AMENDED IN SENATE JULY 11, 2013

AMENDED IN SENATE JUNE 6, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL No. 1420

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

March 21, 2013

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

LEGISLATIVE COUNSEL'S DIGEST

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

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

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

This bill would make various conforming changes.

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

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

SECTION 1. Section 1917.1 of the Business and Professions Code is amended to read:

1917.1. (a) The committee may grant a license as a registered dental hygienist to an applicant who has not taken a clinical examination before the committee, if the applicant submits all of the following to the committee:

(1) A completed application form and all fees required by the committee.

(2) Proof of a current license as a registered dental hygienist issued by another state that is not revoked, suspended, or otherwise restricted.

(3) Proof that the applicant has been in clinical practice as a registered dental hygienist or has been a full-time faculty member in an accredited dental hygiene education program for a minimum of 750 hours per year for at least five years immediately preceding the date of his or her application under this section. The clinical practice requirement shall be deemed met if the applicant provides proof of at least three years of clinical practice and commits to completing the remaining two years of clinical practice by filing with the committee a copy of a pending contract to practice dental hygiene in any of the following facilities:

(A) A primary care clinic licensed under subdivision (a) of Section 1204 of the Health and Safety Code.

(B) A primary care clinic exempt from licensure pursuant to subdivision (c) of Section 1206 of the Health and Safety Code.

(C) A clinic owned or operated by a public hospital or health system.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(b) An applicant for the certified public accountant license shall present satisfactory evidence that the applicant has completed a baccalaureate or higher degree conferred by a college or university, meeting, at a minimum, the standards described in Section 5094, the total educational program to include a minimum of 24 semester units in accounting subjects and 24 semester units in business-related subjects. This evidence shall be provided prior to admission to the examination for the certified public accountant license, except that an applicant who applied, qualified, and sat for at least two subjects of the examination for the certified public~~

~~accountant license before May 15, 2002, may provide this evidence at the time of application for licensure.~~

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

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

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

~~SEC. 4.~~

SEC. 3. Section 12104 of the Business and Professions Code is amended to read:

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

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

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

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

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

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

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

~~SEC. 7.~~

SEC. 4. Section 1727 of the Fish and Game Code is amended to read:

1727. (a) In order to provide for a diversity of available angling experiences throughout the state, it is the intent of the Legislature that the commission maintain the existing wild trout program, and as part of the program, develop additional wild trout waters in the

more than 20,000 miles of trout streams and approximately 5,000 lakes containing trout in California.

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

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

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

~~SEC. 8.~~

SEC. 5. Section 19849.11 of the Government Code is amended to read:

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

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

~~SEC. 9.~~

SEC. 6. Section 22959.6 of the Government Code is amended to read:

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

(b) The Department of Human Resources, as the program administrator, has full administrative authority over this program and associated funds and shall require the monthly premium to be paid by the annuitant for the vision care plan. The premium to be paid by the annuitant shall be deducted from his or her monthly allowance. If there are insufficient funds in an annuitant's allowance to pay the premium, the plan provider shall directly bill the annuitant. A vision care plan or plans provided under this authority shall be funded by the ~~annuitants'~~ *annuitant's* premium. All premiums received from annuitants shall be deposited in the Vision Care Program for State Annuitants Fund, which is hereby created in the State Treasury. Any income earned on the moneys in the Vision Care Program for State Annuitants Fund shall be credited to the fund. Notwithstanding Section 13340, moneys in the fund are continuously appropriated for the purposes specified in subdivision (d).

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

(d) A contract for a vision care plan may not be entered into unless the Department of Human Resources determines it is reasonable to do so. Notwithstanding any other provision of law, any premium moneys paid into this program by annuitants for the purposes of the annuitant vision care plan that is contracted for shall be used for the cost of providing vision care benefits to

eligible, enrolled annuitants and their eligible and enrolled dependents, the payment of claims for those vision benefits, and the cost of administration of the vision care plan or plans under this vision care program, those costs being determined by the Department of Human Resources.

