

AMENDED IN SENATE JUNE 6, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1420

Introduced by Committee on Accountability and Administrative Review (Frazier (Chair), Achadjian (Vice Chair), Buchanan, Ian Calderon, Cooley, Gorell, Hagman, Lowenthal, Medina, and Salas)

March 21, 2013

An act to amend Sections 1917.1, 2028.5, 5092, and 12104 of the Business and Professions Code, to amend *and repeal* Section 14076 of the Corporations Code, to amend Section 1727 of the Fish and Game Code, to amend Sections 19849.11 ~~and~~, 22959.6, *and 30061 of,* ~~and to repeal Section 11535 of,~~ the Government Code, *to amend Section 25174 of the Health and Safety Code*, to amend Sections 4801 and 11166 of the Penal Code, to amend Sections 4214 and 25722.8 of the Public Resources Code, *to amend Section 8352.4 of the Revenue and Taxation Code*, to amend Section 9250.14 of the Vehicle Code, *and to amend Sections 4024, 11462, 14132, and 14701 of the Welfare and Institutions Code, and to repeal Section 4 of Chapter 1299 of the Statutes of 1992,* relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

AB 1420, as amended, Committee on Accountability and Administrative Review. State government: state agencies: reports.

Existing law requires various state agencies to submit certain reports, plans, evaluations, and other similar documents to the Legislature and other state agencies.

This bill would eliminate provisions that require certain state agencies to submit certain reports to the Legislature and other state agencies.

The bill would also modify requirements of certain reports by requiring, among other things, that reports be placed on the Internet Web site of the reporting agency rather than to be submitted to the Legislature or other state agencies, or requiring certain state agencies to collaborate with other state agencies in preparing those reports. The bill would also modify cross-references.

This bill would make various conforming changes.

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

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

1 SECTION 1. Section 1917.1 of the Business and Professions
2 Code is amended to read:
3 1917.1. (a) The committee may grant a license as a registered
4 dental hygienist to an applicant who has not taken a clinical
5 examination before the committee, if the applicant submits all of
6 the following to the committee:
7 (1) A completed application form and all fees required by the
8 committee.
9 (2) Proof of a current license as a registered dental hygienist
10 issued by another state that is not revoked, suspended, or otherwise
11 restricted.
12 (3) Proof that the applicant has been in clinical practice as a
13 registered dental hygienist or has been a full-time faculty member
14 in an accredited dental hygiene education program for a minimum
15 of 750 hours per year for at least five years immediately preceding
16 the date of his or her application under this section. The clinical
17 practice requirement shall be deemed met if the applicant provides
18 proof of at least three years of clinical practice and commits to
19 completing the remaining two years of clinical practice by filing
20 with the committee a copy of a pending contract to practice dental
21 hygiene in any of the following facilities:
22 (A) A primary care clinic licensed under subdivision (a) of
23 Section 1204 of the Health and Safety Code.
24 (B) A primary care clinic exempt from licensure pursuant to
25 subdivision (c) of Section 1206 of the Health and Safety Code.
26 (C) A clinic owned or operated by a public hospital or health
27 system.

1 (D) A clinic owned and operated by a hospital that maintains
2 the primary contract with a county government to fill the county's
3 role under Section 17000 of the Welfare and Institutions Code.

4 (4) Satisfactory performance on a California law and ethics
5 examination and any examination that may be required by the
6 committee.

7 (5) Proof that the applicant has not been subject to disciplinary
8 action by any state in which he or she, is or has been previously,
9 issued any professional or vocational license. If the applicant has
10 been subject to disciplinary action, the committee shall review that
11 action to determine if it warrants refusal to issue a license to the
12 applicant.

13 (6) Proof of graduation from a school of dental hygiene
14 accredited by the Commission on Dental Accreditation.

15 (7) Proof of satisfactory completion of the National Dental
16 Hygiene Board Examination and of a state clinical examination,
17 regional clinical licensure examination, or any other clinical dental
18 hygiene examination approved by the committee.

19 (8) Proof that the applicant has not failed the state clinical
20 examination, the examination given by the Western Regional
21 Examining Board, or any other clinical dental hygiene examination
22 approved by the committee for licensure to practice dental hygiene
23 under this chapter more than once or once within five years prior
24 to the date of his or her application for a license under this section.

25 (9) Documentation of completion of a minimum of 25 units of
26 continuing education earned in the two years preceding application,
27 including completion of any continuing education requirements
28 imposed by the committee on registered dental hygienists licensed
29 in this state at the time of application.

30 (10) Any other information as specified by the committee to
31 the extent that it is required of applicants for licensure by
32 examination under this article.

33 (b) The committee may periodically request verification of
34 compliance with the requirements of paragraph (3) of subdivision
35 (a), and may revoke the license upon a finding that the employment
36 requirement or any other requirement of paragraph (3) of
37 subdivision (a) has not been met.

38 (c) The committee shall provide in the application packet to
39 each out-of-state dental hygienist pursuant to this section the
40 following information:

1 (1) The location of dental manpower shortage areas in the state.

2 (2) Any not-for-profit clinics, public hospitals, and accredited
3 dental hygiene education programs seeking to contract with
4 licensees for dental hygiene service delivery or training purposes.

5 SEC. 2. Section 2028.5 of the Business and Professions Code
6 is amended to read:

7 2028.5. (a) The board may establish a pilot program to expand
8 the practice of telehealth in this state.

9 (b) To implement this pilot program, the board may convene a
10 working group of interested parties from the public and private
11 sectors, including, but not limited to, state health-related agencies,
12 health care providers, health plan administrators, information
13 technology groups, and groups representing health care consumers.

14 (c) The purpose of the pilot program shall be to develop
15 methods, using a telehealth model, to deliver throughout the state
16 health care to persons with chronic diseases as well as information
17 on the best practices for chronic disease management services and
18 techniques and other health care information as deemed
19 appropriate.

20 SEC. 3. Section 5092 of the Business and Professions Code is
21 amended to read:

22 5092. (a) To qualify for the certified public accountant license,
23 an applicant who is applying under this section shall meet the
24 education, examination, and experience requirements specified in
25 subdivisions (b), (c), and (d), or otherwise prescribed pursuant to
26 this article. The board may adopt regulations as necessary to
27 implement this section.

28 (b) An applicant for the certified public accountant license shall
29 present satisfactory evidence that the applicant has completed a
30 baccalaureate or higher degree conferred by a college or university,
31 meeting, at a minimum, the standards described in Section 5094,
32 the total educational program to include a minimum of 24 semester
33 units in accounting subjects and 24 semester units in
34 business-related subjects. This evidence shall be provided prior to
35 admission to the examination for the certified public accountant
36 license, except that an applicant who applied, qualified, and sat
37 for at least two subjects of the examination for the certified public
38 accountant license before May 15, 2002, may provide this evidence
39 at the time of application for licensure.

1 (c) An applicant for the certified public accountant license shall
2 pass an examination prescribed by the board pursuant to this article.

3 (d) The applicant shall show, to the satisfaction of the board,
4 that the applicant has had two years of qualifying experience. This
5 experience may include providing any type of service or advice
6 involving the use of accounting, attest, compilation, management
7 advisory, financial advisory, tax, or consulting skills. To be
8 qualifying under this section, experience shall have been performed
9 in accordance with applicable professional standards. Experience
10 in public accounting shall be completed under the supervision or
11 in the employ of a person licensed or otherwise having comparable
12 authority under the laws of any state or country to engage in the
13 practice of public accountancy. Experience in private or
14 governmental accounting or auditing shall be completed under the
15 supervision of an individual licensed by a state to engage in the
16 practice of public accountancy.

17 (e) This section shall become inoperative on January 1, 2014,
18 but shall become or remain operative if the educational
19 requirements in ethics study and accounting study established by
20 subdivision (b) of Section 5093 and Section 5094.6 are reduced
21 or eliminated.

22 SEC. 4. Section 12104 of the Business and Professions Code
23 is amended to read:

24 12104. (a) The department shall issue instructions and make
25 recommendations to the county sealers, and the instructions and
26 recommendations shall govern the procedure to be followed by
27 these officers in the discharge of their duties.

28 (b) Instructions and recommendations that are made to ensure
29 statewide weights and measures protection shall include a local
30 administration cost analysis utilizing data provided by the county
31 sealer. The cost analysis shall identify the joint programs or
32 activities for which funds necessary to maintain adequate county
33 administration and enforcement have not been provided. The
34 secretary shall develop, jointly with the county sealers, county
35 priorities for the enforcement programs and activities of the
36 secretary.

37 SEC. 5. Section 14076 of the Corporations Code, as amended
38 by Section 6 of Chapter 648 of the Statutes of 2012, is amended
39 to read:

1 14076. (a) It is the intent of the Legislature that the
2 corporations make maximal use of their statutory authority to
3 guarantee loans and surety bonds, including the authority to secure
4 loans with a minimum loan loss reserve of only 20 percent, so that
5 the financing needs of small business may be met as fully as
6 possible within the limits of corporations' loan loss reserves. The
7 ~~agency office~~ shall report annually to the Legislature on the
8 financial status of the corporations and their portfolio of loans and
9 surety bonds guaranteed. ~~The agency shall include this~~ This
10 information *shall be included* in the annual report submitted to the
11 Legislature ~~by the director~~ pursuant to subdivision (b) of Section
12 14030.2.

13 (b) Any corporation that serves an area declared to be in a state
14 of emergency by the Governor or a disaster area by the President
15 of the United States, the Administrator of the United States Small
16 Business Administration, or the United States Secretary of
17 Agriculture shall increase the portfolio of loan guarantees where
18 the dollar amount of the loan is less than one hundred thousand
19 dollars (\$100,000), so that at least 15 percent of the dollar value
20 of loans guaranteed by the corporation is for those loans. The
21 corporation shall comply with this requirement within one year of
22 the date the emergency or disaster is declared. Upon application
23 of a corporation, the director may waive or modify the rule for the
24 corporation if the corporation demonstrates that it made a good
25 faith effort to comply and failed to locate lending institutions in
26 the region that the corporation serves that are willing to make
27 guaranteed loans in that amount.

28 ~~(e) This section shall remain in effect only until January 1, 2018,~~
29 ~~and as of that date is repealed, unless a later enacted statute, that~~
30 ~~is enacted before January 1, 2018, deletes or extends that date.~~

31 *(c) This section shall become operative on January 1, 2018.*

32 ~~SEC. 6. Section 14076 of the Corporations Code, as amended~~
33 ~~by Section 7 of Chapter 648 of the Statutes of 2012, is amended~~
34 ~~to read:~~

35 ~~14076. (a) It is the intent of the Legislature that the~~
36 ~~corporations make maximal use of their statutory authority to~~
37 ~~guarantee loans and surety bonds, including the authority to secure~~
38 ~~loans with a minimum loan loss reserve of only 25 percent, unless~~
39 ~~the agency authorizes a higher leverage ratio for an individual~~
40 ~~corporation pursuant to subdivision (b) of Section 14037, so that~~

1 the financing needs of small business may be met as fully as
2 possible within the limits of corporations' loan loss reserves. The
3 agency shall report annually to the Legislature on the financial
4 status of the corporations and their portfolio of loans and surety
5 bonds guaranteed. The agency shall include this information in
6 the annual report submitted to the Legislature by the director
7 pursuant to subdivision (b) of Section 14030.2.

8 (b) Any corporation that serves an area declared to be in a state
9 of emergency by the Governor or a disaster area by the President
10 of the United States, the Administrator of the United States Small
11 Business Administration, or the United States Secretary of
12 Agriculture shall increase the portfolio of loan guarantees where
13 the dollar amount of the loan is less than one hundred thousand
14 dollars (\$100,000), so that at least 15 percent of the dollar value
15 of loans guaranteed by the corporation is for those loans. The
16 corporation shall comply with this requirement within one year of
17 the date the emergency or disaster is declared. Upon application
18 of a corporation, the director may waive or modify the rule for the
19 corporation if the corporation demonstrates that it made a good
20 faith effort to comply and failed to locate lending institutions in
21 the region that the corporation serves that are willing to make
22 guaranteed loans in that amount.

23 (e) This section shall become operative on January 1, 2018.

24 *SEC. 6. Section 14076 of the Corporations Code, as amended*
25 *by Section 7 of Chapter 648 of the Statutes of 2012, is repealed.*

26 14076. — (a) It is the intent of the Legislature that the
27 corporations make maximal use of their statutory authority to
28 guarantee loans and surety bonds, including the authority to secure
29 loans with a minimum loan loss reserve of only 25 percent, unless
30 the agency authorizes a higher leverage ratio for an individual
31 corporation pursuant to subdivision (b) of Section 14037, so that
32 the financing needs of small business may be met as fully as
33 possible within the limits of corporations' loan loss reserves. The
34 agency shall report annually to the Legislature on the financial
35 status of the corporations and their portfolio of loans and surety
36 bonds guaranteed.

37 (b) Any corporation that serves an area declared to be in a state
38 of emergency by the Governor or a disaster area by the President
39 of the United States, the Administrator of the United States Small
40 Business Administration, or the United States Secretary of

1 Agriculture shall increase the portfolio of loan guarantees where
 2 the dollar amount of the loan is less than one hundred thousand
 3 dollars (\$100,000), so that at least 15 percent of the dollar value
 4 of loans guaranteed by the corporation is for those loans. The
 5 corporation shall comply with this requirement within one year of
 6 the date the emergency or disaster is declared. Upon application
 7 of a corporation, the director may waive or modify the rule for the
 8 corporation if the corporation demonstrates that it made a good
 9 faith effort to comply and failed to locate lending institutions in
 10 the region that the corporation serves that are willing to make
 11 guaranteed loans in that amount.

12 ~~(e) This section shall become operative on January 1, 2018.~~

13 SEC. 7. Section 1727 of the Fish and Game Code is amended
 14 to read:

15 1727. (a) In order to provide for a diversity of available angling
 16 experiences throughout the state, it is the intent of the Legislature
 17 that the commission maintain the existing wild trout program, and
 18 as part of the program, develop additional wild trout waters in the
 19 more than 20,000 miles of trout streams and approximately 5,000
 20 lakes containing trout in California.

21 (b) The department shall prepare a list of no less than 25 miles
 22 of stream or stream segments and at least one lake that it deems
 23 suitable for designation as wild trout waters. The department shall
 24 submit this list to the commission for its consideration at the regular
 25 October commission meeting.

26 (c) The commission may remove any stream or lake that it has
 27 designated as a wild trout fishery from the program at any time.
 28 If any of those waters are removed from the program, an equivalent
 29 amount of stream mileage or an equivalent size lake shall be added
 30 to the wild trout program.

