

AMENDED IN SENATE AUGUST 21, 2012

AMENDED IN SENATE JUNE 25, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1469

Introduced by Committee on Budget (Blumenfield (Chair), Alejo, Bonilla, Brownley, Buchanan, Butler, Cedillo, Chesbro, Dickinson, Feuer, Gordon, Huffman, Mitchell, Monning, and Swanson)

January 10, 2012

An act to amend Section 680 of the Business and Professions Code, to amend Section 43.7 of the Civil Code, to amend Sections 1179.3, 1180.6, 1250.2, 1254, 1254.1, 1266.1, 1275.1, 1275.5, 1324.20, 1343, 1373, 1422.1, 1502, 1502.4, 1507, 1522.08, 1522.41, 1522.42, 1530.9, 1562.3, 11217, 11998.1, 50451, 50685.5, 50687.5, 50689, 120840, 124174.4, 128454, 128456, and 129230 of, and to repeal Section 1565 of, the Health and Safety Code, to amend Sections 10125, 10127, and 12693.61 of the Insurance Code, and to amend Sections 21, 359, 708, 4005.1, 4011, 4030, 4031, 4032, 4033, 4040, 4050, 4051, 4052, 4060, 4061, 4080, 4090, 4091, 4094, 4094.1, 4094.2, 4094.7, 4095, 4096.5, 4098.2, 4340, 4369.4, 4681, 4681.1, 4696.1, 4835, 4844, 5150, 5151, 5152, 5157, 5202, 5270.12, 5325, 5326, 5326.1, 5326.15, 5326.3, 5326.8, 5326.9, 5326.91, 5326.95, 5328, 5348, 5349, 5349.1, 5358, 5366.1, 5370.2, 5400, 5402, 5404, 5405, 5510, 5513, 5514, 5520, 5530, 5585.21, 5585.22, 5585.50, 5585.55, 5601, 5602, 5604, 5607, 5610, 5650, 5651, 5652.7, 5653, 5653.1, 5654, 5655, 5664, 5664.5, 5666, 5675, 5675.1, 5675.2, 5676, 5688.6, 5692, 5701, 5701.1, 5705, 5707, 5709, 5710, 5714, 5715, 5717, 5750, 5751, 5751.1, 5751.2, 5751.7, 5768, 5770, 5770.5, 5771, 5771.3, 5772, 5803, 5805, 5806, 5807, 5809, 5813.6, 5814, 5815, 5851.5, 5852, 5852.5, 5854, 5855, 5855.5, 5863,

~~5867.5, 5868, 5869, 5872, 5878, 5880, 5881, 5901, 5909, 6002.15, 6002.40, 6007, 6551, 7100, 9101, 11325.7, 11462.01, 11495.1, 14021.4, 14021.5, 14053.3, 14108.1, 14110.15, 14131.07, 14132.73, 14167.1, 14167.11, 14168.1, 14169.1, 14456.5, 14680, 14681, 14683, 14684, 14684.1, 14685, 18358.15, 18986.40, 18987.7, and 18994.9 of, to amend the heading of Article 2 (commencing with Section 5510) of Chapter 6.2 of Part 1 of Division 5 of, to amend and renumber Sections 4070, 4071, 5711, 5716, 5718, 5719, 5720, 5721, 5722, 5723, 5724, 5775, 5776, 5777, 5777.5, 5777.6, 5777.7, 5778, 5778.3, 5780, 5781, and 5783 of, to amend and repeal Sections 5779, 5782, 14021.3, and 14682, of, to amend, renumber, and repeal Section 5719.5 of, to add Sections 4005.6, 4005.7, 14682.1, 14685.1, 14702, 14703, 14704, and 14707.5 to, to repeal Sections 5600.8, 5673, 5708, 5712, 5723.5, 5750.1, 5804, 14640, and 25002 of, to repeal the heading of Article 4 (commencing with Section 4070) of Chapter 2 of Part 1 of Division 4 of, to repeal Article 1 (commencing with Section 4074) and Article 2 (commencing with Section 4075) of Chapter 3 of Part 1 of Division 4 of, to repeal Article 2.5 (commencing with Section 5689) of Chapter 2.5 of Part 2 of Division 5 of, to repeal Article 3 (commencing with Section 5810) of Part 3 of Division 5 of, and to repeal Chapter 5 (commencing with Section 4097) of Part 1 of Division 4 of, the Welfare and Institutions Code, relating to health and human services, and making an appropriation therefor, to take effect immediately, bill related to the budget. An act to amend Sections 1324.23, 1324.27, 1324.29, and 1324.30 of the Health and Safety Code, to amend Sections 12009, 12201, 12204, 12207, 12242, 12251, 12253, 12254, 12257, 12258, 12260, 12301, 12302, 12303, 12304, 12305, 12307, 12412, 12413, 12421, 12422, 12423, 12427, 12428, 12429, 12431, 12433, 12434, 12491, 12493, 12494, 12601, 12602, 12631, 12632, 12636, 12636.5, 12679, 12681, 12801, 12951, 12977, 12983, 12984, and 13108 of, and to add Section 12201.5 to, the Revenue and Taxation Code, to amend Sections 14126.022, 14126.027, 14126.033, 14126.036, and 14301.11 of, and to add Section 14126.028 to, the Welfare and Institutions Code, and to repeal Section 92 of Chapter 11 of the First Extraordinary Session of the Statutes of 2011, relating to public health, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1469, as amended, Committee on Budget. ~~Health and human services. Public health: Medi-Cal: skilled nursing facility and managed care plan charges.~~

(1) Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions.

Existing law requires the department to impose a uniform quality assurance fee on each skilled nursing facility, with certain exceptions, in accordance with a prescribed formula. The formula is based on the determination of the projected net revenues, as defined, of skilled nursing facilities. Under existing law, the charge will cease to be assessed after July 31, 2013, and these provisions will be repealed on January 1, 2014. Existing law, the Medi-Cal Long-Term Care Reimbursement Act, requires the department to implement a facility-specific reimbursement ratesetting system for certain skilled nursing facilities. Reimbursement rates for freestanding skilled nursing facilities are funded by a combination of federal funds and moneys collected pursuant to the skilled nursing uniform quality assurance fee. Existing law also establishes the Skilled Nursing Facility Quality and Accountability Special Fund in the State Treasury, which is a continuously appropriated fund that contains moneys from the assessment of specified administrative penalties and set asides of General Fund moneys, for the purposes of making quality and accountability payments. Existing law provides that this rate methodology shall cease to be implemented after July 31, 2013, and that these provisions shall be repealed on January 1, 2014.

This bill would modify the calculation of rates under the above-referenced rate methodology, and would extend the assessment of the charge, implementation of the rate methodology, and implementation of related provisions until July 31, 2015. By extending the period of time during which transfers are made to the Skilled Nursing Facility Quality and Accountability Special Fund, this bill would make an appropriation. This bill would also modify the amount of moneys to be deposited into the Skilled Nursing Facility Quality and Accountability Special Fund, by, among other things, requiring that specified set-asides under the rate methodology remain in the General Fund instead of

transferring to the Skilled Nursing Facility Quality and Accountability Special Fund and increasing the amount of certain set-asides to be transferred to the fund. This bill would instead require that the quality and accountability payments be made beginning with the 2013–14 rate year.

(2) Existing federal Medicaid law requires nursing facilities, as defined, to perform an assessment of each resident’s functional capacity that is based on a uniform minimum data set, as specified.

This bill would require nursing facilities, the State Department of Health Care Services, and the State Department of Public Health to perform various duties with respect to the federal government’s nursing home quality initiative and this assessment.

(3) Under existing law, one of the methods by which Medi-Cal services are provided is through contracts with various types of managed care plans. Existing law imposes a tax at a specified rate on the gross premiums of an insurer, as defined, and, until July 1, 2012, on the total operating revenue, as specified, of a Medi-Cal managed care plan, as defined. Existing law exempts from that tax the total operating revenue of a Medi-Cal managed care plan, if specified events occur before July, 1, 2012. Existing law continuously appropriates the revenues derived from the tax on Medi-Cal managed care plans for specified purposes.

This bill would extend the imposition of the tax on the total operating revenue of Medi-Cal managed care plans until July 1, 2014, and would make other conforming changes. This bill would, beginning January 1, 2013, allocate the sum of \$15 million dollars from the revenues derived after July 1, 2012, to the State Department of Health Care Services for the purpose of creating a performance-based incentive payment program for specified Medi-Cal managed care plans. This bill also would authorize the Controller to loan funds in the Children’s Health and Human Services Special Fund to the General Fund, as provided, until July 1, 2014. By extending the imposition of a charge whose revenues are continuously appropriated, this bill would make an appropriation.

(4) Existing law requires, until July 1, 2012, every return required to be filed with the Insurance Commissioner pursuant to provisions governing taxes on the total operating revenue of Medi-Cal managed care plans to be signed by the insurer or the Medi-Cal managed care plan or an executive officer of the insurer or the plan and to be made under oath or contain a written declaration that is made under penalty of perjury.

This bill would instead apply this signature requirement until July 1, 2014. By expanding the crime of perjury, this bill would impose a state-mandated local program.

(5) Section 92 of Chapter 11 of the First Extraordinary Session of the Statutes of 2011 provides that the act becomes inoperative if any of its provisions are amended or repealed.

This bill would repeal that provision and would provide that, notwithstanding Section 92 of Chapter 11 of the First Extraordinary Session of the Statutes of 2011, the provisions of Chapter 11 of the First Extraordinary Session of the Statutes of 2011 do not become inoperative upon the amendment or repeal of any provision of that chapter made by this bill.

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

This bill would provide that no reimbursement is required by this act for a specified reason.

(7) This bill would declare that it is to take effect immediately as an urgency statute.

~~Under existing law, the State Department of Mental Health is authorized and required to perform various functions relating to the care and treatment of persons with mental disorders. Under existing law, services for these individuals may be provided in psychiatric hospitals or other types of facilities, as well as in community settings.~~

~~This bill would eliminate or modify certain duties of, and programs administered by, the State Department of Mental Health, and would transfer the functions of the State Department of Mental Health to other state departments. The transferred responsibilities would include, among others, transferring licensing authority for psychiatric health facilities, as defined, to the State Department of Social Services, transferring authority for oversight of group homes for seriously emotionally disturbed children and community treatment facilities, and certain duties relating to drug and alcohol abuse programs, to the State Department of Health Care Services, and transferring to the State Department of State Hospitals jurisdiction over individuals under the treatment of state hospitals.~~

~~This bill would abolish the existing Licensing and Certification Fund, Mental Health, and would create in its place the Mental Health Facility Licensing Fund, which, upon appropriation by the Legislature, would~~

fund administrative and other activities in support of the mental health licensing and certification functions of the State Department of Social Services.

~~This bill would make various related, technical, and conforming changes to reflect the transfer of state mental health responsibilities.~~

~~Existing law establishes the Medi-Cal program, administered by the State Department of Health Care Services, under which basic health care services are provided to qualified low-income persons. The Medi-Cal program is, in part, governed and funded by federal Medicaid provisions. Under existing law, the State Department of Mental Health is required to implement mental health care services, as specified, for Medi-Cal recipients. Existing law, commencing July 1, 2012, requires state administrative functions for the operation of Medi-Cal specialty mental health managed care, the Early and Periodic, Screening, Diagnosis, and Treatment (EPSDT) Program, and applicable functions related to federal Medicaid requirements that are performed by the State Department of Mental Health to be transferred to the State Department of Health Care Services.~~

~~This bill would transfer the administration of mental health services described above for Medi-Cal beneficiaries to the State Department of Health Care Services, effective July 1, 2012, and would make related changes.~~

~~Existing law provides that clinics providing Medi-Cal specialty mental health services are not required to be licensed as a condition to reimbursement.~~

~~This bill would require instead that clinics providing those services be certified as a condition to reimbursement.~~

~~Existing law, to the extent permitted under federal law, authorizes funds deposited into a local health and welfare trust fund from the Sales Tax Account of the Local Revenue Fund to be used to match federal Medicaid funds in order to achieve the maximum federal reimbursement possible.~~

~~This bill would instead authorize, to the extent permitted under specified provisions of law, that funds distributed to counties from the Mental Health Subaccount, the Mental Health Equity Subaccount, and the Vehicle License Collection Account of the Local Revenue Fund, funds from the Mental Health Account and the Behavioral Health Subaccount from the Local Revenue Fund 2011, funds from the Mental Health Services Fund, and any other funds from which the Controller makes distributions to the counties be used to pay for services provided~~

by these funds that the counties may certify as public expenditures in order to achieve the maximum federal reimbursement possible.

This bill would make related and conforming changes relating to federal audit exceptions:

Existing law requires the State Department of Mental Health to implement managed mental health care for Medi-Cal beneficiaries through fee-for-service or capitated rate contracts with mental health plans, as specified.

This bill would instead require the State Department of Health Care Services to implement managed mental health care for Medi-Cal beneficiaries through contracts with mental health plans. The bill would make various changes to associated contracting procedures and would specify the sources from which fines and penalties for noncompliance with specialty mental health service requirements may be satisfied.

Existing law provides that a contract with a mental health plan may be renewed, for a period not to exceed 3 years, if the mental health plan continues to meet specified requirements.

This bill would delete the 3-year limitation on renewed contracts.

Existing law specifies responsibilities and procedures for audit exceptions, disallowances, and appeals for Medi-Cal specialty mental health services provided by mental health plans and mental health plan subcontractors. Existing law limits the maximum amount withheld for purposes of audit exceptions or disallowances to 25% of each payment, as specified.

This bill would revise the responsibilities and procedures relating to audit exceptions, disallowances, and appeals, would eliminate obsolete language, and would make conforming and clarifying changes. The bill would authorize the department to increase the amount withheld to an amount greater than 25% of each payment in order to comply with federal laws and regulations.

Existing law requires the State Department of Mental Health to allocate funds for the provision of mental health services to Medi-Cal eligible persons over 20 years of age to counties of over one million population that own and operate an acute psychiatric health facility, as specified.

This bill would delete that provision.

Existing law provides that counties have the right of first refusal to serve as a mental health plan.

This bill would repeal these provisions on November 7, 2012, if a specified provision of law takes effect.

~~Existing law requires the Secretary for California Health and Human Services to establish a process by which options for achieving universal health care coverage are developed.~~

~~This bill would delete these provisions.~~

~~This bill would delete obsolete provisions of law, and would make conforming, clarifying, and technical changes.~~

~~This bill would appropriate the sum of \$1,000 from the General Fund to the State Department of Health Care Services for administration.~~

~~This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.~~

~~This bill would become operative contingent upon the enactment of AB 1480 or SB 1020 of the 2011–12 Regular Session.~~

Vote: ~~majority~~^{2/3}. Appropriation: yes. Fiscal committee: yes. State-mandated local program: ~~no~~^{yes}.

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

1 SECTION 1. Section 1324.23 of the Health and Safety Code
2 is amended to read:

3 1324.23. (a) The Director of Health Care Services, or his or
4 her designee, shall administer this article.

5 (b) The director may adopt regulations as are necessary to
6 implement this article. These regulations may be adopted as
7 emergency regulations in accordance with the rulemaking
8 provisions of the Administrative Procedure Act (Chapter 3.5
9 (commencing with Section 11340) of Part 1 of Division 3 of Title
10 2 of the Government Code). For purposes of this article, the
11 adoption of regulations shall be deemed an emergency and
12 necessary for the immediate preservation of the public peace, health
13 and safety, or general welfare. The regulations shall include, but
14 need not be limited to, any regulations necessary for any of the
15 following purposes:

16 (1) The administration of this article, including the proper
17 imposition and collection of the quality assurance fee not to exceed
18 amounts reasonably necessary for purposes of this article.

19 (2) The development of any forms necessary to obtain required
20 information from facilities subject to the quality assurance fee.

21 (3) To provide details, definitions, formulas, and other
22 requirements.

1 (c) As an alternative to subdivision (b), and notwithstanding
2 the rulemaking provisions of Chapter 3.5 (commencing with
3 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
4 Code, the director may implement this article, in whole or in part,
5 by means of a provider bulletin or other similar instructions,
6 without taking regulatory action, provided that no such bulletin or
7 other similar instructions shall remain in effect after July 31, ~~2013~~
8 2015. It is the intent of the Legislature that the regulations adopted
9 pursuant to subdivision (b) shall be adopted on or before July 31,
10 ~~2013~~ 2015.

11 *SEC. 2. Section 1324.27 of the Health and Safety Code is*
12 *amended to read:*

13 1324.27. (a) (1) The department shall request approval from
14 the federal Centers for Medicare and Medicaid Services for the
15 implementation of this article. In making this request, the
16 department shall seek specific approval from the federal Centers
17 for Medicare and Medicaid Services to exempt facilities identified
18 in subdivision (c) of Section 1324.20, including the submission
19 of a request for waiver of broad-based requirement, waiver of
20 uniform fee requirement, or both, pursuant to paragraphs (1) and
21 (2) of subdivision (e) of Section 433.68 of Title 42 of the Code of
22 Federal Regulations.

23 (2) The director may alter the methodology specified in this
24 article, to the extent necessary to meet the requirements of federal
25 law or regulations or to obtain federal approval. The Director of
26 Health *Care* Services may also add new categories of exempt
27 facilities or apply a nonuniform fee to the skilled nursing facilities
28 subject to the fee in order to meet requirements of federal law or
29 regulations. The Director of Health *Care* Services may apply a
30 zero fee to one or more exempt categories of facilities, if necessary
31 to obtain federal approval.

32 (3) If after seeking federal approval, federal approval is not
33 obtained, this article shall not be implemented.

34 (b) The department shall make retrospective adjustments, as
35 necessary, to the amounts calculated pursuant to Section 1324.21
36 in order to assure that the aggregate quality assurance fee for any
37 particular state fiscal year does not exceed 6 percent of the
38 aggregate annual net revenue of facilities subject to the fee.

39 *SEC. 3. Section 1324.29 of the Health and Safety Code is*
40 *amended to read:*

1 1324.29. (a) The quality assurance fee shall cease to be
2 assessed after July 31, ~~2013~~ 2015.

