which the only expense or cost of the communication is compensated staff time unless the social media account where the content is posted was created only for the purpose of advertisements governed by this title.

SEC. 2. Section 84504.4 of the Government Code is amended to read:

84504.4. (a) A radio or television advertisement that is paid for by a political party or a candidate controlled committee established for an elective office of the controlling candidate, and that does not support or oppose a ballot measure and is not paid for by an independent expenditure, shall include the disclosure required by Section 84502 subject to the following requirements:

(a)

(1) In a radio advertisement, the words shall be included at the beginning or end of the advertisement and read in a clearly spoken manner and in a pitch and tone substantially similar to the rest of the advertisement.

(b)

(2) In a television advertisement, the words shall appear in writing for at least four seconds with letters in a type size that is greater than or equal to 4 percent of the height of the screen.

(b) An electronic media advertisement, other than a mass electronic mailing as defined in Section 84305, that is paid for by a political party or a candidate controlled committee established for an elective office of the controlling candidate, and that does not support or oppose a ballot measure and is not paid for by an independent expenditure, shall include the disclosure required by subdivision (f) of Section 84504.3 in the advertisement.

SEC. 3. Section 84504.6 is added to the Government Code, to read:

84504.6. (a) An online platform shall do all of the following:

(1) Display a hyperlink with the text "Who funded this ad?" on an advertisement paid for by a committee. The hyperlink shall be all of the following:

(A) In the same font and in the same font size, which shall be no less than 8 point font, as the online platform's text stating that the advertisement is promoted or sponsored.

(B) Located adjacent to the text stating that the advertisement is promoted or sponsored.

(C) Clearly clickable.

(D) Linked to the profile or landing page of the committee that paid for the advertisement.

(2) (A) Maintain, and make available for online public inspection in machine readable format, a complete record of any request to purchase on the online platform an advertisement that is made by a committee that purchased five hundred dollars (\$500) or more in advertisements on the online platform during the preceding 12 months. Each record shall contain all of the following:

(i) A digital copy of the advertisement.

(ii) A description of the audience targeted by the advertisement, the number of views generated from the advertisement, and the date and time that the advertisement was first displayed and last displayed.

(iii) Information regarding the average rate charged for the advertisement.
 (iv) The name of the candidate to which the advertisement refers and the office to which the candidate is seeking election, as applicable and whether the advertisement is in support of or opposition to the candidate or the ballot measure to which the advertisement refers.

(v) The name and identification number of the committee that paid for the advertisement.

(B) The information required under this paragraph shall be made available as soon as possible and shall be retained by the online platform for no less than four years.

(3) Display a prominent button, tab, or hyperlink with the text "View Ads" near the top of a profile, landing page, or similar location of a committee that paid for an advertisement in a position that the average viewer will readily see it upon viewing that page. The button, tab, or hyperlink shall link to a page clearly showing all of the advertisement records required by paragraph (2).

(b) A committee that requests to purchase an advertisement on an online platform shall provide the online platform with all information necessary for the online platform to comply with the requirements of this section.

(c) For purposes of this section, an online platform means a public-facing Internet Web site, web application, or digital application, including a social network, ad network, or search engine, which sells advertisements and has 50,000,000 or more unique monthly United States visitors or users for a majority of months during the preceding 12 months.

SEC. 4. Section 84510 of the Government Code is amended to read:

84510. (a) (1) In addition to the remedies provided for in Chapter 11 (commencing with Section ~~91000~~ of this title, ~~any 91000~~), a person who violates Section 84503 or 84506.5 is liable in a civil or administrative action brought by the Commission or any person for a fine up to three times the cost of the advertisement, including placement costs.

(2) Notwithstanding paragraph (1), ~~any~~ a person who intentionally violates ~~any~~ a provision of Sections 84504 to 84504.3, inclusive, or Section ~~84504.5, 84504.5 or 84504.6~~, for the purpose of avoiding disclosure is liable in a civil or administrative action brought by the Commission or any person for a fine up to three times the cost of the advertisement, including placement costs.

(b) The remedies provided in subdivision (a) shall also apply to any person who purposely causes any other person to violate any of the sections described in paragraph (1) or (2) of subdivision (a) or who aids and abets any other person in a violation.

(c) If a judgment is entered against the defendant or defendants in an action brought under this section, the plaintiff shall receive 50 percent of the amount recovered. The remaining 50 percent shall be deposited in the General Fund of the state. In an action brought by a local civil prosecutor, 50 percent shall be deposited in the account of the agency bringing the action and 50 percent shall be paid to the General Fund of the state.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes

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the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 6. The Legislature finds and declares that this bill furthers the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

Amendment 3

On page 1, strike out lines 1 to 4, inclusive, and strike out pages 2 to 6, inclusive

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AMENDMENTS TO ASSEMBLY BILL NO. 2200

Amendment 1

In the title, in line 1, strike out "amend" and insert:

add

Amendment 2

In the title, in line 1, strike out "11834.01 of" and insert:

11834.28 to

Amendment 3

On page 1, before line 1, after the colon insert:

SECTION 1. Section 11834.28 is added to the Health and Safety Code, to read:

Amendment 4

On page 1, before line 1, after the period insert:

(a) A person who has responsibility for residents or frequent or routine contact with residents of an alcoholism or drug abuse recovery or treatment facility shall be subject to a criminal record review prior to that person's involvement in the provision of services. Residents shall not be required to meet the requirements of this section.

(b) The department shall conduct the criminal record review of a person described in subdivision (a), and shall have the authority to approve or deny that person's involvement in the provision of services based on the results of that review. A drug-related conviction shall not be cause for the department to deny involvement in the provision of services.

Amendment 5

On page 1, strike out lines 1 to 5, inclusive, and strike out page 2



AMENDMENTS TO ASSEMBLY BILL NO. 2221

Amendment 1

In the title, strike out lines 1 and 2 and insert:

An act to amend Sections 2570.1, 2570.2, 2570.3, 2570.6, 2570.7, 2570.10, 2570.14, 2570.18, 2570.185, 2570.20, 2570.28, 2570.29, and 2571 of the Business and Professions Code, relating to healing arts.

Amendment 2

On page 1, before line 1, insert:

SECTION 1. Section 2570.1 of the Business and Professions Code is amended to read:

2570.1. The Legislature finds and declares that the practice profession of occupational therapy in California affects the public health, safety, and welfare and there is a necessity for that practice profession to be subject to regulation and control.

SEC. 2. Section 2570.2 of the Business and Professions Code is amended to read:

2570.2. As used in this chapter, unless the context requires otherwise:

(a) "Appropriate supervision of an aide" means that the responsible occupational therapist or occupational therapy assistant shall provide direct in-sight supervision when the aide is providing delegated client-related tasks and shall be readily available at all times to provide advice or instruction to the aide. The occupational therapist or occupational therapy assistant is responsible for documenting the client's record concerning the delegated client-related tasks performed by the aide.

(b) "Aide" means an individual who provides supportive services to an occupational therapist or occupational therapy assistant and who is trained by an occupational therapist or occupational therapy assistant to perform, under appropriate supervision, delegated, selected client and nonclient-related tasks for which the aide has demonstrated competency. An occupational therapist or occupational therapy assistant licensed pursuant to this chapter may utilize the services of one aide engaged in patient-related client-related tasks to assist the occupational therapist or occupational therapy assistant in his or her practice of occupational therapy. The occupational therapist shall be responsible for the overall use and actions of the aide.

(c) "Association" means the Occupational Therapy Association of California or a similarly constituted organization representing occupational therapists in this state.

(d) "Board" means the California Board of Occupational Therapy.

(e) "Continuing competence" means a dynamic and multidimensional process in which the occupational therapist or occupational therapy assistant develops and maintains the knowledge, performance skills, interpersonal abilities, critical reasoning, and ethical reasoning skills necessary to perform current and future roles and responsibilities within the profession.

(e)



(f) "Examination" means an entry level ~~certification~~ examination for occupational therapists and occupational therapy assistants administered by the National Board for Certification in Occupational Therapy or by another nationally recognized credentialing body.

(f)

(g) "Good standing" means that the person has a current, valid license to practice occupational therapy or assist in the practice of occupational therapy and has not been disciplined by the recognized professional ~~certifying~~ licensing or standard-setting body within five years prior to application or renewal of the person's license.

(g)

(h) "Occupational therapist" means an individual who meets the minimum education requirements specified in Section 2570.6 and is licensed pursuant to the provisions of this chapter and whose license is in good standing as determined by the board to practice occupational therapy under this chapter. ~~Only the~~ The occupational therapist ~~is responsible for~~ directs the occupational therapy ~~assessment of a client,~~ evaluation process and develops the ~~development of an occupational therapy plan of treatment.~~ intervention plan.

(h)

(i) "Occupational therapy assistant" means an individual who is licensed pursuant to the provisions of this chapter, who is in good standing as determined by the board, and based thereon, who is qualified to assist in the practice of occupational therapy under this chapter, and who works under the appropriate supervision of a licensed occupational therapist.

(i)

(j) "Occupational therapy services" means the services of an occupational therapist or the services of an occupational therapy assistant under the appropriate supervision of an occupational therapist.

(j)

(k) "Person" means an individual, partnership, unincorporated organization, or corporation.

(k)

(l) "Practice of occupational" "Occupational therapy" means the therapeutic use of purposeful occupations, including everyday life activities with individuals, groups, populations, or organizations, to support participation, performance, and meaningful goal-directed activities (occupations) which engage function in roles and situations in home, school, workplace, community, and other settings. Occupational therapy services are provided for habilitation, rehabilitation, and the individual's body promotion of health and mind in meaningful, organized, and self-directed actions that maximize independence, prevent or minimize wellness to those who have, or are at risk of developing, an illness, injury, disease, disorder, condition, impairment, disability, and maintain health. activity limitation, or participation restriction. Occupational therapy services encompass occupational therapy assessment, treatment, ~~education of,~~ education, and ~~consultation with,~~ consultation with, individuals who have been referred for occupational consultation. Occupational therapy services subsequent to diagnosis addresses the physical, cognitive, psychosocial, sensory-perceptual, and other aspects of disease or disorder (or who are receiving occupational therapy services as part performance in a variety of an Individualized Education Plan (IEP) pursuant contexts and environments to the federal

Individuals with Disabilities Education Act (IDEA): support engagement in occupations that affect physical and mental health, well-being, and quality of life. Occupational therapy assessment identifies performance abilities and limitations that are necessary for self-maintenance, learning, work, and other similar meaningful activities. Occupational therapy treatment is focused on developing, improving, or restoring functional daily living skills, compensating for and preventing dysfunction, or minimizing disability. Through engagement in everyday activities, occupational therapy promotes mental health and supports functioning in people with, or at risk of experiencing, a range of mental health disorders, including, but not limited to, psychiatric, behavioral, and substance abuse disorders. Occupational therapy techniques that are used for treatment involve teaching activities of daily living (excluding speech-language skills); designing or fabricating ~~selective temporary~~ orthotic devices, and applying or training in the use of assistive technology or orthotic and prosthetic devices (excluding gait training). Occupational therapy consultation provides expert advice to enhance function and quality of life. Consultation or treatment may involve modification of tasks or environments to allow an individual to achieve maximum independence. Services are provided individually, in groups, or ~~through social groups.~~ populations.

(f)

(m) "Hand therapy" is the art and science of rehabilitation of the hand, wrist, and forearm requiring comprehensive knowledge of the upper extremity and specialized skills in assessment and treatment to prevent dysfunction, restore function, or reverse the advancement of pathology. This definition is not intended to prevent an occupational therapist practicing hand therapy from providing other occupational therapy services authorized under this act in conjunction with hand therapy.

(m)

(n) "Physical agent modalities" means techniques that produce a response in soft tissue through the use of light, water, temperature, sound, or electricity. These techniques are used as adjunctive methods in conjunction with, or in immediate preparation for, occupational therapy services.

SEC. 3. Section 2570.3 of the Business and Professions Code is amended to read:

2570.3. (a) No person shall ~~practice provide~~ occupational therapy or hold himself or herself out as an occupational therapist or as being able to ~~practice provide~~ occupational therapy, or to render occupational therapy services in this state unless he or she is licensed as an occupational therapist under the provisions of this chapter. No person shall hold himself or herself out as an occupational therapy assistant or work as an occupational therapy assistant under the supervision of an occupational therapist unless he or she is licensed as an occupational therapy assistant under the provisions of this chapter.

(b) Only an individual may be licensed under this chapter.

(c) Nothing in this chapter shall be construed as authorizing an occupational therapist to practice physical therapy, as defined in Section 2620; speech-language pathology or audiology, as defined in Section 2530.2; nursing, as defined in Section 2725; psychology, as defined in Section 2903; or spinal manipulation or other forms of healing, except as authorized by this section.

(d) An occupational therapist may provide advanced practices if the therapist has the knowledge, skill, and ability to do so and has ~~demonstrated to the satisfaction of the~~ attested, under penalty of perjury, to the board that he or she has met educational training and competency requirements. These advanced practices include the following:

- (1) Hand therapy.
- (2) The use of physical agent modalities.
- (3) Swallowing assessment, evaluation, or intervention.

(e) An occupational therapist providing hand therapy services shall demonstrate to the satisfaction of the board that he or she has completed ~~post-professional~~ education and training in all of the following areas:

- (1) Anatomy of the upper extremity and how it is altered by pathology.
- (2) Histology as it relates to tissue healing and the effects of immobilization and mobilization on connective tissue.
- (3) Muscle, sensory, vascular, and connective tissue physiology.
- (4) Kinesiology of the upper extremity, such as biomechanical principles of pulleys, intrinsic and extrinsic muscle function, internal forces of muscles, and the effects of external forces.
- (5) The effects of temperature and electrical currents on nerve and connective tissue.

(6) Surgical procedures of the upper extremity and their postoperative course.

(f) An occupational therapist using physical agent modalities shall demonstrate to the satisfaction of the board that he or she has completed ~~post-professional~~ education and training in all of the following areas:

- (1) Anatomy and physiology of muscle, sensory, vascular, and connective tissue in response to the application of physical agent modalities.
- (2) Principles of chemistry and physics related to the selected modality.
- (3) Physiological, neurophysiological, and electrophysiological changes that occur as a result of the application of a modality.
- (4) Guidelines for the preparation of the ~~patient,~~ client, including education about the process and possible outcomes of treatment.
- (5) Safety rules and precautions related to the selected modality.
- (6) Methods for documenting immediate and long-term effects of treatment.
- (7) Characteristics of the equipment, including safe operation, adjustment, indications of malfunction, and care.

(g) An occupational therapist in the process of achieving the education, training, and competency requirements established by the board for providing hand therapy or using physical agent modalities may practice these techniques under the supervision of an occupational therapist who has already met the requirements established by the board, a physical therapist, or a physician and surgeon.

(h) The board shall develop and adopt regulations regarding the educational training and competency requirements for advanced practices in collaboration with the Speech-Language Pathology and Audiology Board, the Board of Registered Nursing, and the Physical Therapy Board of California.

(i) Nothing in this chapter shall be construed as authorizing an occupational therapist to seek reimbursement for services other than for the practice of occupational therapy as defined in this chapter.

(j) "Supervision of an occupational therapy assistant" means that the responsible occupational therapist shall at all times be responsible for all occupational therapy services provided to the client. The occupational therapist who is responsible for appropriate supervision shall formulate and document in each client's record, with his or her signature, the goals and plan for that client, and shall make sure that the occupational therapy assistant assigned to that client functions under appropriate supervision. As part of the responsible occupational therapist's appropriate supervision, he or she shall conduct at least weekly review and inspection of all aspects of occupational therapy services by the occupational therapy assistant.

(1) The supervising occupational therapist has the continuing responsibility to follow the progress of each ~~patient, client~~, provide direct care to the ~~patient, client~~, and to assure that the occupational therapy assistant does not function autonomously.

(2) An occupational therapist shall not supervise more occupational therapy assistants, at any one time, than can be appropriately supervised in the opinion of the board. ~~Two~~ Three occupational therapy assistants shall be the maximum number of occupational therapy assistants supervised by an occupational therapist at any one time, but the board may permit the supervision of a greater number by an occupational therapist if, in the opinion of the board, there would be adequate supervision and the public's health and safety would be served. In no case shall the total number of occupational therapy assistants exceed twice the number of occupational therapists regularly employed by a facility at any one time.

(k) The amendments to subdivisions (d), (e), (f), and (g) relating to advanced practices, that are made by the act adding this subdivision, shall become operative no later than January 1, 2004, or on the date the board adopts regulations pursuant to subdivision (h), whichever first occurs.

SEC. 4. Section 2570.6 of the Business and Professions Code is amended to read:

2570.6. An applicant applying for a license as an occupational therapist or as an occupational therapy assistant shall file with the board a written application provided by the board, showing to the satisfaction of the board that he or she meets all of the following requirements:

(a) That the applicant is in good standing and has not committed acts or crimes constituting grounds for denial of a license under Section 480.

(b) (1) That the applicant has successfully completed the academic requirements of an educational program for occupational therapists or occupational therapy assistants that is approved by the board and accredited by the American Occupational Therapy Association's Accreditation Council for Occupational Therapy Education (ACOTE), or accredited or approved by the American Occupational Therapy Association's (AOTA) predecessor organization, or approved by AOTA's Career Mobility Program.

(2) The curriculum of an educational program for occupational therapists shall contain the content required by the ACOTE accreditation standards, or as approved by AOTA's predecessor organization, or as approved by AOTA's Career Mobility Program, ~~including all of the following subjects:~~ Program.

~~(A) Biological, behavioral, and health sciences.~~

~~(B) Structure and function of the human body, including anatomy, kinesiology, physiology, and the neurosciences.~~

~~(C) Human development throughout the lifespan.~~

~~(D) Human behavior in the context of sociocultural systems.~~
~~(E) Etiology, clinical course, management, and prognosis of disease processes and traumatic injuries, and the effects of those conditions on human functioning.~~
~~(F) Occupational therapy theory, practice, and processes.~~
~~(3) The curriculum of an educational program for occupational therapy assistants shall contain the content required by the ACOTE accreditation standards, or as approved or accredited by AOTA's predecessor organization, including all of the following subjects:~~

- ~~(A) Biological, behavioral, and health sciences.~~
- ~~(B) Structure and function of the normal human body.~~
- ~~(C) Human development.~~
- ~~(D) Conditions commonly referred to occupational therapists.~~
- ~~(E) Occupational therapy principles and skills.~~

(c) (1) For an applicant who is a graduate of an occupational therapy or occupational therapy assistant educational program who is unable to provide evidence of having met the requirements of paragraph (2) ~~or (3)~~ of subdivision (b), he or she may demonstrate passage of the examination administered by the National Board for Certification in Occupational Therapy, the American Occupational Therapy Certification Board, or the American Occupational Therapy Association, as evidence of having successfully satisfied the requirements of paragraph (2) ~~or (3)~~ of subdivision (b).

(2) For an applicant who completed AOTA's Career Mobility Program, he or she shall demonstrate participation in the program and passage of the examination administered by the National Board for Certification in Occupational Therapy, the American Occupational Therapy Certification Board, or the American Occupational Therapy Association, as evidence of having successfully satisfied the requirements of paragraphs (1) and (2) of subdivision (b).

(d) That the applicant has successfully completed a period of supervised fieldwork experience approved by the board and arranged by a recognized educational institution where he or she met the academic requirements of subdivision (b) or (c) or arranged by a nationally recognized professional association. The fieldwork requirements for applicants applying for licensure as an occupational therapist or certification as an occupational therapy assistant shall be consistent with the requirements of the ACOTE accreditation standards, or AOTA's predecessor organization, or AOTA's Career Mobility Program, that were in effect when the applicant completed his or her educational program.

(e) That the applicant has passed an examination as provided in Section 2570.7.

(f) That the applicant, at the time of application, is a person over 18 years of age, is not addicted to alcohol or any controlled substance, and has not committed acts or crimes constituting grounds for denial of licensure under Section 480.

SEC. 5. Section 2570.7 of the Business and Professions Code is amended to read:

2570.7. (a) An applicant who has satisfied the requirements of Section 2570.6 may apply for examination for licensure in a manner prescribed by the board. Subject to the provisions of this chapter, an applicant who fails an examination may apply for reexamination.

(b) Each applicant for licensure shall successfully complete the entry level ~~certification~~ examination for occupational therapists or occupational therapy assistants,

such as the examination administered by the National Board for Certification in Occupational Therapy, the American Occupational Therapy Certification Board, or the American Occupational Therapy Association. The examination shall be appropriately validated. Each applicant shall be examined by written examination to test his or her knowledge of the basic and clinical sciences relating to occupational therapy, occupational therapy techniques and methods, and any other subjects that the board may require to determine the applicant's fitness to practice under this chapter.

(c) Applicants for licensure shall be examined at a time and place and under that supervision as the board may require.

SEC. 6. Section 2570.10 of the Business and Professions Code is amended to read:

2570.10. (a) Any license issued under this chapter shall be subject to renewal as prescribed by the board and shall expire unless renewed in that manner. The board may provide for the late renewal of a license as provided for in Section 163.5.

(b) In addition to any other qualifications and requirements for licensure renewal, the board ~~may~~ shall by rule establish and require the satisfactory completion of continuing competency ~~competence~~ requirements as a condition of renewal of a license. Only a portion of continuing competence requirements, as determined by the board to protect public health, safety, and welfare, may be fulfilled through competency assessment activities performed within the context of a broader professional development plan.

SEC. 7. Section 2570.14 of the Business and Professions Code is amended to read:

2570.14. An initial applicant who has not been actively engaged in the practice of occupational therapy within the past five years shall provide to the board, in addition to the requirements for licensure under Section 2570.6, any of the following:

(a) Evidence of continued competency as referred to in subdivision (b) of Section 2570.10 for the previous two-year period.

(b) Evidence of having completed the ~~certification~~ entry-level examination as described in subdivision (b) of Section 2570.7 within the previous two-year period.

SEC. 8. Section 2570.18 of the Business and Professions Code is amended to read:

2570.18. (a) A person shall not represent to the public by title, education, or background, or by description of services, methods, or procedures, or otherwise, that the person is authorized to practice occupational therapy in this state, unless authorized to practice occupational therapy under this chapter.

(b) Unless licensed to practice as an occupational therapist under this chapter, a person may not use the professional abbreviations "O.T.," "~~O.T.R.," or "O.T.R./L.,"~~ or "O.D.T.," "Occupational Therapist," or "Occupational Therapist Registered," or any other words, letters, or symbols with the intent to represent that the person practices or is authorized to practice occupational therapy.

(c) ~~A licensee who has earned a doctoral degree in occupational therapy (OTD) or, after adoption of the regulations described in subdivision (c), a doctoral degree in a related area of practice or study may do the following:~~

(1) ~~In a written communication, use the initials OTD, DrPH, PhD, or EdD, as applicable, following the licensee's name.~~

(2) In a written communication, use the title "Doctor" or the abbreviation "Dr." preceding the licensee's name, if the licensee's name is immediately followed by an unabbreviated specification of the applicable doctoral degree held by the licensee.

(3) In a spoken communication while engaged in the practice of occupational therapy, use the title "Doctor" preceding the licensee's name, if the licensee specifies that he or she is an occupational therapy practitioner.

(d) A doctoral degree described in subdivision (c) shall be granted by an institution and program accredited by the Western Association of Schools and Colleges, the Accreditation Council on Occupational Therapy Education, or by an accrediting agency recognized by the National Commission on Accrediting or the United States Department of Education that the board determines is equivalent to the Western Association of Schools and Colleges.

(e) The board shall define, by regulation, the doctoral degrees that are in a related area of practice or study for purposes of subdivision (c).

(f)

(c) Unless licensed to assist in the practice of occupational therapy as an occupational therapy assistant under this chapter, a person may not use the professional abbreviations "O.T.A.," "O.T.A./L.," "C.O.T.A.," "C.O.T.A./L.," or "Occupational Therapy Assistant," "Licensed Occupational Therapy Assistant," or any other words, letters, or symbols, with the intent to represent that the person assists in, or is authorized to assist in, the practice of occupational therapy as an occupational therapy assistant.

(g)

(d) The unauthorized practice or representation as an occupational therapist or as an occupational therapy assistant constitutes an unfair business practice under Section 17200 and false and misleading advertising under Section 17500.

SEC. 9. Section 2570.185 of the Business and Professions Code is amended to read:

2570.185. (a) An occupational therapist shall document his or her evaluation, goals, treatment plan, and summary of treatment in the patient client record.

(b) An occupational therapy assistant shall document the services provided in the patient client record.

(c) Occupational therapists and occupational therapy assistants shall document and sign the patient client record legibly.

(d) Patient-Client records shall be maintained for a period of no less than seven years following the discharge of the patient, client, except that the records of unemancipated minors shall be maintained at least one year after the minor has reached the age of 18 years, and not in any case less than seven years.

SEC. 10. Section 2570.20 of the Business and Professions Code is amended to read:

2570.20. (a) The board shall administer, coordinate, and enforce the provisions of this ~~chapter, chapter and~~ evaluate the ~~qualifications, and approve the examinations~~ qualifications for licensure under this chapter.