31 *(d) The department shall prepare and complete management*
 32 *plans for all wild trout waters not more than three years following*
 33 *their initial designation by the commission and update the*
 34 *management plan every five years following completion of the*
 35 *initial management plan.*

36 ~~SEC. 8. Section 11535 of the Government Code, as added by~~
 37 ~~Section 8 of Chapter 147 of the Statutes of 2012, is repealed.~~

38 ~~SEC. 9.~~

39 SEC. 8. Section 19849.11 of the Government Code is amended
 40 to read:

1 19849.11. The Department of Human Resources, subject to
2 any condition that it may establish, subject to existing statutes
3 governing health benefits and group term life insurance offered
4 through the Public Employees' Retirement System, and subject to
5 all other applicable provisions of state law, may enter into contracts
6 for the purchase of employee benefits with respect to managerial
7 and confidential employees as defined by subdivisions (e) and (f)
8 of Section 3513, and employees excluded from the definition of
9 state employee in subdivision (c) of Section 3513, and officers or
10 employees of the executive branch of government who are not
11 members of the civil service, and supervisory employees as defined
12 in subdivision (g) of Section 3513. Benefits shall include, but not
13 be limited to, group life insurance, group disability insurance,
14 long-term disability insurance, group automobile liability and
15 physical damage insurance, and homeowners' and renters'
16 insurance.

17 The department may self-insure the long-term disability
18 insurance program if it is cost effective to do so.

19 ~~SEC. 10.~~

20 *SEC. 9.* Section 22959.6 of the Government Code is amended
21 to read:

22 22959.6. (a) The Department of Human Resources may
23 contract with one or more vision care plans for annuitants and
24 eligible family members, provided the carrier or carriers have
25 operated successfully in the area of vision care benefits for a
26 reasonable period, as determined by the Department of Human
27 Resources.

28 (b) The Department of Human Resources, as the program
29 administrator, has full administrative authority over this program
30 and associated funds and shall require the monthly premium to be
31 paid by the annuitant for the vision care plan. The premium to be
32 paid by the annuitant shall be deducted from his or her monthly
33 allowance. If there are insufficient funds in an annuitant's
34 allowance to pay the premium, the plan provider shall directly bill
35 the annuitant. A vision care plan or plans provided under this
36 authority shall be funded by the annuitants' premium. All premiums
37 received from annuitants shall be deposited in the Vision Care
38 Program for State Annuitants Fund, which is hereby created in the
39 State Treasury. Any income earned on the moneys in the Vision
40 Care Program for State Annuitants Fund shall be credited to the

1 fund. Notwithstanding Section 13340, moneys in the fund are
2 continuously appropriated for the purposes specified in subdivision
3 (d).

4 (c) An annuitant may enroll in a vision care plan provided by
5 a carrier that also provides a health benefit plan pursuant to Section
6 22850 if the employee or annuitant is also enrolled in the health
7 benefit plan provided by that carrier. However, this section may
8 not be construed to require an annuitant to enroll in a vision care
9 plan and a health benefit plan provided by the same carrier. An
10 annuitant enrolled in this program shall only enroll into a vision
11 plan or vision plans contracted for by the Department of Human
12 Resources.

13 (d) A contract for a vision care plan may not be entered into
14 unless the Department of Human Resources determines it is
15 reasonable to do so. Notwithstanding any other provision of law,
16 any premium moneys paid into this program by annuitants for the
17 purposes of the annuitant vision care plan that is contracted for
18 shall be used for the cost of providing vision care benefits to
19 eligible, enrolled annuitants and their eligible and enrolled
20 dependents, the payment of claims for those vision benefits, and
21 the cost of administration of the vision care plan or plans under
22 this vision care program, those costs being determined by the
23 Department of Human Resources.

24 (e) If the Director of Human Resources determines that it is not
25 economically feasible to continue this program anytime after its
26 commencement, the director may, upon written notice to enrollees
27 and to the contracting plan or plans, terminate this program within
28 a reasonable time. The notice of termination to the plan or plans
29 shall be determined by the Department of Human Resources. The
30 notice to enrollees of the termination of the program shall
31 commence no later than three months prior to the actual date of
32 termination of the program.

33 (f) Premium rates for this program shall be determined by the
34 Department of Human Resources in conjunction with the contracted
35 plan or plans and shall be considered separate and apart from active
36 employee premium rates.

37 *SEC. 10. Section 30061 of the Government Code is amended*
38 *to read:*

39 30061. (a) There shall be established in each county treasury
40 a Supplemental Law Enforcement Services Account (SLESA), to

1 receive all amounts allocated to a county for purposes of
2 implementing this chapter.

3 (b) In any fiscal year for which a county receives moneys to be
4 expended for the implementation of this chapter, the county auditor
5 shall allocate the moneys in the county's SLESA within 30 days
6 of the deposit of those moneys into the fund. The moneys shall be
7 allocated as follows:

8 (1) Five and fifteen-hundredths percent to the county sheriff for
9 county jail construction and operation. In the case of Madera,
10 Napa, and Santa Clara Counties, this allocation shall be made to
11 the county director or chief of corrections.

12 (2) Five and fifteen-hundredths percent to the district attorney
13 for criminal prosecution.

14 (3) Thirty-nine and seven-tenths percent to the county and the
15 cities within the county, and, in the case of San Mateo, Kern,
16 Siskiyou, and Contra Costa Counties, also to the Broadmoor Police
17 Protection District, the Bear Valley Community Services District,
18 the Stallion Springs Community Services District, the Lake
19 Shastina Community Services District, and the Kensington Police
20 Protection and Community Services District, in accordance with
21 the relative population of the cities within the county and the
22 unincorporated area of the county, and the Broadmoor Police
23 Protection District in the County of San Mateo, the Bear Valley
24 Community Services District and the Stallion Springs Community
25 Services District in Kern County, the Lake Shastina Community
26 Services District in Siskiyou County, and the Kensington Police
27 Protection and Community Services District in Contra Costa
28 County, as specified in the most recent January estimate by the
29 population research unit of the Department of Finance, and as
30 adjusted to provide, except as provided in subdivision (j), a grant
31 of at least one hundred thousand dollars (\$100,000) to each law
32 enforcement jurisdiction. For a newly incorporated city whose
33 population estimate is not published by the Department of Finance,
34 but that was incorporated prior to July 1 of the fiscal year in which
35 an allocation from the SLESA is to be made, the city manager, or
36 an appointee of the legislative body, if a city manager is not
37 available, and the county administrative or executive officer shall
38 prepare a joint notification to the Department of Finance and the
39 county auditor with a population estimate reduction of the
40 unincorporated area of the county equal to the population of the

1 newly incorporated city by July 15, or within 15 days after the
2 Budget Act is enacted, of the fiscal year in which an allocation
3 from the SLESA is to be made. No person residing within the
4 Broadmoor Police Protection District, the Bear Valley Community
5 Services District, the Stallion Springs Community Services District,
6 the Lake Shastina Community Services District, or the Kensington
7 Police Protection and Community Services District shall also be
8 counted as residing within the unincorporated area of the County
9 of San Mateo, Kern, Siskiyou, or Contra Costa, or within any city
10 located within those counties. Except as provided in subdivision
11 (j), the county auditor shall allocate a grant of at least one hundred
12 thousand dollars (\$100,000) to each law enforcement jurisdiction.
13 Moneys allocated to the county pursuant to this subdivision shall
14 be retained in the county SLESA, and moneys allocated to a city
15 pursuant to this subdivision shall be deposited in an SLESA
16 established in the city treasury.

17 (4) Fifty percent to the county or city and county to implement
18 a comprehensive multiagency juvenile justice plan as provided in
19 this paragraph. The juvenile justice plan shall be developed by the
20 local juvenile justice coordinating council in each county and city
21 and county with the membership described in Section 749.22 of
22 the Welfare and Institutions Code. If a plan has been previously
23 approved by the Corrections Standards Authority or, commencing
24 July 1, 2012, by the Board of State and Community Corrections,
25 the plan shall be reviewed and modified annually by the council.
26 The plan or modified plan shall be approved by the county board
27 of supervisors, and in the case of a city and county, the plan shall
28 also be approved by the mayor. The plan or modified plan shall
29 be submitted to the Board of State and Community Corrections
30 by May 1 of each year.

31 (A) Juvenile justice plans shall include, but not be limited to,
32 all of the following components:

33 (i) An assessment of existing law enforcement, probation,
34 education, mental health, health, social services, drug and alcohol,
35 and youth services resources that specifically target at-risk
36 juveniles, juvenile offenders, and their families.

37 (ii) An identification and prioritization of the neighborhoods,
38 schools, and other areas in the community that face a significant
39 public safety risk from juvenile crime, such as gang activity,
40 daylight burglary, late-night robbery, vandalism, truancy, controlled

1 substances sales, firearm-related violence, and juvenile substance
2 abuse and alcohol use.

3 (iii) A local juvenile justice action strategy that provides for a
4 continuum of responses to juvenile crime and delinquency and
5 demonstrates a collaborative and integrated approach for
6 implementing a system of swift, certain, and graduated responses
7 for at-risk youth and juvenile offenders.

8 (iv) Programs identified in clause (iii) that are proposed to be
9 funded pursuant to this subparagraph, including the projected
10 amount of funding for each program.

11 (B) Programs proposed to be funded shall satisfy all of the
12 following requirements:

13 (i) Be based on programs and approaches that have been
14 demonstrated to be effective in reducing delinquency and
15 addressing juvenile crime for any elements of response to juvenile
16 crime and delinquency, including prevention, intervention,
17 suppression, and incapacitation.

18 (ii) Collaborate and integrate services of all the resources set
19 forth in clause (i) of subparagraph (A), to the extent appropriate.

20 (iii) Employ information sharing systems to ensure that county
21 actions are fully coordinated, and designed to provide data for
22 measuring the success of juvenile justice programs and strategies.

23 (iv) Adopt goals related to the outcome measures that shall be
24 used to determine the effectiveness of the local juvenile justice
25 action strategy.

26 (C) The plan shall also identify the specific objectives of the
27 programs proposed for funding and specified outcome measures
28 to determine the effectiveness of the programs and contain an
29 accounting for all program participants, including those who do
30 not complete the programs. Outcome measures of the programs
31 proposed to be funded shall include, but not be limited to, all of
32 the following:

33 (i) The rate of juvenile arrests per 100,000 population.

34 (ii) The rate of successful completion of probation.

35 (iii) The rate of successful completion of restitution and
36 court-ordered community service responsibilities.

37 (iv) Arrest, incarceration, and probation violation rates of
38 program participants.

39 (v) Quantification of the annual per capita costs of the program.

1 (D) The Board of State and Community Corrections shall review
 2 plans or modified plans submitted pursuant to this paragraph within
 3 30 days upon receipt of submitted or resubmitted plans or modified
 4 plans. The board shall approve only those plans or modified plans
 5 that fulfill the requirements of this paragraph, and shall advise a
 6 submitting county or city and county immediately upon the
 7 approval of its plan or modified plan. The board shall offer, and
 8 provide, if requested, technical assistance to any county or city
 9 and county that submits a plan or modified plan not in compliance
 10 with the requirements of this paragraph. The SLESA shall only
 11 allocate funding pursuant to this paragraph upon notification from
 12 the board that a plan or modified plan has been approved.

13 ~~(E) To assess the effectiveness of programs funded pursuant to~~
 14 ~~this paragraph using the program outcome criteria specified in~~
 15 ~~subparagraph (C), the following periodic reports shall be submitted:~~

16 ~~(i) Each county or city and county shall report, beginning~~
 17 ~~October 15, 2002, and annually each October 15 thereafter, to the~~
 18 ~~county board of supervisors and the Board of State and Community~~
 19 ~~Corrections, in a format specified by the board, on the programs~~
 20 ~~funded pursuant to this chapter and program outcomes as specified~~
 21 ~~in subparagraph (C).~~

22 ~~(ii) The Board of State and Community Corrections shall~~
 23 ~~compile the local reports and, by March 15, 2003, and annually~~
 24 ~~thereafter, make a report to the Governor and the Legislature on~~
 25 ~~program expenditures within each county and city and county from~~
 26 ~~the appropriation for the purposes of this paragraph, on the~~
 27 ~~outcomes as specified in subparagraph (C) of the programs funded~~
 28 ~~pursuant to this paragraph and the statewide effectiveness of the~~
 29 ~~comprehensive multiagency juvenile justice plans.~~

30 (c) Subject to subdivision (d), for each fiscal year in which the
 31 county, each city, the Broadmoor Police Protection District, the
 32 Bear Valley Community Services District, the Stallion Springs
 33 Community Services District, the Lake Shastina Community
 34 Services District, and the Kensington Police Protection and
 35 Community Services District receive moneys pursuant to paragraph
 36 (3) of subdivision (b), the county, each city, and each district
 37 specified in this subdivision shall appropriate those moneys in
 38 accordance with the following procedures:

39 (1) In the case of the county, the county board of supervisors
 40 shall appropriate existing and anticipated moneys exclusively to

1 provide frontline law enforcement services, other than those
2 services specified in paragraphs (1) and (2) of subdivision (b), in
3 the unincorporated areas of the county, in response to written
4 requests submitted to the board by the county sheriff and the district
5 attorney. Any request submitted pursuant to this paragraph shall
6 specify the frontline law enforcement needs of the requesting
7 entity, and those personnel, equipment, and programs that are
8 necessary to meet those needs.

9 (2) In the case of a city, the city council shall appropriate
10 existing and anticipated moneys exclusively to fund frontline
11 municipal police services, in accordance with written requests
12 submitted by the chief of police of that city or the chief
13 administrator of the law enforcement agency that provides police
14 services for that city.

15 (3) In the case of the Broadmoor Police Protection District
16 within the County of San Mateo, the Bear Valley Community
17 Services District or the Stallion Springs Community Services
18 District within Kern County, the Lake Shastina Community
19 Services District within Siskiyou County, or the Kensington Police
20 Protection and Community Services District within Contra Costa
21 County, the legislative body of that special district shall appropriate
22 existing and anticipated moneys exclusively to fund frontline
23 municipal police services, in accordance with written requests
24 submitted by the chief administrator of the law enforcement agency
25 that provides police services for that special district.

26 (d) For each fiscal year in which the county, a city, or the
27 Broadmoor Police Protection District within the County of San
28 Mateo, the Bear Valley Community Services District or the Stallion
29 Springs Community Services District within Kern County, the
30 Lake Shastina Community Services District within Siskiyou
31 County, or the Kensington Police Protection and Community
32 Services District within Contra Costa County receives any moneys
33 pursuant to this chapter, in no event shall the governing body of
34 any of those recipient agencies subsequently alter any previous,
35 valid appropriation by that body, for that same fiscal year, of
36 moneys allocated to the county or city pursuant to paragraph (3)
37 of subdivision (b).

38 (e) For the 2011–12 fiscal year, the Controller shall allocate
39 23.54 percent of the amount deposited in the Local Law
40 Enforcement Services Account in the Local Revenue Fund 2011

1 for the purposes of paragraphs (1), (2), and (3) of subdivision (b),
2 and shall allocate 23.54 percent for purposes of paragraph (4) of
3 subdivision (b).

4 (f) Commencing with the 2012–13 fiscal year, the Controller
5 shall allocate 21.86 percent of the amount deposited in the
6 Enhancing Law Enforcement Activities Subaccount in the Local
7 Revenue Fund 2011 for the purposes of paragraphs (1) to (3),
8 inclusive, of subdivision (b), and shall allocate 21.86 percent for
9 purposes of paragraph (4) of subdivision (b).