3 (b) Notwithstanding subdivision (a) and Section 1324.30, the
4 department's authority and obligation to collect all quality
5 assurance fees and penalties, including interest, shall continue in
6 effect and shall not cease until the date that all amounts are paid
7 or recovered in full.

8 (c) This section shall remain operative until the date that all fees
9 and penalties, including interest, have been recovered pursuant to
10 subdivision (b), and as of that date is repealed.

11 *SEC. 4. Section 1324.30 of the Health and Safety Code is*
12 *amended to read:*

13 1324.30. This article shall become inoperative after July 31,
14 ~~2013~~ 2015, and, as of January 1, ~~2014~~ 2016, is repealed, unless a
15 later enacted statute, that becomes operative on or before January
16 1, ~~2014~~ 2016, deletes or extends the dates on which it becomes
17 inoperative and is repealed.

18 *SEC. 5. Section 12009 of the Revenue and Taxation Code is*
19 *amended to read:*

20 12009. (a) "Medi-Cal managed care plan" or "plan" means
21 any individual, organization, or entity, other than an insurer as
22 described in Section 12003 or a dental managed care plan as
23 described in Section 14087.46 of the Welfare and Institutions
24 Code, that enters into a contract with the State Department of
25 Health Care Services pursuant to Article 2.7 (commencing with
26 Section 14087.3), Article 2.8 (commencing with Section 14087.5),
27 Article 2.81 (commencing with Section 14087.96), Article 2.9
28 (commencing with Section 14088), or Article 2.91 (commencing
29 with Section 14089) of Chapter 7 of, or pursuant to Article 1
30 (commencing with Section 14200) or Article 7 (commencing with
31 Section 14490) of Chapter 8 of, Part 3 of Division 9 of the Welfare
32 and Institutions Code.

33 (b) This section shall become inoperative on July 1, ~~2012~~ 2014,
34 and, as of January 1, ~~2013~~ 2015, is repealed, unless a later enacted
35 statute, that becomes operative on or before July 1, ~~2012~~ 2014,
36 deletes or extends the dates on which it becomes inoperative and
37 is repealed.

38 *SEC. 6. Section 12201 of the Revenue and Taxation Code, as*
39 *amended by Section 2 of Chapter 11 of the First Extraordinary*
40 *Session of the Statutes of 2011, is amended to read:*

1 12201. (a) Every insurer and Medi-Cal managed care plan
2 doing business in this state shall annually pay to the state a tax on
3 the bases, at the rates, and subject to the deductions from the tax
4 hereinafter specified. For purposes of the tax imposed by this
5 chapter, “insurer” shall be deemed to include a home protection
6 company as defined in Section 12740 of the Insurance Code.

7 (b) Notwithstanding Section 13340 of the Government Code,
8 the revenues derived from the imposition of the tax by this chapter
9 on Medi-Cal managed care plans are hereby continuously
10 appropriated as follows:

11 (1) A percentage of the revenues derived from the imposition
12 of the tax by this chapter on Medi-Cal managed care plans equal
13 to the difference between 100 percent and the applicable federal
14 medical assistance percentage (FMAP) to the department for
15 purposes of the Medi-Cal program.

16 (2) After deducting the revenues appropriated pursuant to
17 paragraph (1), any remaining revenue to the Managed Risk Medical
18 Insurance Board for purposes of the Healthy Families Program.

19 (c) The Insurance Commissioner shall report the amount of
20 revenue derived from the tax imposed on Medi-Cal managed care
21 plans pursuant to this section to the California Health and Human
22 Services Agency, the Joint Legislative Budget Committee, and the
23 Department of Finance.

24 (d) Notwithstanding any other law, the Controller may use the
25 funds in the Children’s Health and Human Services Special Fund
26 for cashflow loans to the General Fund as provided in Sections
27 16310 and 16381 of the Government Code.

28 (e) This section shall become inoperative on July 1, ~~2012~~ 2014,
29 and, as of January 1, ~~2013~~ 2015, is repealed, unless a later enacted
30 statute, that becomes operative on or before July 1, ~~2012~~ 2014,
31 deletes or extends the dates on which it becomes inoperative and
32 is repealed. Any tax imposed by this section shall continue to be
33 due and payable until the tax is paid.

34 *SEC. 7. Section 12201 of the Revenue and Taxation Code, as*
35 *amended by Section 3 of Chapter 11 of the First Extraordinary*
36 *Session of the Statutes of 2011, is amended to read:*

37 12201. (a) Every insurer doing business in this state shall
38 annually pay to the state a tax on the bases, at the rates, and subject
39 to the deductions from the tax hereinafter specified. For purposes
40 of the tax imposed by this chapter, “insurer” shall be deemed to

1 include a home protection company as defined in Section 12740
 2 of the Insurance Code.

3 (b) This section shall become operative on July 1, ~~2012~~ 2014.

4 SEC. 8. Section 12201.5 is added to the Revenue and Taxation
 5 Code, to read:

6 12201.5. Notwithstanding Section 13340 of the Government
 7 Code, subdivision (b) of Section 12201, or any other law, beginning
 8 January 1, 2013, the sum of fifteen million dollars (\$15,000,000)
 9 from the revenues derived after July 1, 2012, from the imposition
 10 of the tax by this chapter on Medi-Cal managed care plans is
 11 allocated to the State Department of Health Care Services for the
 12 purpose of creating a performance-based incentive payment
 13 program for Medi-Cal managed care plans subject to the
 14 following:

15 (a) Only Medi-Cal managed care plans in the two-plan model
 16 counties, county organized health systems, and geographic
 17 managed care pursuant to Article 2.7 (commencing with Section
 18 14087.3), Article 2.81 (commencing with Section 14087.96), and
 19 Article 2.91 (commencing with Section 14089) of Chapter 7 of
 20 Part 3 of Division 9 of the Welfare and Institutions Code shall be
 21 eligible for this program.

22 (b) Payments to Medi-Cal managed care plans under this
 23 program shall be determined annually by the department based
 24 on a Medi-Cal managed care plan's performance on child-only
 25 Health Care Effectiveness Data and Information Set measures for
 26 all children enrolled in the plan under the Medi-Cal program.

27 (c) The revenues shall be allocated as follows:

28 (1) Eleven million dollars (\$11,000,000) to two-plan model
 29 counties.

30 (2) Three million dollars (\$3,000,000) to county organized
 31 health system counties.

32 (3) One million dollars (\$1,000,000) to geographic managed
 33 care.

34 (d) The revenues shall be matched with federal financial
 35 participation to the extent that federal financial participation is
 36 available.

37 SEC. 9. Section 12204 of the Revenue and Taxation Code, as
 38 amended by Section 4 of Chapter 11 of the First Extraordinary
 39 Session of the Statutes of 2011, is amended to read:

1 12204. (a) The tax imposed on insurers by this chapter is in
2 lieu of all other taxes and licenses, state, county, and municipal,
3 upon those insurers and their property, except:

4 (1) Taxes upon their real estate.

5 (2) Any retaliatory exactions imposed by paragraph (3) of
6 subdivision (f) of Section 28 of Article XIII of the Constitution.

7 (3) The tax on ocean marine insurance.

8 (4) Motor vehicle and other vehicle registration license fees and
9 any other tax or license fee imposed by the state upon vehicles,
10 motor vehicles or the operation thereof.

11 (5) That each corporate or other attorney-in-fact of a reciprocal
12 or interinsurance exchange shall be subject to all taxes imposed
13 upon corporations or others doing business in the state, other than
14 taxes on income derived from its principal business as
15 attorney-in-fact.

16 (b) This section shall not apply to any Medi-Cal managed care
17 plan and to any tax imposed on that plan by this chapter.

18 (c) This section shall become inoperative on July 1, ~~2012~~ 2014,
19 and, as of January 1, ~~2013~~ 2015, is repealed, unless a later enacted
20 statute, that becomes operative on or before July 1, ~~2012~~ 2014,
21 deletes or extends the dates on which it becomes inoperative and
22 is repealed.

23 *SEC. 10. Section 12204 of the Revenue and Taxation Code, as*
24 *amended by Section 5 of Chapter 11 of the First Extraordinary*
25 *Session of the Statutes of 2011, is amended to read:*

26 12204. (a) The tax imposed on insurers by this chapter is in
27 lieu of all other taxes and licenses, state, county, and municipal,
28 upon those insurers and their property, except:

29 (1) Taxes upon their real estate.

30 (2) Any retaliatory exactions imposed by paragraph (3) of
31 subdivision (f) of Section 28 of Article XIII of the California
32 Constitution.

33 (3) The tax on ocean marine insurance.

34 (4) Motor vehicle and other vehicle registration license fees and
35 any other tax or license fee imposed by the state upon vehicles,
36 motor vehicles or the operation thereof.

37 (5) That each corporate or other attorney-in-fact of a reciprocal
38 or interinsurance exchange shall be subject to all taxes imposed
39 upon corporations or others doing business in the state, other than

1 taxes on income derived from its principal business as
2 attorney-in-fact.

3 (b) This section shall become operative on July 1, ~~2012~~ 2014.

4 *SEC. 11. Section 12207 of the Revenue and Taxation Code is*
5 *amended to read:*

6 12207. (a) Notwithstanding any other provision of this part,
7 no credit shall be allowed under Section 12206, 12208, or 12209
8 against the tax imposed on Medi-Cal managed care plans pursuant
9 to Section 12201.

10 (b) This section shall become inoperative on July 1, ~~2012~~ 2014,
11 and, as of January 1, ~~2013~~ 2015, is repealed, unless a later enacted
12 statute, that becomes operative on or before July 1, ~~2012~~ 2014,
13 deletes or extends the dates on which it becomes inoperative and
14 is repealed.

15 *SEC. 12. Section 12242 of the Revenue and Taxation Code is*
16 *amended to read:*

17 12242. This article shall become inoperative on July 1, ~~2012~~
18 2014, and, as of January 1, ~~2013~~ 2015, is repealed, unless a later
19 enacted statute, that becomes operative on or before July 1, ~~2012~~
20 2014, deletes or extends the dates on which it becomes inoperative
21 and is repealed.

22 *SEC. 13. Section 12251 of the Revenue and Taxation Code, as*
23 *amended by Section 8 of Chapter 11 of the First Extraordinary*
24 *Session of the Statutes of 2011, is amended to read:*

25 12251. (a) For the calendar year 1970, and each calendar year
26 thereafter, insurers transacting insurance in this state and whose
27 annual tax for the preceding calendar year was five thousand dollars
28 (\$5,000) or more shall make prepayments of the annual tax for the
29 current calendar year imposed by Section 28 of Article XIII of the
30 California Constitution and this part, provided that no prepayments
31 shall be made with respect to the tax on ocean marine insurance
32 underwriting profit or any retaliatory tax.

33 (b) Medi-Cal managed care plans shall make prepayments of
34 the tax imposed by Section 12201 for the current calendar year,
35 except that no prepayments shall be required prior to the effective
36 date of the act adding this subdivision, and no penalties and interest
37 shall be imposed pursuant to Section 12261 for not making those
38 prepayments.

39 (c) This section shall become inoperative on July 1, ~~2012~~ 2014,
40 and, as of January 1, ~~2013~~ 2015, is repealed, unless a later enacted

1 statute, that becomes operative on or before July 1, ~~2012~~ 2014,
2 deletes or extends the dates on which it becomes inoperative and
3 is repealed.

4 *SEC. 14. Section 12251 of the Revenue and Taxation Code, as*
5 *amended by Section 9 of Chapter 11 of the First Extraordinary*
6 *Session of the Statutes of 2011, is amended to read:*

7 12251. (a) For the calendar year 1970, and each calendar year
8 thereafter, insurers transacting insurance in this state and whose
9 annual tax for the preceding calendar year was five thousand dollars
10 (\$5,000) or more shall make prepayments of the annual tax for the
11 current calendar year imposed by Section 28 of Article XIII of the
12 California Constitution and this part, provided that no prepayments
13 shall be made with respect to the tax on ocean marine insurance
14 underwriting profit or any retaliatory tax.

15 (b) This section shall become operative on July 1, ~~2012~~ 2014.

16 *SEC. 15. Section 12253 of the Revenue and Taxation Code, as*
17 *amended by Section 10 of Chapter 11 of the First Extraordinary*
18 *Session of the Statutes of 2011, is amended to read:*

19 12253. (a) Each insurer and Medi-Cal managed care plan
20 required to make prepayments shall remit them on or before each
21 of the dates of April 1st, June 1st, September 1st, and December
22 1st of the current calendar year. Remittances for prepayments shall
23 be made payable to the Controller and shall be delivered to the
24 office of the commissioner, accompanied by a prepayment form
25 prescribed by the commissioner.

26 (b) This section shall become inoperative on July 1, ~~2012~~ 2014,
27 and, as of January 1, ~~2013~~ 2015, is repealed, unless a later enacted
28 statute, that becomes operative on or before July 1, ~~2012~~ 2014,
29 deletes or extends the dates on which it becomes inoperative and
30 is repealed.

31 *SEC. 16. Section 12253 of the Revenue and Taxation Code, as*
32 *amended by Section 11 of Chapter 11 of the First Extraordinary*
33 *Session of the Statutes of 2011, is amended to read:*

34 12253. (a) Each insurer required to make prepayments shall
35 remit them on or before each of the dates of April 1st, June 1st,
36 September 1st, and December 1st of the current calendar year.
37 Remittances for prepayments shall be made payable to the
38 Controller and shall be delivered to the office of the commissioner,
39 accompanied by a prepayment form prescribed by the
40 commissioner.

1 (b) This section shall become operative on July 1, ~~2012~~ 2014.

2 *SEC. 17. Section 12254 of the Revenue and Taxation Code, as*
3 *amended by Section 12 of Chapter 11 of the First Extraordinary*
4 *Session of the Statutes of 2011, is amended to read:*

5 12254. (a) (1) For each insurer, the amount of each
6 prepayment shall be 25 percent of the amount of the annual
7 insurance tax liability reported on the return of the insurer for the
8 preceding calendar year.

9 (2) For each Medi-Cal managed care plan, the amount of each
10 prepayment shall be 25 percent of the amount of tax the plan
11 estimates as the amount of tax imposed by Section 12201 with
12 respect to the plan.

13 (b) In establishing the prepayment amount of an insurer that
14 has acquired the business of another insurer, the amount of tax
15 liability of the acquiring insurer reported for the preceding calendar
16 year shall be deemed to include the amount of tax liability of the
17 acquired insurer reported for that year.

18 (c) This section shall become inoperative on July 1, ~~2012~~ 2014,
19 and, as of January 1, ~~2013~~ 2015, is repealed, unless a later enacted
20 statute, that becomes operative on or before July 1, ~~2012~~ 2014,
21 deletes or extends the dates on which it becomes inoperative and
22 is repealed.

23 *SEC. 18. Section 12254 of the Revenue and Taxation Code, as*
24 *amended by Section 13 of Chapter 11 of the First Extraordinary*
25 *Session of the Statutes of 2011, is amended to read:*

26 12254. (a) The amount of each prepayment shall be 25 percent
27 of the amount of the annual insurance tax liability reported on the
28 return of the insurer for the preceding calendar year.

29 (b) In establishing the prepayment amount of an insurer that
30 has acquired the business of another insurer, the amount of tax
31 liability of the acquiring insurer reported for the preceding calendar
32 year shall be deemed to include the amount of tax liability of the
33 acquired insurer reported for that year.

34 (c) This section shall become operative on July 1, ~~2012~~ 2014.

35 *SEC. 19. Section 12257 of the Revenue and Taxation Code, as*
36 *amended by Section 14 of Chapter 11 of the First Extraordinary*
37 *Session of the Statutes of 2011, is amended to read:*

38 12257. (a) If the total amount of prepayments for any calendar
39 year exceeds the amount of annual tax for that year, the excess
40 shall be treated as an overpayment of annual tax and, at the election

1 of the insurer or Medi-Cal managed care plan, may be credited
2 against the amounts due and payable for the first prepayment of
3 the following year. Any amount of the overpayment not so credited
4 shall be allowed as a credit or refund under Article 2 (commencing
5 with Section 12977) of Chapter 7 of this part.

6 (b) This section shall become inoperative on July 1, ~~2012~~ 2014,
7 and, as of January 1, ~~2013~~ 2015, is repealed, unless a later enacted
8 statute, that becomes operative on or before July 1, ~~2012~~ 2014,
9 deletes or extends the dates on which it becomes inoperative and
10 is repealed.

11 *SEC. 20. Section 12257 of the Revenue and Taxation Code, as*
12 *amended by Section 15 of Chapter 11 of the First Extraordinary*
13 *Session of the Statutes of 2011, is amended to read:*

14 12257. (a) If the total amount of prepayments for any calendar
15 year exceeds the amount of annual tax for that year, the excess
16 shall be treated as an overpayment of annual tax and, at the election
17 of the insurer, may be credited against the amounts due and payable
18 for the first prepayment of the following year. Any amount of the
19 overpayment not so credited shall be allowed as a credit or refund
20 under Article 2 (commencing with Section 12977) of Chapter 7
21 of this part.

22 (b) This section shall become operative on July 1, ~~2012~~ 2014.

23 *SEC. 21. Section 12258 of the Revenue and Taxation Code, as*
24 *amended by Section 16 of Chapter 11 of the First Extraordinary*
25 *Session of the Statutes of 2011, is amended to read:*

26 12258. (a) Any insurer or Medi-Cal managed care plan that
27 fails to pay any prepayment within the time required shall pay a
28 penalty of 10 percent of the amount of the required prepayment,
29 plus interest at the modified adjusted rate per month, or fraction
30 thereof, established pursuant to Section 6591.5, from the due date
31 of the prepayment until the date of payment but not for any period
32 after the due date of the annual tax. Assessments of prepayment
33 deficiencies may be made in the manner provided by deficiency
34 assessments of the annual tax.

35 (b) Notwithstanding any other law, the prepayment due on
36 September 1, 2011, shall be due no later than 30 days after the
37 effective date of this act for a Medi-Cal managed care plan as
38 defined in subdivision (a) of Section 12009.