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

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

~~SEC. 10. Section 30061 of the Government Code is amended to read:~~

~~30061. (a) There shall be established in each county treasury a Supplemental Law Enforcement Services Account (SLESA), to receive all amounts allocated to a county for purposes of implementing this chapter.~~

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

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

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

~~(3) Thirty-nine and seven-tenths percent to the county and the cities within the county, and, in the case of San Mateo, Kern, Siskiyou, and Contra Costa Counties, also to the Broadmoor Police Protection District, the Bear Valley Community Services District, the Stallion Springs Community Services District, the Lake~~

~~Shastina Community Services District, and the Kensington Police Protection and Community Services District, in accordance with the relative population of the cities within the county and the unincorporated area of the county, and the Broadmoor Police Protection District in the County of San Mateo, the Bear Valley Community Services District and the Stallion Springs Community Services District in Kern County, the Lake Shastina Community Services District in Siskiyou County, and the Kensington Police Protection and Community Services District in Contra Costa County, as specified in the most recent January estimate by the population research unit of the Department of Finance, and as adjusted to provide, except as provided in subdivision (j), a grant of at least one hundred thousand dollars ($100,000) to each law enforcement jurisdiction. For a newly incorporated city whose population estimate is not published by the Department of Finance, but that was incorporated prior to July 1 of the fiscal year in which an allocation from the SLESA is to be made, the city manager, or an appointee of the legislative body, if a city manager is not available, and the county administrative or executive officer shall prepare a joint notification to the Department of Finance and the county auditor with a population estimate reduction of the unincorporated area of the county equal to the population of the newly incorporated city by July 15, or within 15 days after the Budget Act is enacted, of the fiscal year in which an allocation from the SLESA is to be made. No person residing within the Broadmoor Police Protection District, the Bear Valley Community Services District, the Stallion Springs Community Services District, the Lake Shastina Community Services District, or the Kensington Police Protection and Community Services District shall also be counted as residing within the unincorporated area of the County of San Mateo, Kern, Siskiyou, or Contra Costa, or within any city located within those counties. Except as provided in subdivision (j), the county auditor shall allocate a grant of at least one hundred thousand dollars ($100,000) to each law enforcement jurisdiction. Moneys allocated to the county pursuant to this subdivision shall be retained in the county SLESA, and moneys allocated to a city pursuant to this subdivision shall be deposited in an SLESA established in the city treasury.~~

~~(4) Fifty percent to the county or city and county to implement a comprehensive multiagency juvenile justice plan as provided in~~

~~this paragraph. The juvenile justice plan shall be developed by the local juvenile justice coordinating council in each county and city and county with the membership described in Section 749.22 of the Welfare and Institutions Code. If a plan has been previously approved by the Corrections Standards Authority or, commencing July 1, 2012, by the Board of State and Community Corrections, the plan shall be reviewed and modified annually by the council. The plan or modified plan shall be approved by the county board of supervisors, and in the case of a city and county, the plan shall also be approved by the mayor. The plan or modified plan shall be submitted to the Board of State and Community Corrections by May 1 of each year.~~

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

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

~~(ii) An identification and prioritization of the neighborhoods, schools, and other areas in the community that face a significant public safety risk from juvenile crime, such as gang activity, daylight burglary, late-night robbery, vandalism, truancy, controlled substances sales, firearm-related violence, and juvenile substance abuse and alcohol use.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(c) Subject to subdivision (d), for each fiscal year in which the county, each city, the Broadmoor Police Protection District, the Bear Valley Community Services District, the Stallion Springs Community Services District, the Lake Shastina Community Services District, and the Kensington Police Protection and Community Services District receive moneys pursuant to paragraph~~

~~(3) of subdivision (b), the county, each city, and each district specified in this subdivision shall appropriate those moneys in accordance with the following procedures:~~

~~(1) In the case of the county, the county board of supervisors shall appropriate existing and anticipated moneys exclusively to provide frontline law enforcement services, other than those services specified in paragraphs (1) and (2) of subdivision (b), in the unincorporated areas of the county, in response to written requests submitted to the board by the county sheriff and the district attorney. Any request submitted pursuant to this paragraph shall specify the frontline law enforcement needs of the requesting entity, and those personnel, equipment, and programs that are necessary to meet those needs.~~

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

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

~~(d) For each fiscal year in which the county, a city, or the Broadmoor Police Protection District within the County of San Mateo, the Bear Valley Community Services District or the Stallion Springs Community Services District within Kern County, the Lake Shastina Community Services District within Siskiyou County, or the Kensington Police Protection and Community Services District within Contra Costa County receives any moneys pursuant to this chapter, in no event shall the governing body of any of those recipient agencies subsequently alter any previous, valid appropriation by that body, for that same fiscal year, of~~