10 (g) The Controller shall allocate funds to local jurisdictions for
11 public safety in accordance with this section as annually calculated
12 by the Director of Finance.

13 (h) Funds received pursuant to subdivision (b) shall be expended
14 or encumbered in accordance with this chapter no later than June
15 30 of the following fiscal year. A local agency that has not met
16 the requirement of this subdivision shall remit unspent SLESA
17 moneys received after April 1, 2009, to the Controller for deposit
18 in the Local Safety and Protection Account, after April 1, 2012,
19 to the Local Law Enforcement Services Account, and after July
20 1, 2012, to the County Enhancing Law Enforcement Activities
21 Subaccount.

22 (i) In the 2010–11 fiscal year, if the fourth quarter revenue
23 derived from fees imposed by subdivision (a) of Section 10752.2
24 of the Revenue and Taxation Code that are deposited in the General
25 Fund and transferred to the Local Safety and Protection Account,
26 and continuously appropriated to the Controller for allocation
27 pursuant to this section, are insufficient to provide a minimum
28 grant of one hundred thousand dollars (\$100,000) to each law
29 enforcement jurisdiction, the county auditor shall allocate the
30 revenue proportionately, based on the allocation schedule in
31 paragraph (3) of subdivision (b). The county auditor shall
32 proportionately allocate, based on the allocation schedule in
33 paragraph (3) of subdivision (b), all revenues received after the
34 distribution of the fourth quarter allocation attributable to these
35 fees for which payment was due prior to July 1, 2011, until all
36 minimum allocations are fulfilled, at which point all remaining
37 revenue shall be distributed proportionately among the other
38 jurisdictions.

39 *SEC. 11. Section 25174 of the Health and Safety Code is*
40 *amended to read:*

1 25174. (a) There is in the General Fund the Hazardous Waste
2 Control Account, which shall be administered by the director. In
3 addition to any other money that may be deposited in the
4 Hazardous Waste Control Account, pursuant to statute, all of the
5 following amounts shall be deposited in the account:

6 (1) The fees collected pursuant to Sections 25174.1, 25205.2,
7 25205.5, 25205.15, and 25205.16.

8 (2) The fees collected pursuant to Section 25187.2, to the extent
9 that those fees are for the oversight of corrective action taken under
10 this chapter.

11 (3) Any interest earned upon the money deposited in the
12 Hazardous Waste Control Account.

13 (4) Any money received from the federal government pursuant
14 to the federal act.

15 (5) Any reimbursements for funds expended from the Hazardous
16 Waste Control Account for services provided by the department
17 pursuant to this chapter, including, but not limited to, the
18 reimbursements required pursuant to Sections 25201.9 and 25205.7.

19 (b) The funds deposited in the Hazardous Waste Control
20 Account may be appropriated by the Legislature, for expenditure
21 as follows:

22 (1) To the department for the administration and implementation
23 of this chapter.

24 (2) To the department for allocation to the State Board of
25 Equalization to pay refunds of fees collected pursuant to Sections
26 43051 and 43053 of the Revenue and Taxation Code and for the
27 administration and collection of the fees imposed pursuant to
28 Article 9.1 (commencing with Section 25205.1) that are deposited
29 into the Hazardous Waste Control Account.

30 (3) To the department for the costs of performance or review
31 of analyses of past, present, or potential environmental public
32 health effects related to toxic substances, including extremely
33 hazardous waste, as defined in Section 25115, and hazardous waste,
34 as defined in Section 25117.

35 (4)-(A) To the department for allocation to the office of the
36 Attorney General for the support of the Toxic Substance
37 Enforcement Program in the office of the Attorney General, in
38 carrying out the purposes of this chapter.

39 (B) ~~On or before October 1 of each year, the Attorney General~~
40 ~~shall report to the Legislature on the expenditure of any funds~~

1 allocated to the office of the Attorney General for the preceding
2 fiscal year pursuant to this paragraph and paragraph (14) of
3 subdivision (b) of Section 25173.6. The report shall include all of
4 the following:

5 (i) A description of cases resolved by the office of the Attorney
6 General through settlement or court order, including the monetary
7 benefit to the department and the state.

8 (ii) A description of injunctions or other court orders benefiting
9 the people of the state.

10 (iii) A description of any cases in which the Attorney General's
11 Toxic Substance Enforcement Program is representing the
12 department or the state against claims by defendants or responsible
13 parties.

14 (iv) A description of other pending litigation handled by the
15 Attorney General's Toxic Substance Enforcement Program.

16 (C) Nothing in subparagraph (C) shall require the Attorney
17 General to report on any confidential or investigatory matter.

18 (5) To the department for administration and implementation
19 of Chapter 6.11 (commencing with Section 25404).

20 (c) (1) Expenditures from the Hazardous Waste Control
21 Account for support of state agencies other than the department
22 shall, upon appropriation by the Legislature to the department, be
23 subject to an interagency agreement or similar mechanism between
24 the department and the state agency receiving the support.

25 (2) The department shall, at the time of the release of the annual
26 Governor's Budget, describe the budgetary amounts proposed to
27 be allocated to the State Board of Equalization, as specified in
28 paragraph (2) of subdivision (b) and in paragraph (3) of subdivision
29 (b) of Section 25173.6, for the upcoming fiscal year.

30 (3) It is the intent of the Legislature that moneys appropriated
31 in the annual Budget Act each year for the purpose of reimbursing
32 the State Board of Equalization, a private party, or other public
33 agency, for the administration and collection of the fees imposed
34 pursuant to Article 9.1 (commencing with Section 25205.1) and
35 deposited in the Hazardous Waste Control Account, shall not
36 exceed the costs incurred by the State Board of Equalization, the
37 private party, or other public agency, for the administration and
38 collection of those fees.

39 (d) With respect to expenditures for the purposes of paragraphs
40 (1) and (3) of subdivision (b) and paragraphs (1) and (2) of

1 subdivision (b) of Section 25173.6, the department shall, at the
2 time of the release of the annual Governor’s Budget, also make
3 available the budgetary amounts and allocations of staff resources
4 of the department proposed for the following activities:

5 (1) The department shall identify, by permit type, the projected
6 allocations of budgets and staff resources for hazardous waste
7 facilities permits, including standardized permits, closure plans,
8 and postclosure permits.

9 (2) The department shall identify, with regard to surveillance
10 and enforcement activities, the projected allocations of budgets
11 and staff resources for the following types of regulated facilities
12 and activities:

13 (A) Hazardous waste facilities operating under a permit or grant
14 of interim status issued by the department, and generator activities
15 conducted at those facilities. This information shall be reported
16 by permit type.

17 (B) Transporters.

18 (C) Response to complaints.

19 (3) The department shall identify the projected allocations of
20 budgets and staff resources for both of the following activities:

21 (A) The registration of hazardous waste transporters.

22 (B) The operation and maintenance of the hazardous waste
23 manifest system.

24 (4) The department shall identify, with regard to site mitigation
25 and corrective action, the projected allocations of budgets and staff
26 resources for the oversight and implementation of the following
27 activities:

28 (A) Investigations and removal and remedial actions at military
29 bases.

30 (B) Voluntary investigations and removal and remedial actions.

31 (C) State match and operation and maintenance costs, by site,
32 at joint state and federally funded National Priority List Sites.

33 (D) Investigation, removal and remedial actions, and operation
34 and maintenance at the Stringfellow Hazardous Waste Site.

35 (E) Investigation, removal and remedial actions, and operation
36 and maintenance at the Casmalia Hazardous Waste Site.

37 (F) Investigations and removal and remedial actions at
38 nonmilitary, responsible party lead National Priority List Sites.

1 (G) Preremedial activities under the federal Comprehensive
2 Environmental Response, Compensation, and Liability Act of 1980
3 (42 U.S.C. Sec. 9601 et seq.).

4 (H) Investigations, removal and remedial actions, and operation
5 and maintenance at state-only orphan sites.

6 (I) Investigations and removal and remedial actions at
7 nonmilitary, non-National Priority List responsible party lead sites.

8 (J) Investigations, removal and remedial actions, and operation
9 and maintenance at Expedited Remedial Action Program sites
10 pursuant to former Chapter 6.85 (commencing with Section 25396).

11 (K) Corrective actions at hazardous waste facilities.

12 (5) The department shall identify, with regard to the regulation
13 of hazardous waste, the projected allocation of budgets and staff
14 resources for the following activities:

15 (A) Determinations pertaining to the classification of hazardous
16 wastes.

17 (B) Determinations for variances made pursuant to Section
18 25143.

19 (C) Other determinations and responses to public inquiries made
20 by the department regarding the regulation of hazardous waste and
21 hazardous substances.

22 (6) The department shall identify projected allocations of
23 budgets and staff resources needed to do all of the following:

24 (A) Identify, remove, store, and dispose of, suspected hazardous
25 substances or hazardous materials associated with the investigation
26 of clandestine drug laboratories.

27 (B) Respond to emergencies pursuant to Section 25354.

28 (C) Create, support, maintain, and implement the railroad
29 accident prevention and immediate deployment plan developed
30 pursuant to Section 7718 of the Public Utilities Code.

31 (7) The department shall identify projected allocations of
32 budgets and staff resources for the administration and
33 implementation of the unified hazardous waste and hazardous
34 materials regulatory program established pursuant to Chapter 6.11
35 (commencing with Section 25404).

36 (8) The department shall identify the total cumulative
37 expenditures of the Regulatory Structure Update and Site
38 Mitigation Update projects since their inception, and shall identify
39 the total projected allocations of budgets and staff resources that
40 are needed to continue these projects.

1 (9) The department shall identify the total projected allocations
2 of budgets and staff resources that are necessary for all other
3 activities proposed to be conducted by the department.

4 (e) Notwithstanding this chapter, or Part 22 (commencing with
5 Section 43001) of Division 2 of the Revenue and Taxation Code,
6 for any fees, surcharges, fines, penalties, and funds that are required
7 to be deposited into the Hazardous Waste Control Account or the
8 Toxic Substances Control Account, the department, with the
9 approval of the Secretary for Environmental Protection, may take
10 any of the following actions:

11 (1) Assume responsibility for, or enter into a contract with a
12 private party or with another public agency, other than the State
13 Board of Equalization, for the collection of any fees, surcharges,
14 fines, penalties and funds described in subdivision (a) or otherwise
15 described in this chapter or Chapter 6.8 (commencing with Section
16 25300), for deposit into the Hazardous Waste Control Account or
17 the Toxic Substances Control Account.

18 (2) Administer, or by mutual agreement, contract with a private
19 party or another public agency, for the making of those
20 determinations and the performance of functions that would
21 otherwise be the responsibility of the State Board of Equalization
22 pursuant to this chapter, Chapter 6.8 (commencing with Section
23 25300), or Part 22 (commencing with Section 43001) of Division
24 2 of the Revenue and Taxation Code, if those activities and
25 functions for which the State Board of Equalization would
26 otherwise be responsible become the responsibility of the
27 department or, by mutual agreement, the contractor selected by
28 the department.

29 (f) If, pursuant to subdivision (e), the department, or a private
30 party or another public agency, pursuant to a contract with the
31 department, performs the determinations and functions that would
32 otherwise be the responsibility of the State Board of Equalization,
33 the department shall be responsible for ensuring that persons who
34 are subject to the fees specified in subdivision (e) have equivalent
35 rights to public notice and comment, and procedural and
36 substantive rights of appeal, as afforded by the procedures of the
37 State Board of Equalization pursuant to Part 22 (commencing with
38 Section 43001) of Division 2 of the Revenue and Taxation Code.
39 Final responsibility for the administrative adjustment of fee rates
40 and the administrative appeal of any fees or penalty assessments

1 made pursuant to this section may only be assigned by the
2 department to a public agency.

3 (g) If, pursuant to subdivision (e), the department, or a private
4 party or another public agency, pursuant to a contract with the
5 department, performs the determinations and functions that would
6 otherwise be the responsibility of the State Board of Equalization,
7 the department shall have equivalent authority to make collections
8 and enforce judgments as provided to the State Board of
9 Equalization pursuant to Part 22 (commencing with Section 43001)
10 of Division 2 of the Revenue and Taxation Code. Unpaid amounts,
11 including penalties and interest, shall be a perfected and
12 enforceable state tax lien in accordance with Section 43413 of the
13 Revenue and Taxation Code.

14 (h) The department, with the concurrence of the Secretary for
15 Environmental Protection, shall determine which administrative
16 functions should be retained by the State Board of Equalization,
17 administered by the department, or assigned to another public
18 agency or private party pursuant to subdivisions (e), (f), and (g).

19 (i) The department may adopt regulations to implement
20 subdivisions (e) to (h), inclusive.

21 (j) The Director of Finance, upon request of the director, may
22 make a loan from the General Fund to the Hazardous Waste
23 Control Account to meet cash needs. The loan shall be subject to
24 the repayment provisions of Section 16351 of the Government
25 Code and the interest provisions of Section 16314 of the
26 Government Code.

27 (k) The department shall establish, within the Hazardous Waste
28 Control Account, a reserve of at least one million dollars
29 (\$1,000,000) each year to ensure that all programs funded by the
30 Hazardous Waste Control Account will not be adversely affected
31 by any revenue shortfalls.

32 ~~SEC. 11.~~

33 *SEC. 12.* Section 4801 of the Penal Code is amended to read:
34 4801. (a) The Board of Parole Hearings may report to the
35 Governor, from time to time, the names of any and all persons
36 imprisoned in any state prison who, in its judgment, ought to have
37 a commutation of sentence or be pardoned and set at liberty on
38 account of good conduct, or unusual term of sentence, or any other
39 cause, including evidence of intimate partner battering and its
40 effects. For purposes of this section, “intimate partner battering

1 and its effects” may include evidence of the nature and effects of
2 physical, emotional, or mental abuse upon the beliefs, perceptions,
3 or behavior of victims of domestic violence if it appears the
4 criminal behavior was the result of that victimization.

5 (b) (1) The Board of Parole Hearings, in reviewing a prisoner’s
6 suitability for parole pursuant to Section 3041.5, shall give great
7 weight to any information or evidence that, at the time of the
8 commission of the crime, the prisoner had experienced intimate
9 partner battering, but was convicted of an offense that occurred
10 prior to August 29, 1996. The board shall state on the record the
11 information or evidence that it considered pursuant to this
12 subdivision, and the reasons for the parole decision.

13 (2) The fact that a prisoner has presented evidence of intimate
14 partner battering cannot be used to support a finding that the
15 prisoner lacks insight into his or her crime and its causes.

16 ~~SEC. 12.~~

17 *SEC. 13.* Section 11166 of the Penal Code is amended to read:

18 11166. (a) Except as provided in subdivision (d), and in
19 Section 11166.05, a mandated reporter shall make a report to an
20 agency specified in Section 11165.9 whenever the mandated
21 reporter, in his or her professional capacity or within the scope of
22 his or her employment, has knowledge of or observes a child whom
23 the mandated reporter knows or reasonably suspects has been the
24 victim of child abuse or neglect. The mandated reporter shall make
25 an initial report by telephone to the agency immediately or as soon
26 as is practicably possible, and shall prepare and send, fax, or
27 electronically transmit a written followup report within 36 hours
28 of receiving the information concerning the incident. The mandated
29 reporter may include with the report any nonprivileged
30 documentary evidence the mandated reporter possesses relating
31 to the incident.