(b) The board shall adopt rules in accordance with the Administrative Procedure Act ~~relating necessary to professional conduct to carry out effectuate~~ the purpose of this ~~chapter, including, but not limited to, rules relating to professional licensure and to the establishment of ethical standards of practice~~ chapter for persons holding a

license to ~~practice~~ provide occupational therapy or to assist in the ~~practice of~~ providing occupational therapy in this state.

(c) Proceedings under this chapter shall be conducted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 11. Section 2570.28 of the Business and Professions Code is amended to read:

2570.28. The board may deny or discipline a licensee for any of the following:

(a) Unprofessional conduct, including, but not limited to, the following:

(1) Incompetence or gross negligence in carrying out usual occupational therapy functions.

(2) Repeated similar negligent acts in carrying out usual occupational therapy functions.

(3) A conviction ~~of~~ for practicing medicine without a license in violation of Chapter 5 (commencing with Section 2000), in which event a certified copy of the record of conviction shall be conclusive evidence thereof.

(4) The use of advertising relating to occupational therapy ~~which~~ that violates Section 17500.

(5) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a licensee by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision, order, or judgment shall be conclusive evidence thereof.

(b) Procuring a license by fraud, misrepresentation, or mistake.

(c) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision or term of this chapter or any regulation adopted pursuant to this chapter.

(d) Making or giving any false statement or information in connection with the application for issuance or renewal of a license.

(e) Conviction of a crime or of any offense substantially related to the qualifications, functions, or duties of a licensee, in which event the record of the conviction shall be conclusive evidence thereof.

(f) Impersonating an applicant or acting as proxy for an applicant in any examination required under this chapter for the issuance of a license.

(g) Impersonating a licensed practitioner, or permitting or allowing another unlicensed person to use a license.

(h) Committing any fraudulent, dishonest, or corrupt act that is substantially related to the qualifications, functions, or duties of a licensee.

(i) Committing any act punishable as a sexually related crime, if that act is substantially related to the qualifications, functions, or duties of a licensee, in which event a certified copy of the record of conviction shall be conclusive evidence thereof.

(j) Using excessive force upon or mistreating or abusing any ~~patient~~ client. For the purposes of this subdivision, "excessive force" means force clearly in excess of that which would normally be applied in similar clinical circumstances.

(k) Falsifying or making grossly incorrect, grossly inconsistent, or unintelligible entries in a ~~patient~~ client or hospital record or any other record.

(l) Changing the prescription of a physician and surgeon or falsifying verbal or written orders for treatment or a diagnostic regime received, whether or not that action resulted in actual ~~patient~~ client harm.

(m) Failing to maintain confidentiality of ~~patient~~ client medical information, except as disclosure is otherwise permitted or required by law.

(n) Delegating to an unlicensed employee or person a service that requires the knowledge, skills, abilities, or judgment of a licensee.

(o) Committing any act that would be grounds for denial of a license under Section 480.

(p) Except for good cause, the knowing failure to protect ~~patients~~ clients by failing to follow infection control guidelines of the board, thereby risking transmission of infectious diseases from licensee to ~~patient, from patient to patient, or from patient client, from client to client, or from client~~ to licensee.

(1) In administering this subdivision, the board shall consider referencing the standards, regulations, and guidelines of the State Department of Public Health developed pursuant to Section 1250.11 of the Health and Safety Code and the standards, guidelines, and regulations pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 63001) of Division 5 of the Labor Code) for preventing the transmission of HIV, hepatitis B, and other blood-borne pathogens in health care settings. As necessary to encourage appropriate consistency in the implementation of this subdivision, the board shall consult with the Medical Board of California, the Board of Podiatric Medicine, the Dental Board of California, the Board of Registered Nursing, and the Board of Vocational Nursing and Psychiatric Technicians.

(2) The board shall seek to ensure that licensees are informed of their responsibility to minimize the risk of transmission of infectious diseases from health care provider to ~~patient, from patient to patient, and from patient~~ client, from client to client, and from client to health care provider, and are informed of the most recent scientifically recognized safeguards for minimizing the risks of transmission.

SEC. 12. Section 2570.29 of the Business and Professions Code is amended to read:

2570.29. In addition to other acts constituting unprofessional conduct within the meaning of this chapter, it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or, except as directed by a licensed physician and surgeon, dentist, optometrist, or podiatrist, to administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

(b) Use to an extent or in a manner dangerous or injurious to himself or herself, to any other person, or to the public, or that impairs his or her ability to conduct with safety to the public the practice authorized by his or her license, of any of the following:

(1) A controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code.

(2) A dangerous drug or dangerous device as defined in Section 4022.

(3) Alcoholic beverages.

(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

(d) Be committed or confined by a court of competent jurisdiction for intemperate use of any of the substances described in subdivisions (a) and (b) of this section, in which event the court order of commitment or confinement is prima facie evidence of the commitment or confinement.

(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital or ~~patient~~ client record, or any other record, pertaining to the substances described in subdivision (a) of this section.

SEC. 13. Section 2571 of the Business and Professions Code is amended to read:

2571. (a) An occupational therapist licensed pursuant to this chapter and approved by the board in the use of physical agent modalities may apply topical medications prescribed by the ~~patient's~~ client's physician and surgeon, certified nurse-midwife pursuant to Section 2746.51, nurse practitioner pursuant to Section 2836.1, or physician assistant pursuant to Section 3502.1, if the licensee complies with regulations adopted by the board pursuant to this section.

(b) The board shall adopt regulations implementing this section, after meeting and conferring with the Medical Board of California, the California State Board of Pharmacy, and the Physical Therapy Board of California, specifying those topical medications applicable to the practice of occupational therapy and protocols for their use.

(c) Nothing in this section shall be construed to authorize an occupational therapist to prescribe medications.

SEC. 14. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Amendment 3

On page 1, strike out lines 1 to 4, inclusive

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Substantive

AMENDMENT TO ASSEMBLY BILL NO. 2223

Amendment 1
On page 2, in line 39, strike out "21" and insert:

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AMENDMENTS TO ASSEMBLY BILL NO. 2231

Amendment 1

In the title, in line 1, strike out "Section 14026" and insert:

Sections 14028, 14029, and 14030

Amendment 2

On page 1, before line 1, insert:

SECTION 1. Section 14028 of the Elections Code is amended to read:

14028. (a) (1) A violation of Section 14027 is established if it is shown that by the totality of the circumstances that members of a protected class are not equally able to reasonably participate in the local political processes of the political subdivision because racially polarized voting occurs in elections for members of the governing body of the political subdivision or in elections incorporating other electoral choices by the voters of the political subdivision. Elections conducted prior to the filing of an action pursuant to Section 14027 and this section are more probative to establish the existence of racially polarized voting than elections conducted after the filing of the action.

(2) At a minimum, to make a showing under paragraph (1), the party asserting the violation must demonstrate, by a preponderance of evidence, that the following three factors have been met:

(A) The protected class is sufficiently large in number and geographically insular to comprise a voting majority within a proposed district that is intended to be represented by a single member of the governing body of the political subdivision.

(B) The protected class has previously voted in a cohesive and reasonably uniform manner.

(C) The voting preferences of the bloc-voting majority show that it is a unified bloc that regularly prevents the protected class's preferred candidate from prevailing.

(3) The factors in paragraph (2) shall be interpreted and applied consistent with Thornburg v. Gingles (1986) 478 U.S. 30 and related controlling precedent.

(b) The occurrence of racially polarized voting shall be determined from examining the totality of the circumstances leading to the results of elections in which at least one candidate is a member of a protected class or elections involving ballot measures, or other electoral choices that specifically or intentionally affect the rights and privileges of members of a protected class. ~~One circumstance that may be considered in determining a violation of Section 14027 and this section is the extent to which candidates who are members of a protected class and who are preferred by voters of the protected class, as determined by an analysis of voting behavior, have been elected to the governing body of a political subdivision that is the subject of an action based on Section 14027 and this section. In multiseat at-large election districts, where the number of candidates who are members of a protected class is fewer than the number of seats available, the relative groupwide support received by candidates from members of a protected class shall be the basis for the racial polarization analysis.~~



~~(e) The fact that members of a protected class are not geographically compact or concentrated may not preclude a finding of racially polarized voting, or a violation of Section 14027 and this section, but may be a factor in determining an appropriate remedy.~~

~~(d)~~

~~(c) Proof of an intent on the part of the voters or elected officials to discriminate against a protected class is not required.~~

~~(e)~~

~~(d) Other factors such as the history of discrimination, the use of electoral devices or other voting practices or procedures that may enhance the dilutive effects of at-large elections, denial of access to those processes determining which groups of candidates will receive financial or other support in a given election, the extent to which members of a protected class bear the effects of past discrimination in areas such as education, employment, and health, which hinder their ability to participate effectively in the political process, and the use of overt or subtle racial appeals in political campaigns are probative, but not necessary factors to establish a violation of Section 14027 and this section.~~

SEC. 2. Section 14029 of the Elections Code is amended to read:

14029. Upon a finding of a violation of Section 14027 and Section 14028, the political subdivision or the court shall implement appropriate remedies, ~~including~~ which may include the imposition of district-based elections, that are tailored to remedy the violation.

SEC. 3. Section 14030 of the Elections Code is amended to read:

14030. In any action to enforce Section 14027 and Section 14028, the court shall allow the prevailing ~~plaintiff party, other than the state or political subdivision thereof,~~ party a reasonable attorney's fee consistent with the standards established in *Serrano v. Priest* (1977) 20 Cal.3d 25, 48-49, and litigation expenses including, but not limited to, expert witness fees and expenses as part of the costs. ~~Prevailing defendant parties shall not recover any costs, unless the court finds the action to be frivolous, unreasonable, or without foundation.~~

Amendment 3

On page 1, strike out lines 1 and 2 and strike out page 2

AMENDMENTS TO ASSEMBLY BILL NO. 2296

Amendment 1

In the title, in line 1, strike out "Section 201 of the Business and Professions Code,"; strike out line 2 and insert:

Sections 2908, 2995, 4507, 4999.32, 4999.33, 4999.62, and 4999.63 of the Business and Professions Code, to amend Section 56.105 of the Civil Code, to amend Section 35160.5 of the Education Code, to amend Sections 3110.5, 7663, 7827, 7850, 7851, 8502, and 9001 of the Family Code, to amend Section 3209.8 of the Labor Code, and to amend Sections 18951 and 18961.7 of the Welfare and Institutions Code, relating to healing arts licensees.

Amendment 2

On page 1, before line 1, insert:

SECTION 1. Section 2908 of the Business and Professions Code is amended to read:

2908. Nothing in this chapter shall be construed to prevent qualified members of other recognized professional groups licensed to practice in the State of California, such as, but not limited to, physicians, clinical social workers, educational psychologists, marriage and family therapists, licensed professional clinical counselors, optometrists, psychiatric technicians, or registered nurses, or attorneys admitted to the ~~California State Bar~~, State Bar of California, or persons utilizing hypnotic techniques by referral from persons licensed to practice medicine, ~~dentistry~~ dentistry, or psychology, or persons utilizing hypnotic techniques which offer avocational or vocational self-improvement and do not offer therapy for emotional or mental disorders, or duly ordained members of the recognized clergy, or duly ordained religious practitioners from doing work of a psychological nature consistent with the laws governing their respective professions, provided they do not hold themselves out to the public by any title or description of services incorporating the words "psychological," "psychologist," "psychology," "psychometrist," "psychometrics," or "psychometry," or that they do not state or imply that they are licensed to practice psychology; except that persons licensed under ~~Article 5 Chapter 13.5~~ Chapter 13.5 (commencing with Section ~~4986~~) of ~~Chapter 13 4989.10~~ of Division 2 may hold themselves out to the public as licensed educational psychologists.

SEC. 2. Section 2995 of the Business and Professions Code is amended to read:

2995. A psychological corporation is a corporation that is authorized to render professional services, as defined in Section 13401 of the Corporations Code, so long as that corporation and its shareholders, officers, directors, and employees rendering professional services who are psychologists, podiatrists, registered nurses, optometrists, marriage and family therapists, licensed professional clinical counselors, licensed clinical social workers, chiropractors, acupuncturists, or physicians are in compliance with the Moscone-Knox Professional Corporation Act, this article, and all other statutes



and regulations now or hereafter enacted or adopted pertaining to that corporation and the conduct of its affairs.

SEC. 3. Section 4507 of the Business and Professions Code is amended to read: 4507. This chapter shall not apply to the following:

(a) Physicians and surgeons licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2.

(b) Psychologists licensed pursuant to Chapter 6.6 (commencing with Section 2900) of Division 2.

(c) Registered nurses licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2.

(d) Vocational nurses licensed pursuant to Chapter 6.5 (commencing with Section 2840) of Division 2.

(e) Social workers or clinical social workers licensed pursuant to Chapter ~~17~~ 14 (commencing with Section ~~9000~~ 4991) of Division ~~3~~ 2.

(f) Marriage and family therapists licensed pursuant to Chapter 13 (commencing with Section 4980) of Division 2.

(g) Professional clinical counselors licensed pursuant to Chapter 16 (commencing with Section 4999.10) of Division 2.

~~(g)~~

(h) Teachers credentialed pursuant to Article 1 (commencing with Section 44200) of Chapter 2 of Part 25 of Division 3 of Title 2 of the Education Code.

~~(h)~~

(i) Occupational therapists as specified in Chapter 5.6 (commencing with Section 2570) of Division 2.

~~(i)~~

(j) Art therapists, dance therapists, music therapists, and recreation therapists, as defined in Division 5 (commencing with Section 70001) of Title 22 of the California Code of Regulations, who are personnel of health facilities licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

~~(j)~~

(k) Any other categories of persons the board determines are entitled to exemption from this chapter because they have complied with other licensing provisions of this code or because they are deemed by statute or by regulations contained in the California Code of Regulations to be adequately trained in their respective occupations. The exemptions shall apply only to a given specialized area of training within the specific discipline for which the exemption is granted.

SEC. 4. Section 4999.32 of the Business and Professions Code is amended to read:

4999.32. (a) This section shall apply to applicants for licensure or registration who begin graduate study before August 1, 2012, and complete that study on or before December 31, 2018. Those applicants may alternatively qualify under paragraph (2) of subdivision (a) of Section 4999.33.

(b) To qualify for licensure or registration, applicants shall possess a master's or doctoral degree that is counseling or psychotherapy in content and that meets the requirements of this section, obtained from an accredited or approved institution, as defined in Section 4999.12. For purposes of this subdivision, a degree is "counseling or psychotherapy in content" if it contains the supervised practicum or field study

experience described in paragraph (3) of subdivision (c) and, except as provided in subdivision (d), the coursework in the core content areas listed in subparagraphs (A) to (I), inclusive, of paragraph (1) of subdivision (c).

(c) The degree described in subdivision (b) shall contain not less than 48 graduate semester or 72 graduate quarter units of instruction, which shall, except as provided in subdivision (d), include all of the following:

(1) The equivalent of at least three semester units or four ~~and one-half~~ quarter units of graduate study in each of the following core content areas:

(A) Counseling and psychotherapeutic theories and techniques, including the counseling process in a multicultural society, an orientation to wellness and prevention, counseling theories to assist in selection of appropriate counseling interventions, models of counseling consistent with current professional research and practice, development of a personal model of counseling, and multidisciplinary responses to crises, emergencies, and disasters.

(B) Human growth and development across the lifespan, including normal and abnormal behavior and an understanding of developmental crises, disability, psychopathology, and situational and environmental factors that affect both normal and abnormal behavior.

(C) Career development theories and techniques, including career development decisionmaking models and interrelationships among and between work, family, and other life roles and factors, including the role of multicultural issues in career development.

(D) Group counseling theories and techniques, including principles of group dynamics, group process components, developmental stage theories, therapeutic factors of group work, group leadership styles and approaches, pertinent research and literature, group counseling methods, and evaluation of effectiveness.

(E) Assessment, appraisal, and testing of individuals, including basic concepts of standardized and nonstandardized testing and other assessment techniques, norm-referenced and criterion-referenced assessment, statistical concepts, social and cultural factors related to assessment and evaluation of individuals and groups, and ethical strategies for selecting, administering, and interpreting assessment instruments and techniques in counseling.

(F) Multicultural counseling theories and techniques, including counselors' roles in developing cultural self-awareness, identity development, promoting cultural social justice, individual and community strategies for working with and advocating for diverse populations, and counselors' roles in eliminating biases and prejudices, and processes of intentional and unintentional oppression and discrimination.

(G) Principles of the diagnostic process, including differential diagnosis, and the use of current diagnostic tools, such as the current edition of the Diagnostic and Statistical Manual, the impact of co-occurring substance use disorders or medical psychological disorders, established diagnostic criteria for mental or emotional disorders, and the treatment modalities and placement criteria within the continuum of care.

(H) Research and evaluation, including studies that provide an understanding of research methods, statistical analysis, the use of research to inform evidence-based practice, the importance of research in advancing the profession of counseling, and statistical methods used in conducting research, needs assessment, and program evaluation.

(I) Professional orientation, ethics, and law in counseling, including professional ethical standards and legal considerations, licensing law and process, regulatory laws that delineate the profession's scope of practice, counselor-client privilege, confidentiality, the client dangerous to self or others, treatment of minors with or without parental consent, relationship between practitioner's sense of self and human values, functions and relationships with other human service providers, strategies for collaboration, and advocacy processes needed to address institutional and social barriers that impede access, equity, and success for clients.

(2) In addition to the course requirements described in paragraph (1), a minimum of 12 semester units or 18 quarter units of advanced coursework to develop knowledge of specific treatment issues, special populations, application of counseling constructs, assessment and treatment planning, clinical interventions, therapeutic relationships, psychopathology, or other clinical topics.

(3) Not less than six semester units or nine quarter units of supervised practicum or field study experience that involves direct client contact in a clinical setting that provides a range of professional clinical counseling experience, including the following:

- (A) Applied psychotherapeutic techniques.
- (B) Assessment.
- (C) Diagnosis.
- (D) Prognosis.
- (E) Treatment.
- (F) Issues of development, adjustment, and maladjustment.
- (G) Health and wellness promotion.
- (H) Other recognized counseling interventions.

(I) A minimum of 150 hours of face-to-face supervised clinical experience counseling individuals, families, or groups.

(d) (1) (A) An applicant whose degree is deficient in no more than two of the required areas of study listed in subparagraphs (A) to (I), inclusive, of paragraph (1) of subdivision (c) may satisfy those deficiencies by successfully completing post-master's or postdoctoral degree coursework at an accredited or approved institution, as defined in Section 4999.12.

(B) Notwithstanding subparagraph (A), no an applicant whose application for a license is received by the board after August 31, 2020, or an applicant who is not registered as an associate by that date, shall not be deficient in the required areas of study specified in subparagraphs (E) or (G) of paragraph (1) of subdivision (c).

(2) Coursework taken to meet deficiencies in the required areas of study listed in subparagraphs (A) to (I), inclusive, of paragraph (1) of subdivision (c) shall be the equivalent of three semester units or four ~~and one-half~~ quarter units of study.

(3) The board shall make the final determination as to whether a degree meets all requirements, including, but not limited to, course requirements, regardless of accreditation.

(e) In addition to the degree described in this section, or as part of that degree, an applicant shall complete the following coursework or training prior to registration as an associate:

(1) A minimum of 15 contact hours of instruction in alcoholism and other chemical substance abuse dependency, as specified by regulation.

(2) A minimum of 10 contact hours of training or coursework in human sexuality as specified in Section 25, and any regulations promulgated thereunder.

(3) A two semester unit or three quarter unit survey course in psychopharmacology.

(4) A minimum of 15 contact hours of instruction in spousal or partner abuse assessment, detection, and intervention strategies, including knowledge of community resources, cultural factors, and same gender abuse dynamics.

(5) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28 and any regulations adopted thereunder.

(6) A minimum of 18 contact hours of instruction in California law and professional ethics for professional clinical counselors that includes, but is not limited to, instruction in advertising, scope of practice, scope of competence, treatment of minors, confidentiality, dangerous clients, psychotherapist-client privilege, recordkeeping, client access to records, dual relationships, child abuse, elder and dependent adult abuse, online therapy, insurance reimbursement, civil liability, disciplinary actions and unprofessional conduct, ethics complaints and ethical standards, termination of therapy, standards of care, relevant family law, therapist disclosures to clients, and state and federal laws related to confidentiality of patient health information. When coursework in a master's or doctoral degree program is acquired to satisfy this requirement, it shall be considered as part of the 48 semester unit or 72 quarter unit requirement in subdivision (c).

(7) A minimum of 10 contact hours of instruction in aging and long-term care, which may include, but is not limited to, the biological, social, and psychological aspects of aging. On and after January 1, 2012, this coursework shall include instruction on the assessment and reporting of, as well as treatment related to, elder and dependent adult abuse and neglect.

(8) A minimum of 15 contact hours of instruction in crisis or trauma counseling, including multidisciplinary responses to crises, emergencies, or disasters, and brief, intermediate, and long-term approaches.

(f) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2019, deletes or extends that date.

SEC. 5. Section 4999.33 of the Business and Professions Code is amended to read:

4999.33. (a) This section shall apply to the following:

(1) Applicants for licensure or registration who begin graduate study before August 1, 2012, and do not complete that study on or before December 31, 2018.

(2) Applicants for licensure or registration who begin graduate study before August 1, 2012, and who graduate from a degree program that meets the requirements of this section.

(3) Applicants for licensure or registration who begin graduate study on or after August 1, 2012.

(b) To qualify for licensure or registration, applicants shall possess a master's or doctoral degree that is counseling or psychotherapy in content and that meets the requirements of this section, obtained from an accredited or approved institution, as defined in Section 4999.12. For purposes of this subdivision, a degree is "counseling

or psychotherapy in content" if it contains the supervised practicum or field study experience described in paragraph (3) of subdivision (c) and, except as provided in subdivision (f), the coursework in the core content areas listed in subparagraphs (A) to (M), inclusive, of paragraph (1) of subdivision (c).

(c) The degree described in subdivision (b) shall contain not less than 60 graduate semester units or 90 graduate quarter units of instruction, which shall, except as provided in subdivision (f), include all of the following:

(1) The equivalent of at least three semester units or four ~~and one-half~~ quarter units of graduate study in all of the following core content areas:

(A) Counseling and psychotherapeutic theories and techniques, including the counseling process in a multicultural society, an orientation to wellness and prevention, counseling theories to assist in selection of appropriate counseling interventions, models of counseling consistent with current professional research and practice, development of a personal model of counseling, and multidisciplinary responses to crises, emergencies, and disasters.

(B) Human growth and development across the lifespan, including normal and abnormal behavior and an understanding of developmental crises, disability, psychopathology, and situational and environmental factors that affect both normal and abnormal behavior.

(C) Career development theories and techniques, including career development decisionmaking models and interrelationships among and between work, family, and other life roles and factors, including the role of multicultural issues in career development.

(D) Group counseling theories and techniques, including principles of group dynamics, group process components, group developmental stage theories, therapeutic factors of group work, group leadership styles and approaches, pertinent research and literature, group counseling methods, and evaluation of effectiveness.

(E) Assessment, appraisal, and testing of individuals, including basic concepts of standardized and nonstandardized testing and other assessment techniques, norm-referenced and criterion-referenced assessment, statistical concepts, social and cultural factors related to assessment and evaluation of individuals and groups, and ethical strategies for selecting, administering, and interpreting assessment instruments and techniques in counseling.

(F) Multicultural counseling theories and techniques, including counselors' roles in developing cultural self-awareness, identity development, promoting cultural social justice, individual and community strategies for working with and advocating for diverse populations, and counselors' roles in eliminating biases and prejudices, and processes of intentional and unintentional oppression and discrimination.

(G) Principles of the diagnostic process, including differential diagnosis, and the use of current diagnostic tools, such as the current edition of the Diagnostic and Statistical Manual, the impact of co-occurring substance use disorders or medical psychological disorders, established diagnostic criteria for mental or emotional disorders, and the treatment modalities and placement criteria within the continuum of care.

(H) Research and evaluation, including studies that provide an understanding of research methods, statistical analysis, the use of research to inform evidence-based practice, the importance of research in advancing the profession of counseling, and

statistical methods used in conducting research, needs assessment, and program evaluation.

(I) Professional orientation, ethics, and law in counseling, including California law and professional ethics for professional clinical counselors, professional ethical standards and legal considerations, licensing law and process, regulatory laws that delineate the profession's scope of practice, counselor-client privilege, confidentiality, the client dangerous to self or others, treatment of minors with or without parental consent, relationship between practitioner's sense of self and human values, functions and relationships with other human service providers, strategies for collaboration, and advocacy processes needed to address institutional and social barriers that impede access, equity, and success for clients.

(J) Psychopharmacology, including the biological bases of behavior, basic classifications, indications, and contraindications of commonly prescribed psychopharmacological medications so that appropriate referrals can be made for medication evaluations and so that the side effects of those medications can be identified.

(K) Addictions counseling, including substance abuse, co-occurring disorders, and addiction, major approaches to identification, evaluation, treatment, and prevention of substance abuse and addiction, legal and medical aspects of substance abuse, populations at risk, the role of support persons, support systems, and community resources.