39 (c) This section shall become inoperative on July 1, ~~2012~~ 2014,
40 and, as of January 1, ~~2013~~ 2015, is repealed, unless a later enacted

1 statute, that becomes operative on or before July 1, ~~2012~~ 2014,
2 deletes or extends the dates on which it becomes inoperative and
3 is repealed.

4 *SEC. 22. Section 12258 of the Revenue and Taxation Code, as*
5 *amended by Section 17 of Chapter 11 of the First Extraordinary*
6 *Session of the Statutes of 2011, is amended to read:*

7 12258. (a) Any insurer that fails to pay any prepayment within
8 the time required shall pay a penalty of 10 percent of the amount
9 of the required prepayment, plus interest at the modified adjusted
10 rate per month, or fraction thereof, established pursuant to Section
11 6591.5, from the due date of the prepayment until the date of
12 payment but not for any period after the due date of the annual
13 tax. Assessments of prepayment deficiencies may be made in the
14 manner provided by deficiency assessments of the annual tax.

15 (b) This section shall become operative on July 1, ~~2012~~ 2014.

16 *SEC. 23. Section 12260 of the Revenue and Taxation Code, as*
17 *amended by Section 18 of Chapter 11 of the First Extraordinary*
18 *Session of the Statutes of 2011, is amended to read:*

19 12260. (a) Notwithstanding any other provision of this article,
20 the commissioner may relieve an insurer or Medi-Cal managed
21 care plan of its obligation to make prepayments where the insurer
22 or Medi-Cal managed care plan establishes to the satisfaction of
23 the commissioner that the insurer has ceased to transact insurance
24 in this state or the Medi-Cal managed care plan has ceased to
25 operate a plan in this state, or the insurer's or Medi-Cal managed
26 care plan's annual tax for the current year will be less than five
27 thousand dollars (\$5,000).

28 (b) This section shall become inoperative on July 1, ~~2012~~ 2014,
29 and, as of January 1, ~~2013~~ 2015, is repealed, unless a later enacted
30 statute, that becomes operative on or before July 1, ~~2012~~ 2014,
31 deletes or extends the dates on which it becomes inoperative and
32 is repealed.

33 *SEC. 24. Section 12260 of the Revenue and Taxation Code, as*
34 *amended by Section 19 of Chapter 11 of the First Extraordinary*
35 *Session of the Statutes of 2011, is amended to read:*

36 12260. (a) Notwithstanding any other provision of this article,
37 the commissioner may relieve an insurer of its obligation to make
38 prepayments where the insurer establishes to the satisfaction of
39 the commissioner that either the insurer has ceased to transact

1 insurance in this state, or the insurer's annual tax for the current
2 year will be less than five thousand dollars (\$5,000).

3 (b) This section shall become operative on July 1, ~~2012~~ 2014.

4 *SEC. 25. Section 12301 of the Revenue and Taxation Code, as*
5 *amended by Section 20 of Chapter 11 of the First Extraordinary*
6 *Session of the Statutes of 2011, is amended to read:*

7 12301. (a) The taxes imposed upon insurers by Section 28 of
8 Article XIII of the California Constitution and this part, except
9 with respect to taxes on ocean marine insurance and retaliatory
10 taxes, are due and payable annually on or before April 1st of the
11 year following the calendar year in which the insurer engaged in
12 the business of insurance or transacted insurance in this state. The
13 taxes imposed with respect to ocean marine insurance are due and
14 payable on or before June 15th of that year.

15 (b) With respect to Medi-Cal managed care plans, the taxes
16 imposed by Section 12201 shall be due and payable on or before
17 April 1st of the year following the calendar year in which the plan
18 contracted with the State Department of Health Care Services as
19 described in Section 12009.

20 (c) This section shall become inoperative on July 1, ~~2012~~ 2014,
21 and, as of January 1, ~~2013~~ 2015, is repealed, unless a later enacted
22 statute, that becomes operative on or before July 1, ~~2012~~ 2014,
23 deletes or extends the dates on which it becomes inoperative and
24 is repealed. However, any tax imposed by Section 12201 shall
25 continue to be due and payable until the tax is paid.

26 *SEC. 26. Section 12301 of the Revenue and Taxation Code, as*
27 *amended by Section 21 of Chapter 11 of the First Extraordinary*
28 *Session of the Statutes of 2011, is amended to read:*

29 12301. (a) The taxes imposed upon insurers by Section 28 of
30 Article XIII of the California Constitution and this part, except
31 with respect to taxes on ocean marine insurance and retaliatory
32 taxes, are due and payable annually on or before April 1st of the
33 year following the calendar year in which the insurer engaged in
34 the business of insurance or transacted insurance in this state. The
35 taxes imposed with respect to ocean marine insurance are due and
36 payable on or before June 15th of that year.

37 (b) This section shall become operative on July 1, ~~2012~~ 2014.

38 *SEC. 27. Section 12302 of the Revenue and Taxation Code, as*
39 *amended by Section 22 of Chapter 11 of the First Extraordinary*
40 *Session of the Statutes of 2011, is amended to read:*

1 12302. (a) On or before April 1st (or June 15th with respect
 2 to taxes on ocean marine insurance) every person that is subject
 3 to any tax imposed by Section 28 of Article XIII of the California
 4 Constitution or this part, in respect to the preceding calendar year
 5 shall file, in duplicate, a tax return with the commissioner in the
 6 form as the commissioner may prescribe. The return shall show
 7 that information pertaining to its insurance business, or in the case
 8 of a Medi-Cal managed care plan, pertaining to contracts for
 9 providing services as described in Section 12009, in this state as
 10 will reflect the basis of its tax as set forth in Chapter 2
 11 (commencing with Section 12071) and Chapter 3 (commencing
 12 with Section 12201) of this part, the computation of the amount
 13 of tax for the period covered by the return, the total amount of any
 14 tax prepayments made pursuant to Article 5 (commencing with
 15 Section 12251) of Chapter 3 of this part, and any other information
 16 as the commissioner may require to carry out the purposes of this
 17 part. Separate returns shall be filed with respect to the following
 18 kinds of insurance:

- 19 (1) Life insurance (or life insurance and disability insurance).
- 20 (2) Ocean marine insurance.
- 21 (3) Title insurance.
- 22 (4) Insurance other than life insurance (or life insurance and
 23 disability insurance), ocean marine insurance or title insurance.

24 (b) This section shall become inoperative on July 1, ~~2012~~ 2014,
 25 and, as of January 1, ~~2013~~ 2015, is repealed, unless a later enacted
 26 statute, that becomes operative on or before July 1, ~~2012~~ 2014,
 27 deletes or extends the dates on which it becomes inoperative and
 28 is repealed.

29 *SEC. 28. Section 12302 of the Revenue and Taxation Code, as*
 30 *amended by Section 23 of Chapter 11 of the First Extraordinary*
 31 *Session of the Statutes of 2011, is amended to read:*

32 12302. (a) On or before April 1st (or June 15th with respect
 33 to taxes on ocean marine insurance) every person that is subject
 34 to any tax imposed by Section 28 of Article XIII of the California
 35 Constitution or this part, in respect to the preceding calendar year
 36 shall file, in duplicate, an insurance tax return with the
 37 commissioner in the form as the commissioner may prescribe. The
 38 return shall show that information pertaining to its insurance
 39 business in this state as will reflect the basis of its tax as set forth
 40 in Chapter 2 (commencing with Section 12071) and Chapter 3

1 (commencing with Section 12201) of this part, the computation
2 of the amount of tax for the period covered by the return, the total
3 amount of any tax prepayments made pursuant to Article 5
4 (commencing with Section 12251) of Chapter 3 of this part, and
5 any other information as the commissioner may require to carry
6 out the purposes of this part. Separate returns shall be filed with
7 respect to the following kinds of insurance:

- 8 (1) Life insurance (or life insurance and disability insurance).
- 9 (2) Ocean marine insurance.
- 10 (3) Title insurance.
- 11 (4) Insurance other than life insurance (or life insurance and
12 disability insurance), ocean marine insurance or title insurance.

13 (b) This section shall become operative on July 1, ~~2012~~ 2014.

14 *SEC. 29. Section 12303 of the Revenue and Taxation Code, as*
15 *amended by Section 24 of Chapter 11 of the First Extraordinary*
16 *Session of the Statutes of 2011, is amended to read:*

17 12303. (a) Every return required by this article to be filed with
18 the commissioner shall be signed by the insurer or Medi-Cal
19 managed care plan or an executive officer of the insurer or plan
20 and shall be made under oath or contain a written declaration that
21 it is made under penalty of perjury. A return of a foreign insurer
22 may be signed and verified by its manager residing within this
23 state. A return of an alien insurer may be signed and verified by
24 the United States manager of the insurer.

25 (b) This section shall become inoperative on July 1, ~~2012~~ 2014,
26 and, as of January 1, ~~2013~~ 2015, is repealed, unless a later enacted
27 statute, that becomes operative on or before July 1, ~~2012~~ 2014,
28 deletes or extends the dates on which it becomes inoperative and
29 is repealed.

30 *SEC. 30. Section 12303 of the Revenue and Taxation Code, as*
31 *amended by Section 25 of Chapter 11 of the First Extraordinary*
32 *Session of the Statutes of 2011, is amended to read:*

33 12303. (a) Every return required by this article to be filed with
34 the commissioner shall be signed by the insurer or an executive
35 officer of the insurer and shall be made under oath or contain a
36 written declaration that it is made under penalty of perjury. A
37 return of a foreign insurer may be signed and verified by its
38 manager residing within this state. A return of an alien insurer may
39 be signed and verified by the United States manager of the insurer.

40 (b) This section shall become operative on July 1, ~~2012~~ 2014.

1 *SEC. 31. Section 12304 of the Revenue and Taxation Code, as*
 2 *amended by Section 26 of Chapter 11 of the First Extraordinary*
 3 *Session of the Statutes of 2011, is amended to read:*

4 12304. (a) Blank forms of returns shall be furnished by the
 5 commissioner on application, but failure to secure the form shall
 6 not relieve any insurer or Medi-Cal managed care plan from
 7 making or filing a timely return.

8 (b) This section shall become inoperative on July 1, ~~2012~~ 2014,
 9 and, as of January 1, ~~2013~~ 2015, is repealed, unless a later enacted
 10 statute, that becomes operative on or before July 1, ~~2012~~ 2014,
 11 deletes or extends the dates on which it becomes inoperative and
 12 is repealed.

13 *SEC. 32. Section 12304 of the Revenue and Taxation Code, as*
 14 *amended by Section 27 of Chapter 11 of the First Extraordinary*
 15 *Session of the Statutes of 2011, is amended to read:*

16 12304. (a) Blank forms of returns shall be furnished by the
 17 commissioner on application, but failure to secure the form shall
 18 not relieve any insurer from making or filing a timely return.

19 (b) This section shall become operative on July 1, ~~2012~~ 2014.

20 *SEC. 33. Section 12305 of the Revenue and Taxation Code, as*
 21 *amended by Section 28 of Chapter 11 of the First Extraordinary*
 22 *Session of the Statutes of 2011, is amended to read:*

23 12305. (a) The insurer or Medi-Cal managed care plan required
 24 to file a return shall deliver the return in duplicate, together with
 25 a remittance payable to the Controller, for the amount of tax
 26 computed and shown thereon, less any prepayments made pursuant
 27 to Article 5 (commencing with Section 12251) of Chapter 3 of this
 28 part, to the office of the commissioner.

29 (b) This section shall become inoperative on July 1, ~~2012~~ 2014,
 30 and, as of January 1, ~~2013~~ 2015, is repealed, unless a later enacted
 31 statute, that becomes operative on or before July 1, ~~2012~~ 2014,
 32 deletes or extends the dates on which it becomes inoperative and
 33 is repealed.

34 *SEC. 34. Section 12305 of the Revenue and Taxation Code, as*
 35 *amended by Section 29 of Chapter 11 of the First Extraordinary*
 36 *Session of the Statutes of 2011, is amended to read:*

37 12305. (a) The insurer required to file a return shall deliver
 38 the return in duplicate, together with a remittance payable to the
 39 Controller, for the amount of tax computed and shown thereon,
 40 less any prepayments made pursuant to Article 5 (commencing

1 with Section 12251) of Chapter 3 of this part, to the office of the
2 commissioner.

3 (b) This section shall become operative on July 1, ~~2012~~ 2014.

4 *SEC. 35. Section 12307 of the Revenue and Taxation Code, as*
5 *amended by Section 30 of Chapter 11 of the First Extraordinary*
6 *Session of the Statutes of 2011, is amended to read:*

7 12307. (a) Any insurer or Medi-Cal managed care plan to
8 which an extension is granted shall pay, in addition to the tax,
9 interest at the modified adjusted rate per month, or fraction thereof,
10 established pursuant to Section 6591.5, from April 1st until the
11 date of payment.

12 (b) This section shall become inoperative on July 1, ~~2012~~ 2014,
13 and, as of January 1, ~~2013~~ 2015, is repealed, unless a later enacted
14 statute, that becomes operative on or before July 1, ~~2012~~ 2014,
15 deletes or extends the dates on which it becomes inoperative and
16 is repealed.

17 *SEC. 36. Section 12307 of the Revenue and Taxation Code, as*
18 *amended by Section 31 of Chapter 11 of the First Extraordinary*
19 *Session of the Statutes of 2011, is amended to read:*

20 12307. (a) Any insurer that is granted an extension shall pay,
21 in addition to the tax, interest at the modified adjusted rate per
22 month, or fraction thereof, established pursuant to Section 6591.5,
23 from April 1st until the date of payment.

24 (b) This section shall become operative on July 1, ~~2012~~ 2014.

25 *SEC. 37. Section 12412 of the Revenue and Taxation Code, as*
26 *amended by Section 32 of Chapter 11 of the First Extraordinary*
27 *Session of the Statutes of 2011, is amended to read:*

28 12412. (a) Upon receipt of the duplicate copy of the return of
29 an insurer or Medi-Cal managed care plan the board shall initially
30 assess the tax in accordance with the data as reported by the insurer
31 or Medi-Cal managed care plan on the return.

32 (b) This section shall become inoperative on July 1, ~~2012~~ 2014,
33 and, as of January 1, ~~2013~~ 2015, is repealed, unless a later enacted
34 statute, that becomes operative on or before July 1, ~~2012~~ 2014,
35 deletes or extends the dates on which it becomes inoperative and
36 is repealed.

37 *SEC. 38. Section 12412 of the Revenue and Taxation Code, as*
38 *amended by Section 33 of Chapter 11 of the First Extraordinary*
39 *Session of the Statutes of 2011, is amended to read:*

1 12412. (a) Upon receipt of the duplicate copy of the return of
2 an insurer the board shall initially assess the tax in accordance
3 with the data as reported by the insurer on the return.

4 (b) This section shall become operative on July 1, ~~2012~~ 2014.

5 *SEC. 39. Section 12413 of the Revenue and Taxation Code, as*
6 *amended by Section 34 of Chapter 11 of the First Extraordinary*
7 *Session of the Statutes of 2011, is amended to read:*

8 12413. (a) The board shall promptly transmit notice of its
9 initial assessment to the commissioner and the Controller, and if
10 the initial assessment differs from the amount computed by the
11 insurer or Medi-Cal managed care plan, notice shall also be given
12 to the insurer or Medi-Cal managed care plan.

13 (b) This section shall become inoperative on July 1, ~~2012~~ 2014,
14 and, as of January 1, ~~2013~~ 2015, is repealed, unless a later enacted
15 statute, that becomes operative on or before July 1, ~~2012~~ 2014,
16 deletes or extends the dates on which it becomes inoperative and
17 is repealed.

18 *SEC. 40. Section 12413 of the Revenue and Taxation Code, as*
19 *amended by Section 35 of Chapter 11 of the First Extraordinary*
20 *Session of the Statutes of 2011, is amended to read:*

21 12413. (a) The board shall promptly transmit notice of its
22 initial assessment to the commissioner and the Controller, and if
23 the initial assessment differs from the amount computed by the
24 insurer, notice shall also be given to the insurer.

25 (b) This section shall become operative on July 1, ~~2012~~ 2014.

26 *SEC. 41. Section 12421 of the Revenue and Taxation Code, as*
27 *amended by Section 36 of Chapter 11 of the First Extraordinary*
28 *Session of the Statutes of 2011, is amended to read:*

29 12421. (a) As soon as practicable after an insurer's, surplus
30 line broker's, or Medi-Cal managed care plan's return is filed, the
31 commissioner shall examine it, together with any information
32 within his or her possession or that may come into his or her
33 possession, and he or she shall determine the correct amount of
34 tax of the insurer, surplus line broker, or Medi-Cal managed care
35 plan.

36 (b) This section shall become inoperative on July 1, ~~2012~~ 2014,
37 and, as of January 1, ~~2013~~ 2015, is repealed, unless a later enacted
38 statute, that becomes operative on or before July 1, ~~2012~~ 2014,
39 deletes or extends the dates on which it becomes inoperative and
40 is repealed.

1 *SEC. 42. Section 12421 of the Revenue and Taxation Code, as*
2 *amended by Section 37 of Chapter 11 of the First Extraordinary*
3 *Session of the Statutes of 2011, is amended to read:*

4 12421. (a) As soon as practicable after an insurer's or surplus
5 line broker's return is filed, the commissioner shall examine it,
6 together with any information within his or her possession or that
7 may come into his or her possession, and he or she shall determine
8 the correct amount of tax of the insurer or surplus line broker.

9 (b) This section shall become operative on July 1, ~~2012~~ 2014.

10 *SEC. 43. Section 12422 of the Revenue and Taxation Code, as*
11 *amended by Section 38 of Chapter 11 of the First Extraordinary*
12 *Session of the Statutes of 2011, is amended to read:*

13 12422. (a) If the commissioner determines that the amount of
14 tax disclosed by the insurer's tax return and assessed by the board
15 is less than the amount of tax disclosed by his or her examination,
16 he or she shall propose, in writing, to the board a deficiency
17 assessment for the difference. The proposal shall set forth the basis
18 for the deficiency assessment and the details of its computation.