32 (1) For purposes of this article, “reasonable suspicion” means
33 that it is objectively reasonable for a person to entertain a suspicion,
34 based upon facts that could cause a reasonable person in a like
35 position, drawing, when appropriate, on his or her training and
36 experience, to suspect child abuse or neglect. “Reasonable
37 suspicion” does not require certainty that child abuse or neglect
38 has occurred nor does it require a specific medical indication of
39 child abuse or neglect. Any “reasonable suspicion” is sufficient.
40 For purposes of this article, the pregnancy of a minor does not, in

1 and of itself, constitute a basis for a reasonable suspicion of sexual
2 abuse.

3 (2) The agency shall be notified and a report shall be prepared
4 and sent, faxed, or electronically transmitted even if the child has
5 expired, regardless of whether or not the possible abuse was a
6 factor contributing to the death, and even if suspected child abuse
7 was discovered during an autopsy.

8 (3) Any report made by a mandated reporter pursuant to this
9 section shall be known as a mandated report.

10 (b) If, after reasonable efforts, a mandated reporter is unable to
11 submit an initial report by telephone, he or she shall immediately,
12 or as soon as is practicably possible, by fax or electronic
13 transmission, make a one-time automated written report on the
14 form prescribed by the Department of Justice, and shall also be
15 available to respond to a telephone followup call by the agency
16 with which he or she filed the report. A mandated reporter who
17 files a one-time automated written report because he or she was
18 unable to submit an initial report by telephone is not required to
19 submit a written followup report.

20 (1) The one-time automated written report form prescribed by
21 the Department of Justice shall be clearly identifiable so that it is
22 not mistaken for a standard written followup report. In addition,
23 the automated one-time report shall contain a section that allows
24 the mandated reporter to state the reason the initial telephone call
25 was not able to be completed. The reason for the submission of
26 the one-time automated written report in lieu of the procedure
27 prescribed in subdivision (a) shall be captured in the Child Welfare
28 Services/Case Management System (CWS/CMS). The department
29 shall work with stakeholders to modify reporting forms and the
30 CWS/CMS as is necessary to accommodate the changes enacted
31 by these provisions.

32 (2) This subdivision shall not become operative until the
33 CWS/CMS is updated to capture the information prescribed in this
34 subdivision.

35 (3) This subdivision shall become inoperative three years after
36 this subdivision becomes operative or on January 1, 2009,
37 whichever occurs first.

38 (4) Nothing in this section shall supersede the requirement that
39 a mandated reporter first attempt to make a report by telephone,

1 or that agencies specified in Section 11165.9 accept reports from
2 mandated reporters and other persons, as required.

3 (c) Any mandated reporter who fails to report an incident of
4 known or reasonably suspected child abuse or neglect as required
5 by this section is guilty of a misdemeanor punishable by up to six
6 months confinement in a county jail or by a fine of one thousand
7 dollars (\$1,000) or by both that imprisonment and fine. If a
8 mandated reporter intentionally conceals his or her failure to report
9 an incident known by the mandated reporter to be abuse or severe
10 neglect under this section, the failure to report is a continuing
11 offense until an agency specified in Section 11165.9 discovers the
12 offense.

13 (d) (1) A clergy member who acquires knowledge or a
14 reasonable suspicion of child abuse or neglect during a penitential
15 communication is not subject to subdivision (a). For the purposes
16 of this subdivision, “penitential communication” means a
17 communication, intended to be in confidence, including, but not
18 limited to, a sacramental confession, made to a clergy member
19 who, in the course of the discipline or practice of his or her church,
20 denomination, or organization, is authorized or accustomed to hear
21 those communications, and under the discipline, tenets, customs,
22 or practices of his or her church, denomination, or organization,
23 has a duty to keep those communications secret.

24 (2) Nothing in this subdivision shall be construed to modify or
25 limit a clergy member’s duty to report known or suspected child
26 abuse or neglect when the clergy member is acting in some other
27 capacity that would otherwise make the clergy member a mandated
28 reporter.

29 (3) (A) On or before January 1, 2004, a clergy member or any
30 custodian of records for the clergy member may report to an agency
31 specified in Section 11165.9 that the clergy member or any
32 custodian of records for the clergy member, prior to January 1,
33 1997, in his or her professional capacity or within the scope of his
34 or her employment, other than during a penitential communication,
35 acquired knowledge or had a reasonable suspicion that a child had
36 been the victim of sexual abuse that the clergy member or any
37 custodian of records for the clergy member did not previously
38 report the abuse to an agency specified in Section 11165.9. The
39 provisions of Section 11172 shall apply to all reports made pursuant
40 to this paragraph.

1 (B) This paragraph shall apply even if the victim of the known
2 or suspected abuse has reached the age of majority by the time the
3 required report is made.

4 (C) The local law enforcement agency shall have jurisdiction
5 to investigate any report of child abuse made pursuant to this
6 paragraph even if the report is made after the victim has reached
7 the age of majority.

8 (e) (1) Any commercial film, photographic print, or image
9 processor who has knowledge of or observes, within the scope of
10 his or her professional capacity or employment, any film,
11 photograph, videotape, negative, slide, or any representation of
12 information, data, or an image, including, but not limited to, any
13 film, filmstrip, photograph, negative, slide, photocopy, videotape,
14 video laser disc, computer hardware, computer software, computer
15 floppy disk, data storage medium, CD-ROM, computer-generated
16 equipment, or computer-generated image depicting a child under
17 16 years of age engaged in an act of sexual conduct, shall
18 immediately, or as soon as practically possible, telephonically
19 report the instance of suspected abuse to the law enforcement
20 agency located in the county in which the images are seen. Within
21 36 hours of receiving the information concerning the incident, the
22 reporter shall prepare and send, fax, or electronically transmit a
23 written followup report of the incident with a copy of the image
24 or material attached.

25 (2) Any commercial computer technician who has knowledge
26 of or observes, within the scope of his or her professional capacity
27 or employment, any representation of information, data, or an
28 image, including, but not limited, to any computer hardware,
29 computer software, computer file, computer floppy disk, data
30 storage medium, CD-ROM, computer-generated equipment, or
31 computer-generated image that is retrievable in perceivable form
32 and that is intentionally saved, transmitted, or organized on an
33 electronic medium, depicting a child under 16 years of age engaged
34 in an act of sexual conduct, shall immediately, or as soon as
35 practicably possible, telephonically report the instance of suspected
36 abuse to the law enforcement agency located in the county in which
37 the images or material are seen. As soon as practicably possible
38 after receiving the information concerning the incident, the reporter
39 shall prepare and send, fax, or electronically transmit a written

1 followup report of the incident with a brief description of the
2 images or materials.

3 (3) For purposes of this article, “commercial computer
4 technician” includes an employee designated by an employer to
5 receive reports pursuant to an established reporting process
6 authorized by subparagraph (B) of paragraph (41) of subdivision
7 (a) of Section 11165.7.

8 (4) As used in this subdivision, “electronic medium” includes,
9 but is not limited to, a recording, CD-ROM, magnetic disk memory,
10 magnetic tape memory, CD, DVD, thumbdrive, or any other
11 computer hardware or media.

12 (5) As used in this subdivision, “sexual conduct” means any of
13 the following:

14 (A) Sexual intercourse, including genital-genital, oral-genital,
15 anal-genital, or oral-anal, whether between persons of the same or
16 opposite sex or between humans and animals.

17 (B) Penetration of the vagina or rectum by any object.

18 (C) Masturbation for the purpose of sexual stimulation of the
19 viewer.

20 (D) Sadoomasochistic abuse for the purpose of sexual stimulation
21 of the viewer.

22 (E) Exhibition of the genitals, pubic, or rectal areas of any
23 person for the purpose of sexual stimulation of the viewer.

24 (f) Any mandated reporter who knows or reasonably suspects
25 that the home or institution in which a child resides is unsuitable
26 for the child because of abuse or neglect of the child shall bring
27 the condition to the attention of the agency to which, and at the
28 same time as, he or she makes a report of the abuse or neglect
29 pursuant to subdivision (a).

30 (g) Any other person who has knowledge of or observes a child
31 whom he or she knows or reasonably suspects has been a victim
32 of child abuse or neglect may report the known or suspected
33 instance of child abuse or neglect to an agency specified in Section
34 11165.9. For purposes of this section, “any other person” includes
35 a mandated reporter who acts in his or her private capacity and
36 not in his or her professional capacity or within the scope of his
37 or her employment.

38 (h) When two or more persons, who are required to report,
39 jointly have knowledge of a known or suspected instance of child
40 abuse or neglect, and when there is agreement among them, the

1 telephone report may be made by a member of the team selected
2 by mutual agreement and a single report may be made and signed
3 by the selected member of the reporting team. Any member who
4 has knowledge that the member designated to report has failed to
5 do so shall thereafter make the report.

6 (i) (1) The reporting duties under this section are individual,
7 and no supervisor or administrator may impede or inhibit the
8 reporting duties, and a person making a report shall not be subject
9 to any sanction for making the report. However, internal procedures
10 to facilitate reporting and apprise supervisors and administrators
11 of reports may be established provided that the internal procedures
12 are not inconsistent with this article.

13 (2) The internal procedures shall not require any employee
14 required to make reports pursuant to this article to disclose his or
15 her identity to the employer.

16 (3) Reporting the information regarding a case of possible child
17 abuse or neglect to an employer, supervisor, school principal,
18 school counselor, coworker, or other person shall not be a substitute
19 for making a mandated report to an agency specified in Section
20 11165.9.

21 (j) A county probation or welfare department shall immediately,
22 or as soon as practicably possible, report by telephone, fax, or
23 electronic transmission to the law enforcement agency having
24 jurisdiction over the case, to the agency given the responsibility
25 for investigation of cases under Section 300 of the Welfare and
26 Institutions Code, and to the district attorney's office every known
27 or suspected instance of child abuse or neglect, as defined in
28 Section 11165.6, except acts or omissions pursuant to subdivision
29 (b) of Section 11165.2, or reports made pursuant to Section
30 11165.13 based on risk to a child that relates solely to the inability
31 of the parent to provide the child with regular care due to the
32 parent's substance abuse, which shall be reported only to the county
33 welfare or probation department. A county probation or welfare
34 department also shall send, fax, or electronically transmit a written
35 report thereof within 36 hours of receiving the information
36 concerning the incident to any agency to which it makes a
37 telephone report under this subdivision.

38 (k) A law enforcement agency shall immediately, or as soon as
39 practicably possible, report by telephone, fax, or electronic
40 transmission to the agency given responsibility for investigation

1 of cases under Section 300 of the Welfare and Institutions Code
2 and to the district attorney's office every known or suspected
3 instance of child abuse or neglect reported to it, except acts or
4 omissions pursuant to subdivision (b) of Section 11165.2, which
5 shall be reported only to the county welfare or probation
6 department. A law enforcement agency shall report to the county
7 welfare or probation department every known or suspected instance
8 of child abuse or neglect reported to it which is alleged to have
9 occurred as a result of the action of a person responsible for the
10 child's welfare, or as the result of the failure of a person responsible
11 for the child's welfare to adequately protect the minor from abuse
12 when the person responsible for the child's welfare knew or
13 reasonably should have known that the minor was in danger of
14 abuse. A law enforcement agency also shall send, fax, or
15 electronically transmit a written report thereof within 36 hours of
16 receiving the information concerning the incident to any agency
17 to which it makes a telephone report under this subdivision.

18 ~~SEC. 13.~~

19 *SEC. 14.* Section 4214 of the Public Resources Code is
20 amended to read:

21 4214. (a) Fire prevention fees collected pursuant to this chapter
22 shall be expended, upon appropriation by the Legislature, as
23 follows:

24 (1) The State Board of Equalization shall retain moneys
25 necessary for the payment of refunds pursuant to Section 4228 and
26 reimbursement of the State Board of Equalization for expenses
27 incurred in the collection of the fee.

28 (2) The moneys collected, other than that retained by the State
29 Board of Equalization pursuant to paragraph (1), shall be deposited
30 into the State Responsibility Area Fire Prevention Fund, which is
31 hereby created in the State Treasury, and shall be available to the
32 board and the department to expend for fire prevention activities
33 specified in subdivision (d) that benefit the owners of structures
34 within a state responsibility area who are required to pay the fire
35 prevention fee. The amount expended to benefit the owners of
36 structures within a state responsibility area shall be commensurate
37 with the amount collected from the owners within that state
38 responsibility area. All moneys in excess of the costs of
39 administration of the board and the department shall be expended

1 only for fire prevention activities in counties with state
2 responsibility areas.

3 (b) (1) The fund may also be used to cover the costs of
4 administering this chapter.

5 (2) The fund shall cover all startup costs incurred over a period
6 not to exceed two years.

7 (c) It is the intent of the Legislature that the moneys in this fund
8 be fully appropriated to the board and the department each year
9 in order to effectuate the purposes of this chapter.

10 (d) Moneys in the fund shall be used only for the following fire
11 prevention activities, which shall benefit owners of structures
12 within the state responsibility areas who are required to pay the
13 annual fire prevention fee pursuant to this chapter:

14 (1) Local assistance grants pursuant to subdivision (e).

15 (2) Grants to Fire Safe Councils, the California Conservation
16 Corps, or certified local conservation corps for fire prevention
17 projects and activities in the state responsibility areas.

18 (3) Grants to a qualified nonprofit organization with a
19 demonstrated ability to satisfactorily plan, implement, and complete
20 a fire prevention project applicable to the state responsibility areas.
21 The department may establish other qualifying criteria.

22 (4) Inspections by the department for compliance with defensible
23 space requirements around structures in state responsibility areas
24 as required by Section 4291.

25 (5) Public education to reduce fire risk in the state responsibility
26 areas.

27 (6) Fire severity and fire hazard mapping by the department in
28 the state responsibility areas.

29 (7) Other fire prevention projects in the state responsibility
30 areas, authorized by the board.

31 (e) (1) The board shall establish a local assistance grant program
32 for fire prevention activities designed to benefit structures within
33 state responsibility areas, including public education, that are
34 provided by counties and other local agencies, including special
35 districts, with state responsibility areas within their jurisdictions.

36 (2) In order to ensure an equitable distribution of funds, the
37 amount of each grant shall be based on the number of structures
38 in state responsibility areas for which the applicant is legally
39 responsible and the amount of moneys made available in the annual
40 Budget Act for this local assistance grant program.

1 (f) By January 1, 2013, and annually thereafter, the board shall
2 submit to the Legislature a written report on the status and uses of
3 the fund pursuant to this chapter. The board shall work
4 collaboratively with the Department of Forestry and Fire Protection
5 in preparing the written report pursuant to this subdivision. The
6 written report shall also include an evaluation of the benefits
7 received by counties based on the number of structures in state
8 responsibility areas within their jurisdictions, the effectiveness of
9 the board's grant programs, the number of defensible space
10 inspections in the reporting period, the degree of compliance with
11 defensible space requirements, measures to increase compliance,
12 if any, and any recommendations to the Legislature.