(L) Crisis or trauma counseling, including crisis theory; multidisciplinary responses to crises, emergencies, or disasters; cognitive, affective, behavioral, and neurological effects associated with trauma; brief, intermediate, and long-term approaches; and assessment strategies for clients in crisis and principles of intervention for individuals with mental or emotional disorders during times of crisis, emergency, or disaster.

(M) Advanced counseling and psychotherapeutic theories and techniques, including the application of counseling constructs, assessment and treatment planning, clinical interventions, therapeutic relationships, psychopathology, or other clinical topics.

(2) In addition to the course requirements described in paragraph (1), 15 semester units or 22.5 quarter units of advanced coursework to develop knowledge of specific treatment issues or special populations.

(3) Not less than six semester units or nine quarter units of supervised practicum or field study experience that involves direct client contact in a clinical setting that provides a range of professional clinical counseling experience, including the following:

(A) Applied psychotherapeutic techniques.

(B) Assessment.

(C) Diagnosis.

(D) Prognosis.

(E) Treatment.

(F) Issues of development, adjustment, and maladjustment.

(G) Health and wellness promotion.

(H) Professional writing including documentation of services, treatment plans, and progress notes.

(I) How to find and use resources.

(J) Other recognized counseling interventions.

(K) A minimum of 280 hours of face-to-face supervised clinical experience counseling individuals, families, or groups.

(d) The 60 graduate semester units or 90 graduate quarter units of instruction required pursuant to subdivision (c) shall, in addition to meeting the requirements of subdivision (c), include instruction in all of the following:

(1) The understanding of human behavior within the social context of socioeconomic status and other contextual issues affecting social position.

(2) The understanding of human behavior within the social context of a representative variety of the cultures found within California.

(3) Cultural competency and sensitivity, including a familiarity with the racial, cultural, linguistic, and ethnic backgrounds of persons living in California.

(4) An understanding of the effects of socioeconomic status on treatment and available resources.

(5) Multicultural development and cross-cultural interaction, including experiences of race, ethnicity, class, spirituality, sexual orientation, gender, and disability and their incorporation into the psychotherapeutic process.

(6) Case management, systems of care for the severely mentally ill, public and private services for the severely mentally ill, community resources for victims of abuse, disaster and trauma response, advocacy for the severely mentally ill, and collaborative treatment. The instruction required in this paragraph may be provided either in credit level coursework or through extension programs offered by the degree-granting institution.

(7) Human sexuality, including the study of the physiological, psychological, and social cultural variables associated with sexual behavior, gender identity, and the assessment and treatment of psychosexual dysfunction.

(8) Spousal or partner abuse assessment, detection, intervention strategies, and same gender abuse dynamics.

(9) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting, as specified in Section 28, and any regulations promulgated thereunder.

(10) Aging and long-term care, including biological, social, cognitive, and psychological aspects of aging. This coursework shall include instruction on the assessment and reporting of, as well as treatment related to, elder and dependent adult abuse and neglect.

(e) A degree program that qualifies for licensure under this section shall do all of the following:

(1) Integrate the principles of mental health recovery-oriented care and methods of service delivery in recovery-oriented practice environments.

(2) Integrate an understanding of various cultures and the social and psychological implications of socioeconomic position.

(3) Provide the opportunity for students to meet with various consumers and family members of consumers of mental health services to enhance understanding of their experience of mental illness, treatment, and recovery.

(f) (1) (A) An applicant whose degree is deficient in no more than three of the required areas of study listed in subparagraphs (A) to (M), inclusive, of paragraph (1) of subdivision (c) may satisfy those deficiencies by successfully completing

post-master's or postdoctoral degree coursework at an accredited or approved institution, as defined in Section 4999.12.

(B) Notwithstanding subparagraph (A), ~~no~~ an applicant whose application for a license is received by the board after August 31, 2020, or an applicant who is not registered as an associate by that date, shall not be deficient in the required areas of study specified in subparagraphs (E) or (G) of paragraph (1) of subdivision (c).

(2) Coursework taken to meet deficiencies in the required areas of study listed in subparagraphs (A) to (M), inclusive, of paragraph (1) of subdivision (c) shall be the equivalent of three semester units or four ~~and one-half~~ quarter units of study.

(3) The board shall make the final determination as to whether a degree meets all requirements, including, but not limited to, course requirements, regardless of accreditation.

SEC. 6. Section 4999.62 of the Business and Professions Code is amended to read:

4999.62. (a) This section applies to persons who apply for licensure or registration on or after January 1, 2016, and who do not hold a license as described in Section 4999.60.

(b) For purposes of Section 4999.61, education is substantially equivalent if all of the following requirements are met:

(1) The degree is obtained from an accredited or approved institution, as defined in Section 4999.12, and consists of, at a minimum, the following:

(A) (i) For an applicant who obtained his or her degree within the timeline prescribed by subdivision (a) of Section 4999.33 the degree shall contain no less than 60 graduate semester units or 90 graduate quarter units of instruction.

(ii) Up to 12 semester units or 18 quarter units of instruction may be remediated, if missing from the degree. The remediation may occur while the applicant is registered as an associate.

(B) For an applicant who obtained his or her degree within the timeline prescribed by subdivision (a) of Section 4999.32 the degree shall contain no less than 48 graduate semester units or 72 graduate quarter units of instruction.

(C) Six semester units or nine quarter units of practicum, including, but not limited to, a minimum of 280 hours of face-to-face supervised clinical experience counseling individuals, families, or groups.

(D) The required areas of study listed in subparagraphs (A) to (M), inclusive, of paragraph (1) of subdivision (c) of Section 4999.33.

(i) (I) An applicant whose degree is deficient in no more than six of the required areas of study listed in subparagraphs (A) to (M), inclusive, of paragraph (1) of subdivision (c) of Section 4999.33 may satisfy those deficiencies by successfully completing graduate level coursework at an accredited or approved institution, as defined in Section 4999.12. Coursework taken to meet any deficiencies shall be the equivalent of three semester units or four ~~and one-half~~ quarter units of study.

(II) Notwithstanding subclause (I), no applicant shall be deficient in the required areas of study specified in subparagraph (E) or (G) of paragraph (1) of subdivision (c) of Section 4999.33.

(ii) An applicant who completed a course in professional orientation, ethics, and law in counseling as required by subparagraph (I) of paragraph (1) of subdivision (c) of Section 4999.33 that did not contain instruction in California law and ethics shall

complete an 18-hour course in California law and professional ethics that includes, but is not limited to, instruction in advertising, scope of practice, scope of competence, treatment of minors, confidentiality, dangerous clients, psychotherapist-client privilege, recordkeeping, client access to records, state and federal laws relating to confidentiality of patient health information, dual relationships, child abuse, elder and dependent adult abuse, online therapy, insurance reimbursement, civil liability, disciplinary actions and unprofessional conduct, ethics complaints and ethical standards, termination of therapy, standards of care, relevant family law, and therapist disclosures to clients. An applicant shall complete this coursework prior to registration as an associate.

(iii) An applicant who has not completed a course in professional orientation, ethics, and law in counseling as required by subparagraph (I) of paragraph (1) of subdivision (c) of Section 4999.33 shall complete this required coursework, including content in California law and ethics. An applicant shall complete this coursework prior to registration as an associate.

(2) The applicant completes any units required by subdivision (c) of Section 4999.33 not already completed in his or her education as follows:

(A) At least 15 semester units or 22.5 quarter units of advanced coursework to develop knowledge of specific treatment issues or special populations. This coursework is in addition to the course requirements described in subparagraph (D) of paragraph (1).

(B) Coursework shall be from an accredited or approved school, college, or university as defined in Section 4999.12.

(3) (A) The applicant completes the following coursework not already completed in his or her education:

(i) A minimum of 10 contact hours of training in human sexuality, as specified in Section 25 and any regulations promulgated thereunder, including the study of the physiological, psychological, and social cultural variables associated with sexual behavior, gender identity, and the assessment and treatment of psychosexual dysfunction.

(ii) A minimum of 15 contact hours of instruction in spousal or partner abuse assessment, detection, intervention strategies, and same-gender abuse dynamics.

(iii) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28 and any regulations promulgated thereunder.

(iv) A minimum of 10 contact hours of instruction in aging and long-term care, including biological, social, cognitive, and psychological aspects of aging. This coursework shall include instruction on the assessment and reporting of, as well as treatment related to, elder and dependent adult abuse and neglect.

(B) This coursework may be from an accredited or approved school, college, or university as defined in Section 4999.12, or from a continuing education provider that is acceptable to the board as defined in Section 4999.76. Undergraduate coursework shall not satisfy this requirement.

(4) The applicant completes the following coursework not already completed in his or her education from an accredited or approved school, college, or university as defined in Section 4999.12, or from a continuing education provider that is acceptable to the board as defined in Section 4999.76. Undergraduate coursework shall not satisfy this requirement.

(A) At least three semester units, or 45 hours, of instruction regarding the principles of mental health recovery-oriented care and methods of service delivery in recovery-oriented practice environments, including structured meetings with various consumers and family members of consumers of mental health services to enhance understanding of their experiences of mental illness, treatment, and recovery.

(B) At least one semester unit, or 15 hours, of instruction that includes an understanding of various California cultures and the social and psychological implications of socioeconomic position.

(5) An applicant may complete any units and course content requirements required under paragraph (2), (3), or (4) not already completed in his or her education while registered with the board as an associate.

SEC. 7. Section 4999.63 of the Business and Professions Code is amended to read:

4999.63. (a) This section applies to persons who apply for licensure or registration on or after January 1, 2016, and who hold a license as described in Section 4999.60.

(b) For purposes of Section 4999.60, education is substantially equivalent if all of the following requirements are met:

(1) The degree is obtained from an accredited or approved institution, as defined in Section 4999.12, and consists of the following:

(A) (i) For an applicant who obtained his or her degree within the timeline prescribed by subdivision (a) of Section 4999.33 the degree shall contain no less than 60 graduate semester or 90 graduate quarter units of instruction.

(ii) Up to 12 semester units or 18 quarter units of instruction may be remediated, if missing from the degree. The remediation may occur while the applicant is registered as an associate.

(B) For an applicant who obtained his or her degree within the timeline prescribed by subdivision (a) of Section 4999.32 the degree shall contain no less than 48 graduate semester or 72 graduate quarter units of instruction.

(C) Six semester units or nine quarter units of practicum, including, but not limited to, a minimum of 280 hours of face-to-face supervised clinical experience counseling individuals, families, or groups.

(i) An applicant who has been licensed for at least two years in clinical practice, as verified by the board, is exempt from this requirement.

(ii) An out-of-state applicant who has been licensed for less than two years in clinical practice, as verified by the board, who does not meet the practicum requirement, shall remediate the requirement by demonstrating completion of a total of 280 hours of face-to-face supervised clinical experience, as specified in subparagraph (K) of paragraph (3) of subdivision (c) of Section 4999.33. Any postdegree hours gained to meet this requirement are in addition to the 3,000 hours of experience required by this chapter, and shall be gained while the applicant is registered with the board as an associate.

(D) The required areas of study specified in subparagraphs (A) to (M), inclusive, of paragraph (1) of subdivision (c) of Section 4999.33.

(i) (I) An applicant whose degree is deficient in no more than six of the required areas of study specified in subparagraphs (A) to (M), inclusive, of paragraph (1) of subdivision (c) of Section 4999.33 may satisfy those deficiencies by successfully

completing graduate level coursework at an accredited or approved institution, as defined in Section 4999.12. Coursework taken to meet any deficiencies shall be the equivalent of three semester units or four ~~and one-half~~ quarter units of study.

(II) Notwithstanding subclause (I), no applicant shall be deficient in the required areas of study specified in subparagraphs (E) or (G) of paragraph (1) of subdivision (c) of Section 4999.33.

(ii) An applicant who completed a course in professional orientation, ethics, and law in counseling as required by subparagraph (I) of paragraph (1) of subdivision (c) of Section 4999.33 that did not contain instruction in California law and ethics shall complete an 18-hour course in California law and professional ethics that includes, but is not limited to, instruction in advertising, scope of practice, scope of competence, treatment of minors, confidentiality, dangerous clients, psychotherapist-client privilege, recordkeeping, client access to records, state and federal laws relating to confidentiality of patient health information, dual relationships, child abuse, elder and dependent adult abuse, online therapy, insurance reimbursement, civil liability, disciplinary actions and unprofessional conduct, ethics complaints and ethical standards, termination of therapy, standards of care, relevant family law, and therapist disclosures to clients. An applicant shall complete this coursework prior to registration as an associate.

(iii) An applicant who has not completed a course in professional orientation, ethics, and law in counseling as required by subparagraph (I) of paragraph (1) of subdivision (c) of Section 4999.33 shall complete this required coursework, including content in California law and ethics. An applicant shall complete this coursework prior to registration as an associate.

(2) The applicant completes any units required under subdivision (c) of Section 4999.33 not already completed in his or her education as follows:

(A) At least 15 semester units or 22.5 quarter units of advanced coursework to develop knowledge of specific treatment issues or special populations. This coursework is in addition to the course requirements described in subparagraph (D) of paragraph (1).

(B) Coursework shall be from an accredited or approved school, college, or university as defined in Section 4999.12.

(3) The applicant completes the following coursework not already completed in his or her education:

(A) A minimum of 10 contact hours of training in human sexuality, as specified in Section 25 and any regulations promulgated thereunder, including the study of the physiological, psychological, and social cultural variables associated with sexual behavior, gender identity, and the assessment and treatment of psychosexual dysfunction.

(B) A minimum of 15 contact hours of instruction in spousal or partner abuse assessment, detection, intervention strategies, and same-gender abuse dynamics.

(C) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28 and any regulations promulgated under that section.

(D) A minimum of 10 contact hours of instruction in aging and long-term care, including biological, social, cognitive, and psychological aspects of aging. This coursework shall include instruction on the assessment and reporting of, as well as treatment related to, elder and dependent adult abuse and neglect.

(E) This coursework may be from an accredited or approved school, college, or university as defined in Section 4999.12, or from a continuing education provider that is acceptable to the board as defined in Section 4999.76. Undergraduate coursework shall not satisfy this requirement.

(4) The applicant completes the following coursework not already completed in his or her education from an accredited or approved school, college, or university as defined in Section 4999.12, or from a continuing education provider that is acceptable to the board as defined in Section 4999.76. Undergraduate coursework shall not satisfy this requirement.

(A) At least three semester units or 45 hours of instruction regarding the principles of mental health recovery-oriented care and methods of service delivery in recovery-oriented practice environments, including structured meetings with various consumers and family members of consumers of mental health services to enhance understanding of their experience of mental illness, treatment, and recovery.

(B) At least one semester unit or 15 hours of instruction that includes an understanding of various California cultures and the social and psychological implications of socioeconomic position.

(5) An applicant may complete any units and course content requirements required by subparagraph (D) of paragraph (1) or paragraphs (2), (3), and (4) not already completed in his or her education while registered with the board as an associate, unless otherwise specified.

SEC. 8. Section 56.105 of the Civil Code is amended to read:

56.105. Whenever, prior to the service of a complaint upon a defendant in any action arising out of the professional negligence of a person holding a valid physician's and surgeon's certificate issued pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, ~~or a person holding a valid license as a marriage and family therapist issued pursuant to Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code, a person holding a valid license as a clinical social worker issued pursuant to Chapter 14 (commencing with Section 4991) of Division 2 of the Business and Professions Code, or a person holding a valid license as a professional clinical counselor issued pursuant to Chapter 16 (commencing with Section 4999.10) of Division 2 of the Business and Professions Code,~~ a demand for settlement or offer to compromise is made on a patient's behalf, the demand or offer shall be accompanied by an authorization to disclose medical information to persons or organizations insuring, responsible for, or defending professional liability that the certificate holder may incur. The authorization shall be in accordance with Section 56.11 and shall authorize disclosure of that information that is necessary to investigate issues of liability and extent of potential damages in evaluating the merits of the demand for settlement or offer to compromise.

Notice of any request for medical information made pursuant to an authorization as provided by this section shall be given to the patient or the patient's legal representative. The notice shall describe the inclusive subject matter and dates of the materials requested and shall also authorize the patient or the patient's legal representative to receive, upon request, copies of the information at his or her expense.

Nothing in this section shall be construed to waive or limit any applicable privileges set forth in the Evidence Code except for the disclosure of medical information subject to the patient's authorization. Nothing in this section shall be

construed as authorizing a representative of any person from whom settlement has been demanded to communicate in violation of the physician-patient privilege with a treating physician, or to communicate in violation of the psychotherapist-patient privilege with a treating licensed marriage and family therapist, licensed clinical social worker, or licensed professional clinical counselor, except for the medical information request.

The requirements of this section are independent of the requirements of Section 364 of the Code of Civil Procedure.

SEC. 9. Section 35160.5 of the Education Code is amended to read:

35160.5. (a) The governing board of a school district that maintains one or more schools containing any of grades 7 to 12, inclusive, as a condition for the receipt of inflation adjustments pursuant to Section 42238.02, as implemented by Section 42238.03, shall establish a school district policy regarding participation in extracurricular and cocurricular activities by pupils in grades 7 to 12, inclusive. The criteria, which shall be applied to extracurricular and cocurricular activities, shall ensure that pupil participation is conditioned upon satisfactory educational progress in the previous grading period.

(1) For purposes of this subdivision, "extracurricular activity" means a program that has all of the following characteristics:

(A) The program is supervised or financed by the school district.

(B) Pupils participating in the program represent the school district.

(C) Pupils exercise some degree of freedom in either the selection, planning, or control of the program.

(D) The program includes both preparation for performance and performance before an audience or spectators.

(2) For purposes of this subdivision, an "extracurricular activity" is not part of the regular school curriculum, is not graded, does not offer credit, and does not take place during classroom time.

(3) For purposes of this subdivision, a "cocurricular activity" is defined as a program that may be associated with the curriculum in a regular classroom.

(4) ~~Any~~ A teacher graded or required program or activity for a course that satisfies the entrance requirements for admission to the California State University or the University of California is not an extracurricular or cocurricular activity as defined by this section.

(5) For purposes of this subdivision, "satisfactory educational progress" shall include, but not necessarily be limited to, both of the following:

(A) Maintenance of minimum passing grades, which is defined as at least a 2.0 grade point average in all enrolled courses on a 4.0 scale.

(B) Maintenance of minimum progress toward meeting the high school graduation requirements prescribed by the governing board.

(6) For purposes of this subdivision, "previous grading period" does not include a grading period in which the pupil was not in attendance for all, or a majority of, the grading period due to absences excused by the school for reasons such as serious illness or injury, approved travel, or work. In that event, "previous grading period" is deemed to mean the grading period immediately prior to the grading period or periods excluded pursuant to this paragraph.

(7) A program that has, as its primary goal, the improvement of academic or educational achievements of pupils is not an extracurricular or cocurricular activity as defined by this section.

(8) The governing board of each school district may adopt, as part of its policy established pursuant to this subdivision, provisions that would allow a pupil who does not achieve satisfactory educational progress, as defined in paragraph (5), in the previous grading period to remain eligible to participate in extracurricular and cocurricular activities during a probationary period. The probationary period shall not exceed one semester in length, but may be for a shorter period of time, as determined by the governing board of the school district. A pupil who does not achieve satisfactory educational progress, as defined in paragraph (5), during the probationary period shall not be allowed to participate in extracurricular and cocurricular activities in the subsequent grading period.

(9) ~~Nothing in this subdivision shall~~ This subdivision does not preclude the governing board of a school district from imposing a more stringent academic standard than that imposed by this subdivision. If the governing board of a school district imposes a more stringent academic standard, the governing board shall establish the criteria for participation in extracurricular and cocurricular activities at a meeting open to the public pursuant to Section 35145.

(10) The governing board of each school district annually shall review the school district policies adopted pursuant to the requirements of this section.

(b) (1) On or before July 1, 1994, the governing board of each school district, as a condition for the receipt of school apportionments from the state school fund, shall adopt rules and regulations establishing a policy of open enrollment within the district for residents of the district. This requirement does not apply to a school district that has only one school or a school district with schools that do not serve any of the same grade levels.

(2) The policy shall include all of the following elements:

(A) It shall provide that the parent or guardian of each schoolage child who is a resident in the district may select the schools the child shall attend, irrespective of the particular locations of his or her residence within the district, except that school districts shall retain the authority to maintain appropriate racial and ethnic balances among their respective schools at the school districts' discretion or as specified in applicable court-ordered or voluntary desegregation plans.

(B) It shall include a selection policy for a school that receives requests for admission in excess of the capacity of the school that ensures that selection of pupils to enroll in the school is made through a random, unbiased process that prohibits an evaluation of whether a pupil should be enrolled based upon his or her academic or athletic performance. The governing board of a school district shall calculate the capacity of the schools in the district for purposes of this subdivision in a nonarbitrary manner using pupil enrollment and available space. However, school districts may employ existing entrance criteria for specialized schools or programs if the criteria are uniformly applied to all applicants. This subdivision shall not be construed to prohibit school districts from using academic performance to determine eligibility for, or placement in, programs for gifted and talented pupils established pursuant to former Chapter 8 (commencing with Section 52200) of Part 28 of Division 4, as that chapter read on January 1, 2014.

(C) It shall provide that ~~no~~ a pupil who currently resides in the attendance area of a school shall not be displaced by pupils transferring from outside the attendance area.

(3) Notwithstanding the requirement of subparagraph (B) of paragraph (2) that the policy include a selection policy for a school that receives requests for admission in excess of the capacity of the school that ensures that the selection is made through a random, unbiased process, the policy may include either of the following elements:

(A) (i) It may provide that special circumstances exist that might be harmful or dangerous to a particular pupil in the current attendance area of the pupil, including, but not necessarily limited to, threats of bodily harm or threats to the emotional stability of the pupil, that serve as a basis for granting a priority of attendance outside the current attendance area of the pupil. A finding of harmful or dangerous special circumstances shall be based upon either of the following:

(I) A written statement from a representative of the appropriate state or local agency, including, but not necessarily limited to, a law enforcement official or a social worker, or properly licensed or registered professionals, including, but not necessarily limited to, psychiatrists, psychologists, ~~or marriage and family therapists, therapists,~~ clinical social workers, or professional clinical counselors.

(II) A court order, including a temporary restraining order and injunction, issued by a judge.

(ii) A finding of harmful or dangerous special circumstances pursuant to this subparagraph may be used by a school district to approve transfers within the district to schools that have been deemed by the school district to be at capacity and otherwise closed to transfers that are not based on harmful or dangerous special circumstances.

(B) It may provide that schools receiving requests for admission shall give priority for attendance to siblings of pupils already in attendance in that school and to pupils whose parent or legal guardian is assigned to that school as his or her primary place of employment.

(4) To the extent required and financed by federal law and at the request of the pupil's parent or guardian, each school district shall provide transportation assistance to the pupil.

SEC. 10. Section 3110.5 of the Family Code is amended to read:

3110.5. (a) ~~No~~ A person may be a court-connected or private child custody evaluator under this chapter ~~unless only if~~ the person has completed the domestic violence and child abuse training program described in Section 1816 and has complied with Rules 5.220 and 5.230 of the California Rules of Court.

(b) (1) On or before January 1, 2002, the Judicial Council shall formulate a statewide rule of court that establishes education, experience, and training requirements for all child custody evaluators appointed pursuant to this chapter, Section 730 of the Evidence Code, or Chapter 15 (commencing with Section 2032.010) of Title 4 of Part 4 of the Code of Civil Procedure.

(A) The rule shall require a child custody evaluator to declare under penalty of perjury that he or she meets all of the education, experience, and training requirements specified in the rule and, if applicable, possesses a license in good standing. The Judicial Council shall establish forms to implement this section. The rule shall permit court-connected evaluators to conduct evaluations if they meet all of the qualifications established by the Judicial Council. The education, experience, and training requirements

to be specified for court-connected evaluators shall include, but not be limited to, knowledge of the psychological and developmental needs of children and parent-child relationships.

(B) The rule shall require all evaluators to utilize comparable interview, assessment, and testing procedures for all parties that are consistent with generally accepted clinical, forensic, scientific, diagnostic, or medical standards. The rule shall also require evaluators to inform each adult party of the purpose, nature, and method of the evaluation.

(C) The rule may allow courts to permit the parties to stipulate to an evaluator of their choosing with the approval of the court under the circumstances set forth in subdivision (d). The rule may require courts to provide general information about how parties can contact qualified child custody evaluators in their county.

(2) On or before January 1, 2004, the Judicial Council shall include in the statewide rule of court created pursuant to this section a requirement that all court-connected and private child custody evaluators receive training in the nature of child sexual abuse. The Judicial Council shall develop standards for this training that shall include, but not be limited to, the following:

(A) Children's patterns of hiding and disclosing sexual abuse occurring in a family setting.

(B) The effects of sexual abuse on children.

(C) The nature and extent of child sexual abuse.

(D) The social and family dynamics of child sexual abuse.

(E) Techniques for identifying and assisting families affected by child sexual abuse.

(F) Legal rights, protections, and remedies available to victims of child sexual abuse.