19 (b) If the commissioner determines that the amount of tax
20 disclosed by the surplus line broker's tax return is less than the
21 amount of tax disclosed by his or her examination, he or she shall
22 propose, in writing, to the board a deficiency assessment for the
23 difference. The proposal shall set forth the basis for the deficiency
24 assessment and the details of its computation.

25 (c) If the commissioner determines that the amount of tax
26 disclosed by the Medi-Cal managed care plan's tax return is less
27 than the amount of tax disclosed by his or her examination, he or
28 she shall propose, in writing, to the board a deficiency assessment
29 for the difference. The proposal shall set forth the basis for the
30 deficiency assessment and the details of its computation.

31 (d) This section shall become inoperative on July 1, ~~2012~~ 2014,
32 and, as of January 1, ~~2013~~ 2015, is repealed, unless a later enacted
33 statute, that becomes operative on or before July 1, ~~2012~~ 2014,
34 deletes or extends the dates on which it becomes inoperative and
35 is repealed.

36 *SEC. 44. Section 12422 of the Revenue and Taxation Code, as*
37 *amended by Section 39 of Chapter 11 of the First Extraordinary*
38 *Session of the Statutes of 2011, is amended to read:*

39 12422. (a) If the commissioner determines that the amount of
40 tax disclosed by the insurer's tax return and assessed by the board

1 is less than the amount of tax disclosed by his or her examination,
2 he or she shall propose, in writing, to the board a deficiency
3 assessment for the difference. The proposal shall set forth the basis
4 for the deficiency assessment and the details of its computation.

5 (b) If the commissioner determines that the amount of tax
6 disclosed by the surplus line broker’s tax return is less than the
7 amount of tax disclosed by his or her examination, he or she shall
8 propose, in writing, to the board a deficiency assessment for the
9 difference. The proposal shall set forth the basis for the deficiency
10 assessment and the details of its computation.

11 (c) This section shall become operative on July 1, ~~2012~~ 2014.
12 *SEC. 45. Section 12423 of the Revenue and Taxation Code, as*
13 *amended by Section 40 of Chapter 11 of the First Extraordinary*
14 *Session of the Statutes of 2011, is amended to read:*

15 12423. (a) If an insurer, surplus line broker, or Medi-Cal
16 managed care plan fails to file a return, the commissioner may
17 require a return by mailing notice to the insurer, surplus line broker,
18 or Medi-Cal managed care plan to file a return by a specified date
19 or he or she may without requiring a return, or upon no return
20 having been filed pursuant to the demand therefor, make an
21 estimate of the amount of tax due for the calendar year or years in
22 respect to which the insurer, surplus line broker, or Medi-Cal
23 managed care plan failed to file the return. The estimate shall be
24 made from any available information which is in the
25 commissioner’s possession or may come into his or her possession,
26 and the commissioner shall propose, in writing, to the board a
27 deficiency assessment for the amount of the estimated tax. The
28 proposal shall set forth the basis of the estimate and the details of
29 the computation of the tax.

30 (b) This section shall become inoperative on July 1, ~~2012~~ 2014,
31 and, as of January 1, ~~2013~~ 2015, is repealed, unless a later enacted
32 statute, that becomes operative on or before July 1, ~~2012~~ 2014,
33 deletes or extends the dates on which it becomes inoperative and
34 is repealed.

35 *SEC. 46. Section 12423 of the Revenue and Taxation Code, as*
36 *amended by Section 41 of Chapter 11 of the First Extraordinary*
37 *Session of the Statutes of 2011, is amended to read:*

38 12423. (a) If an insurer or surplus line broker fails to file a
39 return, the commissioner may require a return by mailing notice
40 to the insurer or surplus line broker to file a return by a specified

1 date or he or she may without requiring a return, or upon no return
2 having been filed pursuant to the demand therefor, make an
3 estimate of the amount of tax due for the calendar year or years in
4 respect to which the insurer or surplus line broker failed to file the
5 return. The estimate shall be made from any available information
6 which is in the commissioner's possession or may come into his
7 or her possession, and the commissioner shall propose, in writing,
8 to the board a deficiency assessment for the amount of the
9 estimated tax. The proposal shall set forth the basis of the estimate
10 and the details of the computation of the tax.

11 (b) This section shall become operative on July 1, ~~2012~~ 2014.

12 *SEC. 47. Section 12427 of the Revenue and Taxation Code, as*
13 *amended by Section 42 of Chapter 11 of the First Extraordinary*
14 *Session of the Statutes of 2011, is amended to read:*

15 12427. (a) The board shall promptly notify the insurer, surplus
16 line broker, or Medi-Cal managed care plan of a deficiency
17 assessment made against the insurer, surplus line broker, or
18 Medi-Cal managed care plan.

19 (b) This section shall become inoperative on July 1, ~~2012~~ 2014,
20 and, as of January 1, ~~2013~~ 2015, is repealed, unless a later enacted
21 statute, that becomes operative on or before July 1, ~~2012~~ 2014,
22 deletes or extends the dates on which it becomes inoperative and
23 is repealed.

24 *SEC. 48. Section 12427 of the Revenue and Taxation Code, as*
25 *amended by Section 43 of Chapter 11 of the First Extraordinary*
26 *Session of the Statutes of 2011, is amended to read:*

27 12427. (a) The board shall promptly notify the insurer or
28 surplus line broker of a deficiency assessment made against the
29 insurer or surplus line broker.

30 (b) This section shall become operative on July 1, ~~2012~~ 2014.

31 *SEC. 49. Section 12428 of the Revenue and Taxation Code, as*
32 *amended by Section 44 of Chapter 11 of the First Extraordinary*
33 *Session of the Statutes of 2011, is amended to read:*

34 12428. (a) An insurer, surplus line broker, or Medi-Cal
35 managed care plan against which a deficiency assessment is made
36 under Section 12424 or 12425 may petition for redetermination
37 of the deficiency assessment within 30 days after service upon the
38 insurer, surplus line broker, or Medi-Cal managed care plan of the
39 notice thereof, by filing with the board a written petition setting
40 forth the grounds of objection to the deficiency assessment and

1 the correction sought. At the time the petition is filed with the
2 board, a copy of the petition shall be filed with the commissioner.

3 If a petition for redetermination is not filed within the period
4 prescribed by this section, the deficiency assessment becomes final
5 and due and payable at the expiration of that period.

6 (b) This section shall become inoperative on July 1, ~~2012~~ 2014,
7 and, as of January 1, ~~2013~~ 2015, is repealed, unless a later enacted
8 statute, that becomes operative on or before July 1, ~~2012~~ 2014,
9 deletes or extends the dates on which it becomes inoperative and
10 is repealed.

11 *SEC. 50. Section 12428 of the Revenue and Taxation Code, as*
12 *amended by Section 45 of Chapter 11 of the First Extraordinary*
13 *Session of the Statutes of 2011, is amended to read:*

14 12428. (a) An insurer or surplus line broker against which a
15 deficiency assessment is made under Section 12424 or 12425 may
16 petition for redetermination of the deficiency assessment within
17 30 days after service upon the insurer or surplus line broker of the
18 notice thereof, by filing with the board a written petition setting
19 forth the grounds of objection to the deficiency assessment and
20 the correction sought. At the time the petition is filed with the
21 board, a copy of the petition shall be filed with the commissioner.

22 If a petition for redetermination is not filed within the period
23 prescribed by this section, the deficiency assessment becomes final
24 and due and payable at the expiration of that period.

25 (b) This section shall become operative on July 1, ~~2012~~ 2014.

26 *SEC. 51. Section 12429 of the Revenue and Taxation Code, as*
27 *amended by Section 46 of Chapter 11 of the First Extraordinary*
28 *Session of the Statutes of 2011, is amended to read:*

29 12429. (a) If a petition for redetermination of a deficiency
30 assessment is filed within the time allowed under Section 12428,
31 the board shall reconsider the deficiency assessment and, if the
32 insurer, surplus line broker, or Medi-Cal managed care plan has
33 so requested in the petition, shall grant an oral hearing for the
34 presentation of evidence and argument before the board or its
35 authorized representative. The board shall give the petitioner and
36 the commissioner at least 20 days' notice of the time and place of
37 hearing. The hearing may be continued from time to time as may
38 be necessary.

39 (b) This section shall become inoperative on July 1, ~~2012~~ 2014,
40 and, as of January 1, ~~2013~~ 2015, is repealed, unless a later enacted

1 statute, that becomes operative on or before July 1, ~~2012~~ 2014,
2 deletes or extends the dates on which it becomes inoperative and
3 is repealed.

4 *SEC. 52. Section 12429 of the Revenue and Taxation Code, as*
5 *amended by Section 47 of Chapter 11 of the First Extraordinary*
6 *Session of the Statutes of 2011, is amended to read:*

7 12429. (a) If a petition for redetermination of a deficiency
8 assessment is filed within the time allowed under Section 12428,
9 the board shall reconsider the deficiency assessment and, if the
10 insurer or surplus line broker has so requested in the petition, shall
11 grant an oral hearing for the presentation of evidence and argument
12 before the board or its authorized representative. The board shall
13 give the petitioner and the commissioner at least 20 days' notice
14 of the time and place of hearing. The hearing may be continued
15 from time to time as may be necessary.

16 (b) This section shall become operative on July 1, ~~2012~~ 2014.

17 *SEC. 53. Section 12431 of the Revenue and Taxation Code, as*
18 *amended by Section 48 of Chapter 11 of the First Extraordinary*
19 *Session of the Statutes of 2011, is amended to read:*

20 12431. (a) The order or decision of the board upon a petition
21 for redetermination of a deficiency assessment becomes final 30
22 days after service on the insurer, surplus line broker, or Medi-Cal
23 managed care plan of a notice thereof, and any resulting deficiency
24 assessment is due and payable at the time the order or decision
25 becomes final.

26 (b) This section shall become inoperative on July 1, ~~2012~~ 2014,
27 and, as of January 1, ~~2013~~ 2015, is repealed, unless a later enacted
28 statute, that becomes operative on or before July 1, ~~2012~~ 2014,
29 deletes or extends the dates on which it becomes inoperative and
30 is repealed.

31 *SEC. 54. Section 12431 of the Revenue and Taxation Code, as*
32 *amended by Section 49 of Chapter 11 of the First Extraordinary*
33 *Session of the Statutes of 2011, is amended to read:*

34 12431. (a) The order or decision of the board upon a petition
35 for redetermination of a deficiency assessment becomes final 30
36 days after service on the insurer or surplus line broker of a notice
37 thereof, and any resulting deficiency assessment is due and payable
38 at the time the order or decision becomes final.

39 (b) This section shall become operative on July 1, ~~2012~~ 2014.

1 *SEC. 55. Section 12433 of the Revenue and Taxation Code, as*
 2 *amended by Section 50 of Chapter 11 of the First Extraordinary*
 3 *Session of the Statutes of 2011, is amended to read:*

4 12433. (a) If before the expiration of the time prescribed in
 5 Section 12432 for giving of a notice of deficiency assessment the
 6 insurer, surplus line broker, or Medi-Cal managed care plan has
 7 consented in writing to the giving of the notice after that time, the
 8 notice may be given at any time prior to the expiration of the time
 9 agreed upon. The period so agreed upon may be extended by
 10 subsequent agreements in writing made before the expiration of
 11 the period previously agreed upon.

12 (b) This section shall become inoperative on July 1, ~~2012~~ 2014,
 13 and, as of January 1, ~~2013~~ 2015, is repealed, unless a later enacted
 14 statute, that becomes operative on or before July 1, ~~2012~~ 2014,
 15 deletes or extends the dates on which it becomes inoperative and
 16 is repealed.

17 *SEC. 56. Section 12433 of the Revenue and Taxation Code, as*
 18 *amended by Section 51 of Chapter 11 of the First Extraordinary*
 19 *Session of the Statutes of 2011, is amended to read:*

20 12433. (a) If before the expiration of the time prescribed in
 21 Section 12432 for giving of a notice of deficiency assessment the
 22 insurer or surplus line broker has consented in writing to the giving
 23 of the notice after that time, the notice may be given at any time
 24 prior to the expiration of the time agreed upon. The period so
 25 agreed upon may be extended by subsequent agreements in writing
 26 made before the expiration of the period previously agreed upon.

27 (b) This section shall become operative on July 1, ~~2012~~ 2014.

28 *SEC. 57. Section 12434 of the Revenue and Taxation Code, as*
 29 *amended by Section 52 of Chapter 11 of the First Extraordinary*
 30 *Session of the Statutes of 2011, is amended to read:*

31 12434. (a) Any notice required by this article shall be placed
 32 in a sealed envelope, with postage paid, addressed to the insurer,
 33 surplus line broker, or Medi-Cal managed care plan at its address
 34 as it appears in the records of the commissioner or the board. The
 35 giving of notice shall be deemed complete at the time of deposit
 36 of the notice in the United States Post Office, or a mailbox, subpost
 37 office, substation or mail chute or other facility regularly
 38 maintained or provided by the United States Postal Service, without
 39 extension of time for any reason. In lieu of mailing, a notice may
 40 be served personally by delivering to the person to be served and

1 service shall be deemed complete at the time of the delivery.
2 Personal service to a corporation may be made by delivery of a
3 notice to any person designated in the Code of Civil Procedure to
4 be served for the corporation with summons and complaint in a
5 civil action.

6 (b) This section shall become inoperative on July 1, ~~2012~~ 2014,
7 and, as of January 1, ~~2013~~ 2015, is repealed, unless a later enacted
8 statute, that becomes operative on or before July 1, ~~2012~~ 2014,
9 deletes or extends the dates on which it becomes inoperative and
10 is repealed.

11 *SEC. 58. Section 12434 of the Revenue and Taxation Code, as*
12 *amended by Section 53 of Chapter 11 of the First Extraordinary*
13 *Session of the Statutes of 2011, is amended to read:*

14 12434. (a) Any notice required by this article shall be placed
15 in a sealed envelope, with postage paid, addressed to the insurer
16 or surplus line broker at its address as it appears in the records of
17 the commissioner or the board. The giving of notice shall be
18 deemed complete at the time of deposit of the notice in the United
19 States Post Office, or a mailbox, subpost office, substation or mail
20 chute or other facility regularly maintained or provided by the
21 United States Postal Service, without extension of time for any
22 reason. In lieu of mailing, a notice may be served personally by
23 delivering to the person to be served and service shall be deemed
24 complete at the time of the delivery. Personal service to a
25 corporation may be made by delivery of a notice to any person
26 designated in the Code of Civil Procedure to be served for the
27 corporation with summons and complaint in a civil action.

28 (b) This section shall become operative on July 1, ~~2012~~ 2014.

29 *SEC. 59. Section 12491 of the Revenue and Taxation Code, as*
30 *amended by Section 54 of Chapter 11 of the First Extraordinary*
31 *Session of the Statutes of 2011, is amended to read:*

32 12491. (a) Every tax levied upon an insurer under Article XIII
33 of the California Constitution and this part is a lien upon all
34 property and franchises of every kind and nature belonging to the
35 insurer, and has the effect of a judgment against the insurer.

36 (b) (1) Every tax levied upon a surplus line broker under Part
37 7.5 (commencing with Section 13201) of Division 2 is a lien upon
38 all property and franchises of every kind and nature belonging to
39 the surplus line broker, and has the effect of a judgment against
40 the surplus line broker.

1 (2) A lien levied pursuant to this subdivision shall not exceed
2 the amount of unpaid tax collected by the surplus line broker.

3 (c) (1) Every tax levied upon a Medi-Cal managed care plan
4 under Chapter 1 (commencing with Section 12001) is a lien upon
5 all property and franchises of every kind and nature belonging to
6 the Medi-Cal managed care plan, and has the effect of a judgment
7 against the Medi-Cal managed care plan.

8 (2) A lien levied pursuant to this subdivision shall not exceed
9 the amount of unpaid tax collected by the Medi-Cal managed care
10 plan.

11 (d) This section shall become inoperative on July 1, ~~2012~~ 2014,
12 and, as of January 1, ~~2013~~ 2015, is repealed, unless a later enacted
13 statute, that becomes operative on or before July 1, ~~2012~~ 2014,
14 deletes or extends the dates on which it becomes inoperative and
15 is repealed.

16 *SEC. 60. Section 12491 of the Revenue and Taxation Code, as*
17 *amended by Section 55 of Chapter 11 of the First Extraordinary*
18 *Session of the Statutes of 2011, is amended to read:*

19 12491. (a) Every tax levied upon an insurer under the
20 provisions of Article XIII of the California Constitution and of
21 this part is a lien upon all property and franchises of every kind
22 and nature belonging to the insurer, and has the effect of a
23 judgment against the insurer.

24 (b) (1) Every tax levied upon a surplus line broker under the
25 provisions of Part 7.5 (commencing with Section 13201) of
26 Division 2 is a lien upon all property and franchises of every kind
27 and nature belonging to the surplus line broker, and has the effect
28 of a judgment against the surplus line broker.

29 (2) A lien levied pursuant to this subdivision shall not exceed
30 the amount of unpaid tax collected by the surplus line broker.

31 (c) This section shall become operative on July 1, ~~2012~~ 2014.

32 *SEC. 61. Section 12493 of the Revenue and Taxation Code, as*
33 *amended by Section 56 of Chapter 11 of the First Extraordinary*
34 *Session of the Statutes of 2011, is amended to read:*

35 12493. (a) Every lien has the effect of an execution duly levied
36 against all property of a delinquent insurer, surplus line broker, or
37 Medi-Cal managed care plan.

38 (b) This section shall become inoperative on July 1, ~~2012~~ 2014,
39 and, as of January 1, ~~2013~~ 2015, is repealed, unless a later enacted
40 statute, that becomes operative on or before July 1, ~~2012~~ 2014,

1 deletes or extends the dates on which it becomes inoperative and
2 is repealed.