13 (g) (1) The requirement for submitting a report imposed under
14 subdivision (f) is inoperative on January 1, 2017, pursuant to
15 Section 10231.5 of the Government Code.

16 (2) A report to be submitted pursuant to subdivision (f) shall be
17 submitted in compliance with Section 9795 of the Government
18 Code.

19 (h) It is essential that this article be implemented without delay.
20 To permit timely implementation, the department may contract
21 for services related to the establishment of the fire prevention fee
22 collection process. For this purpose only, and for a period not to
23 exceed 24 months, the provisions of the Public Contract Code or
24 any other provision of law related to public contracting shall not
25 apply.

26 ~~SEC. 14.~~

27 *SEC. 15.* Section 25722.8 of the Public Resources Code is
28 amended to read:

29 25722.8. (a) On or before July 1, 2009, the Secretary of State
30 and Consumer Services, in consultation with the Department of
31 General Services and other appropriate state agencies that maintain
32 or purchase vehicles for the state fleet, including the campuses of
33 the California State University, shall develop and implement, and
34 submit to the Legislature and the Governor, a plan to improve the
35 overall state fleet's use of alternative fuels, synthetic lubricants,
36 and fuel-efficient vehicles by reducing or displacing the
37 consumption of petroleum products by the state fleet when
38 compared to the 2003 consumption level based on the following
39 schedule:

40 (1) By January 1, 2012, a 10-percent reduction or displacement.

1 (2) By January 1, 2020, a 20-percent reduction or displacement.

2 (b) Beginning April 1, 2010, and annually thereafter, the
3 Department of General Services shall prepare a progress report on
4 meeting the goals specified in subdivision (a). The Department of
5 General Services shall post the progress report on its Internet Web
6 site.

7 (c) (1) The Department of General Services shall encourage,
8 to the extent feasible, the operation of state alternatively fueled
9 vehicles on the alternative fuel for which the vehicle is designed
10 and the development of commercial infrastructure for alternative
11 fuel pumps and charging stations at or near state vehicle fueling
12 or parking sites.

13 (2) The Department of General Services shall work with other
14 public agencies to incentivize and promote, to the extent feasible,
15 state employee operation of alternatively fueled vehicles through
16 preferential or reduced-cost parking, access to charging, or other
17 means.

18 (3) For purposes of this subdivision, “alternatively fueled
19 vehicles” means light-, medium-, and heavy-duty vehicles that
20 reduce petroleum usage and related emissions by using advanced
21 technologies and fuels, including, but not limited to, hybrid, plug-in
22 hybrid, battery electric, natural gas, or fuel cell vehicles and
23 including those vehicles described in Section 5205.5 of the Vehicle
24 Code.

25 *SEC. 16. Section 8352.4 of the Revenue and Taxation Code is*
26 *amended to read:*

27 8352.4. (a) Subject to Sections 8352 and 8352.1, and except
28 as otherwise provided in subdivision (b), there shall be transferred
29 from the money deposited to the credit of the Motor Vehicle Fuel
30 Account to the Harbors and Watercraft Revolving Fund, for
31 expenditure in accordance with Division 1 (commencing with
32 Section 30) of the Harbors and Navigation Code, the sum of six
33 million six hundred thousand dollars (\$6,600,000) per annum,
34 representing the amount of money in the Motor Vehicle Fuel
35 Account attributable to taxes imposed on distributions of motor
36 vehicle fuel used or usable in propelling vessels. The actual amount
37 shall be calculated using the annual reports of registered boats
38 prepared by the Department of Motor Vehicles for the United
39 States Coast Guard and the formula and method of the December
40 1972 report prepared for this purpose and submitted to the

1 Legislature on December 26, 1972, by the Director of
2 Transportation. If the amount transferred during each fiscal year
3 is in excess of the calculated amount, the excess shall be
4 retransferred from the Harbors and Watercraft Revolving Fund to
5 the Motor Vehicle Fuel Account. If the amount transferred is less
6 than the amount calculated, the difference shall be transferred from
7 the Motor Vehicle Fuel Account to the Harbors and Watercraft
8 Revolving Fund. No adjustment shall be made if the computed
9 difference is less than fifty thousand dollars (\$50,000), and the
10 amount shall be adjusted to reflect any temporary or permanent
11 increase or decrease that may be made in the rate under the Motor
12 Vehicle Fuel Tax Law. Payments pursuant to this section shall be
13 made prior to payments pursuant to Section 8352.2.

14 (b) Commencing July 1, 2012, the revenues attributable to the
15 taxes imposed pursuant to subdivision (b) of Section 7360 and
16 Section 7361.1 and otherwise to be deposited in the Harbors and
17 Watercraft Revolving Fund pursuant to subdivision (a) shall instead
18 be transferred to the General Fund. The revenues attributable to
19 the taxes imposed pursuant to subdivision (b) of Section 7360 and
20 Section 7361.1 that were deposited in the Harbors and Watercraft
21 Revolving Fund in the 2010–11 and 2011–12 fiscal years shall be
22 transferred to the General Fund.

23 ~~(e) When deemed necessary by the Department of Transportation~~
24 ~~and the Department of Boating and Waterways, the Department~~
25 ~~of Transportation, after consultation with the Department of~~
26 ~~Boating and Waterways, shall prepare, or cause to be prepared, an~~
27 ~~updated report setting forth the current estimate of the amount of~~
28 ~~money credited to the Motor Vehicle Fuel Account attributable to~~
29 ~~taxes imposed on distributions of motor vehicle fuel used or usable~~
30 ~~in propelling vessels. The Department of Transportation shall~~
31 ~~submit the report to the Legislature upon its completion.~~

32 ~~SEC. 15.~~

33 *SEC. 17.* Section 9250.14 of the Vehicle Code is amended to
34 read:

35 9250.14. (a) (1) In addition to any other fees specified in this
36 code and the Revenue and Taxation Code, upon the adoption of a
37 resolution by any county board of supervisors, a fee of one dollar
38 (\$1) shall be paid at the time of registration or renewal of
39 registration of every vehicle, except vehicles described in
40 subdivision (a) of Section 5014.1, registered to an address within

1 that county except those expressly exempted from payment of
2 registration fees. The fees, after deduction of the administrative
3 costs incurred by the department in carrying out this section, shall
4 be paid quarterly to the Controller.

5 (2) (A) If the County of Los Angeles, the County of San Diego,
6 or the County of San Bernardino has adopted a resolution to impose
7 a one-dollar (\$1) fee pursuant to paragraph (1), the county may
8 increase the fee specified in paragraph (1) to two dollars (\$2) in
9 the same manner as the imposition of the initial fee pursuant to
10 paragraph (1). The two dollars (\$2) shall be paid at the time of
11 registration or renewal of registration of a vehicle, and quarterly
12 to the Controller, as provided in paragraph (1).

13 (B) A resolution to increase the fee from one dollar (\$1) to two
14 dollars (\$2) pursuant to subparagraph (A) shall be submitted to
15 the department at least six months prior to the operative date of
16 the fee increase.

17 (3) In addition to the service fee imposed pursuant to paragraph
18 (1), and upon the implementation of the permanent trailer
19 identification plate program, and as part of the Commercial Vehicle
20 Registration Act of 2001 (Chapter 861 of the Statutes of 2000),
21 all commercial motor vehicles subject to Section 9400.1 registered
22 to an owner with an address in the county that established a service
23 authority under this section, shall pay an additional service fee of
24 two dollars (\$2).

25 (4) (A) If a county imposes a service fee of two dollars (\$2) by
26 adopting a resolution pursuant to subparagraph (A) of paragraph
27 (2), the fee specified in paragraph (3) shall be increased to four
28 dollars (\$4). The four dollars (\$4) shall be paid at the time of
29 registration or renewal of registration of a vehicle, and quarterly
30 to the Controller as provided in paragraph (1).

31 (B) A resolution to increase the additional service fee from two
32 dollars (\$2) to four dollars (\$4) pursuant to subparagraph (A) shall
33 be submitted to the department at least six months prior to the
34 operative date of the fee increase.

35 (b) Notwithstanding Section 13340 of the Government Code,
36 the moneys paid to the Controller are continuously appropriated,
37 without regard to fiscal years, for the administrative costs of the
38 Controller, and for disbursement by the Controller to each county
39 that has adopted a resolution pursuant to subdivision (a), based

1 upon the number of vehicles registered, or whose registration is
2 renewed, to an address within that county.

3 (c) Except as otherwise provided in this subdivision, moneys
4 allocated to a county pursuant to subdivision (b) shall be expended
5 exclusively to fund programs that enhance the capacity of local
6 police and prosecutors to deter, investigate, and prosecute vehicle
7 theft crimes. In any county with a population of 250,000 or less,
8 the moneys shall be expended exclusively for those vehicle theft
9 crime programs and for the prosecution of crimes involving driving
10 while under the influence of alcohol or drugs, or both, in violation
11 of Section 23152 or 23153, or vehicular manslaughter in violation
12 of Section 191.5 of the Penal Code or subdivision (c) of Section
13 192 of the Penal Code, or any combination of those crimes.

14 (d) The moneys collected pursuant to this section shall not be
15 expended to offset a reduction in any other source of funds or for
16 any other purpose not authorized under this section.

17 (e) Any funds received by a county prior to January 1, 2000,
18 pursuant to this section, that are not expended to deter, investigate,
19 or prosecute crimes pursuant to subdivision (c) shall be returned
20 to the Controller, for deposit in the Motor Vehicle Account in the
21 State Transportation Fund. Those funds received by a county shall
22 be expended in accordance with this section.

23 (f) Each county that adopts a resolution under subdivision (a)
24 shall submit, on or before the 13th day following the end of each
25 quarter, a quarterly expenditure and activity report to the designated
26 statewide Vehicle Theft Investigation and Apprehension
27 Coordinator in the Department of the California Highway Patrol.

28 (g) A county that imposes a fee under subdivision (a) shall issue
29 a fiscal yearend report to the Controller on or before August 31 of
30 each year. The report shall include a detailed accounting of the
31 funds received and expended in the immediately preceding fiscal
32 year, including, at a minimum, all of the following:

33 (1) The amount of funds received and expended by the county
34 under subdivision (b) for the immediately preceding fiscal year.

35 (2) The total expenditures by the county under subdivision (c)
36 for the immediately preceding fiscal year.

37 (3) Details of expenditures made by the county under
38 subdivision (c), including salaries and expenses, purchase of
39 equipment and supplies, and any other expenditures made listed
40 by type with an explanatory comment.

1 (4) A summary of vehicle theft abatement activities and other
2 vehicle theft programs funded by the fees collected under this
3 section.

4 (5) The total number of stolen vehicles recovered and the value
5 of those vehicles during the immediately preceding fiscal year.

6 (6) The total number of vehicles stolen during the immediately
7 preceding fiscal year as compared to the fiscal year prior to the
8 immediately preceding fiscal year.

9 (7) Any additional, unexpended fee revenues received under
10 subdivision (b) for the county for the immediately preceding fiscal
11 year.

12 (h) Each county that fails to submit the report required pursuant
13 to subdivision (g) by November 30 of each year shall have the fee
14 suspended by the Controller for one year, commencing on July 1
15 following the Controller's determination that a county has failed
16 to submit the report.

17 (i) (1) On or before January 1, 2013, and on or before January
18 1 of each year, the Controller shall provide to the Department of
19 the California Highway Patrol copies of the yearend reports
20 submitted by the counties under subdivision (g), and, in
21 consultation with the Department of the California Highway Patrol,
22 shall review the fiscal yearend reports submitted by each county
23 pursuant to subdivision (g) to determine if fee revenues are being
24 utilized in a manner consistent with this section. If the Controller
25 determines that the use of the fee revenues is not consistent with
26 this section, the Controller shall consult with the participating
27 counties' designated regional coordinators. If the Controller
28 determines that use of the fee revenues is still not consistent with
29 this section, the authority to collect the fee by that county shall be
30 suspended for one year.

31 (2) If the Controller determines that a county has not submitted
32 a fiscal yearend report as required in subdivision (g), the
33 authorization to collect the service fee shall be suspended for one
34 year pursuant to subdivision (h).

35 (3) If the Controller determines that a fee shall be suspended
36 for a county, the Controller shall inform the Department of Motor
37 Vehicles on or before January 1 of each year that the authority to
38 collect a fee for that county is suspended.

39 (j) For the purposes of this section, a county-designated regional
40 coordinator is that agency designated by the participating county's

1 board of supervisors as the agency in control of its countywide
2 vehicle theft apprehension program.

3 (k) This section shall remain in effect only until January 1, 2018,
4 and as of that date is repealed, unless a later enacted statute that
5 is enacted on or before January 1, 2018, deletes or extends that
6 date.

7 *SEC. 18. Section 4024 of the Welfare and Institutions Code is*
8 *amended to read:*

9 4024. The State Department of State Hospitals proposed
10 allocations for level-of-care staffing in state hospitals that serve
11 persons with mental disabilities shall be submitted to the
12 Department of Finance for review and approval in July and again
13 on a quarterly basis. Each quarterly report shall include an analysis
14 of client characteristics of admissions and discharges in addition
15 to information on any changes in characteristics of current
16 residents.

17 The State Department of State Hospitals shall submit by January
18 1 and May 1 to the Department of Finance for its approval: (a) all
19 assumptions underlying estimates of state hospital mentally
20 disabled population; and (b) a comparison of the actual and
21 estimated population levels for the year to date. If the actual
22 population differs from the estimated population by 50 or more,
23 the department shall include in its reports an analysis of the causes
24 of the change and the fiscal impact. The Department of Finance
25 shall approve or modify the assumptions underlying all population
26 estimates within 15 working days of their submission. If the
27 Department of Finance does not approve or modify the assumptions
28 by that date, the assumptions, as presented by the submitting
29 department, shall be deemed to be accepted by the Department of
30 Finance as of that date. ~~The estimates of populations and the~~
31 ~~comparison of actual versus estimated population levels shall be~~
32 ~~made available to the Joint Legislative Budget Committee~~
33 ~~immediately following approval by the Department of Finance.~~

34 ~~The Department of Finance shall also make available to the Joint~~
35 ~~Legislative Budget Committee a listing of all of the approved~~
36 ~~assumptions and the impact of each assumption, as well as all~~
37 ~~supporting data provided by the State Department of State~~
38 ~~Hospitals or developed independently by the Department of~~
39 ~~Finance. However, the departmental estimates, assumptions, and~~
40 ~~other supporting data as have been prepared shall be forwarded to~~

1 the Joint Legislative Budget Committee not later than January 15
2 or May 15 by the State Department of State Hospitals in the event
3 this information has not been released earlier.