(c) In addition to the education, experience, and training requirements established by the Judicial Council pursuant to subdivision (b), on or after January 1, 2005, ~~no~~ a person may be a child custody evaluator under this chapter, Section 730 of the Evidence Code, or Chapter 15 (commencing with Section 2032.010) of Title 4 of Part 4 of the Code of Civil Procedure ~~unless only if~~ the person meets one of the following criteria:

(1) He or she is licensed as a physician under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code and either is a board certified psychiatrist or has completed a residency in psychiatry.

(2) He or she is licensed as a psychologist under Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code.

(3) He or she is licensed as a marriage and family therapist under Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code.

(4) He or she is licensed as a clinical social worker under Article 4 (commencing with Section 4996) of Chapter 14 of Division 2 of the Business and Professions Code.

(5) He or she is licensed as a professional clinical counselor under Chapter 16 (commencing with Section 4999.10) of Division 2 of the Business and Professions Code.

~~(5)~~

(6) He or she is a court-connected evaluator who has been certified by the court as meeting all of the qualifications for court-connected evaluators as specified by the Judicial Council pursuant to subdivision (b).

(d) Subdivision (c) does not apply in ~~any case where~~ a case in which the court determines that there are no evaluators who meet the criteria of subdivision (c) who are willing and available, within a reasonable period of time, to perform child custody evaluations. In those cases, the parties may stipulate to an individual who does not meet the criteria of subdivision (c), subject to approval by the court.

(e) A child custody evaluator who is licensed by the Medical Board of California, the Board of Psychology, or the Board of Behavioral Sciences shall be subject to disciplinary action by that board for unprofessional conduct, as defined in the licensing law applicable to that licensee.

(f) On or after January 1, 2005, a court-connected or private child custody evaluator may not evaluate, investigate, or mediate an issue of child custody in a proceeding pursuant to this division unless that person has completed child sexual abuse training as required by this section.

SEC. 11. Section 7663 of the Family Code is amended to read:

7663. (a) In an effort to identify all alleged fathers and presumed parents, the court shall cause inquiry to be made of the mother and any other appropriate person by one of the following:

- (1) The State Department of Social Services.
- (2) A licensed county adoption agency.
- (3) The licensed adoption agency to which the child is to be relinquished.
- (4) In the case of a stepparent adoption, the licensed clinical social ~~worker or worker,~~ licensed marriage and family therapist, or licensed professional clinical counselor who is performing the investigation pursuant to Section 9001, if applicable. In the case of a stepparent adoption in which ~~no a~~ no a licensed clinical social ~~worker or worker,~~ licensed marriage and family therapist, or licensed professional clinical counselor is ~~not~~ not performing the investigation pursuant to Section 9001, the board of supervisors may assign those inquiries to a licensed county adoption agency, the county department designated by the board of supervisors to administer the public social services program, or the county probation department.

(b) The inquiry shall include all of the following:

- (1) Whether the mother was married at the time of conception of the child or at any time thereafter.
- (2) Whether the mother was cohabiting with a man at the time of conception or birth of the child.
- (3) Whether the mother has received support payments or promises of support with respect to the child or in connection with her pregnancy.
- (4) Whether any person has formally or informally acknowledged or declared his or her possible parentage of the child.
- (5) The names and whereabouts, if known, of every person presumed or man alleged to be the parent of the child, and the efforts made to give notice of the proposed adoption to each person identified.

(c) The agency that completes the inquiry shall file a written report of the findings with the court.

SEC. 12. Section 7827 of the Family Code is amended to read:

7827. (a) "Mentally disabled" as used in this section means that a parent or parents suffer a mental incapacity or disorder that renders the parent or parents unable to care for and control the child adequately.

(b) A proceeding under this part may be brought ~~where~~ if the child is one whose parent or parents are mentally disabled and are likely to remain so in the foreseeable future.

(c) Except as provided in subdivision (d), the evidence of any two experts, each of whom shall be a physician and surgeon, certified either by the American Board of Psychiatry and Neurology or under Section 6750 of the Welfare and Institutions Code, a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders, is required to support a finding under this section. In addition to this requirement, the court shall have the discretion to call a licensed marriage and family therapist, a licensed professional clinical counselor, or a licensed clinical social worker, either of whom shall have at least five years of relevant postlicensure experience, in circumstances ~~where~~ in which the court determines that this testimony is in the best interest of the child and is warranted by the circumstances of the particular family or parenting issues involved. However, the court may not call a licensed marriage and family ~~therapist~~ therapist, licensed professional clinical counselor, or licensed clinical social worker pursuant to this section who is the adoption service provider, as defined in Section 8502, of the child who is the subject of the petition to terminate parental rights.

(d) If the parent or parents reside in another state or in a foreign country, the evidence required by this section may be supplied by the affidavits of two experts, each of whom shall be either of the following:

(1) A physician and surgeon who is a resident of that state or foreign country, and who has been certified by a medical organization or society of that state or foreign country to practice psychiatric or neurological medicine.

(2) A licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders and who is licensed in that state or authorized to practice in that country.

(e) If the rights of a parent are sought to be terminated pursuant to this section, and the parent ~~has no~~ does not have an attorney, the court shall appoint an attorney for the parent pursuant to Article 4 (commencing with Section 7860) of Chapter 3, whether or not a request for the appointment is made by the parent.

SEC. 13. Section 7850 of the Family Code is amended to read:

7850. Upon the filing of a petition under Section 7841, the clerk of the court shall, in accordance with the direction of the court, immediately notify the juvenile probation officer, qualified court investigator, licensed clinical social worker, licensed marriage and family therapist, licensed professional clinical counselor, or the county department designated by the board of supervisors to administer the public social services program, who shall immediately investigate the circumstances of the child and the circumstances which are alleged to bring the child within any ~~of the provisions~~ provision of Chapter 2 (commencing with Section 7820).

SEC. 14. Section 7851 of the Family Code is amended to read:

7851. (a) The juvenile probation officer, qualified court investigator, licensed clinical social worker, licensed marriage and family therapist, licensed professional clinical counselor, or the county department shall render to the court a written report

of the investigation with a recommendation of the proper disposition to be made in the proceeding in the best interest of the child.

(b) The report shall include all of the following:

(1) A statement that the person making the report explained to the child the nature of the proceeding to end parental custody and control.

(2) A statement of the child's feelings and thoughts concerning the pending proceeding.

(3) A statement of the child's attitude towards the child's parent or parents and particularly whether or not the child would prefer living with his or her parent or parents.

(4) A statement that the child was informed of the child's right to attend the hearing on the petition and the child's feelings concerning attending the hearing.

(c) If the age, or the physical, emotional, or other condition of the child precludes the child's meaningful response to the explanations, inquiries, and information required by subdivision (b), a description of the condition shall satisfy the requirement of that subdivision.

(d) The court shall receive the report in evidence and shall read and consider its contents in rendering the court's judgment.

SEC. 15. Section 8502 of the Family Code is amended to read:

8502. (a) "Adoption service provider" means any of the following:

(1) A licensed private adoption agency.

(2) An individual who has presented satisfactory evidence to the department that he or she is a licensed clinical social worker who also has a minimum of five years of experience providing professional social work services while employed by a licensed California adoption agency or the department.

(3) In a state other than California, or a country other than the United States, an adoption agency licensed or otherwise approved under the laws of that state or country, or an individual who is licensed or otherwise certified as a clinical social worker under the laws of that state or country.

(4) An individual who has presented satisfactory evidence to the department that he or she is a licensed marriage and family therapist who has a minimum of five years of experience providing professional adoption casework services while employed by a licensed California adoption agency or the department. The department shall review the qualifications of each individual to determine if he or she has performed professional adoption casework services for five years as required by this section while employed by a licensed California adoption agency or the department.

(5) An individual who has presented satisfactory evidence to the department that he or she is a licensed professional clinical counselor who has a minimum of five years' experience providing professional adoption casework services while employed by a licensed California adoption agency or the department. The department shall review the credentials of each individual to determine if he or she has performed professional adoption casework services as required by this paragraph.

(b) If, in the case of a birth parent located in California, at least three adoption service providers are not reasonably available, or, in the case of a birth parent located outside of California or outside of the United States who has contacted at least three potential adoption service providers and been unsuccessful in obtaining the services of an adoption service provider who is reasonably available and willing to provide

services, independent legal counsel for the birth parent may serve as an adoption service provider pursuant to subdivision (e) of Section 8801.5. "Reasonably available" means that an adoption service provider is all of the following:

(1) Available within five days for an advisement of rights pursuant to Section 8801.5, or within 24 hours for the signing of the placement agreement pursuant to paragraph (3) of subdivision (b) of Section 8801.3.

(2) Within 100 miles of the birth mother.

(3) Available for a cost not exceeding five hundred dollars (\$500) to make an advisement of rights and to witness the signing of the placement agreement.

(c) ~~Where~~ If an attorney acts as an adoption service provider, the fee to make an advisement of rights and to witness the signing of the placement agreement shall not exceed five hundred dollars (\$500).

SEC. 16. Section 9001 of the Family Code is amended to read:

9001. (a) Except as provided in Section 9000.5, before granting or denying a stepparent adoption request, the court shall review and consider a written investigative report. The report in a stepparent adoption case shall not require a home study unless so ordered by the court upon request of an investigator or interested person, or on the court's own motion. "Home study" as used in this section means a physical investigation of the premises where the child is residing.

(b) At the time of filing the adoption request, the petitioner shall inform the court in writing if the petitioner is electing to have the investigation and written report completed by a licensed clinical social worker, a licensed marriage and family therapist, a licensed professional clinical counselor, or a private licensed adoption agency, in which cases the petitioner shall not be required to pay ~~any an~~ investigation fee pursuant to Section 9002 at the time of filing, but shall pay these fees directly to the investigator. Absent that notification, the court may, at the time of filing, collect an investigation fee pursuant to Section 9002, and may assign one of the following to complete the investigation: a probation officer, a qualified court investigator, or the county welfare department, if so authorized by the board of supervisors of the county where the action is pending.

(c) If a private licensed adoption agency conducts the investigation, it shall assign the investigation to a licensed clinical social worker or licensed marriage and family therapist associated with the agency. ~~Any A~~ grievance regarding the investigation shall be directed to the licensing authority of the clinical social ~~worker worker~~, licensed professional clinical counselor, or marriage and family therapist, as applicable.

(d) ~~Nothing in this section shall be construed to~~ This section does not require the State Department of Social Services to issue regulations for stepparent adoptions.

SEC. 17. Section 3209.8 of the Labor Code is amended to read:

3209.8. Treatment reasonably required to cure or relieve from the effects of an injury shall include the services of marriage and family ~~therapists therapists~~, professional clinical counselors, and clinical social workers licensed by California state law and within the scope of their practice as defined by California state law if the injured person is referred to the marriage and family ~~therapist therapist~~, the professional clinical counselor, or the clinical social worker by a licensed physician and surgeon, with the approval of the employer, for treatment of a condition arising out of the injury. ~~Nothing in this section shall be construed to~~ This section does not authorize marriage and family ~~therapists therapists~~, professional clinical counselors, or clinical social workers to

determine disability for the purposes of Article 3 (commencing with Section 4650) of Chapter 2 of Part 2. The requirement of this section that the employer approve the referral by a licensed physician or surgeon shall not be construed to preclude reimbursement for self-procured treatment, found by the appeals board to be otherwise compensable pursuant to this division, ~~where if~~ the employer has refused to authorize any treatment for the condition arising from the injury treated by the marriage and family ~~therapist~~ therapist, professional clinical counselor, or clinical social worker.

SEC. 18. Section 18951 of the Welfare and Institutions Code is amended to read:

18951. As used in this chapter:

(a) "Child" means an individual under 18 years of age.

(b) "Child services" means services for or on behalf of children, and includes the following:

- (1) Protective services.
- (2) Caretaker services.
- (3) Day care services, including dropoff care.
- (4) Homemaker services or family aides.
- (5) Counseling services.

(c) "Adult services" means services for or on behalf of a parent of a child, which shall include, but not be limited to, the following:

- (1) Access to voluntary placement, long or short term.
- (2) Counseling services before and after a crisis.
- (3) Homemaker services or family aides.

(d) "Multidisciplinary personnel" means ~~any~~ a team of three or more persons who are trained in the prevention, identification, management, or treatment of child abuse or neglect cases and who are qualified to provide a broad range of services related to child abuse or neglect. The team may include, but need not be limited to, any of the following:

- (1) Psychiatrists, psychologists, marriage and family therapists, clinical social workers, professional clinical counselors, or other trained counseling personnel.
- (2) Police officers or other law enforcement agents.
- (3) Medical personnel with sufficient training to provide health services.
- (4) Social workers with experience or training in child abuse prevention, identification, management, or treatment.

(5) A public or private school teacher, administrative officer, supervisor of child welfare and attendance, or certificated pupil personnel employee.

(6) A CalWORKs case manager whose primary responsibility is to provide cross program case planning and coordination of CalWORKs and child welfare services for those mutual cases or families that may be eligible for CalWORKs services and that, with the informed written consent of the family, receive cross program case planning and coordination.

(e) "Child abuse" as used in this chapter means a situation in which a child suffers from any one or more of the following:

- (1) Serious physical injury inflicted upon the child by other than accidental means.
- (2) Harm by reason of intentional neglect or malnutrition or sexual abuse.
- (3) Going without necessary and basic physical care.

(4) Willful mental injury, negligent treatment, or maltreatment of a child under the age of 18 years by a person who is responsible for the child's welfare under circumstances that indicate that the child's health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the Director of Social Services.

(5) Any condition that results in the violation of the rights or physical, mental, or moral welfare of a child or jeopardizes the child's present or future health, opportunity for normal development, or capacity for independence.

(f) "Parent" means ~~any~~ a person who exercises care, custody, and control of the child as established by law.

SEC. 19. Section 18961.7 of the Welfare and Institutions Code is amended to read:

18961.7. (a) Notwithstanding any other ~~provision of~~ law, a county may establish a child abuse multidisciplinary personnel team within that county to allow provider agencies to share confidential information in order for provider agencies to investigate reports of suspected child abuse or neglect made pursuant to Section 11160, 11166, or 11166.05 of the Penal Code, or for the purpose of child welfare agencies making a detention determination.

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

(1) "Child abuse multidisciplinary personnel team" means ~~any~~ a team of two or more persons who are trained in the prevention, identification, or treatment of child abuse and neglect cases and who are qualified to provide a broad range of services related to child abuse. The team may include, but shall not be limited to:

(A) Psychiatrists, psychologists, marriage and family therapists, clinical social workers, professional clinical counselors, or other trained counseling personnel.

(B) Police officers or other law enforcement agents.

(C) Medical personnel with sufficient training to provide health services.

(D) Social services workers with experience or training in child abuse prevention.

(E) ~~Any~~ A public or private school teacher, administrative officer, supervisor of child welfare attendance, or certified pupil personnel employee.

(2) "Provider agency" means ~~any~~ a governmental or other agency that has as one of its purposes the prevention, identification, management, or treatment of child abuse or neglect. The provider agencies serving children and their families that may share information under this section shall include, but not be limited to, the following entities or service agencies:

(A) Social services.

(B) Children's services.

(C) Health services.

(D) Mental health services.

(E) Probation.

(F) Law enforcement.

(G) Schools.

(c) (1) Notwithstanding Section 827 of the Welfare and Institutions Code or any other ~~provision of~~ law, during a 30-day period, or longer if documented good cause exists, following a report of suspected child abuse or neglect, members of a child abuse multidisciplinary personnel team engaged in the prevention, identification, and treatment

of child abuse may disclose to and exchange with one another information and writings that relate to any incident of child abuse that may also be designated as confidential under state law if the member of the team having that information or writing reasonably believes it is generally relevant to the prevention, identification, or treatment of child abuse. ~~Any~~ A discussion relative to the disclosure or exchange of the information or writings during a team meeting is confidential and, notwithstanding any other provision of law, testimony concerning that discussion is not admissible in any criminal, civil, or juvenile court proceeding.

(2) Disclosure and exchange of information pursuant to this section may occur telephonically and electronically if there is adequate verification of the identity of the child abuse multidisciplinary personnel who are involved in that disclosure or exchange of information.

(3) Disclosure and exchange of information pursuant to this section shall not be made to anyone other than members of the child abuse multidisciplinary personnel team, and those qualified to receive information as set forth in subdivision (d).

(d) The child abuse multidisciplinary personnel team may designate persons qualified pursuant to paragraph (1) of subdivision (b) to be a member of the team for a particular case. A person designated as a team member pursuant to this subdivision may receive and disclose relevant information and records, subject to the confidentiality provisions of subdivision (f).

(e) The sharing of information permitted under subdivision (c) shall be governed by protocols developed in each county describing how and what information may be shared by the child abuse multidisciplinary team to ensure that confidential information gathered by the team is not disclosed in violation of state or federal law. A copy of the protocols shall be distributed to each participating agency and to persons in those agencies who participate in the child abuse multidisciplinary team.

(f) Every member of the child abuse multidisciplinary personnel team who receives information or records regarding children and families in his or her capacity as a member of the team shall be under the same privacy and confidentiality obligations and subject to the same confidentiality penalties as the person disclosing or providing the information or records. The information or records obtained shall be maintained in a manner that ensures the maximum protection of privacy and confidentiality rights.

(g) This section shall not be construed to restrict guarantees of confidentiality provided under state or federal law.

(h) Information and records communicated or provided to the team members by all providers and agencies, as well as information and records created in the course of a child abuse or neglect investigation, shall be deemed private and confidential and shall be protected from discovery and disclosure by all applicable statutory and common law protections. Existing civil and criminal penalties shall apply to the inappropriate disclosure of information held by the team members.

SEC. 20. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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Substantive

Amendment 3

On page 1, strike out lines 1 to 6, inclusive, and strike out page 2

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AMENDMENTS TO ASSEMBLY BILL NO. 2305

Amendment 1

In the title, in line 1, strike out "3502" and insert:

3511

Amendment 2

On page 1, before line 1, insert:

SECTION 1. Section 3511 of the Government Code is amended to read:

3511. (a) The changes made to Sections 3501, 3507.1, and 3509 of the Government Code by shall not apply to persons who are peace officers as defined in Section 830.1 of the Penal Code. by Chapter 901 of the Statutes of 2000 shall not apply to peace officer employee organizations.

(b) This section does not apply to employers and employees under the jurisdiction of the employee relations commission established by, and in effect for, the County of Los Angeles and the City of Los Angeles, and does not affect the authority of those commissions provided by subdivision (d) of Section 3509.

Amendment 3

On page 1, strike out lines 1 to 6, inclusive, and strike out page 2



AMENDMENTS TO ASSEMBLY BILL NO. 2355

Amendment 1

In the heading, below line 1, insert:

(Principal coauthor: Senator Lara)

Amendment 2

In the title, strike out line 1 and insert:

An act to amend Sections 26003 and 26011.8 of the Public Resources Code, and to amend Sections 6377.1, 17052.12, 17053.73, 17059.2, 23609, 23626, and 23689 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

Amendment 3

On page 1, before line 1, insert:

SECTION 1. Section 26003 of the Public Resources Code, as amended by Section 257 of Chapter 86 of the Statutes of 2016, is amended to read:

26003. (a) As used in this division, unless the context otherwise requires:

(1) (A) "Advanced manufacturing" means manufacturing processes that improve existing or create entirely new materials, products, and processes through the use of science, engineering, or information technologies, high-precision tools and methods, a high-performance workforce, and innovative business or organizational models utilizing any of the following technology areas:

- (i) Microelectronics and nanoelectronics, including semiconductors.
- (ii) Advanced materials.
- (iii) Integrated computational materials engineering.
- (iv) Nanotechnology.
- (v) Additive manufacturing.
- (vi) Industrial biotechnology.

(B) "Advanced manufacturing" includes any of the following:

(i) Systems that result from substantive advancement, whether incremental or breakthrough, beyond the current industry standard, in the production of materials and products. These advancements include improvements in manufacturing processes and systems that are often referred to as "smart" or "intelligent" manufacturing systems, which integrate computational predictability and operational efficiency.

(ii) (I) Sustainable manufacturing systems and manufacturing technologies that minimize the use of resources while maintaining or improving cost and performance.

(II) Sustainable manufacturing systems and manufacturing technologies do not include those required to be undertaken pursuant to state or federal law or regulations, air district rules or regulations, memoranda of understanding with a governmental



entity, or legally binding agreements or documents. The State Air Resources Board shall advise the authority to ensure that the requirements of this clause are met.

(2) (A) "Advanced transportation technologies" means emerging commercially competitive transportation-related technologies identified by the authority as capable of creating long-term, high-value-added jobs for Californians while enhancing the state's commitment to energy conservation, pollution and greenhouse gas emissions reduction, and transportation efficiency.

(B) "Advanced transportation technologies" does not include those projects required to be undertaken pursuant to state or federal law or regulations, air district rules or regulations, memoranda of understanding with a governmental entity, or legally binding agreements or documents. The State Air Resources Board shall advise the authority regarding projects that are excluded pursuant to this subparagraph.

(3) (A) "Alternative sources" means devices or technologies used for a renewable electrical generation facility, as defined in paragraph (1) of subdivision (a) of Section 25741, a combined heat and power system, as defined in Section 2840.2 of the Public Utilities Code, distributed generation and energy storage technologies eligible under the self-generation incentive program pursuant to Section 379.6 of the Public Utilities Code, as determined by the Public Utilities Commission, or a facility designed for the production of renewable fuels, the efficient use of which reduces the use of fossil or nuclear fuels, and energy efficiency devices or technologies that reduce the need for new electric generation and reduce emissions of toxic and criteria pollutants and greenhouse gases.

(B) "Alternative sources" does not include a hydroelectric facility that does not meet state laws pertaining to the control, appropriation, use, and distribution of water, including, but not limited to, the obtaining of applicable licenses and permits.

(4) "Authority" means the California Alternative Energy and Advanced Transportation Financing Authority established pursuant to Section 26004, and any board, commission, department, or officer succeeding to the functions of the authority, or to which the powers conferred upon the authority by this division shall be given.

(5) "Cost" as applied to a project or portion of the project financed under this division means all or part of the cost of construction and acquisition of all lands, structures, real or personal property or an interest in the real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a project; the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which those buildings or structures may be moved; the cost of all machinery, equipment, and furnishings, financing charges, interest prior to, during, and for a period after, completion of construction as determined by the authority; provisions for working capital; reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations, and improvements; the cost of architectural, engineering, financial, accounting, auditing and legal services, plans, specifications, estimates, administrative expenses, and other expenses necessary or incidental to determining the feasibility of constructing any project or incidental to the construction, acquisition, or financing of a project.

(6) "Financial assistance" includes, but is not limited to, loans, loan loss reserves, interest rate reductions, proceeds of bonds issued by the authority, bond insurance, loan guarantees or other credit enhancements or liquidity facilities, contributions of

money, or a combination thereof, as determined by, and approved by the resolution of, the board.

(7) (A) "Participating party" means a person, federal or state agency, department, board, authority, or commission, state or community college, or university, or a city or county, regional agency, public district, school district, or other political entity engaged in the business or operations in the state, whether organized for profit or not for profit, that applies for financial assistance from the authority for the purpose of implementing a project. On and after January 1, 2019, a "participating party" shall not include a person organized for profit described in subdivision (a) of Section 26011.8.

(B) (i) For purposes of Section 6010.8 of the Revenue and Taxation Code, "participating party" means an entity specified in subparagraph (A) that seeks financial assistance pursuant to Section 26011.8. On and after January 1, 2019, a "participating party" shall not include a person organized for profit described in subdivision (a) of Section 26011.8.

(ii) For purposes of Section 6010.8 of the Revenue and Taxation Code, an entity located outside of the state, including an entity located overseas, is considered to be a participating party and is eligible to apply for financial assistance pursuant to Section 26011.8 if the participating party commits to, and demonstrates that, the party will be opening a manufacturing facility in the state.

(iii) It is the intent of the Legislature by adding clause (ii) to clarify existing law and ensure that an out-of-state entity or overseas entity is eligible to apply for financial assistance pursuant to Section 26011.8.

(8) (A) "Project" means a land, building, improvement to the land or building, rehabilitation, work, property, or structure, real or personal, stationary or mobile, including, but not limited to, machinery and equipment utilized in the state, whether or not in existence or under construction, that utilizes, or is designed to utilize, an alternative source, or that is utilized for the design, technology transfer, manufacture, production, assembly, distribution, or service of advanced transportation technologies or alternative source components.

(B) "Project," for purposes of Section 26011.8 and Section 6010.8 of the Revenue and Taxation Code, is defined in Section 26011.8.

(9) "Revenue" means all rents, receipts, purchase payments, loan repayments, and all other income or receipts derived by the authority from a project, or the sale, lease, or other disposition of alternative source or advanced transportation technology facilities, or the making of loans to finance alternative source or advanced transportation technology facilities, and any income or revenue derived from the investment of money in any fund or account of the authority.

(b) This section shall remain in effect only until January 1, 2021, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2021, deletes or extends that date.