3 *SEC. 62. Section 12493 of the Revenue and Taxation Code, as*
4 *amended by Section 57 of Chapter 11 of the First Extraordinary*
5 *Session of the Statutes of 2011, is amended to read:*

6 12493. (a) Every lien has the effect of an execution duly levied
7 against all property of a delinquent insurer or surplus line broker.

8 (b) This section shall become operative on July 1, ~~2012~~ 2014.

9 *SEC. 63. Section 12494 of the Revenue and Taxation Code, as*
10 *amended by Section 58 of Chapter 11 of the First Extraordinary*
11 *Session of the Statutes of 2011, is amended to read:*

12 12494. (a) No judgment is satisfied nor lien removed until
13 either:

14 (1) The taxes, interest, penalties, and costs are paid.

15 (2) The insurer's, surplus line broker's, or Medi-Cal managed
16 care plan's property is sold for the payment thereof.

17 (b) This section shall become inoperative on July 1, ~~2012~~ 2014,
18 and, as of January 1, ~~2013~~ 2015, is repealed, unless a later enacted
19 statute, that becomes operative on or before July 1, ~~2012~~ 2014,
20 deletes or extends the dates on which it becomes inoperative and
21 is repealed.

22 *SEC. 64. Section 12494 of the Revenue and Taxation Code, as*
23 *amended by Section 59 of Chapter 11 of the First Extraordinary*
24 *Session of the Statutes of 2011, is amended to read:*

25 12494. (a) No judgment is satisfied nor lien removed until
26 either:

27 (1) The taxes, interest, penalties, and costs are paid.

28 (2) The insurer's or surplus line broker's property is sold for
29 the payment thereof.

30 (b) This section shall become operative on July 1, ~~2012~~ 2014.

31 *SEC. 65. Section 12601 of the Revenue and Taxation Code, as*
32 *amended by Section 60 of Chapter 11 of the First Extraordinary*
33 *Session of the Statutes of 2011, is amended to read:*

34 12601. (a) Amounts of taxes, interest, and penalties not
35 remitted to the commissioner with the original return of the insurer
36 or Medi-Cal managed care plan shall be payable to the Controller.

37 (b) This section shall become inoperative on July 1, ~~2012~~ 2014,
38 and, as of January 1, ~~2013~~ 2015, is repealed, unless a later enacted
39 statute, that becomes operative on or before July 1, ~~2012~~ 2014,

1 deletes or extends the dates on which it becomes inoperative and
2 is repealed.

3 *SEC. 66. Section 12601 of the Revenue and Taxation Code, as*
4 *amended by Section 61 of Chapter 11 of the First Extraordinary*
5 *Session of the Statutes of 2011, is amended to read:*

6 12601. (a) Amounts of taxes, interest, and penalties not
7 remitted to the commissioner with the original return of the insurer
8 shall be payable to the Controller.

9 (b) This section shall become operative on July 1, ~~2012~~ 2014.

10 *SEC. 67. Section 12602 of the Revenue and Taxation Code, as*
11 *amended by Section 62 of Chapter 11 of the First Extraordinary*
12 *Session of the Statutes of 2011, is amended to read:*

13 12602. (a) (1) On and after January 1, 1994, and before
14 January 1, 1995, each insurer whose annual taxes exceed fifty
15 thousand dollars (\$50,000) shall make payment by electronic funds
16 transfer, as defined by Section 45 of the Insurance Code. On and
17 after January 1, 1995, each insurer whose annual taxes exceed
18 twenty thousand dollars (\$20,000) shall make payment by
19 electronic funds transfer. The insurer shall choose one of the
20 acceptable methods described in Section 45 of the Insurance Code
21 for completing the electronic funds transfer.

22 (2) Each Medi-Cal managed care plan shall make payment by
23 electronic funds transfer, as defined by Section 45 of the Insurance
24 Code. The plan shall choose one of the acceptable methods
25 described in Section 45 of the Insurance Code for completing the
26 electronic funds transfer.

27 (b) Payment shall be deemed complete on the date the electronic
28 funds transfer is initiated, if settlement to the state's demand
29 account occurs on or before the banking day following the date
30 the transfer is initiated. If settlement to the state's demand account
31 does not occur on or before the banking day following the date the
32 transfer is initiated, payment shall be deemed to occur on the date
33 settlement occurs.

34 (c) (1) Any insurer or Medi-Cal managed care plan required to
35 remit taxes by electronic funds transfer pursuant to this section
36 that remits those taxes by means other than an appropriate
37 electronic funds transfer, shall be assessed a penalty in an amount
38 equal to 10 percent of the taxes due at the time of the payment.

39 (2) If the Department of Insurance finds that an insurer's or
40 Medi-Cal managed care plan's failure to make payment by an

1 appropriate electronic funds transfer in accordance with subdivision
2 (a) is due to reasonable cause or circumstances beyond the insurer's
3 or Medi-Cal managed care plan's control, and occurred
4 notwithstanding the exercise of ordinary care and in the absence
5 of willful neglect, that insurer or Medi-Cal managed care plan
6 shall be relieved of the penalty provided in paragraph (1).

7 (3) Any insurer or Medi-Cal managed care plan seeking to be
8 relieved of the penalty provided in paragraph (1) shall file with
9 the Department of Insurance a statement under penalty of perjury
10 setting forth the facts upon which the claim for relief is based.

11 (d) This section shall become inoperative on July 1, ~~2012~~ 2014,
12 and, as of January 1, ~~2013~~ 2015, is repealed, unless a later enacted
13 statute, that becomes operative on or before July 1, ~~2012~~ 2014,
14 deletes or extends the dates on which it becomes inoperative and
15 is repealed.

16 *SEC. 68. Section 12602 of the Revenue and Taxation Code, as*
17 *amended by Section 63 of Chapter 11 of the First Extraordinary*
18 *Session of the Statutes of 2011, is amended to read:*

19 12602. (a) On and after January 1, 1994, and before January
20 1, 1995, each insurer whose annual taxes exceed fifty thousand
21 dollars (\$50,000) shall make payment by electronic funds transfer,
22 as defined by Section 45 of the Insurance Code. On and after
23 January 1, 1995, each insurer whose annual taxes exceed twenty
24 thousand dollars (\$20,000) shall make payment by electronic funds
25 transfer. The insurer shall choose one of the acceptable methods
26 described in Section 45 of the Insurance Code for completing the
27 electronic funds transfer.

28 (b) Payment shall be deemed complete on the date the electronic
29 funds transfer is initiated, if settlement to the state's demand
30 account occurs on or before the banking day following the date
31 the transfer is initiated. If settlement to the state's demand account
32 does not occur on or before the banking day following the date the
33 transfer is initiated, payment shall be deemed to occur on the date
34 settlement occurs.

35 (c) (1) Any insurer required to remit taxes by electronic funds
36 transfer pursuant to this section that remits those taxes by means
37 other than an appropriate electronic funds transfer, shall be assessed
38 a penalty in an amount equal to 10 percent of the taxes due at the
39 time of the payment.

1 (2) If the Department of Insurance finds that an insurer's failure
2 to make payment by an appropriate electronic funds transfer in
3 accordance with subdivision (a) is due to reasonable cause or
4 circumstances beyond the insurer's control, and occurred
5 notwithstanding the exercise of ordinary care and in the absence
6 of willful neglect, that insurer shall be relieved of the penalty
7 provided in paragraph (1).

8 (3) Any insurer seeking to be relieved of the penalty provided
9 in paragraph (1) shall file with the Department of Insurance a
10 statement under penalty of perjury setting forth the facts upon
11 which the claim for relief is based.

12 (d) This section shall become operative on July 1, ~~2012~~ 2014.

13 *SEC. 69. Section 12631 of the Revenue and Taxation Code, as*
14 *amended by Section 64 of Chapter 11 of the First Extraordinary*
15 *Session of the Statutes of 2011, is amended to read:*

16 12631. (a) Any insurer or Medi-Cal managed care plan that
17 fails to pay any tax, except a tax determined as a deficiency
18 assessment by the board under Article 3 (commencing with Section
19 12421) of Chapter 4, within the time required, shall pay a penalty
20 of 10 percent of the amount of the tax in addition to the tax, plus
21 interest at the modified adjusted rate per month, or fraction thereof,
22 established pursuant to Section 6591.5, from the due date of the
23 tax until the date of payment.

24 (b) This section shall become inoperative on July 1, ~~2012~~ 2014,
25 and, as of January 1, ~~2013~~ 2015, is repealed, unless a later enacted
26 statute, that becomes operative on or before July 1, ~~2012~~ 2014,
27 deletes or extends the dates on which it becomes inoperative and
28 is repealed.

29 *SEC. 70. Section 12631 of the Revenue and Taxation Code, as*
30 *amended by Section 65 of Chapter 11 of the First Extraordinary*
31 *Session of the Statutes of 2011, is amended to read:*

32 12631. (a) Any insurer that fails to pay any tax, except a tax
33 determined as a deficiency assessment by the board under Article
34 3 (commencing with Section 12421) of Chapter 4, within the time
35 required, shall pay a penalty of 10 percent of the amount of the
36 tax in addition to the tax, plus interest at the modified adjusted rate
37 per month, or fraction thereof, established pursuant to Section
38 6591.5, from the due date of the tax until the date of payment.

39 (b) This section shall become operative on July 1, ~~2012~~ 2014.

1 *SEC. 71. Section 12632 of the Revenue and Taxation Code, as*
2 *amended by Section 66 of Chapter 11 of the First Extraordinary*
3 *Session of the Statutes of 2011, is amended to read:*

4 12632. (a) An insurer or Medi-Cal managed care plan that
5 fails to pay any deficiency assessment when it becomes due and
6 payable shall, in addition to the deficiency assessment, pay a
7 penalty of 10 percent of the amount of the deficiency assessment,
8 exclusive of interest and penalties. The amount of any deficiency
9 assessment, exclusive of penalties, shall bear interest at the
10 modified adjusted rate per month, or fraction thereof, established
11 pursuant to Section 6591.5, from the date on which the amount,
12 or any portion thereof, would have been payable if properly
13 reported and assessed until the date of payment.

14 (b) This section shall become inoperative on July 1, ~~2012~~ 2014,
15 and, as of January 1, ~~2013~~ 2015, is repealed, unless a later enacted
16 statute, that becomes operative on or before July 1, ~~2012~~ 2014,
17 deletes or extends the dates on which it becomes inoperative and
18 is repealed.

19 *SEC. 72. Section 12632 of the Revenue and Taxation Code, as*
20 *amended by Section 67 of Chapter 11 of the First Extraordinary*
21 *Session of the Statutes of 2011, is amended to read:*

22 12632. (a) An insurer that fails to pay any deficiency
23 assessment when it becomes due and payable shall, in addition to
24 the deficiency assessment, pay a penalty of 10 percent of the
25 amount of the deficiency assessment, exclusive of interest and
26 penalties. The amount of any deficiency assessment, exclusive of
27 penalties, shall bear interest at the modified adjusted rate per
28 month, or fraction thereof, established pursuant to Section 6591.5,
29 from the date on which the amount, or any portion thereof, would
30 have been payable if properly reported and assessed until the date
31 of payment.

32 (b) This section shall become operative on July 1, ~~2012~~ 2014.

33 *SEC. 73. Section 12636 of the Revenue and Taxation Code, as*
34 *amended by Section 68 of Chapter 11 of the First Extraordinary*
35 *Session of the Statutes of 2011, is amended to read:*

36 12636. (a) If the board finds that an insurer's or Medi-Cal
37 managed care plan's failure to make a timely return or payment
38 is due to reasonable cause and to circumstances beyond the
39 insurer's or Medi-Cal managed care plan's control, and which
40 occurred despite the exercise of ordinary care and in the absence

1 of willful neglect, the insurer or Medi-Cal managed care plan may
2 be relieved of the penalty provided by Section 12258, 12282,
3 12287, 12631, 12632, or 12633.

4 ~~Any~~

5 (b) Any insurer or Medi-Cal managed care plan seeking to be
6 relieved of the penalty shall file with the board a statement under
7 penalty of perjury setting forth the facts upon which the claim for
8 relief is based.

9 ~~(b)~~

10 (c) This section shall become inoperative on July 1, ~~2012~~ 2014,
11 and, as of January 1, ~~2013~~ 2015, is repealed, unless a later enacted
12 statute, that becomes operative on or before July 1, ~~2012~~ 2014,
13 deletes or extends the dates on which it becomes inoperative and
14 is repealed.

15 *SEC. 74. Section 12636 of the Revenue and Taxation Code, as*
16 *amended by Section 69 of Chapter 11 of the First Extraordinary*
17 *Session of the Statutes of 2011, is amended to read:*

18 12636. (a) If the board finds that an insurer’s failure to make
19 a timely return or payment is due to reasonable cause and to
20 circumstances beyond the insurer’s control, and which occurred
21 despite the exercise of ordinary care and in the absence of willful
22 neglect, the insurer may be relieved of the penalty provided by
23 Section 12258, 12282, 12287, 12631, 12632, or 12633.

24 ~~Any~~

25 (b) Any insurer seeking to be relieved of the penalty shall file
26 with the board a statement under penalty of perjury setting forth
27 the facts upon which the claim for relief is based.

28 ~~(b)~~

29 (c) This section shall become operative on July 1, ~~2012~~ 2014.

30 *SEC. 75. Section 12636.5 of the Revenue and Taxation Code,*
31 *as amended by Section 70 of Chapter 11 of the First Extraordinary*
32 *Session of the Statutes of 2011, is amended to read:*

33 12636.5. (a) Every payment on an insurer’s, surplus line
34 broker’s, or Medi-Cal managed care plan’s delinquent annual tax
35 shall be applied as follows:

- 36 (1) First, to any interest due on the tax.
- 37 (2) Second, to any penalty imposed by this part.
- 38 (3) The balance, if any, to the tax itself.

39 (b) This section shall become inoperative on July 1, ~~2012~~ 2014,
40 and, as of January 1, ~~2013~~ 2015, is repealed, unless a later enacted

1 statute, that becomes operative on or before July 1, ~~2012~~ 2014,
2 deletes or extends the dates on which it becomes inoperative and
3 is repealed.

4 *SEC. 76. Section 12636.5 of the Revenue and Taxation Code,*
5 *as amended by Section 71 of Chapter 11 of the First Extraordinary*
6 *Session of the Statutes of 2011, is amended to read:*

7 12636.5. (a) Every payment on an insurer's or surplus line
8 broker's delinquent annual tax shall be applied as follows:

- 9 (1) First, to any interest due on the tax.
10 (2) Second, to any penalty imposed by this part.
11 (3) The balance, if any, to the tax itself.

12 (b) This section shall become operative on July 1, ~~2012~~ 2014.

13 *SEC. 77. Section 12679 of the Revenue and Taxation Code, as*
14 *amended by Section 72 of Chapter 11 of the First Extraordinary*
15 *Session of the Statutes of 2011, is amended to read:*

16 12679. (a) If an insurer's or Medi-Cal managed care plan's
17 right to do business has been forfeited or its corporate powers
18 suspended, service of summons may be made upon the persons
19 designated by law to be served as agents or officers of the insurer
20 or Medi-Cal managed care plan, and these persons are the agents
21 of the insurer or Medi-Cal managed care plan for all purposes
22 necessary in order to prosecute the action. In the case of
23 corporations whose powers have been suspended, the persons
24 constituting the board of directors may defend the action.

25 (b) This section shall become inoperative on July 1, ~~2012~~ 2014,
26 and, as of January 1, ~~2013~~ 2015, is repealed, unless a later enacted
27 statute, that becomes operative on or before July 1, ~~2012~~ 2014,
28 deletes or extends the dates on which it becomes inoperative and
29 is repealed.

30 *SEC. 78. Section 12679 of the Revenue and Taxation Code, as*
31 *amended by Section 73 of Chapter 11 of the First Extraordinary*
32 *Session of the Statutes of 2011, is amended to read:*

33 12679. (a) If an insurer's right to do business has been forfeited
34 or its corporate powers suspended, service of summons may be
35 made upon the persons designated by law to be served as agents
36 or officers of the insurer, and these persons are the agents of the
37 insurer for all purposes necessary in order to prosecute the action.
38 In the case of corporations whose powers have been suspended,
39 the persons constituting the board of directors may defend the
40 action.

1 (b) This section shall become operative on July 1, ~~2012~~ 2014.

2 *SEC. 79. Section 12681 of the Revenue and Taxation Code, as*
3 *amended by Section 74 of Chapter 11 of the First Extraordinary*
4 *Session of the Statutes of 2011, is amended to read:*

5 12681. (a) In the action, a certificate of the Controller or of
6 the secretary of the board, showing unpaid taxes against an insurer
7 or Medi-Cal managed care plan is prima facie evidence of:

- 8 (1) The assessment of the taxes.
- 9 (2) The delinquency.
- 10 (3) The amount of the taxes, interest, and penalties due and
- 11 unpaid to the state.

12 (4) That the insurer or Medi-Cal managed care plan is indebted
13 to the state in the amount of taxes, interest, and penalties appearing
14 unpaid.

15 (5) That there has been compliance with all the requirements
16 of law in relation to the assessment of the taxes.

17 (b) This section shall become inoperative on July 1, ~~2012~~ 2014,
18 and, as of January 1, ~~2013~~ 2015, is repealed, unless a later enacted
19 statute, that becomes operative on or before July 1, ~~2012~~ 2014,
20 deletes or extends the dates on which it becomes inoperative and
21 is repealed.

22 *SEC. 80. Section 12681 of the Revenue and Taxation Code, as*
23 *amended by Section 75 of Chapter 11 of the First Extraordinary*
24 *Session of the Statutes of 2011, is amended to read:*

25 12681. (a) In the action, a certificate of the Controller or of
26 the secretary of the board, showing unpaid taxes against an insurer
27 is prima facie evidence of:

- 28 (1) The assessment of the taxes.
- 29 (2) The delinquency.
- 30 (3) The amount of the taxes, interest, and penalties due and
- 31 unpaid to the state.

32 (4) That the insurer is indebted to the state in the amount of
33 taxes, interest, and penalties appearing unpaid.