4 ~~SEC. 16.~~

5 *SEC. 19.* Section 11462 of the Welfare and Institutions Code
6 is amended to read:

7 11462. (a) (1) Effective July 1, 1990, foster care providers
8 licensed as group homes, as defined in departmental regulations,
9 including public child care institutions, as defined in Section
10 11402.5, shall have rates established by classifying each group
11 home program and applying the standardized schedule of rates.
12 The department shall collect information from group providers
13 beginning January 1, 1990, in order to classify each group home
14 program.

15 (2) Notwithstanding paragraph (1), foster care providers licensed
16 as group homes shall have rates established only if the group home
17 is organized and operated on a nonprofit basis as required under
18 subdivision (h) of Section 11400. The department shall terminate
19 the rate effective January 1, 1993, of any group home not organized
20 and operated on a nonprofit basis as required under subdivision
21 (h) of Section 11400.

22 (3) (A) The department shall determine, consistent with the
23 requirements of this chapter and other relevant requirements under
24 law, the rate classification level (RCL) for each group home
25 program on a biennial basis. Submission of the biennial rate
26 application shall be made according to a schedule determined by
27 the department.

28 (B) The department shall adopt regulations to implement this
29 paragraph. The adoption, amendment, repeal, or readoption of a
30 regulation authorized by this paragraph is deemed to be necessary
31 for the immediate preservation of the public peace, health and
32 safety, or general welfare, for purposes of Sections 11346.1 and
33 11349.6 of the Government Code, and the department is hereby
34 exempted from the requirement to describe specific facts showing
35 the need for immediate action.

36 (b) A group home program shall be initially classified, for
37 purposes of emergency regulations, according to the level of care
38 and services to be provided using a point system developed by the
39 department and described in the report, "The Classification of
40 Group Home Programs under the Standardized Schedule of Rates

1 System,” prepared by the State Department of Social Services,
2 August 30, 1989.

3 (c) The rate for each RCL has been determined by the
4 department with data from the AFDC-FC Group Home Rate
5 Classification Pilot Study. The rates effective July 1, 1990, were
6 developed using 1985 calendar year costs and reflect adjustments
7 to the costs for each fiscal year, starting with the 1986–87 fiscal
8 year, by the amount of the California Necessities Index computed
9 pursuant to the methodology described in Section 11453. The data
10 obtained by the department using 1985 calendar year costs shall
11 be updated and revised by January 1, 1993.

12 (d) As used in this section, “standardized schedule of rates”
13 means a listing of the 14 rate classification levels, and the single
14 rate established for each RCL.

15 (e) Except as specified in paragraph (1), the department shall
16 determine the RCL for each group home program on a prospective
17 basis, according to the level of care and services that the group
18 home operator projects will be provided during the period of time
19 for which the rate is being established.

20 (1) (A) (i) For new and existing providers requesting the
21 establishment of an RCL, and for existing group home programs
22 requesting an RCL increase, the department shall determine the
23 RCL no later than 13 months after the effective date of the
24 provisional rate. The determination of the RCL shall be based on
25 a program audit of documentation and other information that
26 verifies the level of care and supervision provided by the group
27 home program during a period of the two full calendar months or
28 60 consecutive days, whichever is longer, preceding the date of
29 the program audit, unless the group home program requests a lower
30 RCL. The program audit shall not cover the first six months of
31 operation under the provisional rate.

32 (ii) For audit purposes, if the group home program serves a
33 mixture of AFDC-FC eligible and ineligible children, the weighted
34 hours for child care and social work services provided and the
35 capacity of the group home shall be adjusted by the ratio of
36 AFDC-FC eligible children to all children in placement.

37 (iii) Pending the department’s issuance of the program audit
38 report that determines the RCL for the group home program, the
39 group home program shall be eligible to receive a provisional rate
40 that shall be based on the level of care and service that the group

1 home program proposes it will provide. The group home program
2 shall be eligible to receive only the RCL determined by the
3 department during the pendency of any appeal of the department's
4 RCL determination.

5 (B) A group home program may apply for an increase in its
6 RCL no earlier than two years from the date the department has
7 determined the group home program's rate, unless the host county,
8 the primary placing county, or a regional consortium of counties
9 submits to the department in writing that the program is needed
10 in that county, that the provider is capable of effectively and
11 efficiently operating the proposed program, and that the provider
12 is willing and able to accept AFDC-FC children for placement
13 who are determined by the placing agency to need the level of care
14 and services that will be provided by the program.

15 (C) To ensure efficient administration of the department's audit
16 responsibilities, and to avoid the fraudulent creation of records,
17 group home programs shall make records that are relevant to the
18 RCL determination available to the department in a timely manner.
19 Except as provided in this section, the department may refuse to
20 consider, for purposes of determining the rate, any documents that
21 are relevant to the determination of the RCL that are not made
22 available by the group home provider by the date the group home
23 provider requests a hearing on the department's RCL
24 determination. The department may refuse to consider, for purposes
25 of determining the rate, the following records, unless the group
26 home provider makes the records available to the department
27 during the fieldwork portion of the department's program audit:

28 (i) Records of each employee's full name, home address,
29 occupation, and social security number.

30 (ii) Time records showing when the employee begins and ends
31 each work period, meal periods, split shift intervals, and total daily
32 hours worked.

33 (iii) Total wages paid each payroll period.

34 (iv) Records required to be maintained by licensed group home
35 providers under Title 22 of the California Code of Regulations
36 that are relevant to the RCL determination.

37 (D) To minimize financial abuse in the startup of group home
38 programs, when the department's RCL determination is more than
39 three levels lower than the RCL level proposed by the group home
40 provider, and the group home provider does not appeal the

1 department's RCL determination, the department shall terminate
2 the rate of a group home program 45 days after issuance of its
3 program audit report. When the group home provider requests a
4 hearing on the department's RCL determination, and the RCL
5 determined by the director under subparagraph (E) is more than
6 three levels lower than the RCL level proposed by the group home
7 provider, the department shall terminate the rate of a group home
8 program within 30 days of issuance of the director's decision.
9 Notwithstanding the reapplication provisions in subparagraph (B),
10 the department shall deny any request for a new or increased RCL
11 from a group home provider whose RCL is terminated pursuant
12 to this subparagraph, for a period of no greater than two years from
13 the effective date of the RCL termination.

14 (E) A group home provider may request a hearing of the
15 department's RCL determination under subparagraph (A) no later
16 than 30 days after the date the department issues its RCL
17 determination. The department's RCL determination shall be final
18 if the group home provider does not request a hearing within the
19 prescribed time. Within 60 days of receipt of the request for
20 hearing, the department shall conduct a hearing on the RCL
21 determination. The standard of proof shall be the preponderance
22 of the evidence and the burden of proof shall be on the department.
23 The hearing officer shall issue the proposed decision within 45
24 days of the close of the evidentiary record. The director shall adopt,
25 reject, or modify the proposed decision, or refer the matter back
26 to the hearing officer for additional evidence or findings within
27 100 days of issuance of the proposed decision. If the director takes
28 no action on the proposed decision within the prescribed time, the
29 proposed decision shall take effect by operation of law.

30 (2) Group home programs that fail to maintain at least the level
31 of care and services associated with the RCL upon which their rate
32 was established shall inform the department. The department shall
33 develop regulations specifying procedures to be applied when a
34 group home fails to maintain the level of services projected,
35 including, but not limited to, rate reduction and recovery of
36 overpayments.

37 (3) The department shall not reduce the rate, establish an
38 overpayment, or take other actions pursuant to paragraph (2) for
39 any period that a group home program maintains the level of care
40 and services associated with the RCL for children actually residing

1 in the facility. Determinations of levels of care and services shall
2 be made in the same way as modifications of overpayments are
3 made pursuant to paragraph (2) of subdivision (b) of Section
4 11466.2.

5 (4) A group home program that substantially changes its staffing
6 pattern from that reported in the group home program statement
7 shall provide notification of this change to all counties that have
8 placed children currently in care. This notification shall be provided
9 whether or not the RCL for the program may change as a result of
10 the change in staffing pattern.

11 (f) (1) The standardized schedule of rates for the 2002–03,
12 2003–04, 2004–05, 2005–06, 2006–07, and 2007–08 fiscal years
13 is:

14	15	16	17	18
	Rate	Point Ranges	FY 2002–03, 2003–04,	
	Classification		2004–05, 2005–06,	
			2006–07, and 2007–08	
	Level		Standard Rate	
19	1	Under 60	\$1,454	
20	2	60–89	1,835	
21	3	90–119	2,210	
22	4	120–149	2,589	
23	5	150–179	2,966	
24	6	180–209	3,344	
25	7	210–239	3,723	
26	8	240–269	4,102	
27	9	270–299	4,479	
28	10	300–329	4,858	
29	11	330–359	5,234	
30	12	360–389	5,613	
31	13	390–419	5,994	
32	14	420 & Up	6,371	

33
34 (2) (A) For group home programs that receive AFDC-FC
35 payments for services performed during the 2002–03, 2003–04,
36 2004–05, 2005–06, 2006–07, 2007–08, 2008–09, and 2009–10
37 fiscal years, the adjusted RCL point ranges below shall be used
38 for establishing the biennial rates for existing programs, pursuant
39 to paragraph (3) of subdivision (a) and in performing program
40 audits and in determining any resulting rate reduction, overpayment

1 assessment, or other actions pursuant to paragraph (2) of
2 subdivision (e):

Rate Classification	Adjusted Point Ranges for the 2002–03, 2003–04, 2004–05, 2005–06, 2006–07, 2007–08, 2008–09, and 2009–10 Fiscal Years
Level	
1	Under 54
2	54– 81
3	82–110
4	111–138
5	139–167
6	168–195
7	196–224
8	225–253
9	254–281
10	282–310
11	311–338
12	339–367
13	368–395
14	396 & Up

22
23 (B) Notwithstanding subparagraph (A), foster care providers
24 operating group homes during the 2002–03, 2003–04, 2004–05,
25 2005–06, 2006–07, 2007–08, 2008–09, and 2009–10 fiscal years
26 shall remain responsible for ensuring the health and safety of the
27 children placed in their programs in accordance with existing
28 applicable provisions of the Health and Safety Code and
29 community care licensing regulations, as contained in Title 22 of
30 the Code of California Regulations.

31 (C) Subparagraph (A) shall not apply to program audits of group
32 home programs with provisional rates established pursuant to
33 paragraph (1) of subdivision (e). For those program audits, the
34 RCL point ranges in paragraph (1) shall be used.

35 (D) Rates applicable for the 2009–10 fiscal year pursuant to the
36 act that adds this subparagraph shall be effective October 1, 2009.

37 (3) (A) For group home programs that receive AFDC-FC
38 payments for services performed during the 2009–10 fiscal year
39 the adjusted RCL point ranges below shall be used for establishing
40 the biennial rates for existing programs, pursuant to paragraph (3)

1 of subdivision (a) and in performing program audits and in
2 determining any resulting rate reduction, overpayment assessment,
3 or other actions pursuant to paragraph (2) of subdivision (e):

5	Rate Classification	Adjusted Point Ranges for the 2009–10
7	Level	Fiscal Years
8	1	Under 39
9	2	39–64
10	3	65–90
11	4	91–115
12	5	116–141
13	6	142–167
14	7	168–192
15	8	193–218
16	9	219–244
17	10	245–270
18	11	271–295
19	12	296–321
20	13	322–347
21	14	348 & Up

22

23 (B) Notwithstanding subparagraph (A), foster care providers
24 operating group homes during the 2009–10 fiscal year shall remain
25 responsible for ensuring the health and safety of the children placed
26 in their programs in accordance with existing applicable provisions
27 of the Health and Safety Code and community care licensing
28 regulations as contained in Title 22 of the California Code of
29 Regulations.

30 (C) Subparagraph (A) shall not apply to program audits of group
31 home programs with provisional rates established pursuant to
32 paragraph (1) of subdivision (e). For those program audits, the
33 RCL point ranges in paragraph (1) shall be used.

34 (g) (1) (A) For the 1999–2000 fiscal year, the standardized
35 rate for each RCL shall be adjusted by an amount equal to the
36 California Necessities Index computed pursuant to the methodology
37 described in Section 11453. The resultant amounts shall constitute
38 the new standardized schedule of rates, subject to further
39 adjustment pursuant to subparagraph (B).

1 (B) In addition to the adjustment in subparagraph (A),
2 commencing January 1, 2000, the standardized rate for each RCL
3 shall be increased by 2.36 percent, rounded to the nearest dollar.
4 The resultant amounts shall constitute the new standardized
5 schedule of rates.

6 (2) Beginning with the 2000–01 fiscal year, the standardized
7 schedule of rates shall be adjusted annually by an amount equal
8 to the CNI computed pursuant to Section 11453, subject to the
9 availability of funds. The resultant amounts shall constitute the
10 new standardized schedule of rates.

11 (3) Effective January 1, 2001, the amount included in the
12 standard rate for each Rate Classification Level (RCL) for the
13 salaries, wages, and benefits for staff providing child care and
14 supervision or performing social work activities, or both, shall be
15 increased by 10 percent. This additional funding shall be used by
16 group home programs solely to supplement staffing, salaries,
17 wages, and benefit levels of staff specified in this paragraph. The
18 standard rate for each RCL shall be recomputed using this adjusted
19 amount and the resultant rates shall constitute the new standardized
20 schedule of rates. The department may require a group home
21 receiving this additional funding to certify that the funding was
22 utilized in accordance with the provisions of this section.

23 (4) Effective January 1, 2008, the amount included in the
24 standard rate for each RCL for the wages for staff providing child
25 care and supervision or performing social work activities, or both,
26 shall be increased by 5 percent, and the amount included for the
27 payroll taxes and other employer-paid benefits for these staff shall
28 be increased from 20.325 percent to 24 percent. The standard rate
29 for each RCL shall be recomputed using these adjusted amounts,
30 and the resulting rates shall constitute the new standardized
31 schedule of rates.

32 (5) The new standardized schedule of rates as provided for in
33 paragraph (4) shall be reduced by 10 percent, effective October 1,
34 2009, and the resulting rates shall constitute the new standardized
35 schedule of rates.

36 (6) The rates of licensed group home providers, whose rates are
37 not established under the standardized schedule of rates, shall be
38 reduced by 10 percent, effective October 1, 2009.

39 (h) The standardized schedule of rates pursuant to subdivisions
40 (f) and (g) shall be implemented as follows:

1 (1) Any group home program that received an AFDC-FC rate
2 in the prior fiscal year at or above the standard rate for the RCL
3 in the current fiscal year shall continue to receive that rate.

4 (2) Any group home program that received an AFDC-FC rate
5 in the prior fiscal year below the standard rate for the RCL in the
6 current fiscal year shall receive the RCL rate for the current year.

7 (i) (1) The department shall not establish a rate for a new
8 program of a new or existing provider, or for an existing program
9 at a new location of an existing provider, unless the provider
10 submits a letter of recommendation from the host county, the
11 primary placing county, or a regional consortium of counties that
12 includes all of the following:

13 (A) That the program is needed by that county.

14 (B) That the provider is capable of effectively and efficiently
15 operating the program.

16 (C) That the provider is willing and able to accept AFDC-FC
17 children for placement who are determined by the placing agency
18 to need the level of care and services that will be provided by the
19 program.