SEC. 2. Section 26003 of the Public Resources Code, as amended by Section 258 of Chapter 86 of the Statutes of 2016, is amended to read:

26003. (a) As used in this division, unless the context otherwise requires:

(1) (A) "Advanced transportation technologies" means emerging commercially competitive transportation-related technologies identified by the authority as capable of creating long-term, high-value-added jobs for Californians while enhancing the

state's commitment to energy conservation, pollution and greenhouse gas emissions reduction, and transportation efficiency.

(B) "Advanced transportation technologies" does not include those projects required to be undertaken pursuant to state or federal law or regulations, air district rules or regulations, memoranda of understanding with a governmental entity, or legally binding agreements or documents. The State Air Resources Board shall advise the authority regarding projects that are excluded pursuant to this subparagraph.

(2) (A) "Alternative sources" means devices or technologies used for a renewable electrical generation facility, as defined in paragraph (1) of subdivision (a) of Section 25741, a combined heat and power system, as defined in Section 2840.2 of the Public Utilities Code, distributed generation and energy storage technologies eligible under the self-generation incentive program pursuant to Section 379.6 of the Public Utilities Code, as determined by the Public Utilities Commission, or a facility designed for the production of renewable fuels, the efficient use of which reduces the use of fossil or nuclear fuels, and energy efficiency devices or technologies that reduce the need for new electric generation and reduce emissions of toxic and criteria pollutants and greenhouse gases.

(B) "Alternative sources" does not include a hydroelectric facility that does not meet state laws pertaining to the control, appropriation, use, and distribution of water, including, but not limited to, the obtaining of applicable licenses and permits.

(3) "Authority" means the California Alternative Energy and Advanced Transportation Financing Authority established pursuant to Section 26004, and any board, commission, department, or officer succeeding to the functions of the authority, or to which the powers conferred upon the authority by this division shall be given.

(4) "Cost" as applied to a project or portion of the project financed under this division means all or part of the cost of construction and acquisition of all lands, structures, real or personal property or an interest in the real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a project; the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which those buildings or structures may be moved; the cost of all machinery, equipment, and furnishings, financing charges, interest prior to, during, and for a period after, completion of construction as determined by the authority; provisions for working capital; reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations, and improvements; the cost of architectural, engineering, financial, accounting, auditing and legal services, plans, specifications, estimates, administrative expenses, and other expenses necessary or incidental to determining the feasibility of constructing any project or incidental to the construction, acquisition, or financing of a project.

(5) "Financial assistance" includes, but is not limited to, loans, loan loss reserves, interest rate reductions, proceeds of bonds issued by the authority, bond insurance, loan guarantees or other credit enhancements or liquidity facilities, contributions of money, or a combination thereof, as determined by, and approved by the resolution of, the board.

(6) (A) "Participating party" means a person, federal or state agency, department, board, authority, or commission, state or community college, or university, or a city or county, regional agency, public district, school district, or other political entity engaged in the business or operations in the state, whether organized for profit or not

for profit, that applies for financial assistance from the authority for the purpose of implementing a project. On and after January 1, 2019, a "participating party" shall not include a person organized for profit described in subdivision (a) of Section 26011.8.

(B) (i) For purposes of Section 6010.8 of the Revenue and Taxation Code, "participating party" means an entity specified in subparagraph (A) that seeks financial assistance pursuant to Section 26011.8. On and after January 1, 2019, a "participating party" shall not include a person organized for profit described in subdivision (a) of Section 26011.8.

(ii) For purposes of Section 6010.8 of the Revenue and Taxation Code, an entity located outside of the state, including an entity located overseas, is considered to be a participating party and is eligible to apply for financial assistance pursuant to Section 26011.8 if the participating party commits to, and demonstrates that, the party will be opening a manufacturing facility in the state.

(iii) It is the intent of the Legislature by adding clause (ii) to clarify existing law and ensure that an out-of-state entity or overseas entity is eligible to apply for financial assistance pursuant to Section 26011.8.

(7) (A) "Project" means a land, building, improvement to the land or building, rehabilitation, work, property, or structure, real or personal, stationary or mobile, including, but not limited to, machinery and equipment utilized in the state, whether or not in existence or under construction, that utilizes, or is designed to utilize, an alternative source, or that is utilized for the design, technology transfer, manufacture, production, assembly, distribution, or service of advanced transportation technologies or alternative source components.

(B) "Project," for purposes of Section 26011.8 and Section 6010.8 of the Revenue and Taxation Code, is defined in Section 26011.8.

(8) "Revenue" means all rents, receipts, purchase payments, loan repayments, and all other income or receipts derived by the authority from a project, or the sale, lease, or other disposition of alternative source or advanced transportation technology facilities, or the making of loans to finance alternative source or advanced transportation technology facilities, and any income or revenue derived from the investment of money in any fund or account of the authority.

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

SEC. 3. Section 26011.8 of the Public Resources Code is amended to read:

26011.8. (a) (1) The purpose of this section is to promote the creation of California-based manufacturing, California-based jobs, advanced manufacturing, the reduction of greenhouse gases, or reductions in air and water pollution or energy consumption. In furtherance of this purpose, the authority may approve a project for financial assistance in the form of the sales and use tax exclusion established in Section 6010.8 of the Revenue and Taxation Code.

(2) (A) On and after January 1, 2019, the authority shall not approve a project pursuant to this section for any applicant who is a person organized for profit that contracts or subcontracts to build, maintain, or provide materials for President Trump's Border Wall.

(B) For purposes of this section, "President Trump's Border Wall" means any physical wall or barrier constructed along the border between the United States and Mexico, consistent with President Donald J. Trump's campaign promises to build a border wall or Executive Order 13767, titled "Border Security and Immigration

Enforcement Improvements” signed January 25, 2017, by President Donald J. Trump, regardless of whether the wall or barrier is paid for by the government of the United States, the government of Mexico, increased trade tariffs, or any combination of funds from those sources.

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

(1) “Project” means tangible personal property if at least 50 percent of its use is either to process recycled feedstock that is intended to be reused in the production of another product or using recycled feedstock in the production of another product or soil amendment, or tangible personal property that is used in the state for the design, manufacture, production, or assembly of advanced manufacturing, advanced transportation technologies, or alternative source products, components, or systems, as defined in Section 26003. “Project” does not include tangible personal property that processes or uses recycled feedstock in a manner that would constitute disposal as defined in subdivision (b) of Section 40192.

(2) “Recycled feedstock” means materials that would otherwise be destined for disposal, having completed their intended end use and product lifecycle.

(3) “Soil amendments” may include “compost,” as defined in Section 14525 of the Food and Agricultural Code, “fertilizing material,” as defined in Section 14533 of the Food and Agricultural Code, “gypsum” or “phosphatic sulfate gypsum,” as those terms are defined in Section 14537 of the Food and Agricultural Code, or a substance distributed for the purpose of promoting plant growth or improving the quality of crops by conditioning soils through physical means.

(c) The authority shall publish notice of the availability of project applications and deadlines for submission of project applications to the authority.

(d) The authority shall evaluate project applications based upon all of the following criteria:

(1) The extent to which the project develops manufacturing facilities, or purchases equipment for manufacturing facilities, located in California.

(2) The extent to which the anticipated benefit to the state from the project equals or exceeds the projected benefit to the participating party from the sales and use tax exclusion.

(3) The extent to which the project will create new, permanent jobs in California.

(4) To the extent feasible, the extent to which the project, or the product produced by the project, results in a reduction of greenhouse gases, a reduction in air or water pollution, an increase in energy efficiency, or a reduction in energy consumption, beyond what is required by federal or state law or regulation.

(5) The extent of unemployment in the area in which the project is proposed to be located.

(6) Any other factors the authority deems appropriate in accordance with this section.

(e) At a duly noticed public hearing, the authority shall approve, by resolution, project applications for financial assistance.

(f) Notwithstanding subdivision (j), and without regard to the actual date of any transaction between a participating party and the authority, any project approved by the authority by resolution for the sales and use tax exclusion pursuant to Section 6010.8 of the Revenue and Taxation Code before March 24, 2010, shall not be subject to this section.

(g) The Legislative Analyst's Office shall report to the Joint Legislative Budget Committee on the effectiveness of this program, on or before January 1, 2019, by evaluating factors, including, but not limited to, the following:

(1) The number of jobs created by the program in California.

(2) The number of businesses that have remained in California or relocated to California as a result of this program.

(3) The amount of state and local revenue and economic activity generated by the program.

(4) The types of advanced manufacturing, as defined in paragraph (1) of subdivision (a) of Section 26003, utilized.

(5) The amount of reduction in greenhouse gases, air pollution, water pollution, or energy consumption.

(h) The exclusions granted pursuant to Section 6010.8 of the Revenue and Taxation Code for projects approved by the authority pursuant to this section shall not exceed one hundred million dollars (\$100,000,000) for each calendar year.

(i) (1) The authority shall study the efficacy and cost benefit of the sales and use tax exemption as it relates to advanced manufacturing projects. The study shall include the number of jobs created, the costs of each job, and the annual salary of each job. The study shall also consider a dynamic analysis of the economic output to the state that would occur without the sales and use tax exemption. Before January 1, 2017, the authority shall submit to the Legislature, consistent with Section 9795 of the Government Code, the result of the study.

(2) Before January 1, 2015, the authority shall, consistent with Section 9795 of the Government Code, submit to the Legislature an interim report on the efficacy of the program conducted pursuant to this section. The study shall include recommendations on program changes that would increase the program's efficacy in creating permanent and temporary jobs, and whether eligibility for the program should be extended or narrowed to other manufacturing types. The authority may work with the Legislative Analyst's Office in preparing the report and its recommendations.

(j) This section shall remain in effect only until January 1, 2021, and as of that date is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2021, deletes or extends that date. The sale or purchase of tangible personal property of a project approved before January 1, 2021, shall continue to be excluded from sales and use taxes pursuant to Section 6010.8 of the Revenue and Taxation Code for the period of time set forth in the authority's resolution approving the project pursuant to this section.

SEC. 4. Section 6377.1 of the Revenue and Taxation Code is amended to read:

6377.1. (a) Except as provided in subdivision (e), on or after July 1, 2014, and before July 1, 2030, there are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use, or other consumption in this state of, any of the following:

(1) Qualified tangible personal property purchased for use by a qualified person to be used primarily in any stage of the manufacturing, processing, refining, fabricating, or recycling of tangible personal property, beginning at the point any raw materials are received by the qualified person and introduced into the process and ending at the point at which the manufacturing, processing, refining, fabricating, or recycling has

altered tangible personal property to its completed form, including packaging, if required.

(2) Qualified tangible personal property purchased for use by a qualified person to be used primarily in research and development.

(3) Qualified tangible personal property purchased for use by a qualified person to be used primarily to maintain, repair, measure, or test any qualified tangible personal property described in paragraph (1) or (2).

(4) Qualified tangible personal property purchased for use by a contractor purchasing that property for use in the performance of a construction contract for the qualified person, that will use that property as an integral part of the manufacturing, processing, refining, fabricating, or recycling process, the generation or production, or storage and distribution, of electric power, or as a research or storage facility for use in connection with those processes.

(5) Qualified tangible personal property purchased for use by a qualified person to be used primarily in the generation or production, or storage and distribution, of electric power.

(b) For purposes of this section:

(1) "Department" means the California Department of Tax and Fee Administration.

(2) "Fabricating" means to make, build, create, produce, or assemble components or tangible personal property to work in a new or different manner.

(3) "Generation or production" means the activity of making, producing, creating, or converting electric power from sources other than a conventional power source, as defined in Section 2805 of the Public Utilities Code.

(4) "Manufacturing" means the activity of converting or conditioning tangible personal property by changing the form, composition, quality, or character of the property for ultimate sale at retail or use in the manufacturing of a product to be ultimately sold at retail. Manufacturing includes any improvements to tangible personal property that result in a greater service life or greater functionality than that of the original property.

(5) "Primarily" means 50 percent or more of the time.

(6) "Process" means the period beginning at the point at which any raw materials are received by the qualified person and introduced into the manufacturing, processing, refining, fabricating, or recycling activity of the qualified person and ending at the point at which the manufacturing, processing, refining, fabricating, or recycling activity of the qualified person has altered tangible personal property to its completed form, including packaging, if required. Raw materials shall be considered to have been introduced into the process when the raw materials are stored on the same premises where the qualified person's manufacturing, processing, refining, fabricating, or recycling activity is conducted. Raw materials that are stored on premises other than where the qualified person's manufacturing, processing, refining, fabricating, or recycling activity is conducted shall not be considered to have been introduced into the manufacturing, processing, refining, fabricating, or recycling process.

(7) "Processing" means the physical application of the materials and labor necessary to modify or change the characteristics of tangible personal property.

(8) (A) "Qualified person" means:

(i) Prior to January 1, 2018, a person that is primarily engaged in those lines of business described in Codes 3111 to 3399, inclusive, 541711, or 541712 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget (OMB), 2012 edition.

(ii) On and after January 1, 2018, and before July 1, 2030, a person that is primarily engaged in those lines of business described in Codes 3111 to 3399, inclusive, 221111 to 221118, inclusive, 221122, 541711, or 541712 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget (OMB), 2012 edition.

(B) Notwithstanding subparagraph (A), "qualified person" shall not include either any of the following:

(i) Prior to January 1, 2018, an apportioning trade or business that is required to apportion its business income pursuant to subdivision (b) of Section 25128 or a trade or business conducted wholly within this state that would be required to apportion its business income pursuant to subdivision (b) of Section 25128 if it were subject to apportionment pursuant to Section 25101.

(ii) On and after January 1, 2018, and before July 1, 2030, an apportioning trade or business, other than a trade or business described in paragraph (1) of subdivision (c) of Section 25128, that is required to apportion its business income pursuant to subdivision (b) of Section 25128, or a trade or business, other than a trade or business described in paragraph (1) of subdivision (c) of Section 25128, conducted wholly within this state that would be required to apportion its business income pursuant to subdivision (b) of Section 25128 if it were subject to apportionment pursuant to Section 25101.

(iii) On and after January 1, 2019, a person that contracts or subcontracts to build, maintain, or provide materials to President Trump's Border Wall. For purposes of this section, "President Trump's Border Wall" means any physical wall or barrier constructed along the border between the United States and Mexico, consistent with President Donald J. Trump's campaign promises to build a border wall or Executive Order 13767, titled "Border Security and Immigration Enforcement Improvements" signed January 25, 2017, by President Donald J. Trump, regardless of whether the wall or barrier is paid for by the government of the United States, the government of Mexico, increased trade tariffs, or any combination of funds from those sources.

(9) (A) "Qualified tangible personal property" includes, but is not limited to, all of the following:

(i) Machinery and equipment, including component parts and contrivances such as belts, shafts, moving parts, and operating structures.

(ii) Equipment or devices used or required to operate, control, regulate, or maintain the machinery, including, but not limited to, computers, data-processing equipment, and computer software, together with all repair and replacement parts with a useful life of one or more years therefor, whether purchased separately or in conjunction with a complete machine and regardless of whether the machine or component parts are assembled by the qualified person or another party.

(iii) Tangible personal property used in pollution control that meets standards established by this state or any local or regional governmental agency within this state.

(iv) (I) Prior to January 1, 2018, special purpose buildings and foundations used as an integral part of the manufacturing, processing, refining, fabricating, or recycling

process, or that constitute a research or storage facility used during those processes. Buildings used solely for warehousing purposes after completion of those processes are not included.

(II) On and after January 1, 2018, and before July 1, 2030, special purpose buildings and foundations used as an integral part of the manufacturing, processing, refining, fabricating, or recycling process, or that constitute a research or storage facility used during those processes, or the generation or production or storage and distribution of electric power. Buildings used solely for warehousing purposes after completion of those processes are not included.

(B) "Qualified tangible personal property" shall not include any of the following:

(i) Consumables with a useful life of less than one year.

(ii) Furniture, inventory, and equipment used in the extraction process, or equipment used to store finished products that have completed the manufacturing, processing, refining, fabricating, or recycling process.

(iii) Tangible personal property used primarily in administration, general management, or marketing.

(10) "Refining" means the process of converting a natural resource to an intermediate or finished product.

(11) "Research and development" means those activities that are described in Section 174 of the Internal Revenue Code or in any regulations thereunder.

(12) "Storage and distribution" means storing or distributing through the electric grid, but not transmission of, electric power to consumers regardless of source.

(13) (A) "Useful life" for tangible personal property that is treated as having a useful life of one or more years for state income or franchise tax purposes shall be deemed to have a useful life of one or more years for purposes of this section. "Useful life" for tangible personal property that is treated as having a useful life of less than one year for state income or franchise tax purposes shall be deemed to have a useful life of less than one year for purposes of this section. For the purposes of this paragraph, tangible personal property that is deducted under Sections 17201 and 17255 or Section 24356 shall be deemed to have a useful life of one or more years.

(B) The department shall cancel any outstanding and unpaid deficiency determination and any related penalties and interest and shall not issue any deficiency determination or notice of determination, with respect to unpaid sales and use tax on qualified property with a useful life, as defined in subparagraph (A), that was purchased or leased on or after July 1, 2014, and before January 1, 2018. Any amounts paid by a qualified person pursuant to such determination shall be refunded by the department to the qualified person. Any cancellation or refund described in this subparagraph is contingent upon a qualified person making a request to the department, in a manner prescribed by the department, by June 30, 2018.

(c) An exemption shall not be allowed under this section unless the purchaser furnishes the retailer with an exemption certificate, completed in accordance with any instructions or regulations as the department may prescribe, and the retailer retains the exemption certificate in its records and furnishes it to the department upon request.

(d) (1) Notwithstanding the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)) and the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)), the exemption established by this

section shall not apply with respect to any tax levied by a county, city, or district pursuant to, or in accordance with, either of those laws.

(2) Notwithstanding subdivision (a), the exemption established by this section shall not apply with respect to any tax levied pursuant to Section 6051.2, 6051.5, 6201.2, or 6201.5, pursuant to Section 35 of Article XIII of the California Constitution, or any tax levied pursuant to Section 6051 or 6201 that is deposited in the State Treasury to the credit of the Local Revenue Fund 2011 pursuant to Section 6051.15 or 6201.15.

(e) (1) The exemption provided by this section shall not apply to either of the following:

(A) Any tangible personal property purchased during any calendar year that exceeds two hundred million dollars (\$200,000,000) of purchases of qualified tangible personal property for which an exemption is claimed by a qualified person under this section. For purposes of this subparagraph, in the case of a qualified person that is required to be included in a combined report under Section 25101 or authorized to be included in a combined report under Section 25101.15, the aggregate of all purchases of qualified personal property for which an exemption is claimed pursuant to this section by all persons that are required or authorized to be included in a combined report shall not exceed two hundred million dollars (\$200,000,000) in any calendar year.

(B) The sale or storage, use, or other consumption of property that, within one year from the date of purchase, is removed from California, converted from an exempt use under subdivision (a) to some other use not qualifying for exemption, or used in a manner not qualifying for exemption.

(2) If a purchaser certifies in writing to the seller that the tangible personal property purchased without payment of the tax will be used in a manner entitling the seller to regard the gross receipts from the sale as exempt from the sales tax, and the purchase exceeds the two-hundred-million-dollar (\$200,000,000) limitation described in subparagraph (A) of paragraph (1), or within one year from the date of purchase, the purchaser removes that property from California, converts that property for use in a manner not qualifying for the exemption, or uses that property in a manner not qualifying for the exemption, the purchaser shall be liable for payment of sales tax, with applicable interest, as if the purchaser were a retailer making a retail sale of the tangible personal property at the time the tangible personal property is so purchased, removed, converted, or used, and the cost of the tangible personal property to the purchaser shall be deemed the gross receipts from that retail sale.

(f) This section shall apply to leases of qualified tangible personal property classified as "continuing sales" and "continuing purchases" in accordance with Sections 6006.1 and 6010.1. The exemption established by this section shall apply to the rentals payable pursuant to the lease, provided the lessee is a qualified person and the tangible personal property is used in an activity described in subdivision (a).

(g) (1) Upon the effective date of this section, the Department of Finance shall estimate the total dollar amount of exemptions that will be taken for each calendar year, or any portion thereof, for which this section provides an exemption.

(2) (A) No later than each May 1 next following a calendar year for which this section provides an exemption, the department shall provide to the Joint Legislative Budget Committee and to the Department of Finance a report of the total dollar amount of exemptions taken under this section for the immediately preceding calendar year.

The report shall compare the total dollar amount of exemptions taken under this section for that calendar year with the department's estimate for that same calendar year. If that total dollar amount taken is less than the estimate for that calendar year, the report shall identify options for increasing exemptions taken so as to meet estimated amounts.

(B) (i) No later than each May 1 next following calendar years 2018 to 2030, inclusive, the department shall provide to the Joint Legislative Budget Committee and to the Department of Finance a report of the revenue value of the total dollar amount of exemptions taken pursuant to subdivision (a) for sales to, or purchases by, qualified persons described in clause (ii) for the immediately preceding calendar year.

(ii) The report required under this subparagraph shall only include the revenue value of the total dollar amount of exemptions allowed to the following:

(I) A qualified person that is primarily engaged in those lines of business described in Codes 221111 to 221118, inclusive, and 221122 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget (OMB), 2012 edition.

(II) A qualified person that is both of the following:

(ia) A person that is primarily engaged in those lines of business described in Codes 3111 to 3399, inclusive, 541711, and 541712 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget (OMB), 2012 edition.

(ib) A person that is an apportioning trade or business as described in paragraph (1) of subdivision (c) of Section 25128, that is required to apportion its business income pursuant to subdivision (b) of Section 25128, or a trade or business as described in paragraph (1) of subdivision (c) of Section 25128, conducted wholly within this state that would be required to apportion its business income pursuant to subdivision (b) of Section 25128 if it were subject to apportionment pursuant to Section 25101.

(C) No later than each May 1 next following calendar years 2022 through 2030, inclusive, the department shall provide to the Joint Legislative Budget Committee and to the Department of Finance a report of the revenue value of the total dollar amount of exemptions taken under this section for the immediately preceding calendar year, and for calendar year 2022, the period shall cover July 1 to December 31, 2022.

(3) (A) An amount that equals the revenue value of the total dollar amount of exemptions, as reported by the department pursuant to subparagraph (B) of paragraph (2), with the concurrence of the Department of Finance, shall be transferred from the Greenhouse Gas Reduction Fund to the General Fund, no later than each June 30 next following the calendar year described in subparagraph (B) of paragraph (2). Any amount attributable to any cancellations the department made of any outstanding and unpaid deficiency determinations and any refunds under subparagraph (B) of paragraph (13) of subdivision (b) shall be excluded from the transfer of the amount described in subparagraph (B). The transfers to the General Fund shall be accrued to the fiscal year in which the revenue loss occurred.

(B) (i) For calendar years 2022 through 2030, inclusive, an amount not to exceed the difference between the revenue value of the total dollar amount of exemptions as reported by the department pursuant to subparagraph (C) of paragraph (2), and the revenue value of the total dollar amount of exemptions as reported by the department pursuant to subparagraph (B) of paragraph (2), may be transferred from the Greenhouse Gas Reduction Fund to the General Fund, no later than each July 31 following that

calendar year described in subparagraph (C) of paragraph (2). The transfers to the General Fund shall be accrued proportionally to the fiscal year in which the revenue loss occurred.

(ii) The amount transferred under this subparagraph for each fiscal year shall be as determined by the Director of Finance, unless a different amount is otherwise specified in the Budget Act for that fiscal year.

(4) For purposes of this subdivision, the "revenue value" of an amount of exemptions shall mean the estimated revenue loss to the General Fund from the allowance of those exemptions.

(h) This section is repealed on January 1, 2031.

SEC. 5. Section 17052.12 of the Revenue and Taxation Code is amended to read:

17052.12. For each taxable year beginning on or after January 1, 1987, there shall be allowed as a credit against the "net tax" (as defined by Section 17039) for the taxable year an amount determined in accordance with Section 41 of the Internal Revenue Code, except as follows:

(a) For each taxable year beginning before January 1, 1997, the reference to "20 percent" in Section 41(a)(1) of the Internal Revenue Code is modified to read "8 percent."

(b) (1) For each taxable year beginning on or after January 1, 1997, and before January 1, 1999, the reference to "20 percent" in Section 41(a)(1) of the Internal Revenue Code is modified to read "11 percent."

(2) For each taxable year beginning on or after January 1, 1999, and before January 1, 2000, the reference to "20 percent" in Section 41(a)(1) of the Internal Revenue Code is modified to read "12 percent."

(3) For each taxable year beginning on or after January 1, 2000, the reference to "20 percent" in Section 41(a)(1) of the Internal Revenue Code is modified to read "15 percent."

(c) Section 41(a)(2) of the Internal Revenue Code shall not apply.

(d) "Qualified research" shall include only research conducted in California.

(e) In the case where the credit allowed under this section exceeds the "net tax," the excess may be carried over to reduce the "net tax" in the following year, and succeeding years if necessary, until the credit has been exhausted.

(f) (1) With respect to any expense paid or incurred after the operative date of Section 6378, Section 41(b)(1) of the Internal Revenue Code is modified to exclude from the definition of "qualified research expense" any amount paid or incurred for tangible personal property that is eligible for the exemption from sales or use tax provided by Section 6378.