34 (5) That there has been compliance with all the requirements
35 of law in relation to the assessment of the taxes.

36 (b) This section shall become operative on July 1, ~~2012~~ 2014.

37 *SEC. 81. Section 12801 of the Revenue and Taxation Code, as*
38 *amended by Section 76 of Chapter 11 of the First Extraordinary*
39 *Session of the Statutes of 2011, is amended to read:*

1 12801. (a) Annually, between December 10th and 15th, the
2 Controller shall transmit to the commissioner a statement showing
3 the names of all insurers and Medi-Cal managed care plans that
4 failed to pay on or before December 10th the whole or any portion
5 of the tax that became delinquent in the preceding June or which
6 has been unpaid for more than 30 days from the date it became
7 due and payable as a deficiency assessment under this part or the
8 whole or any part of the interest or penalties due with respect to
9 the tax. The statement shall show the amount of the tax, interest,
10 and penalties due from each insurer or Medi-Cal managed care
11 plan.

12 (b) This section shall become inoperative on July 1, ~~2012~~ 2014,
13 and, as of January 1, ~~2013~~ 2015, is repealed, unless a later enacted
14 statute, that becomes operative on or before July 1, ~~2012~~ 2014,
15 deletes or extends the dates on which it becomes inoperative and
16 is repealed.

17 *SEC. 82. Section 12801 of the Revenue and Taxation Code, as*
18 *amended by Section 77 of Chapter 11 of the First Extraordinary*
19 *Session of the Statutes of 2011, is amended to read:*

20 12801. (a) Annually, between December 10th and 15th, the
21 Controller shall transmit to the commissioner a statement showing
22 the names of all insurers that failed to pay on or before December
23 10th the whole or any portion of the tax that became delinquent
24 in the preceding June or which has been unpaid for more than 30
25 days from the date it became due and payable as a deficiency
26 assessment under this part or the whole or any part of the interest
27 or penalties due with respect to the tax. The statement shall show
28 the amount of the tax, interest, and penalties due from each insurer.

29 (b) This section shall become operative on July 1, ~~2012~~ 2014.

30 *SEC. 83. Section 12951 of the Revenue and Taxation Code, as*
31 *amended by Section 78 of Chapter 11 of the First Extraordinary*
32 *Session of the Statutes of 2011, is amended to read:*

33 12951. (a) If any amount has been illegally assessed, the board
34 shall set forth that fact in its records, certify the amount determined
35 to be assessed in excess of the amount legally assessed and the
36 insurer, surplus line broker, or Medi-Cal managed care plan against
37 which the assessment was made, and authorize the cancellation of
38 the amount upon the records of the Controller and the board. The
39 board shall mail a notice to the insurer, surplus line broker, or
40 Medi-Cal managed care plan of any cancellation authorized. Any

1 proposed determination by the board pursuant to this section with
 2 respect to an amount in excess of fifty thousand dollars (\$50,000)
 3 shall be available as a public record for at least 10 days prior to
 4 the effective date of that determination.

5 (b) This section shall become inoperative on July 1, ~~2012~~ 2014,
 6 and, as of January 1, ~~2013~~ 2015, is repealed, unless a later enacted
 7 statute, that becomes operative on or before July 1, ~~2012~~ 2014,
 8 deletes or extends the dates on which it becomes inoperative and
 9 is repealed.

10 *SEC. 84. Section 12951 of the Revenue and Taxation Code, as*
 11 *amended by Section 79 of Chapter 11 of the First Extraordinary*
 12 *Session of the Statutes of 2011, is amended to read:*

13 12951. (a) If any amount has been illegally assessed, the board
 14 shall set forth that fact in its records, certify the amount determined
 15 to be assessed in excess of the amount legally assessed and the
 16 insurer or surplus line broker against which the assessment was
 17 made, and authorize the cancellation of the amount upon the
 18 records of the Controller and the board. The board shall mail a
 19 notice to the insurer or surplus line broker of any cancellation
 20 authorized. Any proposed determination by the board pursuant to
 21 this section with respect to an amount in excess of fifty thousand
 22 dollars (\$50,000) shall be available as a public record for at least
 23 10 days prior to the effective date of that determination.

24 (b) This section shall become operative on July 1, ~~2012~~ 2014.

25 *SEC. 85. Section 12977 of the Revenue and Taxation Code, as*
 26 *amended by Section 80 of Chapter 11 of the First Extraordinary*
 27 *Session of the Statutes of 2011, is amended to read:*

28 12977. (a) If the board determines that any tax, interest, or
 29 penalty has been paid more than once or has been erroneously or
 30 illegally collected or computed, the board shall set forth that fact
 31 in its records of the board, certify the amount of the taxes, interest,
 32 or penalties collected in excess of what was legally due, and from
 33 whom they were collected or by whom paid, and certify the excess
 34 to the Controller for credit or refund.

35 (b) The Controller upon receipt of a certification for credit or
 36 refund shall credit the excess on any amounts then due and payable
 37 from the insurer, surplus line broker, or Medi-Cal managed care
 38 plan under this part and refund the balance.

39 (c) Any proposed determination by the board pursuant to this
 40 section with respect to an amount in excess of fifty thousand dollars

1 (\$50,000) shall be available as a public record for at least 10 days
2 prior to the effective date of that determination.

3 (d) This section shall become inoperative on July 1, ~~2012~~ 2014,
4 and, as of January 1, ~~2013~~ 2015, is repealed, unless a later enacted
5 statute, that becomes operative on or before July 1, ~~2012~~ 2014,
6 deletes or extends the dates on which it becomes inoperative and
7 is repealed.

8 *SEC. 86. Section 12977 of the Revenue and Taxation Code, as*
9 *amended by Section 81 of Chapter 11 of the First Extraordinary*
10 *Session of the Statutes of 2011, is amended to read:*

11 12977. (a) If the board determines that any tax, interest, or
12 penalty has been paid more than once or has been erroneously or
13 illegally collected or computed, the board shall set forth that fact
14 in its records of the board, certify the amount of the taxes, interest,
15 or penalties collected in excess of what was legally due, and from
16 whom they were collected or by whom paid, and certify the excess
17 to the Controller for credit or refund.

18 (b) The Controller upon receipt of a certification for credit or
19 refund shall credit the excess on any amounts then due and payable
20 from the insurer or surplus line broker under this part and refund
21 the balance.

22 (c) Any proposed determination by the board pursuant to this
23 section with respect to an amount in excess of fifty thousand dollars
24 (\$50,000) shall be available as a public record for at least 10 days
25 prior to the effective date of that determination.

26 (d) This section shall become operative on July 1, ~~2012~~ 2014.

27 *SEC. 87. Section 12983 of the Revenue and Taxation Code, as*
28 *amended by Section 82 of Chapter 11 of the First Extraordinary*
29 *Session of the Statutes of 2011, is amended to read:*

30 12983. (a) Interest shall be allowed upon the amount of any
31 overpayment of tax by an insurer or Medi-Cal managed care plan
32 pursuant to this part at the modified adjusted rate per month
33 established pursuant to Section 6591.5, from the first day of the
34 monthly period following the period during which the overpayment
35 was made. For purposes of this section, “monthly period” means
36 the month commencing on the day after the due date of the payment
37 through the same date as the due date in each successive month.
38 In addition, a refund or credit shall be made of any interest imposed
39 upon the claimant with respect to the amount being refunded or
40 credited.

1 The interest shall be paid as follows:

2 (1) In the case of a refund, to the last day of the calendar month
 3 following the date upon which the claimant is notified in writing
 4 that a claim may be filed or the date upon which the claim is
 5 approved by the board, whichever date is the earlier.

6 (2) In the case of a credit, to the same date as that to which
 7 interest is computed on the tax or amount against which the credit
 8 is applied.

9 (b) This section shall become inoperative on July 1, ~~2012~~ 2014,
 10 and, as of January 1, ~~2013~~ 2015, is repealed, unless a later enacted
 11 statute, that becomes operative on or before July 1, ~~2012~~ 2014,
 12 deletes or extends the dates on which it becomes inoperative and
 13 is repealed.

14 *SEC. 88. Section 12983 of the Revenue and Taxation Code, as*
 15 *amended by Section 83 of Chapter 11 of the First Extraordinary*
 16 *Session of the Statutes of 2011, is amended to read:*

17 12983. (a) Interest shall be allowed upon the amount of any
 18 overpayment of tax by an insurer pursuant to this part at the
 19 modified adjusted rate per month established pursuant to Section
 20 6591.5, from the first day of the monthly period following the
 21 period during which the overpayment was made. For purposes of
 22 this section, “monthly period” means the month commencing on
 23 the day after the due date of the payment through the same date
 24 as the due date in each successive month. In addition, a refund or
 25 credit shall be made of any interest imposed upon the claimant
 26 with respect to the amount being refunded or credited.

27 The interest shall be paid as follows:

28 (1) In the case of a refund, to the last day of the calendar month
 29 following the date upon which the claimant is notified in writing
 30 that a claim may be filed or the date upon which the claim is
 31 approved by the board, whichever date is the earlier.

32 (2) In the case of a credit, to the same date as that to which
 33 interest is computed on the tax or amount against which the credit
 34 is applied.

35 (b) This section shall become operative on July 1, ~~2012~~ 2014.

36 *SEC. 89. Section 12984 of the Revenue and Taxation Code, as*
 37 *amended by Section 84 of Chapter 11 of the First Extraordinary*
 38 *Session of the Statutes of 2011, is amended to read:*

39 12984. (a) If the board determines that any overpayment has
 40 been made intentionally or made not incident to a bona fide and

1 orderly discharge of a liability reasonably assumed by the insurer,
2 surplus line broker, or Medi-Cal managed care plan to be imposed
3 by law, no interest shall be allowed on the overpayment.

4 (b) If any insurer, surplus line broker, or Medi-Cal managed
5 care plan which has filed a claim for refund requests the board to
6 defer action on its claim, the board, as a condition to deferring
7 action, may require the claimant to waive interest for the period
8 during which the insurer, surplus line broker, or Medi-Cal managed
9 care plan requests the board to defer action on the claim.

10 (c) This section shall become inoperative on July 1, ~~2012~~ 2014,
11 and, as of January 1, ~~2013~~ 2015, is repealed, unless a later enacted
12 statute, that becomes operative on or before July 1, ~~2012~~ 2014,
13 deletes or extends the dates on which it becomes inoperative and
14 is repealed.

15 *SEC. 90. Section 12984 of the Revenue and Taxation Code, as*
16 *amended by Section 85 of Chapter 11 of the First Extraordinary*
17 *Session of the Statutes of 2011, is amended to read:*

18 12984. (a) If the board determines that any overpayment has
19 been made intentionally or made not incident to a bona fide and
20 orderly discharge of a liability reasonably assumed by the insurer
21 or surplus line broker to be imposed by law, no interest shall be
22 allowed on the overpayment.

23 (b) If any insurer or surplus line broker which has filed a claim
24 for refund requests the board to defer action on its claim, the board,
25 as a condition to deferring action, may require the claimant to
26 waive interest for the period during which the insurer or surplus
27 line broker requests the board to defer action on the claim.

28 (c) This section shall become operative on July 1, ~~2012~~ 2014.

29 *SEC. 91. Section 13108 of the Revenue and Taxation Code, as*
30 *amended by Section 86 of Chapter 11 of the First Extraordinary*
31 *Session of the Statutes of 2011, is amended to read:*

32 13108. (a) A judgment shall not be rendered in favor of the
33 plaintiff when the action is brought by or in the name of an assignee
34 of the insurer paying the tax, interest, or penalties, or by any person
35 other than the insurer or Medi-Cal managed care plan that has paid
36 the tax, interest, or penalties.

37 (b) This section shall become inoperative on July 1, ~~2012~~ 2014,
38 and, as of January 1, ~~2013~~ 2015, is repealed, unless a later enacted
39 statute, that becomes operative on or before July 1, ~~2012~~ 2014,

1 deletes or extends the dates on which it becomes inoperative and
2 is repealed.

3 *SEC. 92. Section 13108 of the Revenue and Taxation Code, as*
4 *amended by Section 87 of Chapter 11 of the First Extraordinary*
5 *Session of the Statutes of 2011, is amended to read:*

6 13108. (a) A judgment shall not be rendered in favor of the
7 plaintiff when the action is brought by or in the name of an assignee
8 of the insurer paying the tax, interest, or penalties, or by any person
9 other than the insurer that has paid the tax, interest, or penalties.

10 (b) This section shall become operative on July 1, ~~2012~~ 2014.

11 *SEC. 93. Section 14126.022 of the Welfare and Institutions*
12 *Code is amended to read:*

13 14126.022. (a) (1) By August 1, 2011, the department shall
14 develop the Skilled Nursing Facility Quality and Accountability
15 Supplemental Payment System, subject to approval by the federal
16 Centers for Medicare and Medicaid Services, and the availability
17 of federal, state, or other funds.

18 (2) (A) The system shall be utilized to provide supplemental
19 payments to skilled nursing facilities that improve the quality and
20 accountability of care rendered to residents in skilled nursing
21 facilities, as defined in subdivision (c) of Section 1250 of the
22 Health and Safety Code, and to penalize those facilities that do
23 not meet measurable standards.

24 (B) A freestanding pediatric subacute care facility, as defined
25 in Section 51215.8 of Title 22 of the California Code of
26 Regulations, shall be exempt from the Skilled Nursing Facility
27 Quality and Accountability Supplemental Payment System.

28 (3) The system shall be phased in, beginning with the 2010–11
29 rate year.

30 (4) The department may utilize the system to do all of the
31 following:

32 (A) Assess overall facility quality of care and quality of care
33 improvement, and assign quality and accountability payments to
34 skilled nursing facilities pursuant to performance measures
35 described in subdivision (i).

36 (B) Assign quality and accountability payments or penalties
37 relating to quality of care, or direct care staffing levels, wages, and
38 benefits, or both.

1 (C) Limit the reimbursement of legal fees incurred by skilled
2 nursing facilities engaged in the defense of governmental legal
3 actions filed against the facilities.

4 (D) Publish each facility's quality assessment and quality and
5 accountability payments in a manner and form determined by the
6 director, or his or her designee.

7 (E) Beginning with the 2011–12 fiscal year, establish a base
8 year to collect performance measures described in subdivision (i).

9 (F) Beginning with the 2011–12 fiscal year, in coordination
10 with the State Department of Public Health, publish the direct care
11 staffing level data and the performance measures required pursuant
12 to subdivision (i).

13 (b) (1) There is hereby created in the State Treasury, the Skilled
14 Nursing Facility Quality and Accountability Special Fund. The
15 fund shall contain moneys deposited pursuant to subdivisions (g)
16 and (j) to (l), inclusive. Notwithstanding Section 16305.7 of the
17 Government Code, the fund shall contain all interest and dividends
18 earned on moneys in the fund.

19 (2) Notwithstanding Section 13340 of the Government Code,
20 the fund shall be continuously appropriated without regard to fiscal
21 year to the department for making quality and accountability
22 payments, in accordance with subdivision (m), to facilities that
23 meet or exceed predefined measures as established by this section.

24 (3) Upon appropriation by the Legislature, moneys in the fund
25 may also be used for any of the following purposes:

26 (A) To cover the administrative costs incurred by the State
27 Department of Public Health for positions and contract funding
28 required to implement this section.

29 (B) To cover the administrative costs incurred by the State
30 Department of Health Care Services for positions and contract
31 funding required to implement this section.

32 (C) To provide funding assistance for the Long-Term Care
33 Ombudsman Program activities pursuant to Chapter 11
34 (commencing with Section 9700) of Division 8.5.

35 (c) No appropriation associated with this bill is intended to
36 implement the provisions of Section 1276.65 of the Health and
37 Safety Code.

38 (d) (1) There is hereby appropriated for the 2010–11 fiscal year,
39 one million nine hundred thousand dollars (\$1,900,000) from the
40 Skilled Nursing Facility Quality and Accountability Special Fund

1 to the California Department of Aging for the Long-Term Care
2 Ombudsman Program activities pursuant to Chapter 11
3 (commencing with Section 9700) of Division 8.5. It is the intent
4 of the Legislature for the one million nine hundred thousand dollars
5 (\$1,900,000) from the fund to be in addition to the four million
6 one hundred sixty-eight thousand dollars (\$4,168,000) proposed
7 in the Governor's May Revision for the ~~2010-11~~ 2010-11 Budget.
8 It is further the intent of the Legislature to increase this level of
9 appropriation in subsequent years to provide support sufficient to
10 carry out the mandates and activities pursuant to Chapter 11
11 (commencing with Section 9700) of Division 8.5.

12 (2) The department, in partnership with the California
13 Department of Aging, shall seek approval from the federal Centers
14 for Medicare and Medicaid Services to obtain federal Medicaid
15 reimbursement for activities conducted by the Long-Term Care
16 Ombudsman Program. The department shall report to the fiscal
17 committees of the Legislature during budget hearings on progress
18 being made and any unresolved issues during the 2011-12 budget
19 deliberations.

20 (e) There is hereby created in the Special Deposit Fund
21 established pursuant to Section 16370 of the Government Code,
22 the Skilled Nursing Facility Minimum Staffing Penalty Account.
23 The account shall contain all moneys deposited pursuant to
24 subdivision (f).

25 (f) (1) Beginning with the 2010-11 fiscal year, the State
26 Department of Public Health shall use the direct care staffing level
27 data it collects to determine whether a skilled nursing facility has
28 met the nursing hours per patient per day requirements pursuant
29 to Section 1276.5 of the Health and Safety Code.

30 (2) (A) Beginning with the 2010-11 fiscal year, the State
31 Department of Public Health shall assess a skilled nursing facility,
32 licensed pursuant to subdivision (c) of Section 1250 of the Health
33 and Safety Code, an administrative penalty if the State Department
34 of Public Health determines that the skilled nursing facility fails
35 to meet the nursing hours per patient per day requirements pursuant
36 to Section 1276.5 of the Health and Safety Code as follows:

37 (i) Fifteen thousand dollars (\$15,000) if the facility fails to meet
38 the requirements for 5 percent or more of the audited days up to
39 49 percent.