20 (D) That, if the letter of recommendation is not being issued by
21 the host county, the primary placing county has notified the host
22 county of its intention to issue the letter and the host county was
23 given the opportunity of 30 days to respond to this notification
24 and to discuss options with the primary placing county.

25 (2) The department shall encourage the establishment of
26 consortia of county placing agencies on a regional basis for the
27 purpose of making decisions and recommendations about the need
28 for, and use of, group home programs and other foster care
29 providers within the regions.

30 (3) The department shall annually conduct a county-by-county
31 survey to determine the unmet placement needs of children placed
32 pursuant to Section 300 and Section 601 or 602, and shall publish
33 its findings by November 1 of each year.

34 (j) The department shall develop regulations specifying
35 ratesetting procedures for program expansions, reductions, or
36 modifications, including increases or decreases in licensed capacity,
37 or increases or decreases in level of care or services.

38 (k) For the purpose of this subdivision, “program change” means
39 any alteration to an existing group home program planned by a
40 provider that will increase the RCL or AFDC-FC rate. An increase

1 in the licensed capacity or other alteration to an existing group
2 home program that does not increase the RCL or AFDC-FC rate
3 shall not constitute a program change.

4 (l) General unrestricted or undesignated private charitable
5 donations and contributions made to charitable or nonprofit
6 organizations shall not be deducted from the cost of providing
7 services pursuant to this section. The donations and contributions
8 shall not be considered in any determination of maximum
9 expenditures made by the department.

10 ~~SEC. 17.~~

11 *SEC. 20.* Section 14132 of the Welfare and Institutions Code
12 is amended to read:

13 14132. The schedule of benefits under this chapter is as follows:

14 (a) Outpatient services are covered as follows:

15 Physician, hospital or clinic outpatient, surgical center,
16 respiratory care, optometric, chiropractic, psychology, podiatric,
17 occupational therapy, physical therapy, speech therapy, audiology,
18 acupuncture to the extent federal matching funds are provided for
19 acupuncture, and services of persons rendering treatment by prayer
20 or healing by spiritual means in the practice of any church or
21 religious denomination insofar as these can be encompassed by
22 federal participation under an approved plan, subject to utilization
23 controls.

24 (b) (1) Inpatient hospital services, including, but not limited
25 to, physician and podiatric services, physical therapy and
26 occupational therapy, are covered subject to utilization controls.

27 (2) For Medi-Cal fee-for-service beneficiaries, emergency
28 services and care that are necessary for the treatment of an
29 emergency medical condition and medical care directly related to
30 the emergency medical condition. This paragraph shall not be
31 construed to change the obligation of Medi-Cal managed care
32 plans to provide emergency services and care. For the purposes of
33 this paragraph, “emergency services and care” and “emergency
34 medical condition” shall have the same meanings as those terms
35 are defined in Section 1317.1 of the Health and Safety Code.

36 (c) Nursing facility services, subacute care services, and services
37 provided by any category of intermediate care facility for the
38 developmentally disabled, including podiatry, physician, nurse
39 practitioner services, and prescribed drugs, as described in
40 subdivision (d), are covered subject to utilization controls.

1 Respiratory care, physical therapy, occupational therapy, speech
2 therapy, and audiology services for patients in nursing facilities
3 and any category of intermediate care facility for the
4 developmentally disabled are covered subject to utilization controls.

5 (d) (1) Purchase of prescribed drugs is covered subject to the
6 Medi-Cal List of Contract Drugs and utilization controls.

7 (2) Purchase of drugs used to treat erectile dysfunction or any
8 off-label uses of those drugs are covered only to the extent that
9 federal financial participation is available.

10 (3) (A) To the extent required by federal law, the purchase of
11 outpatient prescribed drugs, for which the prescription is executed
12 by a prescriber in written, nonelectronic form on or after April 1,
13 2008, is covered only when executed on a tamper resistant
14 prescription form. The implementation of this paragraph shall
15 conform to the guidance issued by the federal Centers of Medicare
16 and Medicaid Services but shall not conflict with state statutes on
17 the characteristics of tamper resistant prescriptions for controlled
18 substances, including Section 11162.1 of the Health and Safety
19 Code. The department shall provide providers and beneficiaries
20 with as much flexibility in implementing these rules as allowed
21 by the federal government. The department shall notify and consult
22 with appropriate stakeholders in implementing, interpreting, or
23 making specific this paragraph.

24 (B) Notwithstanding Chapter 3.5 (commencing with Section
25 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
26 the department may take the actions specified in subparagraph (A)
27 by means of a provider bulletin or notice, policy letter, or other
28 similar instructions without taking regulatory action.

29 (4) (A) (i) For the purposes of this paragraph, nonlegend has
30 the same meaning as defined in subdivision (a) of Section
31 14105.45.

32 (ii) Nonlegend acetaminophen-containing products, with the
33 exception of children's acetaminophen-containing products,
34 selected by the department are not covered benefits.

35 (iii) Nonlegend cough and cold products selected by the
36 department are not covered benefits. This clause shall be
37 implemented on the first day of the first calendar month following
38 90 days after the effective date of the act that added this clause,
39 or on the first day of the first calendar month following 60 days

1 after the date the department secures all necessary federal approvals
2 to implement this section, whichever is later.

3 (iv) Beneficiaries under the Early and Periodic Screening,
4 Diagnosis, and Treatment Program shall be exempt from clauses
5 (ii) and (iii).

6 (B) Notwithstanding Chapter 3.5 (commencing with Section
7 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
8 the department may take the actions specified in subparagraph (A)
9 by means of a provider bulletin or notice, policy letter, or other
10 similar instruction without taking regulatory action.

11 (e) Outpatient dialysis services and home hemodialysis services,
12 including physician services, medical supplies, drugs and
13 equipment required for dialysis, are covered, subject to utilization
14 controls.

15 (f) Anesthesiologist services when provided as part of an
16 outpatient medical procedure, nurse anesthetist services when
17 rendered in an inpatient or outpatient setting under conditions set
18 forth by the director, outpatient laboratory services, and X-ray
19 services are covered, subject to utilization controls. This
20 subdivision shall not be construed to require prior authorization
21 for anesthesiologist services provided as part of an outpatient
22 medical procedure or for portable X-ray services in a nursing
23 facility or any category of intermediate care facility for the
24 developmentally disabled.

25 (g) Blood and blood derivatives are covered.

26 (h) (1) (A) Emergency and essential diagnostic and restorative
27 dental services, except for orthodontic, fixed bridgework, and
28 partial dentures that are not necessary for balance of a complete
29 artificial denture, are covered, subject to utilization controls. The
30 utilization controls shall allow emergency and essential diagnostic
31 and restorative dental services and prostheses that are necessary
32 to prevent a significant disability or to replace previously furnished
33 prostheses which are lost or destroyed due to circumstances beyond
34 the beneficiary's control.

35 (B) Notwithstanding subparagraph (A), the director may by
36 regulation provide for certain fixed artificial dentures necessary
37 for obtaining employment or for medical conditions that preclude
38 the use of removable dental prostheses, and for orthodontic services
39 in cleft palate deformities administered by the department's
40 California Children Services Program.

1 (2) For persons 21 years of age or older, the services specified
2 in paragraph (1) shall be provided subject to the following
3 conditions:

- 4 (A) Periodontal treatment is not a benefit.
- 5 (B) Endodontic therapy is not a benefit except for vital
6 pulpotomy.
- 7 (C) Laboratory processed crowns are not a benefit.
- 8 (D) Removable prosthetics shall be a benefit only for patients
9 as a requirement for employment.
- 10 (E) The director may, by regulation, provide for the provision
11 of fixed artificial dentures that are necessary for medical conditions
12 that preclude the use of removable dental prostheses.

13 (F) Notwithstanding the conditions specified in subparagraphs
14 (A) to (E), inclusive, the department may approve services for
15 persons with special medical disorders subject to utilization review.

- 16 (3) Paragraph (2) shall become inoperative July 1, 1995.
- 17 (i) Medical transportation is covered, subject to utilization
18 controls.
- 19 (j) Home health care services are covered, subject to utilization
20 controls.
- 21 (k) Prosthetic and orthotic devices and eyeglasses are covered,
22 subject to utilization controls. Utilization controls shall allow
23 replacement of prosthetic and orthotic devices and eyeglasses
24 necessary because of loss or destruction due to circumstances
25 beyond the beneficiary's control. Frame styles for eyeglasses
26 replaced pursuant to this subdivision shall not change more than
27 once every two years, unless the department so directs.

28 Orthopedic and conventional shoes are covered when provided
29 by a prosthetic and orthotic supplier on the prescription of a
30 physician and when at least one of the shoes will be attached to a
31 prosthesis or brace, subject to utilization controls. Modification
32 of stock conventional or orthopedic shoes when medically
33 indicated, is covered subject to utilization controls. When there is
34 a clearly established medical need that cannot be satisfied by the
35 modification of stock conventional or orthopedic shoes,
36 custom-made orthopedic shoes are covered, subject to utilization
37 controls.

38 Therapeutic shoes and inserts are covered when provided to
39 beneficiaries with a diagnosis of diabetes, subject to utilization

1 controls, to the extent that federal financial participation is
2 available.

3 (l) Hearing aids are covered, subject to utilization controls.
4 Utilization controls shall allow replacement of hearing aids
5 necessary because of loss or destruction due to circumstances
6 beyond the beneficiary's control.

7 (m) Durable medical equipment and medical supplies are
8 covered, subject to utilization controls. The utilization controls
9 shall allow the replacement of durable medical equipment and
10 medical supplies when necessary because of loss or destruction
11 due to circumstances beyond the beneficiary's control. The
12 utilization controls shall allow authorization of durable medical
13 equipment needed to assist a disabled beneficiary in caring for a
14 child for whom the disabled beneficiary is a parent, stepparent,
15 foster parent, or legal guardian, subject to the availability of federal
16 financial participation. The department shall adopt emergency
17 regulations to define and establish criteria for assistive durable
18 medical equipment in accordance with the rulemaking provisions
19 of the Administrative Procedure Act (Chapter 3.5 (commencing
20 with Section 11340) of Part 1 of Division 3 of Title 2 of the
21 Government Code).

22 (n) Family planning services are covered, subject to utilization
23 controls.

24 (o) Inpatient intensive rehabilitation hospital services, including
25 respiratory rehabilitation services, in a general acute care hospital
26 are covered, subject to utilization controls, when either of the
27 following criteria are met:

28 (1) A patient with a permanent disability or severe impairment
29 requires an inpatient intensive rehabilitation hospital program as
30 described in Section 14064 to develop function beyond the limited
31 amount that would occur in the normal course of recovery.

32 (2) A patient with a chronic or progressive disease requires an
33 inpatient intensive rehabilitation hospital program as described in
34 Section 14064 to maintain the patient's present functional level as
35 long as possible.

36 (p) (1) Adult day health care is covered in accordance with
37 Chapter 8.7 (commencing with Section 14520).

38 (2) Commencing 30 days after the effective date of the act that
39 added this paragraph, and notwithstanding the number of days
40 previously approved through a treatment authorization request,

1 adult day health care is covered for a maximum of three days per
2 week.

3 (3) As provided in accordance with paragraph (4), adult day
4 health care is covered for a maximum of five days per week.

5 (4) As of the date that the director makes the declaration
6 described in subdivision (g) of Section 14525.1, paragraph (2)
7 shall become inoperative and paragraph (3) shall become operative.

8 (q) (1) Application of fluoride, or other appropriate fluoride
9 treatment as defined by the department, other prophylaxis treatment
10 for children 17 years of age and under, are covered.

11 (2) All dental hygiene services provided by a registered dental
12 hygienist in alternative practice pursuant to Article 9 (commencing
13 with Section 1900) of Chapter 4 of Division 2 of the Business and
14 Professions Code and Section 1753.7 of the Business and
15 Professions Code may be covered as long as they are within the
16 scope of Denti-Cal benefits and they are necessary services
17 provided by a registered dental hygienist in alternative practice.

18 (r) (1) Paramedic services performed by a city, county, or
19 special district, or pursuant to a contract with a city, county, or
20 special district, and pursuant to a program established under the
21 Emergency Medical Services System and the Prehospital
22 Emergency Medical Care Personnel Act (Division 2.5
23 (commencing with Section 1797) of the Health and Safety Code)
24 by a paramedic certified pursuant to that act, and consisting of
25 defibrillation and those services specified in that act.

26 (2) All providers enrolled under this subdivision shall satisfy
27 all applicable statutory and regulatory requirements for becoming
28 a Medi-Cal provider.

29 (3) This subdivision shall be implemented only to the extent
30 funding is available under Section 14106.6.

31 (s) In-home medical care services are covered when medically
32 appropriate and subject to utilization controls, for beneficiaries
33 who would otherwise require care for an extended period of time
34 in an acute care hospital at a cost higher than in-home medical
35 care services. The director shall have the authority under this
36 section to contract with organizations qualified to provide in-home
37 medical care services to those persons. These services may be
38 provided to patients placed in shared or congregate living
39 arrangements, if a home setting is not medically appropriate or
40 available to the beneficiary. As used in this section, “in-home

1 medical care service” includes utility bills directly attributable to
2 continuous, 24-hour operation of life-sustaining medical equipment,
3 to the extent that federal financial participation is available.

4 As used in this subdivision, in-home medical care services,
5 include, but are not limited to, the following:

6 (1) Level of care and cost of care evaluations.

7 (2) Expenses, directly attributable to home care activities, for
8 materials.

9 (3) Physician fees for home visits.

10 (4) Expenses directly attributable to home care activities for
11 shelter and modification to shelter.

12 (5) Expenses directly attributable to additional costs of special
13 diets, including tube feeding.

14 (6) Medically related personal services.

15 (7) Home nursing education.

16 (8) Emergency maintenance repair.

17 (9) Home health agency personnel benefits which permit
18 coverage of care during periods when regular personnel are on
19 vacation or using sick leave.

20 (10) All services needed to maintain antiseptic conditions at
21 stoma or shunt sites on the body.

22 (11) Emergency and nonemergency medical transportation.

23 (12) Medical supplies.

24 (13) Medical equipment, including, but not limited to, scales,
25 gurneys, and equipment racks suitable for paralyzed patients.

26 (14) Utility use directly attributable to the requirements of home
27 care activities which are in addition to normal utility use.

28 (15) Special drugs and medications.

29 (16) Home health agency supervision of visiting staff which is
30 medically necessary, but not included in the home health agency
31 rate.

32 (17) Therapy services.

33 (18) Household appliances and household utensil costs directly
34 attributable to home care activities.

35 (19) Modification of medical equipment for home use.

36 (20) Training and orientation for use of life-support systems,
37 including, but not limited to, support of respiratory functions.

38 (21) Respiratory care practitioner services, as defined in Sections
39 3702 and 3703 of the Business and Professions Code, subject to
40 prescription by a physician and surgeon.