(2) For each taxable year beginning on or after January 1, 1998, the reference to "Section 501(a)" in Section 41(b)(3)(C) of the Internal Revenue Code, relating to contract research expenses, is modified to read "this part or Part 11 (commencing with Section 23001)."

(g) (1) For each taxable year beginning on or after January 1, 2000:

(A) The reference to "3 percent" in Section 41(c)(4)(A)(i) of the Internal Revenue Code is modified to read "one and forty-nine hundredths of one percent."

(B) The reference to "4 percent" in Section 41(c)(4)(A)(ii) of the Internal Revenue Code is modified to read "one and ninety-eight hundredths of one percent."

(C) The reference to “5 percent” in Section 41(c)(4)(A)(iii) of the Internal Revenue Code is modified to read “two and forty-eight hundredths of one percent.”

(2) Section 41(c)(4)(B) shall not apply and in lieu thereof an election under Section 41(c)(4)(A) of the Internal Revenue Code may be made for any taxable year of the taxpayer beginning on or after January 1, 1998. That election shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Franchise Tax Board.

(3) Section 41(c)(7) of the Internal Revenue Code, relating to gross receipts, is modified to take into account only those gross receipts from the sale of property held primarily for sale to customers in the ordinary course of the taxpayer’s trade or business that is delivered or shipped to a purchaser within this state, regardless of f.o.b. point or any other condition of the sale.

(4) Section 41(c)(5) of the Internal Revenue Code, relating to election of alternative simplified credit, shall not apply.

(h) Section 41(h) of the Internal Revenue Code, relating to termination, shall not apply.

(i) Section 41(g) of the Internal Revenue Code, relating to special rule for passthrough of credit, is modified by each of the following:

(1) The last sentence shall not apply.

(2) If the amount determined under Section 41(a) of the Internal Revenue Code for any taxable year exceeds the limitation of Section 41(g) of the Internal Revenue Code, that amount may be carried over to other taxable years under the rules of subdivision (e); except that the limitation of Section 41(g) of the Internal Revenue Code shall be taken into account in each subsequent taxable year.

(j) Section 41(a)(3) of the Internal Revenue Code shall not apply.

(k) Section 41(b)(3)(D) of the Internal Revenue Code, relating to amounts paid to eligible small businesses, universities, and federal laboratories, shall not apply.

(l) Section 41(f)(6), relating to energy research consortium, shall not apply.

(m) For taxable years beginning on or after January 1, 2019, a credit under this section shall not be allowed to a taxpayer that contracts or subcontracts to build, maintain, or provide materials for President Trump’s Border Wall. For purposes of this section, “President Trump’s Border Wall” means any physical wall or barrier constructed along the border between the United States and Mexico, consistent with President Donald J. Trump’s campaign promises to build a border wall or Executive Order 13767, titled “Border Security and Immigration Enforcement Improvements” signed January 25, 2017, by President Donald J. Trump, regardless of whether the wall or barrier is paid for by the government of the United States, the government of Mexico, increased trade tariffs, or any combination of funds from those sources.

SEC. 6. Section 17053.73 of the Revenue and Taxation Code is amended to read:

17053.73. (a) (1) For each taxable year beginning on or after January 1, 2014, and before January 1, 2021, there shall be allowed to a qualified taxpayer that hires a qualified full-time employee and pays or incurs qualified wages attributable to work performed by the qualified full-time employee in a designated census tract or economic development area, and that receives a tentative credit reservation for that qualified full-time employee, a credit against the “net tax,” as defined in Section 17039, in an amount calculated under this section.

(2) The amount of the credit allowable under this section for a taxable year shall be equal to the product of the tentative credit amount for the taxable year and the applicable percentage for that taxable year.

(3) (A) If a qualified taxpayer relocates to a designated census tract or economic development area, the qualified taxpayer shall be allowed a credit with respect to qualified wages for each qualified full-time employee employed within the new location only if the qualified taxpayer provides each employee at the previous location or locations a written offer of employment at the new location in the designated census tract or economic development area with comparable compensation.

(B) For purposes of this paragraph, "relocates to a designated census tract or economic development area" means an increase in the number of qualified full-time employees, employed by a qualified taxpayer, within a designated census tract or tracts or economic development areas within a 12-month period in which there is a decrease in the number of full-time employees, employed by the qualified taxpayer in this state, but outside of designated census tracts or economic development areas.

(C) This paragraph does not apply to a small business.

(4) The credit allowed by this section may be claimed only on a timely filed original return of the qualified taxpayer and only with respect to a qualified full-time employee for whom the qualified taxpayer has received a tentative credit reservation.

(b) For purposes of this section:

(1) The "tentative credit amount" for a taxable year shall be equal to the product of the applicable credit percentage for each qualified full-time employee and the qualified wages paid by the qualified taxpayer during the taxable year to that qualified full-time employee.

(2) The "applicable percentage" for a taxable year shall be equal to a fraction, the numerator of which is the net increase in the total number of full-time employees employed in this state during the taxable year, determined on an annual full-time equivalent basis, as compared with the total number of full-time employees employed in this state during the base year, determined on the same basis, and the denominator of which shall be the total number of qualified full-time employees employed in this state during the taxable year. The applicable percentage shall not exceed 100 percent.

(3) The "applicable credit percentage" means the credit percentage for the calendar year during which a qualified full-time employee was first employed by the qualified taxpayer. The applicable credit percentage for all calendar years shall be 35 percent.

(4) "Base year" means the 2013 taxable year, except in the case of a qualified taxpayer who first hires a qualified full-time employee in a taxable year beginning on or after January 1, 2015, the base year means the taxable year immediately preceding the taxable year in which a qualified full-time employee was first hired by the qualified taxpayer.

(5) "Acquired" includes any gift, inheritance, transfer incident to divorce, or any other transfer, whether or not for consideration.

(6) "Annual full-time equivalent" means either of the following:

(A) In the case of a full-time employee paid hourly qualified wages, "annual full-time equivalent" means the total number of hours worked for the qualified taxpayer by the employee, not to exceed 2,000 hours per employee, divided by 2,000.

(B) In the case of a salaried full-time employee, "annual full-time equivalent" means the total number of weeks worked for the qualified taxpayer by the employee divided by 52.

(7) "Designated census tract" means a census tract within the state that is determined by the Department of Finance to have a civilian unemployment rate that is within the top 25 percent of all census tracts within the state and has a poverty rate within the top 25 percent of all census tracts within the state, as prescribed in Section 13073.5 of the Government Code.

(8) "Economic development area" means either of the following:

(A) A former enterprise zone. For purposes of this section, "former enterprise zone" means an enterprise zone designated and in effect as of December 31, 2011, any enterprise zone designated during 2012, and any revision of an enterprise zone prior to June 30, 2013, under former Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code, as in effect on December 31, 2012, excluding any census tract within an enterprise zone that is identified by the Department of Finance pursuant to Section 13073.5 of the Government Code as a census tract within the lowest quartile of census tracts with the lowest civilian unemployment and poverty.

(B) A local agency military base recovery area designated as of the effective date of the act adding this subparagraph, in accordance with Section 7114 of the Government Code.

(9) "Minimum wage" means the wage established pursuant to Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(10) (A) "Qualified full-time employee" means an individual who meets all of the following requirements:

(i) Performs at least 50 percent of his or her services for the qualified taxpayer during the taxable year in a designated census tract or economic development area.

(ii) Receives starting wages that are at least 150 percent of the minimum wage.

(iii) Is hired by the qualified taxpayer on or after January 1, 2014.

(iv) Is hired by the qualified taxpayer after the date the Department of Finance determines that the census tract referred to in clause (i) is a designated census tract or that the census tracts within a former enterprise zone are not census tracts with the lowest civilian unemployment and poverty.

(v) Satisfies either of the following conditions:

(I) Is paid qualified wages by the qualified taxpayer for services not less than an average of 35 hours per week.

(II) Is a salaried employee and was paid compensation during the taxable year for full-time employment, within the meaning of Section 515 of the Labor Code, by the qualified taxpayer.

(vi) Upon commencement of employment with the qualified taxpayer, satisfies any of the following conditions:

(I) Was unemployed for the six months immediately preceding employment with the qualified taxpayer. In the case of an individual that completed a program of study at a college, university, or other postsecondary educational institution, received a baccalaureate, postgraduate, or professional degree, and was unemployed for the six months immediately preceding employment with the qualified taxpayer, that individual

must have completed that program of study at least 12 months prior to the individual's commencement of employment with the qualified taxpayer.

(II) Is a veteran who separated from service in the Armed Forces of the United States within the 12 months preceding commencement of employment with the qualified taxpayer.

(III) Was a recipient of the credit allowed under Section 32 of the Internal Revenue Code, relating to earned income, as applicable for federal purposes, for the previous taxable year.

(IV) Is an ex-offender previously convicted of a felony.

(V) Is a recipient of either CalWORKs, in accordance with Article 2 (commencing with Section 11250) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, or general assistance, in accordance with Section 17000.5 of the Welfare and Institutions Code.

(B) An individual may be considered a qualified full-time employee only for the period of time commencing with the date the individual is first employed by the qualified taxpayer and ending 60 months thereafter.

(11) (A) "Qualified taxpayer" means a person or entity engaged in a trade or business within a designated census tract or economic development area that, during the taxable year, pays or incurs qualified wages.

(B) In the case of any pass-thru entity, the determination of whether a taxpayer is a qualified taxpayer under this section shall be made at the entity level and any credit under this section or Section 23626 shall be allowed to the pass-thru entity and passed through to the partners and shareholders in accordance with applicable provisions of this part or Part 11 (commencing with Section 23001). For purposes of this subdivision, the term "pass-thru entity" means any partnership or "S" corporation.

(C) "Qualified taxpayers" shall not include any of the following:

(i) Employers that provide temporary help services, as described in Code 561320 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget, 2012 edition.

(ii) Employers that provide retail trade services, as described in Sector 44-45 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget, 2012 edition.

(iii) Employers that are primarily engaged in providing food services, as described in Code 711110, 722511, 722513, 722514, or 722515 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget, 2012 edition.

(iv) Employers that are primarily engaged in services as described in Code 713210, 721120, or 722410 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget, 2012 edition.

(v) (I) An employer that is a sexually oriented business.

(II) For purposes of this clause:

(ia) "Sexually oriented business" means a nightclub, bar, restaurant, or similar commercial enterprise that provides for an audience of two or more individuals live nude entertainment or live nude performances where the nudity is a function of everyday business operations and where nudity is a planned and intentional part of the entertainment or performance.

(ib) "Nude" means clothed in a manner that leaves uncovered or visible, through less than fully opaque clothing, any portion of the genitals or, in the case of a female, any portion of the breasts below the top of the areola of the breasts.

(vi) (I) For taxable years beginning on or after January 1, 2019, a taxpayer that contracts or subcontracts to build, maintain, or provide materials for President Trump's Border Wall.

(II) For purposes of this clause, "President Trump's Border Wall" means any physical wall or barrier constructed along the border between the United States and Mexico, consistent with President Donald J. Trump's campaign promises to build a border wall or Executive Order 13767, titled "Border Security and Immigration Enforcement Improvements" signed January 25, 2017, by President Donald J. Trump, regardless of whether the wall or barrier is paid for by the government of the United States, the government of Mexico, increased trade tariffs, or any combination of funds from those sources.

(D) Subparagraph (C) shall not apply to a taxpayer that is a "small-business;" business," other than the taxpayer described in clause (vi) of subparagraph (C).

(12) "Qualified wages" means those wages that meet all of the following requirements:

(A) (i) Except as provided in clause (ii), that portion of wages paid or incurred by the qualified taxpayer during the taxable year to each qualified full-time employee that exceeds 150 percent of minimum wage, but does not exceed 350 percent of minimum wage.

(ii) (I) In the case of a qualified full-time employee employed in a designated pilot area, that portion of wages paid or incurred by the qualified taxpayer during the taxable year to each qualified full-time employee that exceeds ten dollars (\$10) per hour or an equivalent amount for salaried employees, but does not exceed 350 percent of minimum wage. For qualified full-time employees described in the preceding sentence, clause (ii) of subparagraph (A) of paragraph (10) is modified by substituting "ten dollars (\$10) per hour or an equivalent amount for salaried employees" for "150 percent of the minimum wage."

(II) For purposes of this clause:

(ia) "Designated pilot area" means an area designated as a designated pilot area by the Governor's Office of Business and Economic Development.

(ib) Areas that may be designated as a designated pilot area are limited to areas within a designated census tract or an economic development area with average wages less than the statewide average wages, based on information from the Labor Market Division of the Employment Development Department, and areas within a designated census tract or an economic development area based on high poverty or high unemployment.

(ic) The total number of designated pilot areas that may be designated is limited to five, one or more of which must be an area within five or fewer designated census tracts within a single county based on high poverty or high unemployment or an area within an economic development area based on high poverty or high unemployment.

(id) The designation of a designated pilot area shall be applicable for a period of four calendar years, commencing with the first calendar year for which the designation of a designated pilot area is effective. The applicable period of a designated pilot area may be extended, in the sole discretion of the Governor's Office of Business

and Economic Development, for an additional period of up to three calendar years. The applicable period, and any extended period, shall not extend beyond December 31, 2020.

(III) The designation of an area as a designated pilot area and the extension of the applicable period of a designated pilot area shall be at the sole discretion of the Governor's Office of Business and Economic Development and shall not be subject to administrative appeal or judicial review.

(B) Wages paid or incurred during the 60-month period beginning with the first day the qualified full-time employee commences employment with the qualified taxpayer. In the case of any employee who is reemployed, including a regularly occurring seasonal increase, in the trade or business operations of the qualified taxpayer, this reemployment shall not be treated as constituting commencement of employment for purposes of this section.

(C) Except as provided in paragraph (3) of subdivision (n), qualified wages shall not include any wages paid or incurred by the qualified taxpayer on or after the date that the Department of Finance's redesignation of designated census tracts is effective, as provided in paragraph (2) of subdivision (g), so that a census tract is no longer a designated census tract.

(13) "Seasonal employment" means employment by a qualified taxpayer that has regular and predictable substantial reductions in trade or business operations.

(14) (A) "Small business" means a trade or business that has aggregate gross receipts, less returns and allowances reportable to this state, of less than two million dollars (\$2,000,000) during the previous taxable year.

(B) (i) For purposes of this paragraph, "gross receipts, less returns and allowances reportable to this state," means the sum of the gross receipts from the production of business income, as defined in subdivision (a) of Section 25120, and the gross receipts from the production of nonbusiness income, as defined in subdivision (d) of Section 25120.

(ii) In the case of any trade or business activity conducted by a partnership or an "S" corporation, the limitations set forth in subparagraph (A) shall be applied to the partnership or "S" corporation and to each partner or shareholder.

(C) (i) "Small business" shall not include a sexually oriented business.

(ii) For purposes of this subparagraph:

(I) "Sexually oriented business" means a nightclub, bar, restaurant, or similar commercial enterprise that provides for an audience of two or more individuals live nude entertainment or live nude performances where the nudity is a function of everyday business operations and where nudity is a planned and intentional part of the entertainment or performance.

(II) "Nude" means clothed in a manner that leaves uncovered or visible, through less than fully opaque clothing, any portion of the genitals or, in the case of a female, any portion of the breasts below the top of the areola of the breasts.

(15) An individual is "unemployed" for any period for which the individual is all of the following:

(A) Not in receipt of wages subject to withholding under Section 13020 of the Unemployment Insurance Code for that period.

(B) Not a self-employed individual (within the meaning of Section 401(c)(1)(B) of the Internal Revenue Code, relating to self-employed individual) for that period.

(C) Not a registered full-time student at a high school, college, university, or other postsecondary educational institution for that period.

(c) The net increase in full-time employees of a qualified taxpayer shall be determined as provided by this subdivision:

(1) (A) The net increase in full-time employees shall be determined on an annual full-time equivalent basis by subtracting from the amount determined in subparagraph (C) the amount determined in subparagraph (B).

(B) The total number of full-time employees employed in the base year by the taxpayer and by any trade or business acquired by the taxpayer during the current taxable year.

(C) The total number of full-time employees employed in the current taxable year by the taxpayer and by any trade or business acquired during the current taxable year.

(2) For taxpayers who first commence doing business in this state during the taxable year, the number of full-time employees for the base year shall be zero.

(d) For purposes of this section:

(1) All employees of the trades or businesses that are treated as related under Section 267, 318, or 707 of the Internal Revenue Code shall be treated as employed by a single taxpayer.

(2) In determining whether the taxpayer has first commenced doing business in this state during the taxable year, the provisions of subdivision (f) of Section 17276, without application of paragraph (7) of that subdivision, shall apply.

(e) (1) To be eligible for the credit allowed by this section, a qualified taxpayer shall, upon hiring a qualified full-time employee, request a tentative credit reservation from the Franchise Tax Board within 30 days of complying with the Employment Development Department's new hire reporting requirements as provided in Section 1088.5 of the Unemployment Insurance Code, in the form and manner prescribed by the Franchise Tax Board.

(2) To obtain a tentative credit reservation with respect to a qualified full-time employee, the qualified taxpayer shall provide necessary information, as determined by the Franchise Tax Board, including the name, social security number, the start date of employment, the rate of pay of the qualified full-time employee, the qualified taxpayer's gross receipts, less returns and allowances, for the previous taxable year, and whether the qualified full-time employee is a resident of a targeted employment area, as defined in former Section 7072 of the Government Code, as in effect on December 31, 2013.

(3) The qualified taxpayer shall provide the Franchise Tax Board an annual certification of employment with respect to each qualified full-time employee hired in a previous taxable year, on or before, the 15th day of the third month of the taxable year. The certification shall include necessary information, as determined by the Franchise Tax Board, including the name, social security number, start date of employment, and rate of pay for each qualified full-time employee employed by the qualified taxpayer.

(4) A tentative credit reservation provided to a taxpayer with respect to an employee of that taxpayer shall not constitute a determination by the Franchise Tax Board with respect to any of the requirements of this section regarding a taxpayer's eligibility for the credit authorized by this section.

(f) The Franchise Tax Board shall do all of the following:

(1) Approve a tentative credit reservation with respect to a qualified full-time employee hired during a calendar year.

(2) Determine the aggregate tentative reservation amount and the aggregate small business tentative reservation amount for a calendar year.

(3) A tentative credit reservation request from a qualified taxpayer with respect to a qualified full-time employee who is a resident of a targeted employment area, as defined in former Section 7072 of the Government Code, as in effect on December 31, 2013, shall be expeditiously processed by the Franchise Tax Board. The residence of a qualified full-time employee in a targeted employment area shall have no other effect on the eligibility of an individual as a qualified full-time employee or the eligibility of a qualified taxpayer for the credit authorized by this section.

(4) Notwithstanding Section 19542, provide as a searchable database on its Internet Web site, for each taxable year beginning on or after January 1, 2014, and before January 1, 2021, the employer names, amounts of tax credit claimed, and number of new jobs created for each taxable year pursuant to this section and Section 23626.

(g) (1) The Department of Finance shall, by January 1, 2014, and by January 1 of every fifth year thereafter, provide the Franchise Tax Board with a list of the designated census tracts and a list of census tracts with the lowest civilian unemployment rate.

(2) The redesignation of designated census tracts and lowest civilian unemployment census tracts by the Department of Finance as provided in Section 13073.5 of the Government Code shall be effective, for purposes of this credit, one year after the date the Department of Finance redesignates the designated census tracts.

(h) For purposes of this section:

(1) All employees of the trades or businesses that are treated as related under Section 267, 318, or 707 of the Internal Revenue Code shall be treated as employed by a single taxpayer.

(2) All employees of trades or businesses that are not incorporated, and that are under common control, shall be treated as employed by a single taxpayer.

(3) The credit, if any, allowable by this section with respect to each trade or business shall be determined by reference to its proportionate share of the expense of the qualified wages giving rise to the credit, and shall be allocated to that trade or business in that manner.

(4) Principles that apply in the case of controlled groups of corporations, as specified in subdivision (h) of Section 23626, shall apply with respect to determining employment.

(5) If an employer acquires the major portion of a trade or business of another employer, hereinafter in this paragraph referred to as the predecessor, or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section, other than subdivision (i), for any taxable year ending after that acquisition, the employment relationship between a qualified full-time employee and an employer shall not be treated as terminated if the employee continues to be employed in that trade or business.

(i) (1) If the employment of any qualified full-time employee, with respect to whom qualified wages are taken into account under subdivision (a), is terminated by the qualified taxpayer at any time during the first 36 months after commencing

employment with the qualified taxpayer, whether or not consecutive, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that employee.

(2) Paragraph (1) does not apply to any of the following:

(A) A termination of employment of a qualified full-time employee who voluntarily leaves the employment of the qualified taxpayer.

(B) A termination of employment of a qualified full-time employee who, before the close of the period referred to in paragraph (1), becomes disabled and unable to perform the services of that employment, unless that disability is removed before the close of that period and the qualified taxpayer fails to offer reemployment to that employee.

(C) A termination of employment of a qualified full-time employee, if it is determined that the termination was due to the misconduct, as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations, of that employee.

(D) A termination of employment of a qualified full-time employee due to a substantial reduction in the trade or business operations of the qualified taxpayer, including reductions due to seasonal employment.

(E) A termination of employment of a qualified full-time employee, if that employee is replaced by other qualified full-time employees so as to create a net increase in both the number of employees and the hours of employment.

(F) A termination of employment of a qualified full-time employee, when that employment is considered seasonal employment and the qualified employee is rehired on a seasonal basis.

(3) For purposes of paragraph (1), the employment relationship between the qualified taxpayer and a qualified full-time employee shall not be treated as terminated by reason of a mere change in the form of conducting the trade or business of the qualified taxpayer, if the qualified full-time employee continues to be employed in that trade or business and the qualified taxpayer retains a substantial interest in that trade or business.

(4) An increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(j) In the case of an estate or trust, both of the following apply:

(1) The qualified wages for a taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each.

(2) A beneficiary to whom any qualified wages have been apportioned under paragraph (1) shall be treated, for purposes of this part, as the employer with respect to those wages.

(k) In the case in which the credit allowed by this section exceeds the "net tax," the excess may be carried over to reduce the "net tax" in the following year, and the succeeding four years if necessary, until the credit is exhausted.

(l) The Franchise Tax Board may prescribe rules, guidelines, or procedures necessary or appropriate to carry out the purposes of this section, including any

guidelines regarding the allocation of the credit allowed under this section. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any rule, guideline, or procedure prescribed by the Franchise Tax Board pursuant to this section.

(m) (1) Upon the effective date of this section, the Department of Finance shall estimate the total dollar amount of credits that will be claimed under this section with respect to each fiscal year from the 2013–14 fiscal year to the 2020–21 fiscal year, inclusive.

(2) The Franchise Tax Board shall annually provide to the Joint Legislative Budget Committee, by no later than March 1, a report of the total dollar amount of the credits claimed under this section with respect to the relevant fiscal year. The report shall compare the total dollar amount of credits claimed under this section with respect to that fiscal year with the department's estimate with respect to that same fiscal year. If the total dollar amount of credits claimed for the fiscal year is less than the estimate for that fiscal year, the report shall identify options for increasing annual claims of the credit so as to meet estimated amounts.

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

(2) Notwithstanding paragraph (1) of subdivision (a), this section shall continue to be operative for taxable years beginning on or after January 1, 2021, but only with respect to qualified full-time employees who commenced employment with a qualified taxpayer in a designated census tract or economic development area in a taxable year beginning before January 1, 2021.

(3) This section shall remain operative for any qualified taxpayer with respect to any qualified full-time employee after the designated census tract is no longer designated or an economic development area ceases to be an economic development area, as defined in this section, for the remaining period, if any, of the 60-month period after the original date of hiring of an otherwise qualified full-time employee and any wages paid or incurred with respect to those qualified full-time employees after the designated census tract is no longer designated or an economic development area ceases to be an economic development area, as defined in this section, shall be treated as qualified wages under this section, provided the employee satisfies any other requirements of paragraphs (10) and (12) of subdivision (b), as if the designated census tract was still designated and binding or the economic development area was still in existence.

SEC. 7. Section 17059.2 of the Revenue and Taxation Code is amended to read:
17059.2. (a) (1) (A) For each taxable year beginning on and after January 1, 2014, and before January 1, 2025, there shall be allowed as a credit against the "net tax," as defined in Section 17039, an amount as determined by the committee pursuant to paragraph (2) and approved pursuant to Section 18410.2.

(B) (i) For taxable years beginning on or after January 1, 2019, and before January 1, 2025, a credit under this section shall not be allowed to a taxpayer that contracts or subcontracts to build, maintain, or provide materials for President Trump's Border Wall.

(ii) For purposes of this section, "President Trump's Border Wall" means any physical wall or barrier constructed along the border between the United States and Mexico, consistent with President Donald J. Trump's campaign promises to build a

border wall or Executive Order 13767, titled "Border Security and Immigration Enforcement Improvements" signed January 25, 2017, by President Donald J. Trump, regardless of whether the wall or barrier is paid for by the government of the United States, the government of Mexico, increased trade tariffs, or any combination of funds from those sources.