1 (ii) Thirty thousand dollars (\$30,000) if the facility fails to meet
2 the requirements for over 49 percent or more of the audited days.

3 (B) (i) If the skilled nursing facility does not dispute the
4 determination or assessment, the penalties shall be paid in full by
5 the licensee to the State Department of Public Health within 30
6 days of the facility's receipt of the notice of penalty and deposited
7 into the Skilled Nursing Facility Minimum Staffing Penalty
8 Account.

9 (ii) The State Department of Public Health may, upon written
10 notification to the licensee, request that the department offset any
11 moneys owed to the licensee by the Medi-Cal program or any other
12 payment program administered by the department to recoup the
13 penalty provided for in this section.

14 (C) (i) If a facility disputes the determination or assessment
15 made pursuant to this paragraph, the facility shall, within 15 days
16 of the facility's receipt of the determination and assessment,
17 simultaneously submit a request for appeal to both the department
18 and the State Department of Public Health. The request shall
19 include a detailed statement describing the reason for appeal and
20 include all supporting documents the facility will present at the
21 hearing.

22 (ii) Within 10 days of the State Department of Public Health's
23 receipt of the facility's request for appeal, the State Department
24 of Public Health shall submit, to both the facility and the
25 department, all supporting documents that will be presented at the
26 hearing.

27 (D) The department shall hear a timely appeal and issue a
28 decision as follows:

29 (i) The hearing shall commence within 60 days from the date
30 of receipt by the department of the facility's timely request for
31 appeal.

32 (ii) The department shall issue a decision within 120 days from
33 the date of receipt by the department of the facility's timely request
34 for appeal.

35 (iii) The decision of the department's hearing officer, when
36 issued, shall be the final decision of the State Department of Public
37 Health.

38 (E) The appeals process set forth in this paragraph shall be
39 exempt from Chapter 4.5 (commencing with Section 11400) and
40 Chapter 5 (commencing with Section 11500), of Part 1 of Division

1 3 of Title 2 of the Government Code. The provisions of Section
2 100171 and 131071 of the Health and Safety Code shall not apply
3 to appeals under this paragraph.

4 (F) If a hearing decision issued pursuant to subparagraph (D)
5 is in favor of the State Department of Public Health, the skilled
6 nursing facility shall pay the penalties to the State Department of
7 Public Health within 30 days of the facility's receipt of the
8 decision. The penalties collected shall be deposited into the Skilled
9 Nursing Facility Minimum Staffing Penalty Account.

10 (G) The assessment of a penalty under this subdivision does not
11 supplant the State Department of Public Health's investigation
12 process or issuance of deficiencies or citations under Chapter 2.4
13 (commencing with Section 1417) of Division 2 of the Health and
14 Safety Code.

15 (g) The State Department of Public Health shall transfer, on a
16 monthly basis, all penalty payments collected pursuant to
17 subdivision (f) into the Skilled Nursing Facility Quality and
18 Accountability Special Fund.

19 (h) Nothing in this section shall impact the effectiveness or
20 utilization of Section 1278.5 or 1432 of the Health and Safety Code
21 relating to whistleblower protections, or Section 1420 of the Health
22 and Safety Code relating to complaints.

23 (i) (1) Beginning in the 2010–11 fiscal year, the department,
24 in consultation with representatives from the long-term care
25 industry, organized labor, and consumers, shall establish and
26 publish quality and accountability measures, benchmarks, and data
27 submission deadlines by November 30, 2010.

28 (2) The methodology developed pursuant to this section shall
29 include, but not be limited to, the following requirements and
30 performance measures:

31 (A) Beginning in the 2011–12 fiscal year:

32 (i) Immunization rates.

33 (ii) Facility acquired pressure ulcer incidence.

34 (iii) The use of physical restraints.

35 (iv) Compliance with the nursing hours per patient per day
36 requirements pursuant to Section 1276.5 of the Health and Safety
37 Code.

38 (v) Resident and family satisfaction.

39 (vi) Direct care staff retention, if sufficient data is available.

1 (B) If this act is extended beyond the dates on which it becomes
2 inoperative and is repealed, in accordance with Section 14126.033,
3 the department, in consultation with representatives from the
4 long-term care industry, organized labor, and consumers, beginning
5 in the 2013–14 rate year, shall incorporate additional measures
6 into the system, including, but not limited to, quality and
7 accountability measures required by federal health care reform
8 that are identified by the federal Centers for Medicare and Medicaid
9 Services.

10 (C) The department, in consultation with representatives from
11 the long-term care industry, organized labor, and consumers, may
12 incorporate additional performance measures, including, but not
13 limited to, the following:

14 (i) Compliance with state policy associated with the United
15 States Supreme Court decision in *Olmstead v. L.C. ex rel. Zimring*
16 (1999) 527 U.S. 581.

17 (ii) Direct care staff retention, if not addressed in the 2012–13
18 rate year.

19 (iii) The use of chemical restraints.

20 (j) (1) Beginning with the 2010–11 rate year, and pursuant to
21 subparagraph (B) of paragraph (5) of subdivision (a) of Section
22 14126.023, the department shall set aside savings achieved from
23 setting the professional liability insurance cost category, including
24 any insurance deductible costs paid by the facility, at the 75th
25 percentile. From this amount, the department shall transfer the
26 General Fund portion into the Skilled Nursing Facility Quality and
27 Accountability Special Fund. A skilled nursing facility shall
28 provide supplemental data on insurance deductible costs to
29 facilitate this adjustment, in the format and by the deadlines
30 determined by the department. If this data is not provided, a
31 facility’s insurance deductible costs will remain in the
32 administrative costs category.

33 (2) *Notwithstanding paragraph (1), for the 2012–13 rate year*
34 *only, savings from capping the professional liability insurance*
35 *cost category pursuant to paragraph (1) shall remain in the*
36 *General Fund and shall not be transferred to the Skilled Nursing*
37 *Facility Quality and Accountability Special Fund.*

38 (k) Beginning with the ~~2012–13~~ 2013–14 rate year, *if there is*
39 *a rate increase in the weighted average Medi-Cal reimbursement*
40 *rate, the department shall set aside the first 1 percent of the*

1 weighted average Medi-Cal reimbursement rate, ~~from which the~~
2 ~~department shall transfer the General Fund portion into~~ *increase*
3 *for the Skilled Nursing Facility Quality and Accountability Special*
4 *Fund.*

5 (l) If this act is extended beyond the dates on which it becomes
6 inoperative and is repealed, in accordance with Section 14126.033,
7 beginning with the ~~2013–14~~ *2014–15* rate year, in addition to the
8 amount set aside pursuant to subdivision (k), if there is a rate
9 increase in the weighted average Medi-Cal reimbursement rate,
10 the department shall set aside at least one-third of the weighted
11 average Medi-Cal reimbursement rate increase, up to a maximum
12 of 1 percent, from which the department shall transfer the General
13 Fund portion of this amount into the Skilled Nursing Facility
14 Quality and Accountability Special Fund.

15 (m) (1) (A) Beginning with the ~~2012–13~~ *2013–14* rate year,
16 the department shall pay a supplemental payment, by April 30,
17 ~~2013~~ *2014*, to skilled nursing facilities based on all of the criteria
18 in subdivision (i), as published by the department, and according
19 to performance measure benchmarks determined by the department
20 in consultation with stakeholders.

21 (B) (i) *The department may convene a diverse stakeholder*
22 *group, including, but not limited to, representatives from consumer*
23 *groups and organizations, labor, nursing home providers, advocacy*
24 *organizations involved with the aging community, staff from the*
25 *Legislature, and other interested parties, to discuss and analyze*
26 *alternative mechanisms to implement the quality and accountability*
27 *payments provided to nursing homes for reimbursement.*

28 (ii) *The department shall articulate in a report to the fiscal and*
29 *appropriate policy committees of the Legislature the*
30 *implementation of an alternative mechanism as described in clause*
31 *(i) at least 90 days prior to any policy or budgetary changes, and*
32 *seek subsequent legislation in order to enact the proposed changes.*

33 (2) Skilled nursing facilities that do not submit required
34 performance data by the department's specified data submission
35 deadlines pursuant to subdivision (i) shall not be eligible to receive
36 supplemental payments.

37 (3) Notwithstanding paragraph (1), if a facility appeals the
38 performance measure of compliance with the nursing hours per
39 patient per day requirements, pursuant to Section 1276.5 of the
40 Health and Safety Code, to the State Department of Public Health,

1 and it is unresolved by the department's published due date, the
2 department shall not use that performance measure when
3 determining the facility's supplemental payment.

4 (4) Notwithstanding paragraph (1), if the department is unable
5 to pay the supplemental payments by April 30, ~~2013~~ 2014, then
6 on May 1, ~~2013~~ 2014, the department shall use the funds available
7 in the Skilled Nursing Facility Quality and Accountability Special
8 Fund as a result of savings identified in subdivisions (k) and (l),
9 less the administrative costs required to implement subparagraphs
10 (A) and (B) of paragraph (3) of subdivision (b), in addition to any
11 Medicaid funds that are available as of December 31, ~~2012~~ 2013,
12 to increase provider rates retroactively to August 1, ~~2012~~ 2013.

13 (n) The department shall seek necessary approvals from the
14 federal Centers for Medicare and Medicaid Services to implement
15 this section. The department shall implement this section only in
16 a manner that is consistent with federal Medicaid law and
17 regulations, and only to the extent that approval is obtained from
18 the federal Centers for Medicare and Medicaid Services and federal
19 financial participation is available.

20 (o) In implementing this section, the department and the State
21 Department of Public Health may contract as necessary, with
22 California's Medicare Quality Improvement Organization, or other
23 entities deemed qualified by the department or the State
24 Department of Public Health, not associated with a skilled nursing
25 facility, to assist with development, collection, analysis, and
26 reporting of the performance data pursuant to subdivision (i), and
27 with demonstrated expertise in long-term care quality, data
28 collection or analysis, and accountability performance measurement
29 models pursuant to subdivision (i). This subdivision establishes
30 an accelerated process for issuing any contract pursuant to this
31 section. Any contract entered into pursuant to this subdivision shall
32 be exempt from the requirements of the Public Contract Code,
33 through December 31, 2013.

34 (p) Notwithstanding Chapter 3.5 (commencing with Section
35 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
36 the following shall apply:

37 (1) The director shall implement this section, in whole or in
38 part, by means of provider bulletins, or other similar instructions
39 without taking regulatory action.

1 (2) The State Public Health Officer may implement this section
2 by means of all facility letters, or other similar instructions without
3 taking regulatory action.

4 (q) Notwithstanding paragraph (1) of subdivision (m), if a final
5 judicial determination is made by any state or federal court that is
6 not appealed, in any action by any party, or a final determination
7 *is made* by the administrator of the federal Centers for Medicare
8 and Medicaid Services, that any payments pursuant to subdivisions
9 (a) and (m), are invalid, unlawful, or contrary to any provision of
10 federal law or regulations, or of state law, these subdivisions shall
11 become inoperative, and for the 2011–12 rate year, the rate increase
12 provided under subparagraph (A) of paragraph (4) of subdivision
13 (c) of Section 14126.033 shall be reduced by the amounts described
14 in subdivision (j). ~~For the 2012–13 rate year, any rate increase~~
15 ~~shall be reduced by the amounts described in subdivisions (j) and~~
16 ~~(k).~~ For the 2013–14 rate year, and for each subsequent rate year,
17 any rate increase shall be reduced by the amounts described in
18 subdivisions (j) ~~and to (l), inclusive.~~

19 *SEC. 94. Section 14126.027 of the Welfare and Institutions*
20 *Code is amended to read:*

21 14126.027. (a) (1) The Director of Health Care Services, or
22 his or her designee, shall administer this article.

23 (2) The regulations and other similar instructions adopted
24 pursuant to this article shall be developed in consultation with
25 representatives of the long-term care industry, organized labor,
26 seniors, and consumers.

27 (b) (1) The director may adopt regulations as are necessary to
28 implement this article. The adoption, amendment, repeal, or
29 readoption of a regulation authorized by this section is deemed to
30 be necessary for the immediate preservation of the public peace,
31 health and safety, or general welfare, for purposes of Sections
32 11346.1 and 11349.6 of the Government Code, and the department
33 is hereby exempted from the requirement that it describe specific
34 facts showing the need for immediate action.

35 (2) The regulations adopted pursuant to this section may include,
36 but need not be limited to, any regulations necessary for any of
37 the following purposes:

38 (A) The administration of this article, including the specific
39 analytical process for the proper determination of long-term care
40 rates.

1 (B) The development of any forms necessary to obtain required
2 cost data and other information from facilities subject to the
3 ratesetting methodology.

4 (C) To provide details, definitions, formulas, and other
5 requirements.

6 (c) As an alternative to the adoption of regulations pursuant to
7 subdivision (b), and notwithstanding Chapter 3.5 (commencing
8 with Section 11340) of Part 1 of Division 3 of Title 2 of the
9 Government Code, the director may implement this article, in
10 whole or in part, by means of a provider bulletin or other similar
11 instructions, without taking regulatory action, provided that no
12 such bulletin or other similar instructions shall remain in effect
13 after July 31, ~~2013~~ 2015. It is the intent of the Legislature that
14 regulations adopted pursuant to subdivision (b) shall be in place
15 on or before July 31, ~~2013~~ 2015.

16 *SEC. 95. Section 14126.028 is added to the Health and Safety*
17 *Code, to read:*

18 *14126.028. (a) The Legislature finds and declares both of the*
19 *following:*

20 *(1) Section Q of the Minimum Data Set, Version 3.0, developed*
21 *as part of the federal government's nursing home quality initiative,*
22 *uses a person-centered approach to ensure that all individuals*
23 *have the opportunity to learn about home- and community-based*
24 *services and have the opportunity to receive long-term care*
25 *services in the least restrictive setting possible.*

26 *(2) More community care services and support options and*
27 *choices are now available to meet the care preferences and needs*
28 *in the least restrictive setting possible.*

29 *(b) Nursing facilities shall either meet the residents' discharge*
30 *planning and referral needs, or make referrals to a designated*
31 *local contact agency (LCA) as determined by the State Department*
32 *of Health Care Services. The LCA is responsible for contacting*
33 *referred residents, and for providing information and counseling*
34 *on available home- and community-based services. The LCA shall*
35 *also either assist directly with transition services or make referrals*
36 *to organizations that assist with transition services, as appropriate.*

37 *(c) It is the intent of the Legislature to ensure that nursing home*
38 *residents who, during the Minimum Data Set, Version 3.0, Section*
39 *Q assessment, express interest in the possibility of receiving care*

1 and services in the community are appropriately referred by
2 nursing facilities to the LCA, as appropriate.

3 (d) The State Department of Health Care Services, in
4 collaboration with the State Department of Public Health, shall,
5 by April 1, 2013, provide the Legislature an analysis of the
6 appropriate sections of the Minimum Data Set, Version 3.0, Section
7 Q and nursing facilities referrals made to the LCA. This analysis
8 shall also document the LCA's response to referrals from nursing
9 facilities and the outcomes of those referrals.

10 (e) The State Department of Public Health and the State
11 Department of Health Care Services shall regularly, and at least
12 quarterly, meet with representatives from the long-term care
13 industry, organized labor, consumers, and consumer advocates to
14 provide updates and receive input on the planning for,
15 implementation of, and progress of the skilled nursing facility
16 quality improvement program. To facilitate decisionmaking, the
17 State Department of Public Health and the State Department of
18 Health Care Services shall promptly convene this workgroup and
19 provide ongoing guidance to reach tangible outcomes for
20 implementation by no later than January 2013.

21 SEC. 96. Section 14126.033 of the Welfare and Institutions
22 Code is amended to read:

23 14126.033. (a) The Legislature finds and declares all of the
24 following:

25 (1) Costs within the Medi-Cal program continue to grow due
26 to the rising cost of providing health care throughout the state and
27 also due to increases in enrollment, which are more pronounced
28 during difficult economic times.

29 (2) In order to minimize the need for drastically cutting
30 enrollment standards or benefits during times of economic crisis,
31 it is crucial to find areas within the program where reimbursement
32 levels are higher than required under the standard provided in
33 Section 1902(a)(30)(A) of the federal Social Security Act and can
34 be reduced in accordance with federal law.

35 (3) The Medi-Cal program delivers its services and benefits to
36 Medi-Cal beneficiaries through a wide variety of health care
37 providers, some of which deliver care via managed care or other
38 contract models while others do so through fee-for-service
39 arrangements.

1 (4) The setting of rates within the Medi-Cal program is complex
2 and is subject to close supervision by the United States Department
3 of Health and Human Services.

4 (5) As the single state agency for Medicaid in California, the
5 State Department of Health Care Services has unique expertise
6 that can inform decisions that set or adjust reimbursement
7 methodologies and levels consistent with the requirements of
8 federal law.

9 (b) Therefore, it is the intent of the Legislature for the
10 department to analyze and identify where reimbursement levels
11 can be reduced consistent with the standard provided in Section
12 1902(a)(30)(A) of the federal Social Security Act and also
13 consistent with federal and state law and policies, including any
14 exemptions contained in the act that added this section, provided
15 that the reductions in reimbursement shall not exceed 10 percent
16 on an aggregate basis for all providers, services, and products.

17 (c) This article, including Section 14126.031, shall be funded
18 as follows:

19 (1) General Fund moneys appropriated for purposes of this
20 article pursuant to Section 6 of the act adding this section shall be
21 used for increasing rates, except as provided in Section 14126.031,
22 for freestanding skilled nursing facilities, and shall be consistent
23 with the approved methodology required to be submitted to the
24 federal Centers for Medicare and Medicaid Services pursuant to
25 Article 7.6 (commencing with Section 1324.20) of Chapter 2 of
26 Division 2 of the Health and Safety Code.