1 Beneficiaries receiving in-home medical care services are entitled
2 to the full range of services within the Medi-Cal scope of benefits
3 as defined by this section, subject to medical necessity and
4 applicable utilization control. Services provided pursuant to this
5 subdivision, which are not otherwise included in the Medi-Cal
6 schedule of benefits, shall be available only to the extent that
7 federal financial participation for these services is available in
8 accordance with a home- and community-based services waiver.

9 (t) Home- and community-based services approved by the
10 United States Department of Health and Human Services may be
11 covered to the extent that federal financial participation is available
12 for those services under waivers granted in accordance with Section
13 1396n of Title 42 of the United States Code. The director may
14 seek waivers for any or all home- and community-based services
15 approvable under Section 1396n of Title 42 of the United States
16 Code. Coverage for those services shall be limited by the terms,
17 conditions, and duration of the federal waivers.

18 (u) Comprehensive perinatal services, as provided through an
19 agreement with a health care provider designated in Section
20 14134.5 and meeting the standards developed by the department
21 pursuant to Section 14134.5, subject to utilization controls.

22 The department shall seek any federal waivers necessary to
23 implement the provisions of this subdivision. The provisions for
24 which appropriate federal waivers cannot be obtained shall not be
25 implemented. Provisions for which waivers are obtained or for
26 which waivers are not required shall be implemented
27 notwithstanding any inability to obtain federal waivers for the
28 other provisions. No provision of this subdivision shall be
29 implemented unless matching funds from Subchapter XIX
30 (commencing with Section 1396) of Chapter 7 of Title 42 of the
31 United States Code are available.

32 (v) Early and periodic screening, diagnosis, and treatment for
33 any individual under 21 years of age is covered, consistent with
34 the requirements of Subchapter XIX (commencing with Section
35 1396) of Chapter 7 of Title 42 of the United States Code.

36 (w) Hospice service that is Medicare-certified hospice service
37 is covered, subject to utilization controls. Coverage shall be
38 available only to the extent that additional net program costs are
39 not incurred.

1 (x) When a claim for treatment provided to a beneficiary
2 includes both services that are authorized and reimbursable under
3 this chapter, and services that are not reimbursable under this
4 chapter, that portion of the claim for the treatment and services
5 authorized and reimbursable under this chapter shall be payable.

6 (y) Home- and community-based services approved by the
7 United States Department of Health and Human Services for
8 beneficiaries with a diagnosis of AIDS or ARC who require
9 intermediate care or a higher level of care.

10 Services provided pursuant to a waiver obtained from the
11 Secretary of the United States Department of Health and Human
12 Services pursuant to this subdivision, and which are not otherwise
13 included in the Medi-Cal schedule of benefits, shall be available
14 only to the extent that federal financial participation for these
15 services is available in accordance with the waiver, and subject to
16 the terms, conditions, and duration of the waiver. These services
17 shall be provided to individual beneficiaries in accordance with
18 the client's needs as identified in the plan of care, and subject to
19 medical necessity and applicable utilization control.

20 The director may under this section contract with organizations
21 qualified to provide, directly or by subcontract, services provided
22 for in this subdivision to eligible beneficiaries. Contracts or
23 agreements entered into pursuant to this division shall not be
24 subject to the Public Contract Code.

25 (z) Respiratory care when provided in organized health care
26 systems, as defined in Section 3701 of the Business and Professions
27 Code, and as an in-home medical service as provided in subdivision
28 (s).

29 (aa) (1) There is hereby established in the department, a
30 program to provide comprehensive clinical family planning
31 services to any person who has a family income at or below 200
32 percent of the federal poverty level, as revised annually, and who
33 is eligible to receive these services pursuant to the waiver identified
34 in paragraph (2). This program shall be known as the Family
35 Planning, Access, Care, and Treatment (Family PACT) Program.

36 (2) The department shall seek a waiver in accordance with
37 Section 1315 of Title 42 of the United States Code, or a state plan
38 amendment adopted in accordance with Section
39 1396a(a)(10)(A)(ii)(XXI) of Title 42 of the United States Code,
40 which was added to Section 1396a of Title 42 of the United States

1 Code by Section 2303(a)(1) of the federal Patient Protection and
2 Affordable Care Act (PPACA) (Public Law 111-148), for a
3 program to provide comprehensive clinical family planning
4 services as described in paragraph (8). Under the waiver, the
5 program shall be operated only in accordance with the waiver and
6 the statutes and regulations in paragraph (4) and subject to the
7 terms, conditions, and duration of the waiver. Under the state plan
8 amendment, which shall replace the waiver and shall be known as
9 the Family PACT successor state plan amendment, the program
10 shall be operated only in accordance with this subdivision and the
11 statutes and regulations in paragraph (4). The state shall use the
12 standards and processes imposed by the state on January 1, 2007,
13 including the application of an eligibility discount factor to the
14 extent required by the federal Centers for Medicare and Medicaid
15 Services, for purposes of determining eligibility as permitted under
16 Section 1396a(ii)(2) of Title 42 of the United States Code. To the
17 extent that federal financial participation is available, the program
18 shall continue to conduct education, outreach, enrollment, service
19 delivery, and evaluation services as specified under the waiver.
20 The services shall be provided under the program only if the waiver
21 and, when applicable, the successor state plan amendment are
22 approved by the federal Centers for Medicare and Medicaid
23 Services and only to the extent that federal financial participation
24 is available for the services. Nothing in this section shall prohibit
25 the department from seeking the Family PACT successor state
26 plan amendment during the operation of the waiver.

27 (3) Solely for the purposes of the waiver or Family PACT
28 successor state plan amendment and notwithstanding any other
29 provision of law, the collection and use of an individual's social
30 security number shall be necessary only to the extent required by
31 federal law.

32 (4) Sections 14105.3 to 14105.39, inclusive, 14107.11, 24005,
33 and 24013, and any regulations adopted under these provisions
34 shall apply to the program provided for under this subdivision.
35 Any other provision of law under the Medi-Cal program or the
36 State-Only Family Planning Program shall not apply to the program
37 provided for under this subdivision.

38 (5) Notwithstanding Chapter 3.5 (commencing with Section
39 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
40 the department may implement, without taking regulatory action,

1 the provisions of the waiver after its approval by the federal Health
2 Care Financing Administration and the provisions of this section
3 by means of an all-county letter or similar instruction to providers.
4 Thereafter, the department shall adopt regulations to implement
5 this section and the approved waiver in accordance with the
6 requirements of Chapter 3.5 (commencing with Section 11340) of
7 Part 1 of Division 3 of Title 2 of the Government Code.

8 (6) If the Department of Finance determines that the program
9 operated under the authority of the waiver described in paragraph
10 (2) or the Family PACT successor state plan amendment is no
11 longer cost effective, this subdivision shall become inoperative on
12 the first day of the first month following the issuance of a 30-day
13 notification of that determination in writing by the Department of
14 Finance to the chairperson in each house that considers
15 appropriations, the chairpersons of the committees, and the
16 appropriate subcommittees in each house that considers the State
17 Budget, and the Chairperson of the Joint Legislative Budget
18 Committee.

19 (7) If this subdivision ceases to be operative, all persons who
20 have received or are eligible to receive comprehensive clinical
21 family planning services pursuant to the waiver described in
22 paragraph (2) shall receive family planning services under the
23 Medi-Cal program pursuant to subdivision (n) if they are otherwise
24 eligible for Medi-Cal with no share of cost, or shall receive
25 comprehensive clinical family planning services under the program
26 established in Division 24 (commencing with Section 24000) either
27 if they are eligible for Medi-Cal with a share of cost or if they are
28 otherwise eligible under Section 24003.

29 (8) For purposes of this subdivision, “comprehensive clinical
30 family planning services” means the process of establishing
31 objectives for the number and spacing of children, and selecting
32 the means by which those objectives may be achieved. These
33 means include a broad range of acceptable and effective methods
34 and services to limit or enhance fertility, including contraceptive
35 methods, federal Food and Drug Administration-approved
36 contraceptive drugs, devices, and supplies, natural family planning,
37 abstinence methods, and basic, limited fertility management.
38 Comprehensive clinical family planning services include, but are
39 not limited to, preconception counseling, maternal and fetal health
40 counseling, general reproductive health care, including diagnosis

1 and treatment of infections and conditions, including cancer, that
2 threaten reproductive capability, medical family planning treatment
3 and procedures, including supplies and followup, and
4 informational, counseling, and educational services.
5 Comprehensive clinical family planning services shall not include
6 abortion, pregnancy testing solely for the purposes of referral for
7 abortion or services ancillary to abortions, or pregnancy care that
8 is not incident to the diagnosis of pregnancy. Comprehensive
9 clinical family planning services shall be subject to utilization
10 control and include all of the following:

11 (A) Family planning-related services and male and female
12 sterilization. Family planning services for men and women shall
13 include emergency services and services for complications directly
14 related to the contraceptive method, federal Food and Drug
15 Administration-approved contraceptive drugs, devices, and
16 supplies, and followup, consultation, and referral services, as
17 indicated, which may require treatment authorization requests.

18 (B) All United States Department of Agriculture, federal Food
19 and Drug Administration-approved contraceptive drugs, devices,
20 and supplies that are in keeping with current standards of practice
21 and from which the individual may choose.

22 (C) Culturally and linguistically appropriate health education
23 and counseling services, including informed consent, that include
24 all of the following:

25 (i) Psychosocial and medical aspects of contraception.

26 (ii) Sexuality.

27 (iii) Fertility.

28 (iv) Pregnancy.

29 (v) Parenthood.

30 (vi) Infertility.

31 (vii) Reproductive health care.

32 (viii) Preconception and nutrition counseling.

33 (ix) Prevention and treatment of sexually transmitted infection.

34 (x) Use of contraceptive methods, federal Food and Drug
35 Administration-approved contraceptive drugs, devices, and
36 supplies.

37 (xi) Possible contraceptive consequences and followup.

38 (xii) Interpersonal communication and negotiation of
39 relationships to assist individuals and couples in effective
40 contraceptive method use and planning families.

1 (D) A comprehensive health history, updated at the next periodic
2 visit (between 11 and 24 months after initial examination) that
3 includes a complete obstetrical history, gynecological history,
4 contraceptive history, personal medical history, health risk factors,
5 and family health history, including genetic or hereditary
6 conditions.

7 (E) A complete physical examination on initial and subsequent
8 periodic visits.

9 (F) Services, drugs, devices, and supplies deemed by the federal
10 Centers for Medicare and Medicaid Services to be appropriate for
11 inclusion in the program.

12 (9) In order to maximize the availability of federal financial
13 participation under this subdivision, the director shall have the
14 discretion to implement the Family PACT successor state plan
15 amendment retroactively to July 1, 2010.

16 (ab) (1) Purchase of prescribed enteral nutrition products is
17 covered, subject to the Medi-Cal list of enteral nutrition products
18 and utilization controls.

19 (2) Purchase of enteral nutrition products is limited to those
20 products to be administered through a feeding tube, including, but
21 not limited to, a gastric, nasogastric, or jejunostomy tube.
22 Beneficiaries under the Early and Periodic Screening, Diagnosis,
23 and Treatment Program shall be exempt from this paragraph.

24 (3) Notwithstanding paragraph (2), the department may deem
25 an enteral nutrition product, not administered through a feeding
26 tube, including, but not limited to, a gastric, nasogastric, or
27 jejunostomy tube, a benefit for patients with diagnoses, including,
28 but not limited to, malabsorption and inborn errors of metabolism,
29 if the product has been shown to be neither investigational nor
30 experimental when used as part of a therapeutic regimen to prevent
31 serious disability or death.

32 (4) Notwithstanding Chapter 3.5 (commencing with Section
33 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
34 the department may implement the amendments to this subdivision
35 made by the act that added this paragraph by means of all-county
36 letters, provider bulletins, or similar instructions, without taking
37 regulatory action.

38 (5) The amendments made to this subdivision by the act that
39 added this paragraph shall be implemented on June 1, 2011, or on
40 the first day of the first calendar month following 60 days after

1 the date the department secures all necessary federal approvals to
2 implement this section, whichever is later.

3 (ac) Diabetic testing supplies are covered when provided by a
4 pharmacy, subject to utilization controls.

5 ~~SEC. 18.~~

6 *SEC. 21.* Section 14701 of the Welfare and Institutions Code
7 is amended to read:

8 14701. (a) The State Department of Health Care Services, in
9 collaboration with the State Department of Mental Health and the
10 California Health and Human Services Agency, shall create a state
11 administrative and programmatic transition plan, either as one
12 comprehensive transition plan or separately, to guide the transfer
13 of the Medi-Cal specialty mental health managed care and the
14 EPSDT Program to the State Department of Health Care Services
15 effective July 1, 2012.

16 (b) (1) Commencing no later than July 15, 2011, the State
17 Department of Health Care Services, together with the State
18 Department of Mental Health, shall convene a series of stakeholder
19 meetings and forums to receive input from clients, family members,
20 providers, counties, and representatives of the Legislature
21 concerning the transition and transfer of Medi-Cal specialty mental
22 health managed care and the EPSDT Program. This consultation
23 shall inform the creation of a state administrative transition plan
24 and a programmatic transition plan that shall include, but is not
25 limited to, the following components:

26 (A) The plan shall ensure that it is developed in a way that
27 continues access and quality of service during and immediately
28 after the transition, preventing any disruption of services to clients
29 and family members, providers and counties, and others affected
30 by this transition.

31 (B) A detailed description of the state administrative functions
32 currently performed by the State Department of Mental Health
33 regarding Medi-Cal specialty mental health managed care and the
34 EPSDT Program.

35 (C) Explanations of the operational steps, timelines, and key
36 milestones for determining when and how each function or program
37 will be transferred. These explanations shall also be developed for
38 the transition of positions and staff serving Medi-Cal specialty
39 mental health managed care and the EPSDT Program, and how
40 these will relate to, and align with, positions at the State

1 Department of Health Care Services. The State Department of
2 Health Care Services and the California Health and Human
3 Services Agency shall consult with the Department of Personnel
4 Administration in developing this aspect of the transition plan.

5 (D) A list of any planned or proposed changes or efficiencies
6 in how the functions will be performed, including the anticipated
7 fiscal and programmatic impacts of the changes.

8 (E) A detailed organization chart that reflects the planned
9 staffing at the State Department of Health Care Services in light
10 of the requirements of subparagraphs (A) to (C), inclusive, and
11 includes focused, high-level leadership for behavioral health issues.

12 (F) A description of how stakeholders were included in the
13 various phases of the planning process to formulate the transition
14 plans and a description of how their feedback will be taken into
15 consideration after transition activities are underway.

16 (2) The State Department of Health Care Services, together with
17 the State Department of Mental Health and the California Health
18 and Human Services Agency, shall convene and consult with
19 stakeholders at least twice following production of a draft of the
20 transition plans and before submission of transition plans to the
21 Legislature. Continued consultation with stakeholders shall occur
22 in accordance with the requirement in subparagraph (F) of
23 paragraph (1).

24 ~~SEC. 19. Section 4 of Chapter 1299 of the Statutes of 1992,~~
25 ~~as amended by Section 3 of Chapter 791 of the Statutes of 1997,~~
26 ~~is repealed.~~