(2) The credit under this section shall be allocated by GO-Biz with respect to the 2013–14 fiscal year through and including the 2017–18 fiscal year. The amount of credit allocated to a taxpayer with respect to a fiscal year pursuant to this section shall be as set forth in a written agreement between GO-Biz and the taxpayer and shall be based on the following factors:

- (A) The number of jobs the taxpayer will create or retain in this state.
- (B) The compensation paid or proposed to be paid by the taxpayer to its employees, including wages and fringe benefits.
- (C) The amount of investment in this state by the taxpayer.
- (D) The extent of unemployment or poverty in the area according to the United States Census in which the taxpayer's project or business is proposed or located.
- (E) The incentives available to the taxpayer in this state, including incentives from the state, local government, and other entities.
- (F) The incentives available to the taxpayer in other states.
- (G) The duration of the proposed project and the duration the taxpayer commits to remain in this state.
- (H) The overall economic impact in this state of the taxpayer's project or business.
- (I) The strategic importance of the taxpayer's project or business to the state, region, or locality.
- (J) The opportunity for future growth and expansion in this state by the taxpayer's business.
- (K) The extent to which the anticipated benefit to the state exceeds the projected benefit to the taxpayer from the tax credit.

(3) The written agreement entered into pursuant to paragraph (2) shall include:

(A) Terms and conditions that include the taxable year or years for which the credit allocated shall be allowed, a minimum compensation level, and a minimum job retention period.

(B) Provisions indicating whether the credit is to be allocated in full upon approval or in increments based on mutually agreed upon milestones when satisfactorily met by the taxpayer.

(C) Provisions that allow the committee to recapture the credit, in whole or in part, if the taxpayer fails to fulfill the terms and conditions of the written agreement.

(b) For purposes of this section:

(1) "Committee" means the California Competes Tax Credit Committee established pursuant to Section 18410.2.

(2) "GO-Biz" means the Governor's Office of Business and Economic Development.

(c) For purposes of this section, GO-Biz shall do the following:

(1) Give priority to a taxpayer whose project or business is located or proposed to be located in an area of high unemployment or poverty.

(2) Negotiate with a taxpayer the terms and conditions of proposed written agreements that provide the credit allowed pursuant to this section to a taxpayer.

(3) Provide the negotiated written agreement to the committee for its approval pursuant to Section 18410.2.

(4) Inform the Franchise Tax Board of the terms and conditions of the written agreement upon approval of the written agreement by the committee.

(5) Inform the Franchise Tax Board of any recapture, in whole or in part, of a previously allocated credit upon approval of the recapture by the committee.

(6) Post on its Internet Web site all of the following:

(A) The name of each taxpayer allocated a credit pursuant to this section.

(B) The estimated amount of the investment by each taxpayer.

(C) The estimated number of jobs created or retained.

(D) The amount of the credit allocated to the taxpayer.

(E) The amount of the credit recaptured from the taxpayer, if applicable.

(F) The primary location where the taxpayer has committed to increasing the net number of jobs or make investments. The primary location shall be listed by city or, in the case of unincorporated areas, by county.

(G) Information that identifies each tax credit award that was given a priority for being located in a high unemployment or poverty area, pursuant to paragraph (1).

(H) Information that identifies each tax credit award that is being counted toward the requirement of paragraph (3) of subdivision (g).

(7) When determining whether to enter into a written agreement with a taxpayer pursuant to this section, GO-Biz may consider other factors, including, but not limited to, the following:

(A) The financial solvency of the taxpayer and the taxpayer's ability to finance its proposed expansion.

(B) The taxpayer's current and prior compliance with federal and state laws.

(C) Current and prior litigation involving the taxpayer.

(D) The reasonableness of the fee arrangement between the taxpayer and any third party providing any services related to the credit allowed pursuant to this section.

(E) Any other factors GO-Biz deems necessary to ensure that the administration of the credit allowed pursuant to this section is a model of accountability and transparency and that the effective use of the limited amount of credit available is maximized.

(d) For purposes of this section, the Franchise Tax Board shall do all of the following:

(1) (A) Except as provided in subparagraph (B), review the books and records of all taxpayers allocated a credit pursuant to this section to ensure compliance with the terms and conditions of the written agreement between the taxpayer and GO-Biz.

(B) In the case of a taxpayer that is a "small business," as defined in Section 17053.73, review the books and records of the taxpayer allocated a credit pursuant to this section to ensure compliance with the terms and conditions of the written agreement between the taxpayer and GO-Biz when, in the sole discretion of the Franchise Tax Board, a review of those books and records is appropriate or necessary in the best interests of the state.

(2) Notwithstanding Section 19542:

(A) Notify GO-Biz of a possible breach of the written agreement by a taxpayer and provide detailed information regarding the basis for that determination.

(B) Provide information to GO-Biz with respect to whether a taxpayer is a "small business," as defined in Section 17053.73.

(e) In the case where the credit allowed under this section exceeds the "net tax," as defined in Section 17039, for a taxable year, the excess credit may be carried over to reduce the "net tax" in the following taxable year, and succeeding five taxable years, if necessary, until the credit has been exhausted.

(f) Any recapture, in whole or in part, of a credit approved by the committee pursuant to Section 18410.2 shall be treated as a mathematical error appearing on the return. Any amount of tax resulting from that recapture shall be assessed by the Franchise Tax Board in the same manner as provided by Section 19051. The amount of tax resulting from the recapture shall be added to the tax otherwise due by the taxpayer for the taxable year in which the committee's recapture determination occurred.

(g) (1) The aggregate amount of credit that may be allocated in any fiscal year pursuant to this section and Section 23689 shall be an amount equal to the sum of subparagraphs (A), (B), and (C), less the amount specified in subparagraphs (D) and (E):

(A) Thirty million dollars (\$30,000,000) for the 2013–14 fiscal year, one hundred fifty million dollars (\$150,000,000) for the 2014–15 fiscal year, and two hundred million dollars (\$200,000,000) for each fiscal year from 2015–16 to 2017–18, inclusive.

(B) The unallocated credit amount, if any, from the preceding fiscal year.

(C) The amount of any previously allocated credits that have been recaptured.

(D) The amount estimated by the Director of Finance, in consultation with the Franchise Tax Board and the State Board of Equalization, to be necessary to limit the aggregation of the estimated amount of exemptions claimed pursuant to Section 6377.1 and of the amounts estimated to be claimed pursuant to this section and Sections 17053.73, 23626, and 23689 to no more than seven hundred fifty million dollars (\$750,000,000) for either the current fiscal year or the next fiscal year.

(i) The Director of Finance shall notify the Chairperson of the Joint Legislative Budget Committee of the estimated annual allocation authorized by this paragraph. Any allocation pursuant to these provisions shall be made no sooner than 30 days after written notification has been provided to the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the committees of each house of the Legislature that consider appropriations, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may determine.

(ii) In no event shall the amount estimated in this subparagraph be less than zero dollars (\$0).

(E) (i) For the 2015–16 fiscal year and each fiscal year thereafter, the amount of credit estimated by the Director of Finance to be allowed to all qualified taxpayers for that fiscal year pursuant to subparagraph (A) or subparagraph (B) of paragraph (1) of subdivision (c) of Section 23636.

(ii) If the amount available per fiscal year pursuant to this section and Section 23689 is less than the aggregate amount of credit estimated by the Director of Finance to be allowed to qualified taxpayers pursuant to subparagraph (A) or subparagraph (B) of paragraph (1) of subdivision (c) of Section 23636, the aggregate amount allowed pursuant to Section 23636 shall not be reduced and, in addition to the reduction required by clause (i), the aggregate amount of credit that may be allocated pursuant to this

section and Section 23689 for the next fiscal year shall be reduced by the amount of that deficit.

(iii) It is the intent of the Legislature that the reductions specified in this subparagraph of the aggregate amount of credit that may be allocated pursuant to this section and Section 23689 shall continue if the repeal dates of the credits allowed by this section and Section 23689 are removed or extended.

(2) (A) In addition to the other amounts determined pursuant to paragraph (1), the Director of Finance may increase the aggregate amount of credit that may be allocated pursuant to this section and Section 23689 by up to twenty-five million dollars (\$25,000,000) per fiscal year through the 2017–18 fiscal year. The amount of any increase made pursuant to this paragraph, when combined with any increase made pursuant to paragraph (2) of subdivision (g) of Section 23689, shall not exceed twenty-five million dollars (\$25,000,000) per fiscal year through the 2017–18 fiscal year.

(B) It is the intent of the Legislature that the Director of Finance increase the aggregate amount under subparagraph (A) in order to mitigate the reduction of the amount available due to the credit allowed to all qualified taxpayers pursuant to subparagraph (A) or (B) of paragraph (1) of subdivision (c) of Section 23636.

(3) Each fiscal year, 25 percent of the aggregate amount of the credit that may be allocated pursuant to this section and Section 23689 shall be reserved for small business, as defined in Section 17053.73 or 23626.

(4) Each fiscal year, no more than 20 percent of the aggregate amount of the credit that may be allocated pursuant to this section shall be allocated to any one taxpayer.

(h) GO-Biz may prescribe rules and regulations as necessary to carry out the purposes of this section. Any rule or regulation prescribed pursuant to this section may be by adoption of an emergency regulation in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(i) A written agreement between GO-Biz and a taxpayer with respect to the credit authorized by this section shall comply with existing law on the date the agreement is executed.

(j) (1) Upon the effective date of this section, the Department of Finance shall estimate the total dollar amount of credits that will be claimed under this section with respect to each fiscal year from the 2013–14 fiscal year to the 2024–25 fiscal year, inclusive.

(2) The Franchise Tax Board shall annually provide to the Joint Legislative Budget Committee, by no later than March 1, a report of the total dollar amount of the credits claimed under this section with respect to the relevant fiscal year. The report shall compare the total dollar amount of credits claimed under this section with respect to that fiscal year with the department's estimate with respect to that same fiscal year. If the total dollar amount of credits claimed for the fiscal year is less than the estimate for that fiscal year, the report shall identify options for increasing annual claims of the credit so as to meet estimated amounts.

(k) This section is repealed on December 1, 2025.

SEC. 8. Section 23609 of the Revenue and Taxation Code is amended to read:
23609. For each taxable year beginning on or after January 1, 1987, there shall be allowed as a credit against the "tax" (as defined by Section 23036) an amount

determined in accordance with Section 41 of the Internal Revenue Code, except as follows:

(a) For each taxable year beginning before January 1, 1997, both of the following modifications shall apply:

(1) The reference to "20 percent" in Section 41(a)(1) of the Internal Revenue Code is modified to read "8 percent."

(2) The reference to "20 percent" in Section 41(a)(2) of the Internal Revenue Code is modified to read "12 percent."

(b) (1) For each taxable year beginning on or after January 1, 1997, and before January 1, 1999, both of the following modifications shall apply:

(A) The reference to "20 percent" in Section 41(a)(1) of the Internal Revenue Code is modified to read "11 percent."

(B) The reference to "20 percent" in Section 41(a)(2) of the Internal Revenue Code is modified to read "24 percent."

(2) For each taxable year beginning on or after January 1, 1999, and before January 1, 2000, both of the following shall apply:

(A) The reference to "20 percent" in Section 41(a)(1) of the Internal Revenue Code is modified to read "12 percent."

(B) The reference to "20 percent" in Section 41(a)(2) of the Internal Revenue Code is modified to read "24 percent."

(3) For each taxable year beginning on or after January 1, 2000, both of the following shall apply:

(A) The reference to "20 percent" in Section 41(a)(1) of the Internal Revenue Code is modified to read "15 percent."

(B) The reference to "20 percent" in Section 41(a)(2) of the Internal Revenue Code is modified to read "24 percent."

(c) (1) With respect to any expense paid or incurred after the operative date of Section 6378, Section 41(b)(1) of the Internal Revenue Code is modified to exclude from the definition of "qualified research expense" any amount paid or incurred for tangible personal property that is eligible for the exemption from sales or use tax provided by Section 6378.

(2) "Qualified research" and "basic research" shall include only research conducted in California.

(d) The provisions of Section 41(e)(7)(A) of the Internal Revenue Code, shall be modified so that "basic research," for purposes of this section, includes any basic or applied research including scientific inquiry or original investigation for the advancement of scientific or engineering knowledge or the improved effectiveness of commercial products, except that the term does not include any of the following:

(1) Basic research conducted outside California.

(2) Basic research in the social sciences, arts, or humanities.

(3) Basic research for the purpose of improving a commercial product if the improvements relate to style, taste, cosmetic, or seasonal design factors.

(4) Any expenditure paid or incurred for the purpose of ascertaining the existence, location, extent, or quality of any deposit of ore or other mineral (including oil and gas).

(e) (1) In the case of a taxpayer engaged in any biopharmaceutical research activities that are described in codes 2833 to 2836, inclusive, or any research activities

that are described in codes 3826, 3829, or 3841 to 3845, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, or any other biotechnology research and development activities, the provisions of Section 41(e)(6) of the Internal Revenue Code shall be modified to include both of the following:

(A) A qualified organization as described in Section 170(b)(1)(A)(iii) of the Internal Revenue Code and owned by an institution of higher education as described in Section 3304(f) of the Internal Revenue Code.

(B) A charitable research hospital owned by an organization that is described in Section 501(c)(3) of the Internal Revenue Code, is exempt from taxation under Section 501(a) of the Internal Revenue Code, is not a private foundation, is designated a "specialized laboratory cancer center," and has received Clinical Cancer Research Center status from the National Cancer Institute.

(2) For purposes of this subdivision:

(A) "Biopharmaceutical research activities" means those activities that use organisms or materials derived from organisms, and their cellular, subcellular, or molecular components, in order to provide pharmaceutical products for human or animal therapeutics and diagnostics. Biopharmaceutical activities make use of living organisms to make commercial products, as opposed to pharmaceutical activities that make use of chemical compounds to produce commercial products.

(B) "Other biotechnology research and development activities" means research and development activities consisting of the application of recombinant DNA technology to produce commercial products, as well as research and development activities regarding pharmaceutical delivery systems designed to provide a measure of control over the rate, duration, and site of pharmaceutical delivery.

(f) In the case where the credit allowed by this section exceeds the "tax," the excess may be carried over to reduce the "tax" in the following year, and succeeding years if necessary, until the credit has been exhausted.

(g) For each taxable year beginning on or after January 1, 1998, the reference to "Section 501(a)" in Section 41(b)(3)(C) of the Internal Revenue Code, relating to contract research expenses, is modified to read "this part or Part 10 (commencing with Section 17001)."

(h) (1) For each taxable year beginning on or after January 1, 2000:

(A) The reference to "3 percent" in Section 41(c)(4)(A)(i) of the Internal Revenue Code is modified to read "one and forty-nine hundredths of one percent."

(B) The reference to "4 percent" in Section 41(c)(4)(A)(ii) of the Internal Revenue Code is modified to read "one and ninety-eight hundredths of one percent."

(C) The reference to "5 percent" in Section 41(c)(4)(A)(iii) of the Internal Revenue Code is modified to read "two and forty-eight hundredths of one percent."

(2) Section 41(c)(4)(B) shall not apply and in lieu thereof an election under Section 41(c)(4)(A) of the Internal Revenue Code may be made for any taxable year of the taxpayer beginning on or after January 1, 1998. That election shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Franchise Tax Board.

(3) Section 41(c)(7) of the Internal Revenue Code, relating to gross receipts, is modified to take into account only those gross receipts from the sale of property held primarily for sale to customers in the ordinary course of the taxpayer's trade or business

that is delivered or shipped to a purchaser within this state, regardless of f.o.b. point or any other condition of the sale.

(4) Section 41(c)(5) of the Internal Revenue Code, relating to election of the alternative simplified credit, shall not apply.

(i) Section 41(h) of the Internal Revenue Code, relating to termination, shall not apply.

(j) Section 41(g) of the Internal Revenue Code, relating to special rule for passthrough of credit, is modified by each of the following:

(1) The last sentence shall not apply.

(2) If the amount determined under Section 41(a) of the Internal Revenue Code for any taxable year exceeds the limitation of Section 41(g) of the Internal Revenue Code, that amount may be carried over to other taxable years under the rules of subdivision (f), except that the limitation of Section 41(g) of the Internal Revenue Code shall be taken into account in each subsequent taxable year.

(k) Section 41(a)(3) of the Internal Revenue Code shall not apply.

(l) Section 41(b)(3)(D) of the Internal Revenue Code, relating to amounts paid to eligible small businesses, universities, and federal laboratories, shall not apply.

(m) Section 41(f)(6) of the Internal Revenue Code, relating to energy research consortium, shall not apply.

(n) For taxable years beginning on or after January 1, 2019, a credit under this section shall not be allowed to a taxpayer that contracts or subcontracts to build, maintain, or provide materials for President Trump's Border Wall. For purposes of this section, "President Trump's Border Wall" means any physical wall or barrier constructed along the border between the United States and Mexico, consistent with President Donald J. Trump's campaign promises to build a border wall or Executive Order 13767, titled "Border Security and Immigration Enforcement Improvements" signed January 25, 2017, by President Donald J. Trump, regardless of whether the wall or barrier is paid for by the government of the United States, the government of Mexico, increased trade tariffs, or any combination of funds from those sources.

SEC. 9. Section 23626 of the Revenue and Taxation Code is amended to read:

23626. (a) (1) For each taxable year beginning on or after January 1, 2014, and before January 1, 2021, there shall be allowed to a qualified taxpayer that hires a qualified full-time employee and pays or incurs qualified wages attributable to work performed by the qualified full-time employee in a designated census tract or economic development area, and that receives a tentative credit reservation for that qualified full-time employee, a credit against the "tax," as defined by Section 23036, in an amount calculated under this section.

(2) The amount of the credit allowable under this section for a taxable year shall be equal to the product of the tentative credit amount for the taxable year and the applicable percentage for the taxable year.

(3) (A) If a qualified taxpayer relocates to a designated census tract or economic development area, the qualified taxpayer shall be allowed a credit with respect to qualified wages for each qualified full-time employee who is employed within the new location only if the qualified taxpayer provides each employee at the previous location or locations a written offer of employment at the new location in the designated census tract or economic development area with comparable compensation.

(B) For purposes of this paragraph, “relocates to a designated census tract or economic development area” means an increase in the number of qualified full-time employees, employed by a qualified taxpayer, within a designated census tract or tracts or economic development areas within a 12-month period in which there is a decrease in the number of full-time employees, employed by the qualified taxpayer in this state, but outside of designated census tracts or economic development areas.

(C) This paragraph does not apply to a small business.

(4) The credit allowed by this section may only be claimed on a timely filed original return of the qualified taxpayer and only with respect to a qualified full-time employee for whom the qualified taxpayer has received a tentative credit reservation.

(b) For purposes of this section:

(1) The “tentative credit amount” for a taxable year shall be equal to the product of the applicable credit percentage for each qualified full-time employee and the qualified wages paid by the qualified taxpayer during the taxable year to that qualified full-time employee.

(2) The “applicable percentage” for a taxable year shall be equal to a fraction, the numerator of which is the net increase in the total number of full-time employees employed in this state during the taxable year, determined on an annual full-time equivalent basis, as compared with the total number of full-time employees employed in this state during the base year, determined on the same basis, and the denominator of which shall be the total number of qualified full-time employees employed in this state during the taxable year. The applicable percentage shall not exceed 100 percent.

(3) The “applicable credit percentage” means the credit percentage for the calendar year during which a qualified full-time employee was first employed by the qualified taxpayer. The applicable credit percentage for all calendar years shall be 35 percent.

(4) “Base year” means the 2013 taxable year, or in the case of a qualified taxpayer who first hires a qualified full-time employee in a taxable year beginning on or after January 2015, the taxable year immediately preceding the taxable year in which the qualified full-time employee was hired.

(5) “Acquired” includes any gift, inheritance, transfer incident to divorce, or any other transfer, whether or not for consideration.

(6) “Annual full-time equivalent” means either of the following:

(A) In the case of a full-time employee paid hourly qualified wages, “annual full-time equivalent” means the total number of hours worked for the qualified taxpayer by the employee (not to exceed 2,000 hours per employee) divided by 2,000.

(B) In the case of a salaried full-time employee, “annual full-time equivalent” means the total number of weeks worked for the qualified taxpayer by the employee divided by 52.

(7) “Designated census tract” means a census tract within the state that is determined by the Department of Finance to have a civilian unemployment rate that is within the top 25 percent of all census tracts within the state and has a poverty rate within the top 25 percent of all census tracts within the state, as prescribed in Section 13073.5 of the Government Code.

(8) “Economic development area” means either of the following:

(A) A former enterprise zone. For purposes of this section, “former enterprise zone” means an enterprise zone designated and in effect as of December 31, 2011, any

enterprise zone designated during 2012, and any revision of an enterprise zone prior to June 30, 2013, under former Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code, as in effect on December 31, 2012, excluding any census tract within an enterprise zone that is identified by the Department of Finance pursuant to Section 13073.5 of the Government Code as a census tract within the lowest quartile of census tracts with the lowest civilian unemployment and poverty.

(B) A local agency military base recovery area designated as of the effective date of the act adding this subparagraph, in accordance with Section 7114 of the Government Code.

(9) "Minimum wage" means the wage established pursuant to Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(10) (A) "Qualified full-time employee" means an individual who meets all of the following requirements:

(i) Performs at least 50 percent of his or her services for the qualified taxpayer during the taxable year in a designated census tract or economic development area.

(ii) Receives starting wages that are at least 150 percent of the minimum wage.

(iii) Is hired by the qualified taxpayer on or after January 1, 2014.

(iv) Is hired by the qualified taxpayer after the date the Department of Finance determines that the census tract referred to in clause (i) is a designated census tract or that the census tracts within a former enterprise zone are not census tracts with the lowest civilian unemployment and poverty.

(v) Satisfies either of the following conditions:

(I) Is paid qualified wages by the qualified taxpayer for services not less than an average of 35 hours per week.

(II) Is a salaried employee and was paid compensation during the taxable year for full-time employment, within the meaning of Section 515 of the Labor Code, by the qualified taxpayer.

(vi) Upon commencement of employment with the qualified taxpayer, satisfies any of the following conditions:

(I) Was unemployed for the six months immediately preceding employment with the qualified taxpayer. In the case of an individual who completed a program of study at a college, university, or other postsecondary educational institution, received a baccalaureate, postgraduate, or professional degree, and was unemployed for the six months immediately preceding employment with the qualified taxpayer, that individual must have completed that program of study at least 12 months prior to the individual's commencement of employment with the qualified taxpayer.

(II) Is a veteran who separated from service in the Armed Forces of the United States within the 12 months preceding commencement of employment with the qualified taxpayer.

(III) Was a recipient of the credit allowed under Section 32 of the Internal Revenue Code, relating to earned income, as applicable for federal purposes, for the previous taxable year.

(IV) Is an ex-offender previously convicted of a felony.

(V) Is a recipient of either CalWORKs, in accordance with Article 2 (commencing with Section 11250) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions

Code, or general assistance, in accordance with Section 17000.5 of the Welfare and Institutions Code.

(B) An individual may only be considered a qualified full-time employee for the period of time commencing with the date the individual is first employed by the qualified taxpayer and ending 60 months thereafter.

(11) (A) "Qualified taxpayer" means a corporation engaged in a trade or business within designated census tract or economic development area that, during the taxable year, pays or incurs qualified wages.

(B) In the case of any pass-thru entity, the determination of whether a taxpayer is a qualified taxpayer under this section shall be made at the entity level and any credit under this section or Section 17053.73 shall be allowed to the pass-thru entity and passed through to the partners and shareholders in accordance with applicable provisions of this part or Part 10 (commencing with Section 17001). For purposes of this subdivision, the term "pass-thru entity" means any partnership or "S" corporation.

(C) "Qualified taxpayer" shall not include any of the following:

(i) Employers that provide temporary help services, as described in Code 561320 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget, 2012 edition.

(ii) Employers that provide retail trade services, as described in Sector 44-45 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget, 2012 edition.

(iii) Employers that are primarily engaged in providing food services, as described in Code 711110, 722511, 722513, 722514, or 722515 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget, 2012 edition.

(iv) Employers that are primarily engaged in services as described in Code 713210, 721120, or 722410 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget, 2012 edition.

(v) (I) An employer that is a sexually oriented business.

(II) For purposes of this clause:

(ia) "Sexually oriented business" means a nightclub, bar, restaurant, or similar commercial enterprise that provides for an audience of two or more individuals live nude entertainment or live nude performances where the nudity is a function of everyday business operations and where nudity is a planned and intentional part of the entertainment or performance.

(ib) "Nude" means clothed in a manner that leaves uncovered or visible, through less than fully opaque clothing, any portion of the genitals or, in the case of a female, any portion of the breasts below the top of the areola of the breasts.

(vi) (I) For taxable years beginning on or after January 1, 2019, a taxpayer that contracts or subcontracts to build, maintain, or provide materials for President Trump's Border Wall.