27 (2) (A) Notwithstanding Section 14126.023, for the 2005–06
28 rate year, the maximum annual increase in the weighted average
29 Medi-Cal rate required for purposes of this article shall not exceed
30 8 percent of the weighted average Medi-Cal reimbursement rate
31 for the 2004–05 rate year as adjusted for the change in the cost to
32 the facility to comply with the nursing facility quality assurance
33 fee for the 2005–06 rate year, as required under subdivision (b) of
34 Section 1324.21 of the Health and Safety Code, plus the total
35 projected Medi-Cal cost to the facility of complying with new state
36 or federal mandates.

37 (B) Beginning with the 2006–07 rate year, the maximum annual
38 increase in the weighted average Medi-Cal reimbursement rate
39 required for purposes of this article shall not exceed 5 percent of
40 the weighted average Medi-Cal reimbursement rate for the prior

1 fiscal year, as adjusted for the projected cost of complying with
2 new state or federal mandates.

3 (C) Beginning with the 2007–08 rate year and continuing
4 through the 2008–09 rate year, the maximum annual increase in
5 the weighted average Medi-Cal reimbursement rate required for
6 purposes of this article shall not exceed 5.5 percent of the weighted
7 average Medi-Cal reimbursement rate for the prior fiscal year, as
8 adjusted for the projected cost of complying with new state or
9 federal mandates.

10 (D) For the 2009–10 rate year, the weighted average Medi-Cal
11 reimbursement rate required for purposes of this article shall not
12 be increased with respect to the weighted average Medi-Cal
13 reimbursement rate for the 2008–09 rate year, as adjusted for the
14 projected cost of complying with new state or federal mandates.

15 (3) (A) For the 2010–11 rate year, if the increase in the federal
16 medical assistance percentage (FMAP) pursuant to the federal
17 American Recovery and Reinvestment Act of 2009 (ARRA)
18 (Public Law 111-5) is extended for the entire 2010–11 rate year,
19 the maximum annual increase in the weighted average Medi-Cal
20 reimbursement rate for the purposes of this article shall not exceed
21 3.93 percent, or 3.14 percent, if the increase in the FMAP pursuant
22 to ARRA is not extended for that period of time, plus the projected
23 cost of complying with new state or federal mandates. If the
24 increase in the FMAP pursuant to ARRA is extended at a different
25 rate, or for a different time period, the rate adjustment for facilities
26 shall be adjusted accordingly.

27 (B) The weighted average Medi-Cal reimbursement rate increase
28 specified in subparagraph (A) shall be adjusted by the department
29 for the following reasons:

30 (i) If the federal Centers for Medicare and Medicaid Services
31 does not approve exemption changes to the facilities subject to the
32 quality assurance fee.

33 (ii) If the federal Centers for Medicare and Medicaid Services
34 does not approve any proposed modification to the methodology
35 for calculation of the quality assurance fee.

36 (iii) To ensure that the state does not incur any additional
37 General Fund expenses to pay for the 2010–11 weighted average
38 Medi-Cal reimbursement rate increase.

39 (C) If the maximum annual increase in the weighted average
40 Medi-Cal rate is reduced pursuant to subparagraph (B), the

1 department shall recalculate and publish the final maximum annual
2 increase in the weighted average Medi-Cal reimbursement rate.

3 (4) (A) Subject to the following provisions, for the 2011–12
4 rate year, the increase in the Medi-Cal reimbursement rate for the
5 purpose of this article, for each skilled nursing facility as defined
6 in subdivision (c) of Section 1250 of the Health and Safety Code,
7 shall not exceed 2.4 percent of the rate on file that was applicable
8 on May 31, 2011, plus the projected cost of complying with new
9 state or federal mandates. The percentage increase shall be applied
10 equally to each rate on file as of May 31, 2011.

11 (B) The weighted average Medi-Cal reimbursement rate increase
12 specified in subparagraph (A) shall be adjusted by the department
13 for the following reasons:

14 (i) If the federal Centers for Medicare and Medicaid Services
15 does not approve exemption changes to the facilities subject to the
16 quality assurance fee.

17 (ii) If the federal Centers for Medicare and Medicaid Services
18 does not approve any proposed modification to the methodology
19 for calculation of the quality assurance fee.

20 (iii) To ensure that the state does not incur any additional
21 General Fund expenses to pay for the 2011–12 weighted average
22 Medi-Cal reimbursement rate increase.

23 (C) The department may recalculate and publish the weighted
24 average Medi-Cal reimbursement rate increase for the 2011–12
25 rate year if the difference in the projected quality assurance fee
26 collections from the 2011–12 rate year, compared to the projected
27 quality assurance fee collections for the 2010–11 rate year, would
28 result in any additional General Fund expense to pay for the
29 2011–12 rate year weighted average reimbursement rate increase.

30 (5) To the extent that rates are projected to exceed the adjusted
31 limits calculated pursuant to subparagraphs (A) to (D), inclusive,
32 of paragraph (2) and, as applicable, paragraphs (3) and (4), the
33 department shall adjust each skilled nursing facility’s projected
34 rate for the applicable rate year by an equal percentage.

35 (6) (A) (i) Notwithstanding any other provision of law, and
36 except as provided in subparagraph (B), payments resulting from
37 the application of paragraphs (3) and (4), the provisions of
38 paragraph (5), and all other applicable adjustments and limits as
39 required by this section, shall be reduced by 10 percent for dates
40 of service on and after June 1, 2011, through July 31, 2012. This

1 is a one-time reduction evenly distributed across all facilities to
2 ensure long-term stability of nursing homes serving the Medi-Cal
3 population.

4 (ii) Notwithstanding any other provision of law, the director
5 may adjust the percentage reductions specified in clause (i), as
6 long as the resulting reductions, in the aggregate, total no more
7 than 10 percent.

8 (iii) The adjustments authorized under this subparagraph shall
9 be implemented only if the director determines that the payments
10 resulting from the adjustments comply with paragraph (7).

11 (B) Payments to facilities owned or operated by the state shall
12 be exempt from the payment reduction required by this paragraph.

13 (7) (A) Notwithstanding any other provision of this section,
14 the payment reductions and adjustments required by paragraph (6)
15 shall be implemented only if the director determines that the
16 payments that result from the application of paragraph (6) will
17 comply with applicable federal Medicaid requirements and that
18 federal financial participation will be available.

19 (B) In determining whether federal financial participation is
20 available, the director shall determine whether the payments
21 comply with applicable federal Medicaid requirements, including
22 those set forth in Section 1396a(a)(30)(A) of Title 42 of the United
23 States Code.

24 (C) To the extent that the director determines that the payments
25 do not comply with applicable federal Medicaid requirements or
26 that federal financial participation is not available with respect to
27 any payment that is reduced pursuant to this section, the director
28 retains the discretion to not implement the particular payment
29 reduction or adjustment and may adjust the payment as necessary
30 to comply with federal Medicaid requirements.

31 (8) For managed care health plans that contract with the
32 department pursuant to this chapter and Chapter 8 (commencing
33 with Section 14200), except for contracts with the Senior Care
34 Action Network and AIDS Healthcare Foundation, and to the
35 extent that these services are provided through any of those
36 contracts, payments shall be reduced by the actuarial equivalent
37 amount of the reduced provider reimbursements specified in
38 paragraph (6) pursuant to contract amendments or change orders
39 effective on July 1, 2011, or thereafter.

1 (9) (A) For the 2012–13 rate year, all of the following shall
2 apply:

3 (i) The department shall determine the amounts of reduced
4 payments for each skilled nursing facility, as defined in subdivision
5 (c) of Section 1250 of the Health and Safety Code, resulting from
6 the 10-percent reduction imposed pursuant to clause (i) of
7 subparagraph (A) of paragraph (6) for the period beginning on
8 June 1, 2011, through July 31, 2012.

9 (ii) For claims adjudicated through October 1, 2012, each skilled
10 nursing facility as defined in subdivision (c) of Section 1250 of
11 the Health and Safety Code that is reimbursed under the Medi-Cal
12 fee-for-service program, shall receive the total payments calculated
13 by the department in clause (i), not later than December 31, 2012.

14 (iii) For managed care plans that contract with the department
15 pursuant to this chapter or Chapter 8 (commencing with Section
16 14200), except contracts with Senior Care Action Network and
17 AIDS Healthcare Foundation, and to the extent that skilled nursing
18 services are provided through any of those contracts, payments
19 shall be adjusted by the actuarial equivalent amount of the
20 reimbursements calculated in clause (i) pursuant to contract
21 amendments or change orders effective on July 1, 2012, or
22 thereafter.

23 (B) Notwithstanding subparagraph (A), beginning on August
24 1, 2012, through July 31, 2013, the department shall ~~calculate rates~~
25 ~~pursuant to the reimbursement methodology provided in Section~~
26 ~~14126.023, except that pay the facility specific Medi-Cal~~
27 ~~reimbursement rate calculated under this subparagraph shall not~~
28 ~~be less than the Medi-Cal rate that was on file and applicable to~~
29 ~~the specific skilled nursing facility on May 31 August 1, 2011,~~
30 ~~plus the projected cost of complying with new state or federal~~
31 ~~mandates. If the department was not able to increase the Medi-Cal~~
32 ~~reimbursement rates by the maximum 2.4 percent as provided~~
33 ~~under subparagraph (A) of paragraph (4) for the 2011–12 rate year,~~
34 ~~then the department may increase the rates for the 2012–13 rate~~
35 ~~year by an amount equal to the difference between the actual~~
36 ~~percentage increase in the 2011–12 rates and the maximum amount~~
37 ~~that would have been received if the maximum 2.4 percent increase~~
38 ~~had been implemented prior to and excluding any rate reduction~~
39 ~~implemented pursuant to clause (i) of subparagraph (A) of~~
40 ~~paragraph (6) for the period beginning on June 1, 2011, to July~~

1 31, 2012, inclusive, and adjusted for the projected costs of
 2 complying with new state or federal mandates. These rates are
 3 deemed to be sufficient to meet operating expenses.

4 (C) The weighted average Medi-Cal reimbursement rate increase
 5 specified in subparagraph (B) shall be adjusted by the department
 6 if the federal Centers for Medicare and Medicaid Services does
 7 not approve any proposed modification to the methodology for
 8 calculation of the skilled nursing quality assurance fee pursuant
 9 to Article 7.6 (commencing with Section 1324.20) of Chapter 2
 10 of Division 2 of the Health and Safety Code.

11 ~~(D) The department shall set aside 1 percent of the weighted~~
 12 ~~average Medi-Cal reimbursement rate, from which the department~~
 13 ~~shall transfer the General Fund portion into the Skilled Nursing~~
 14 ~~Facility Quality and Accountability Special Fund, to be used for~~
 15 ~~the supplemental rate pool.~~

16 ~~(E)~~

17 (D) Notwithstanding any other provision of law, beginning on
 18 January 1, 2013, Article 7.6 (commencing with Section 1324.20)
 19 of Chapter 2 of Division 2 of the Health and Safety Code, which
 20 imposes a skilled nursing facility quality assurance fee, shall not
 21 be enforceable against any skilled nursing facility unless each
 22 skilled nursing facility is paid the rate provided for in
 23 subparagraphs (A) and (B). Any amount collected during the
 24 2012–13 rate year by the department pursuant to Article 7.6
 25 (commencing with Section 1324.20) of Chapter 2 of Division 2
 26 of the Health and Safety Code shall be refunded to each facility
 27 not later than February 1, 2013.

28 ~~(F)~~

29 (E) The provisions of this paragraph shall also be included as
 30 part of a state plan amendment implementing the 2011–12 and
 31 2012–13 Medi-Cal reimbursement rates authorized under this
 32 article.

33 (10) (A) *Subject to the following provisions, for the 2013–14*
 34 *and 2014–15 rate years, the annual increase in the weighted*
 35 *average Medi-Cal reimbursement rate for the purpose of this*
 36 *article, for each skilled nursing facility as defined in subdivision*
 37 *(c) of Section 1250 of the Health and Safety Code, shall be 3*
 38 *percent for each rate year, respectively, plus the projected cost of*
 39 *complying with new state or federal mandates.*

1 (B) (i) For the 2013–14 rate year, if there is a rate increase in
2 the weighted average Medi-Cal reimbursement rate, the department
3 shall set aside 1 percent of the increase in the weighted average
4 Medi-Cal reimbursement rate, from which the department shall
5 transfer the nonfederal portion into the Skilled Nursing Facility
6 Quality and Accountability Special Fund, to be used for the
7 supplemental rate pool.

8 (ii) For the 2014–15 rate year, if there is a rate increase in the
9 weighted average Medi-Cal reimbursement rate, the department
10 shall set aside at least one-third of the weighted average Medi-Cal
11 reimbursement rate increase, up to a maximum of 1 percent, from
12 which the department shall transfer the nonfederal portion of this
13 amount into the Skilled Nursing Facility Quality and Accountability
14 Special Fund.

15 (C) The weighted average Medi-Cal reimbursement rate
16 increase specified in subparagraph (A) shall be adjusted by the
17 department for the following reasons:

18 (i) If the federal Centers for Medicare and Medicaid Services
19 does not approve exemption changes to the facilities subject to the
20 quality assurance fee.

21 (ii) If the federal Centers for Medicare and Medicaid Services
22 does not approve any proposed modification to the methodology
23 for calculation of the quality assurance fee.

24 ~~(10)~~

25 (11) The director shall seek any necessary federal approvals for
26 the implementation of this section. This section shall not be
27 implemented until federal approval is obtained. When federal
28 approval is obtained, the payments resulting from the application
29 of paragraph (6) shall be implemented retroactively to June 1,
30 2011, or on any other date or dates as may be applicable.

31 (d) The rate methodology shall cease to be implemented after
32 July 31, ~~2013~~ 2015.

33 (e) (1) It is the intent of the Legislature that the implementation
34 of this article result in individual access to appropriate long-term
35 care services, quality resident care, decent wages and benefits for
36 nursing home workers, a stable workforce, provider compliance
37 with all applicable state and federal requirements, and
38 administrative efficiency.

39 (2) Not later than December 1, 2006, the Bureau of State Audits
40 shall conduct an accountability evaluation of the department's

1 progress toward implementing a facility-specific reimbursement
2 system, including a review of data to ensure that the new system
3 is appropriately reimbursing facilities within specified cost
4 categories and a review of the fiscal impact of the new system on
5 the General Fund.

6 (3) Not later than January 1, 2007, to the extent information is
7 available for the three years immediately preceding the
8 implementation of this article, the department shall provide baseline
9 information in a report to the Legislature on all of the following:

10 (A) The number and percent of freestanding skilled nursing
11 facilities that complied with minimum staffing requirements.

12 (B) The staffing levels prior to the implementation of this article.

13 (C) The staffing retention rates prior to the implementation of
14 this article.

15 (D) The numbers and percentage of freestanding skilled nursing
16 facilities with findings of immediate jeopardy, substandard quality
17 of care, or actual harm, as determined by the certification survey
18 of each freestanding skilled nursing facility conducted prior to the
19 implementation of this article.

20 (E) The number of freestanding skilled nursing facilities that
21 received state citations and the number and class of citations issued
22 during calendar year 2004.

23 (F) The average wage and benefits for employees prior to the
24 implementation of this article.

25 (4) Not later than January 1, 2009, the department shall provide
26 a report to the Legislature that does both of the following:

27 (A) Compares the information required in paragraph (2) to that
28 same information two years after the implementation of this article.

29 (B) Reports on the extent to which residents who had expressed
30 a preference to return to the community, as provided in Section
31 1418.81 of the Health and Safety Code, were able to return to the
32 community.

33 (5) The department may contract for the reports required under
34 this subdivision.

35 *SEC. 97. Section 14126.036 of the Welfare and Institutions*
36 *Code is amended to read:*

37 14126.036. This article shall become inoperative on August 1,
38 ~~2013~~ 2015, and as of January 1, ~~2014~~ 2016, is repealed, unless a
39 later enacted statute that is enacted before January 1, ~~2014~~ 2016,
40 deletes or extends that date.

1 *SEC. 98. Section 14301.11 of the Welfare and Institutions Code*
2 *is amended to read:*

3 14301.11. (a) The department shall use funds attributable to
4 the tax on Medi-Cal managed care plans imposed by Section 12201
5 of the Revenue and Taxation Code for the purpose specified in
6 paragraph (1) of subdivision (b) of Section 12201 of the Revenue
7 and Taxation Code.

8 (b) This section shall become inoperative on July 1, ~~2012~~ 2014,
9 and, as of January 1, ~~2013~~ 2015, is repealed, unless a later enacted
10 statute, that becomes operative on or before July 1, ~~2012~~ 2014,
11 deletes or extends the dates on which it becomes inoperative and
12 is repealed.

13 *SEC. 99. Section 92 of Chapter 11 of the First Extraordinary*
14 *Session of the Statutes of 2011, is repealed.*

15 ~~Sec. 92. This act shall become inoperative if any of its~~
16 ~~provisions are amended or repealed.~~

17 *SEC. 100. Notwithstanding Section 92 of Chapter 11 of the*
18 *First Extraordinary Session of the Statutes of 2011, the provisions*
19 *of Chapter 11 of the First Extraordinary Session of the Statutes*
20 *of 2011 shall not become inoperative upon the amendment or*
21 *repeal of those provisions made by this act.*

22 *SEC. 101. No reimbursement is required by this act pursuant*
23 *to Section 6 of Article XIII B of the California Constitution because*
24 *the only costs that may be incurred by a local agency or school*
25 *district will be incurred because this act creates a new crime or*
26 *infraction, eliminates a crime or infraction, or changes the penalty*
27 *for a crime or infraction, within the meaning of Section 17556 of*
28 *the Government Code, or changes the definition of a crime within*
29 *the meaning of Section 6 of Article XIII B of the California*
30 *Constitution.*

31 *SEC. 102. This act is an urgency statute necessary for the*
32 *immediate preservation of the public peace, health, or safety within*
33 *the meaning of Article IV of the Constitution and shall go into*
34 *immediate effect. The facts constituting the necessity are:*

35 *In order to make statutory changes necessary for implementation*
36 *of the Budget Act of 2012, it is necessary that this act take effect*
37 *immediately.*

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All matter omitted in this version of the bill appears in the bill as amended in the Senate, June 25, 2012. (JR11)

O