~~moneys allocated to the county or city pursuant to paragraph (3) of subdivision (b).~~

~~(e) For the 2011–12 fiscal year, the Controller shall allocate 23.54 percent of the amount deposited in the Local Law Enforcement Services Account in the Local Revenue Fund 2011 for the purposes of paragraphs (1), (2), and (3) of subdivision (b), and shall allocate 23.54 percent for purposes of paragraph (4) of subdivision (b).~~

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

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

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

~~(i) In the 2010–11 fiscal year, if the fourth quarter revenue derived from fees imposed by subdivision (a) of Section 10752.2 of the Revenue and Taxation Code that are deposited in the General Fund and transferred to the Local Safety and Protection Account, and continuously appropriated to the Controller for allocation pursuant to this section, are insufficient to provide a minimum grant of one hundred thousand dollars ($100,000) to each law enforcement jurisdiction, the county auditor shall allocate the revenue proportionately, based on the allocation schedule in paragraph (3) of subdivision (b). The county auditor shall proportionately allocate, based on the allocation schedule in paragraph (3) of subdivision (b), all revenues received after the distribution of the fourth quarter allocation attributable to these fees for which payment was due prior to July 1, 2011, until all~~

~~minimum allocations are fulfilled, at which point all remaining revenue shall be distributed proportionately among the other jurisdictions.~~

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

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

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

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

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

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

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

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

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

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

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

~~(4) To the department for allocation to the office of the Attorney General for the support of the Toxic Substance Enforcement Program in the office of the Attorney General, in carrying out the purposes of this chapter.~~

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

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

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

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

~~(d) With respect to expenditures for the purposes of paragraphs (1) and (3) of subdivision (b) and paragraphs (1) and (2) of subdivision (b) of Section 25173.6, the department shall, at the time of the release of the annual Governor's Budget, also make available the budgetary amounts and allocations of staff resources of the department proposed for the following activities:~~

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

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

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

~~(B) Transporters.~~

~~(C) Response to complaints.~~

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

~~(A) The registration of hazardous waste transporters.~~

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

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

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

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

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

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

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

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

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

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

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

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

~~(K) Corrective actions at hazardous waste facilities.~~

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

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

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

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

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

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

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

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

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

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

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

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

~~(1) Assume responsibility for, or enter into a contract with a private party or with another public agency, other than the State Board of Equalization, for the collection of any fees, surcharges, fines, penalties and funds described in subdivision (a) or otherwise~~

~~described in this chapter or Chapter 6.8 (commencing with Section 25300), for deposit into the Hazardous Waste Control Account or the Toxic Substances Control Account.~~

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

~~(f) If, pursuant to subdivision (e), the department, or a private party or another public agency, pursuant to a contract with the department, performs the determinations and functions that would otherwise be the responsibility of the State Board of Equalization, the department shall be responsible for ensuring that persons who are subject to the fees specified in subdivision (e) have equivalent rights to public notice and comment, and procedural and substantive rights of appeal, as afforded by the procedures of the State Board of Equalization pursuant to Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code. Final responsibility for the administrative adjustment of fee rates and the administrative appeal of any fees or penalty assessments made pursuant to this section may only be assigned by the department to a public agency.~~

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

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

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

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

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

~~SEC. 12. Section 4801 of the Penal Code is amended to read:~~

~~4801. (a) The Board of Parole Hearings may report to the Governor, from time to time, the names of any and all persons imprisoned in any state prison who, in its judgment, ought to have a commutation of sentence or be pardoned and set at liberty on account of good conduct, or unusual term of sentence, or any other cause, including evidence of intimate partner battering and its effects. For purposes of this section, "intimate partner battering and its effects" may include evidence of the nature and effects of physical, emotional, or mental abuse upon the beliefs, perceptions, or behavior of victims of domestic violence if it appears the criminal behavior was the result of that victimization.~~

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

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

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

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

~~(1) For purposes of this article, "reasonable suspicion" means that it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing, when appropriate, on his or her training and experience, to suspect child abuse or neglect. "Reasonable suspicion" does not require certainty that child abuse or neglect has occurred nor does it require a specific medical indication of child abuse or neglect. Any "reasonable suspicion" is sufficient. For purposes of this article, the pregnancy of a minor does not, in and of itself, constitute a basis for a reasonable suspicion of sexual abuse.~~