(II) For purposes of this clause, "President Trump's Border Wall" means any physical wall or barrier constructed along the border between the United States and Mexico, consistent with President Donald J. Trump's campaign promises to build a border wall or Executive Order 13767, titled "Border Security and Immigration Enforcement Improvements" signed January 25, 2017, by President Donald J. Trump.

regardless of whether the wall or barrier is paid for by the government of the United States, the government of Mexico, increased trade tariffs, or any combination of funds from those sources.

(D) Subparagraph (C) shall not apply to a taxpayer that is a “small-business” business.” other than the taxpayer described in clause (vi) of subparagraph (C).

(12) “Qualified wages” means those wages that meet all of the following requirements:

(A) (i) Except as provided in clause (ii), that portion of wages paid or incurred by the qualified taxpayer during the taxable year to each qualified full-time employee that exceeds 150 percent of minimum wage, but does not exceed 350 percent of the minimum wage.

(ii) (I) In the case of a qualified full-time employee employed in a designated pilot area, that portion of wages paid or incurred by the qualified taxpayer during the taxable year to each qualified full-time employee that exceeds ten dollars (\$10) per hour or an equivalent amount for salaried employees, but does not exceed 350 percent of the minimum wage. For qualified full-time employees described in the preceding sentence, clause (ii) of subparagraph (A) of paragraph (10) is modified by substituting “ten dollars (\$10) per hour or an equivalent amount for salaried employees” for “150 percent of the minimum wage.”

(II) For purposes of this clause:

(ia) “Designated pilot area” means an area designated as a designated pilot area by the Governor’s Office of Business and Economic Development.

(ib) Areas that may be designated as a designated pilot area are limited to areas within a designated census tract or an economic development area with average wages less than the statewide average wages, based on information from the Labor Market Division of the Employment Development Department, and areas within a designated census tract or an economic development area based on high poverty or high unemployment.

(ic) The total number of designated pilot areas that may be designated is limited to five, one or more of which must be an area within five or fewer designated census tracts within a single county based on high poverty or high unemployment or an area within an economic development area based on high poverty or high unemployment.

(id) The designation of a designated pilot area shall be applicable for a period of four calendar years, commencing with the first calendar year for which the designation of a designated pilot area is effective. The applicable period of a designated pilot area may be extended, in the sole discretion of the Governor’s Office of Business and Economic Development, for an additional period of up to three calendar years. The applicable period, and any extended period, shall not extend beyond December 31, 2020.

(III) The designation of an area as a designated pilot area and the extension of the applicable period of a designated pilot area shall be at the sole discretion of the Governor’s Office of Business and Economic Development and shall not be subject to administrative appeal or judicial review.

(B) Wages paid or incurred during the 60-month period beginning with the first day the qualified full-time employee commences employment with the qualified taxpayer. In the case of any employee who is reemployed, including regularly occurring seasonal increase, in the trade or business operations of the qualified taxpayer, this

reemployment shall not be treated as constituting commencement of employment for purposes of this section.

(C) Except as provided in paragraph (3) of subdivision (m), qualified wages shall not include any wages paid or incurred by the qualified taxpayer on or after the date that the Department of Finance's redesignation of designated census tracts is effective, as provided in paragraph (2) of subdivision (g), so that a census tract is no longer determined to be a designated census tract.

(13) "Seasonal employment" means employment by a qualified taxpayer that has regular and predictable substantial reductions in trade or business operations.

(14) (A) "Small business" means a trade or business that has aggregate gross receipts, less returns and allowances reportable to this state, of less than two million dollars (\$2,000,000) during the previous taxable year.

(B) (i) For purposes of this paragraph, "gross receipts, less returns and allowances reportable to this state," means the sum of the gross receipts from the production of business income, as defined in subdivision (a) of Section 25120, and the gross receipts from the production of nonbusiness income, as defined in subdivision (d) of Section 25120.

(ii) In the case of any trade or business activity conducted by a partnership or an "S" corporation, the limitations set forth in subparagraph (A) shall be applied to the partnership or "S" corporation and to each partner or shareholder.

(iii) For taxpayers that are required to be included in a combined report under Section 25101 or authorized to be included in a combined report under Section 25101.15, the dollar amount specified in subparagraph (A) shall apply to the aggregate gross receipts of all taxpayers that are required to be or authorized to be included in a combined report.

(C) (i) "Small business" shall not include a sexually oriented business.

(ii) For purposes of this subparagraph:

(I) "Sexually oriented business" means a nightclub, bar, restaurant, or similar commercial enterprise that provides for an audience of two or more individuals live nude entertainment or live nude performances where the nudity is a function of everyday business operations and where nudity is a planned and intentional part of the entertainment or performance.

(II) "Nude" means clothed in a manner that leaves uncovered or visible, through less than fully opaque clothing, any portion of the genitals or, in the case of a female, any portion of the breasts below the top of the areola of the breasts.

(15) An individual is "unemployed" for any period for which the individual is all of the following:

(A) Not in receipt of wages subject to withholding under Section 13020 of the Unemployment Insurance Code for that period.

(B) Not a self-employed individual (within the meaning of Section 401(c)(1)(B) of the Internal Revenue Code, relating to self-employed individual) for that period.

(C) Not a registered full-time student at a high school, college, university, or other postsecondary educational institution for that period.

(c) The net increase in full-time employees of a qualified taxpayer shall be determined as provided by this subdivision:

(1) (A) The net increase in full-time employees shall be determined on an annual full-time equivalent basis by subtracting from the amount determined in subparagraph (C) the amount determined in subparagraph (B).

(B) The total number of full-time employees employed in the base year by the taxpayer and by any trade or business acquired by the taxpayer during the current taxable year.

(C) The total number of full-time employees employed in the current taxable year by the taxpayer and by any trade or business acquired during the current taxable year.

(2) For taxpayers who first commence doing business in this state during the taxable year, the number of full-time employees for the base year shall be zero.

(d) For purposes of this section:

(1) All employees of the trades or businesses that are treated as related under Section 267, 318, or 707 of the Internal Revenue Code shall be treated as employed by a single taxpayer.

(2) In determining whether the taxpayer has first commenced doing business in this state during the taxable year, the provisions of subdivision (g) of Section 24416, without application of paragraph (7) of that subdivision, apply.

(e) (1) To be eligible for the credit allowed by this section, a qualified taxpayer shall, upon hiring a qualified full-time employee, request a tentative credit reservation from the Franchise Tax Board within 30 days of complying with the Employment Development Department's new hire reporting requirement as provided in Section 1088.5 of the Unemployment Insurance Code, in the form and manner prescribed by the Franchise Tax Board.

(2) To obtain a tentative credit reservation with respect to a qualified full-time employee, the qualified taxpayer shall provide necessary information, as determined by the Franchise Tax Board, including the name, the social security number, the start date of employment, the rate of pay of the qualified full-time employee, the qualified taxpayer's gross receipts, less returns and allowances, for the previous taxable year, and whether the qualified full-time employee is a resident of a targeted employment area, as defined in former Section 7072 of the Government Code, as in effect on December 31, 2013.

(3) The qualified taxpayer shall provide the Franchise Tax Board an annual certification of employment with respect to each qualified full-time employee hire in a previous taxable year, on or before the 15th day of the third month of the taxable year. The certification shall include necessary information, as determined by the Franchise Tax Board, including the name, social security number, start date of employment, and rate of pay for each qualified full-time employee employed by the qualified taxpayer.

(4) A tentative credit reservation provided to a taxpayer with respect to an employee of that taxpayer shall not constitute a determination by the Franchise Tax Board with respect to any of the requirements of this section regarding a taxpayer's eligibility for the credit authorized by this section.

(f) The Franchise Tax Board shall do all of the following:

(1) Approve a tentative credit reservation with respect to a qualified full-time employee hired during a calendar year.

(2) Determine the aggregate tentative reservation amount and the aggregate small business tentative reservation amount for a calendar year.

(3) A tentative credit reservation request from a qualified taxpayer with respect to a qualified full-time employee who is a resident of a targeted employment area, as defined in former Section 7072 of the Government Code, as in effect on December 31, 2013, shall be expeditiously processed by the Franchise Tax Board. The residence of a qualified full-time employee in a targeted employment area shall have no other effect on the eligibility of an individual as a qualified full-time employee or the eligibility of a qualified taxpayer for the credit authorized by this section.

(4) Notwithstanding Section 19542, provide as a searchable database on its Internet Web site, for each taxable year beginning on or after January 1, 2014, and before January 1, 2021, the employer names, amounts of tax credit claimed, and number of new jobs created for each taxable year pursuant to this section and Section 17053.73.

(g) (1) The Department of Finance shall, by January 1, 2014, and by January 1 of every fifth year thereafter, provide the Franchise Tax Board with a list of the designated census tracts and a list of census tracts with the lowest civilian unemployment rate.

(2) The redesignation of designated census tracts and lowest civilian unemployment census tracts by the Department of Finance as provided in Section 13073.5 of the Government Code shall be effective, for purposes of this credit, one year after the date that the Department of Finance redesignates the designated census tracts.

(h) (1) For purposes of this section:

(A) All employees of the trades or businesses that are treated as related under Section 267, 318, or 707 of the Internal Revenue Code shall be treated as employed by a single qualified taxpayer.

(B) All employees of all corporations that are members of the same controlled group of corporations shall be treated as employed by a single qualified taxpayer.

(C) The credit, if any, allowable by this section to each member shall be determined by reference to its proportionate share of the expense of the qualified wages giving rise to the credit, and shall be allocated in that manner.

(D) If a qualified taxpayer acquires the major portion of a trade or business of another taxpayer, hereinafter in this paragraph referred to as the predecessor, or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section for any taxable year ending after that acquisition, the employment relationship between a qualified full-time employee and a qualified taxpayer shall not be treated as terminated if the employee continues to be employed in that trade or business.

(2) For purposes of this subdivision, "controlled group of corporations" means a controlled group of corporations as defined in Section 1563(a) of the Internal Revenue Code, except that:

(A) "More than 50 percent" shall be substituted for "at least 80 percent" each place it appears in Section 1563(a)(1) of the Internal Revenue Code.

(B) The determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of Section 1563 of the Internal Revenue Code.

(3) Rules similar to the rules provided in Sections 46(e) and 46(h) of the Internal Revenue Code, as in effect on November 4, 1990, shall apply to both of the following:

(A) An organization to which Section 593 of the Internal Revenue Code applies.

(B) A regulated investment company or a real estate investment trust subject to taxation under this part.

(i) (1) If the employment of any qualified full-time employee, with respect to whom qualified wages are taken into account under subdivision (a), is terminated by the qualified taxpayer at any time during the first 36 months after commencing employment with the qualified taxpayer, whether or not consecutive, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that employee.

(2) Paragraph (1) does not apply to any of the following:

(A) A termination of employment of a qualified full-time employee who voluntarily leaves the employment of the qualified taxpayer.

(B) A termination of employment of a qualified full-time employee who, before the close of the period referred to in paragraph (1), becomes disabled and unable to perform the services of that employment, unless that disability is removed before the close of that period and the qualified taxpayer fails to offer reemployment to that employee.

(C) A termination of employment of a qualified full-time employee, if it is determined that the termination was due to the misconduct, as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations, of that employee.

(D) A termination of employment of a qualified full-time employee due to a substantial reduction in the trade or business operations of the qualified taxpayer, including reductions due to seasonal employment.

(E) A termination of employment of a qualified full-time employee, if that employee is replaced by other qualified full-time employees so as to create a net increase in both the number of employees and the hours of employment.

(F) A termination of employment of a qualified full-time employee, when that employment is considered seasonal employment and the qualified employee is rehired on a seasonal basis.

(3) For purposes of paragraph (1), the employment relationship between the qualified taxpayer and a qualified full-time employee shall not be treated as terminated by reason of a mere change in the form of conducting the trade or business of the qualified taxpayer, if the qualified full-time employee continues to be employed in that trade or business and the qualified taxpayer retains a substantial interest in that trade or business.

(4) An increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(j) In the case where the credit allowed by this section exceeds the "tax," the excess may be carried over to reduce the "tax" in the following year, and the succeeding four years if necessary, until exhausted.

(k) The Franchise Tax Board may prescribe rules, guidelines, or procedures necessary or appropriate to carry out the purposes of this section, including any guidelines regarding the allocation of the credit allowed under this section. Chapter

3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any rule, guideline, or procedure prescribed by the Franchise Tax Board pursuant to this section.

(l) (1) Upon the effective date of this section, the Department of Finance shall estimate the total dollar amount of credits that will be claimed under this section with respect to each fiscal year from the 2013–14 fiscal year to the 2020–21 fiscal year, inclusive.

(2) The Franchise Tax Board shall annually provide to the Joint Legislative Budget Committee, by no later than March 1, a report of the total dollar amount of the credits claimed under this section with respect to the relevant fiscal year. The report shall compare the total dollar amount of credits claimed under this section with respect to that fiscal year with the department's estimate with respect to that same fiscal year. If the total dollar amount of credits claimed for the fiscal year is less than the estimate for that fiscal year, the report shall identify options for increasing annual claims of the credit so as to meet estimated amounts.

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

(2) Notwithstanding paragraph (1) of subdivision (a), this section shall continue to be operative for taxable years beginning on or after January 1, 2021, but only with respect to qualified full-time employees who commenced employment with a qualified taxpayer in a designated census tract or economic development area in a taxable year beginning before January 1, 2021.

(3) This section shall remain operative for any qualified taxpayer with respect to any qualified full-time employee after the designated census tract is no longer designated or an economic development area ceases to be an economic development area, as defined in this section, for the remaining period, if any, of the 60-month period after the original date of hiring of an otherwise qualified full-time employee and any wages paid or incurred with respect to those qualified full-time employees after the designated census tract is no longer designated or an economic development area ceases to be an economic development area, as defined in this section, shall be treated as qualified wages under this section, provided the employee satisfies any other requirements of paragraphs (10) and (12) of subdivision (b), as if the designated census tract was still designated and binding or the economic development area was still in existence.

SEC. 10. Section 23689 of the Revenue and Taxation Code is amended to read:

23689. (a) (1) (A) For each taxable year beginning on and after January 1, 2014, and before January 1, 2025, there shall be allowed as a credit against the "tax," as defined in Section 23036, an amount as determined by the committee pursuant to paragraph (2) and approved pursuant to Section 18410.2.

(B) (i) For taxable years beginning on or after January 1, 2019, and before January 1, 2025, a credit under this section shall not be allowed to a taxpayer that contracts or subcontracts to build, maintain, or provide materials for President Trump's Border Wall.

(ii) For purposes of this section, "President Trump's Border Wall" means any physical wall or barrier constructed along the border between the United States and Mexico, consistent with President Donald J. Trump's campaign promises to build a border wall or Executive Order 13767, titled "Border Security and Immigration

Enforcement Improvements” signed January 25, 2017, by President Donald J. Trump, regardless of whether the wall or barrier is paid for by the government of the United States, the government of Mexico, increased trade tariffs, or any combination of funds from those sources.

(2) The credit under this section shall be allocated by GO-Biz with respect to the 2013–14 fiscal year through and including the 2017–18 fiscal year. The amount of credit allocated to a taxpayer with respect to a fiscal year pursuant to this section shall be as set forth in a written agreement between GO-Biz and the taxpayer and shall be based on the following factors:

- (A) The number of jobs the taxpayer will create or retain in this state.
- (B) The compensation paid or proposed to be paid by the taxpayer to its employees, including wages and fringe benefits.
- (C) The amount of investment in this state by the taxpayer.
- (D) The extent of unemployment or poverty in the area according to the United States Census in which the taxpayer’s project or business is proposed or located.
- (E) The incentives available to the taxpayer in this state, including incentives from the state, local government, and other entities.
- (F) The incentives available to the taxpayer in other states.
- (G) The duration of the proposed project and the duration the taxpayer commits to remain in this state.
- (H) The overall economic impact in this state of the taxpayer’s project or business.
- (I) The strategic importance of the taxpayer’s project or business to the state, region, or locality.
- (J) The opportunity for future growth and expansion in this state by the taxpayer’s business.

(K) The extent to which the anticipated benefit to the state exceeds the projected benefit to the taxpayer from the tax credit.

(3) The written agreement entered into pursuant to paragraph (2) shall include:

(A) Terms and conditions that include the taxable year or years for which the credit allocated shall be allowed, a minimum compensation level, and a minimum job retention period.

(B) Provisions indicating whether the credit is to be allocated in full upon approval or in increments based on mutually agreed upon milestones when satisfactorily met by the taxpayer.

(C) Provisions that allow the committee to recapture the credit, in whole or in part, if the taxpayer fails to fulfill the terms and conditions of the written agreement.

(b) For purposes of this section:

(1) “Committee” means the California Competes Tax Credit Committee established pursuant to Section 18410.2.

(2) “GO-Biz” means the Governor’s Office of Business and Economic Development.

(c) For purposes of this section, GO-Biz shall do the following:

(1) Give priority to a taxpayer whose project or business is located or proposed to be located in an area of high unemployment or poverty.

(2) Negotiate with a taxpayer the terms and conditions of proposed written agreements that provide the credit allowed pursuant to this section to a taxpayer.

(3) Provide the negotiated written agreement to the committee for its approval pursuant to Section 18410.2.

(4) Inform the Franchise Tax Board of the terms and conditions of the written agreement upon approval of the written agreement by the committee.

(5) Inform the Franchise Tax Board of any recapture, in whole or in part, of a previously allocated credit upon approval of the recapture by the committee.

(6) Post on its Internet Web site all of the following:

(A) The name of each taxpayer allocated a credit pursuant to this section.

(B) The estimated amount of the investment by each taxpayer.

(C) The estimated number of jobs created or retained.

(D) The amount of the credit allocated to the taxpayer.

(E) The amount of the credit recaptured from the taxpayer, if applicable.

(F) The primary location where the taxpayer has committed to increasing the net number of jobs or make investments. The primary location shall be listed by city or, in the case of unincorporated areas, by county.

(G) Information that identifies each tax credit award that was given a priority for being located in a high unemployment or poverty area, pursuant to paragraph (1).

(H) Information that identifies each tax credit award that is being counted toward the requirement of paragraph (3) of subdivision (g).

(7) When determining whether to enter into a written agreement with a taxpayer pursuant to this section, GO-Biz may consider other factors, including, but not limited to, the following:

(A) The financial solvency of the taxpayer and the taxpayer's ability to finance its proposed expansion.

(B) The taxpayer's current and prior compliance with federal and state laws.

(C) Current and prior litigation involving the taxpayer.

(D) The reasonableness of the fee arrangement between the taxpayer and any third party providing any services related to the credit allowed pursuant to this section.

(E) Any other factors GO-Biz deems necessary to ensure that the administration of the credit allowed pursuant to this section is a model of accountability and transparency and that the effective use of the limited amount of credit available is maximized.

(d) For purposes of this section, the Franchise Tax Board shall do all of the following:

(1) (A) Except as provided in subparagraph (B), review the books and records of all taxpayers allocated a credit pursuant to this section to ensure compliance with the terms and conditions of the written agreement between the taxpayer and GO-Biz.

(B) In the case of a taxpayer that is a "small business," as defined in Section 23626, review the books and records of the taxpayer allocated a credit pursuant to this section to ensure compliance with the terms and conditions of the written agreement between the taxpayer and GO-Biz when, in the sole discretion of the Franchise Tax Board, a review of those books and records is appropriate or necessary in the best interests of the state.

(2) Notwithstanding Section 19542:

(A) Notify GO-Biz of a possible breach of the written agreement by a taxpayer and provide detailed information regarding the basis for that determination.

(B) Provide information to GO-Biz with respect to whether a taxpayer is a "small business," as defined in Section 23626.

(e) In the case where the credit allowed under this section exceeds the "tax," as defined in Section 23036, for a taxable year, the excess credit may be carried over to reduce the "tax" in the following taxable year, and succeeding five taxable years, if necessary, until the credit has been exhausted.

(f) Any recapture, in whole or in part, of a credit approved by the committee pursuant to Section 18410.2 shall be treated as a mathematical error appearing on the return. Any amount of tax resulting from that recapture shall be assessed by the Franchise Tax Board in the same manner as provided by Section 19051. The amount of tax resulting from the recapture shall be added to the tax otherwise due by the taxpayer for the taxable year in which the committee's recapture determination occurred.

(g) (1) The aggregate amount of credit that may be allocated in any fiscal year pursuant to this section and Section 17059.2 shall be an amount equal to the sum of subparagraphs (A), (B), and (C), less the amount specified in subparagraphs (D) and (E):

(A) Thirty million dollars (\$30,000,000) for the 2013–14 fiscal year, one hundred fifty million dollars (\$150,000,000) for the 2014–15 fiscal year, and two hundred million dollars (\$200,000,000) for each fiscal year from 2015–16 to 2017–18, inclusive.

(B) The unallocated credit amount, if any, from the preceding fiscal year.

(C) The amount of any previously allocated credits that have been recaptured.

(D) The amount estimated by the Director of Finance, in consultation with the Franchise Tax Board and the State Board of Equalization, to be necessary to limit the aggregation of the estimated amount of exemptions claimed pursuant to Section 6377.1 and of the amounts estimated to be claimed pursuant to this section and Sections 17053.73, 17059.2, and 23626 to no more than seven hundred fifty million dollars (\$750,000,000) for either the current fiscal year or the next fiscal year.

(i) The Director of Finance shall notify the Chairperson of the Joint Legislative Budget Committee of the estimated annual allocation authorized by this paragraph. Any allocation pursuant to these provisions shall be made no sooner than 30 days after written notification has been provided to the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the committees of each house of the Legislature that consider appropriations, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may determine.

(ii) In no event shall the amount estimated in this subparagraph be less than zero dollars (\$0).

(E) (i) For the 2015–16 fiscal year and each fiscal year thereafter, the amount of credit estimated by the Director of Finance to be allowed to all qualified taxpayers for that fiscal year pursuant to subparagraph (A) or subparagraph (B) of paragraph (1) of subdivision (c) of Section 23636.

(ii) If the amount available per fiscal year pursuant to this section and Section 17059.2 is less than the aggregate amount of credit estimated by the Director of Finance to be allowed to qualified taxpayers pursuant to subparagraph (A) or subparagraph (B) of paragraph (1) of subdivision (c) of Section 23636, the aggregate amount allowed pursuant to Section 23636 shall not be reduced and, in addition to the reduction required by clause (i), the aggregate amount of credit that may be allocated pursuant to this

section and Section 17059.2 for the next fiscal year shall be reduced by the amount of that deficit.

(iii) It is the intent of the Legislature that the reductions specified in this subparagraph of the aggregate amount of credit that may be allocated pursuant to this section and Section 17059.2 shall continue if the repeal dates of the credits allowed by this section and Section 17059.2 are removed or extended.

(2) (A) In addition to the other amounts determined pursuant to paragraph (1), the Director of Finance may increase the aggregate amount of credit that may be allocated pursuant to this section and Section 17059.2 by up to twenty-five million dollars (\$25,000,000) per fiscal year through the 2017–18 fiscal year. The amount of any increase made pursuant to this paragraph, when combined with any increase made pursuant to paragraph (2) of subdivision (g) of Section 17059.2, shall not exceed twenty-five million dollars (\$25,000,000) per fiscal year through the 2017–18 fiscal year.

(B) It is the intent of the Legislature that the Director of Finance increase the aggregate amount under subparagraph (A) in order to mitigate the reduction of the amount available due to the credit allowed to all qualified taxpayers pursuant to subparagraph (A) or (B) of paragraph (1) of subdivision (c) of Section 23636.

(3) Each fiscal year, 25 percent of the aggregate amount of the credit that may be allocated pursuant to this section and Section 17059.2 shall be reserved for “small business,” as defined in Section 17053.73 or 23626.

(4) Each fiscal year, no more than 20 percent of the aggregate amount of the credit that may be allocated pursuant to this section shall be allocated to any one taxpayer.

(h) GO-Biz may prescribe rules and regulations as necessary to carry out the purposes of this section. Any rule or regulation prescribed pursuant to this section may be by adoption of an emergency regulation in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(i) (1) A written agreement between GO-Biz and a taxpayer with respect to the credit authorized by this section shall not restrict, broaden, or otherwise alter the ability of the taxpayer to assign that credit or any portion thereof in accordance with Section 23663.

(2) A written agreement between GO-Biz and a taxpayer with respect to the credit authorized by this section must comply with existing law on the date the agreement is executed.

(j) (1) Upon the effective date of this section, the Department of Finance shall estimate the total dollar amount of credits that will be claimed under this section with respect to each fiscal year from the 2013–14 fiscal year to the 2024–25 fiscal year, inclusive.

(2) The Franchise Tax Board shall annually provide to the Joint Legislative Budget Committee, by no later than March 1, a report of the total dollar amount of the credits claimed under this section with respect to the relevant fiscal year. The report shall compare the total dollar amount of credits claimed under this section with respect to that fiscal year with the department’s estimate with respect to that same fiscal year. If the total dollar amount of credits claimed for the fiscal year is less than the estimate for that fiscal year, the report shall identify options for increasing annual claims of the credit so as to meet estimated amounts.

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Substantive

(k) This section is repealed on December 1, 2025.

SEC. 11. This act provides for a tax levy within the meaning of Article IV of the California Constitution and shall go into immediate effect.

Amendment 4

On page 1, strike out lines 1 and 2

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