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

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

~~(b) If, after reasonable efforts, a mandated reporter is unable to submit an initial report by telephone, he or she shall immediately, or as soon as is practicably possible, by fax or electronic transmission, make a one-time automated written report on the~~

~~form prescribed by the Department of Justice, and shall also be available to respond to a telephone followup call by the agency with which he or she filed the report. A mandated reporter who files a one-time automated written report because he or she was unable to submit an initial report by telephone is not required to submit a written followup report.~~

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

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

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

~~(4) Nothing in this section shall supersede the requirement that a mandated reporter first attempt to make a report by telephone, or that agencies specified in Section 11165.9 accept reports from mandated reporters and other persons, as required.~~

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

~~(d) (1) A clergy member who acquires knowledge or a reasonable suspicion of child abuse or neglect during a penitential~~

~~communication is not subject to subdivision (a). For the purposes of this subdivision, "penitential communication" means a communication, intended to be in confidence, including, but not limited to, a sacramental confession, made to a clergy member who, in the course of the discipline or practice of his or her church, denomination, or organization, is authorized or accustomed to hear those communications, and under the discipline, tenets, customs, or practices of his or her church, denomination, or organization, has a duty to keep those communications secret.~~

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

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

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

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

~~(e) (1) Any commercial film, photographic print, or image processor who has knowledge of or observes, within the scope of his or her professional capacity or employment, any film, photograph, videotape, negative, slide, or any representation of information, data, or an image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer~~

~~floppy disk, data storage medium, CD-ROM, computer-generated equipment, or computer-generated image depicting a child under 16 years of age engaged in an act of sexual conduct, shall immediately, or as soon as practically possible, telephonically report the instance of suspected abuse to the law enforcement agency located in the county in which the images are seen. Within 36 hours of receiving the information concerning the incident, the reporter shall prepare and send, fax, or electronically transmit a written followup report of the incident with a copy of the image or material attached.~~

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

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

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

~~(5) As used in this subdivision, "sexual conduct" means any of the following:~~

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

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

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

~~(D) Sadomasochistic abuse for the purpose of sexual stimulation of the viewer.~~

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

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

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

~~(h) When two or more persons, who are required to report, jointly have knowledge of a known or suspected instance of child abuse or neglect, and when there is agreement among them, the telephone report may be made by a member of the team selected by mutual agreement and a single report may be made and signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report.~~

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

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

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

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

~~(k) A law enforcement agency shall immediately, or as soon as practicably possible, report by telephone, fax, or electronic transmission to the agency given responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code and to the district attorney's office every known or suspected instance of child abuse or neglect reported to it, except acts or omissions pursuant to subdivision (b) of Section 11165.2, which shall be reported only to the county welfare or probation department. A law enforcement agency shall report to the county welfare or probation department every known or suspected instance of child abuse or neglect reported to it which is alleged to have occurred as a result of the action of a person responsible for the child's welfare, or as the result of the failure of a person responsible for the child's welfare to adequately protect the minor from abuse when the person responsible for the child's welfare knew or~~

~~reasonably should have known that the minor was in danger of abuse. A law enforcement agency also shall send, fax, or electronically transmit a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it makes a telephone report under this subdivision.~~

~~SEC. 14. Section 4214 of the Public Resources Code is amended to read:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~SEC. 15.~~

SEC. 7. Section 25722.8 of the Public Resources Code is amended to read:

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

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

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

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

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

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

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

~~SEC. 16.~~

SEC. 8. Section 8352.4 of the Revenue and Taxation Code is amended to read:

8352.4. (a) Subject to Sections 8352 and 8352.1, and except as otherwise provided in subdivision (b), there shall be transferred from the money deposited to the credit of the Motor Vehicle Fuel Account to the Harbors and Watercraft Revolving Fund, for expenditure in accordance with Division 1 (commencing with Section 30) of the Harbors and Navigation Code, the sum of six million six hundred thousand dollars ($6,600,000) per annum, representing the amount of money in the Motor Vehicle Fuel Account attributable to taxes imposed on distributions of motor vehicle fuel used or usable in propelling vessels. The actual amount shall be calculated using the annual reports of registered boats prepared by the Department of Motor Vehicles for the United States Coast Guard and the formula and method of the December 1972 report prepared for this purpose and submitted to the Legislature on December 26, 1972, by the Director of Transportation. If the amount transferred during each fiscal year is in excess of the calculated amount, the excess shall be retransferred from the Harbors and Watercraft Revolving Fund to the Motor Vehicle Fuel Account. If the amount transferred is less than the amount calculated, the difference shall be transferred from the Motor Vehicle Fuel Account to the Harbors and Watercraft Revolving Fund. No adjustment shall be made if the computed difference is less than fifty thousand dollars ($50,000), and the amount shall be adjusted to reflect any temporary or permanent increase or decrease that may be made in the rate under the Motor

Vehicle Fuel Tax Law. Payments pursuant to this section shall be made prior to payments pursuant to Section 8352.2.

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

~~SEC. 17. Section 9250.14 of the Vehicle Code is amended to read:~~

~~9250.14. (a) (1) In addition to any other fees specified in this code and the Revenue and Taxation Code, upon the adoption of a resolution by any county board of supervisors, a fee of one dollar ($1) shall be paid at the time of registration or renewal of registration of every vehicle, except vehicles described in subdivision (a) of Section 5014.1, registered to an address within that county except those expressly exempted from payment of registration fees. The fees, after deduction of the administrative costs incurred by the department in carrying out this section, shall be paid quarterly to the Controller.~~

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

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

~~(3) In addition to the service fee imposed pursuant to paragraph (1), and upon the implementation of the permanent trailer identification plate program, and as part of the Commercial Vehicle Registration Act of 2001 (Chapter 861 of the Statutes of 2000), all commercial motor vehicles subject to Section 9400.1 registered~~

~~to an owner with an address in the county that established a service authority under this section, shall pay an additional service fee of two dollars ($2).~~

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

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

~~(b) Notwithstanding Section 13340 of the Government Code, the moneys paid to the Controller are continuously appropriated, without regard to fiscal years, for the administrative costs of the Controller, and for disbursement by the Controller to each county that has adopted a resolution pursuant to subdivision (a), based upon the number of vehicles registered, or whose registration is renewed, to an address within that county.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(i) (1) On or before January 1, 2013, and on or before January 1 of each year, the Controller shall provide to the Department of the California Highway Patrol copies of the yearend reports submitted by the counties under subdivision (g), and, in consultation with the Department of the California Highway Patrol, shall review the fiscal yearend reports submitted by each county~~

~~pursuant to subdivision (g) to determine if fee revenues are being utilized in a manner consistent with this section. If the Controller determines that the use of the fee revenues is not consistent with this section, the Controller shall consult with the participating counties' designated regional coordinators. If the Controller determines that use of the fee revenues is still not consistent with this section, the authority to collect the fee by that county shall be suspended for one year.~~

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

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

~~(j) For the purposes of this section, a county-designated regional coordinator is that agency designated by the participating county's board of supervisors as the agency in control of its countywide vehicle theft apprehension program.~~

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

~~SEC. 18.~~

SEC. 9. Section 4024 of the Welfare and Institutions Code is amended to read:

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

The State Department of State Hospitals shall submit by January 1 and May 1 to the Department of Finance for its approval: (a) all assumptions underlying estimates of state hospital mentally disabled population; and (b) a comparison of the actual and estimated population levels for the year to date. If the actual

population differs from the estimated population by 50 or more, the department shall include in its reports an analysis of the causes of the change and the fiscal impact. The Department of Finance shall approve or modify the assumptions underlying all population estimates within 15 working days of their submission. If the Department of Finance does not approve or modify the assumptions by that date, the assumptions, as presented by the submitting department, shall be deemed to be accepted by the Department of Finance as of that date.

~~SEC. 19.~~

SEC. 10. Section 11462 of the Welfare and Institutions Code is amended to read:

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

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

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

(B) The department shall adopt regulations to implement this paragraph. The adoption, amendment, repeal, or readoption of a regulation authorized by this paragraph is deemed to be necessary for the immediate preservation of the public peace, health and safety, or general welfare, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the department is hereby

exempted from the requirement to describe specific facts showing the need for immediate action.

(b) A group home program shall be initially classified, for purposes of emergency regulations, according to the level of care and services to be provided using a point system developed by the department and described in the report, "The Classification of Group Home Programs under the Standardized Schedule of Rates System," prepared by the State Department of Social Services, August 30, 1989.

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

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

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

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

(ii) For audit purposes, if the group home program serves a mixture of AFDC-FC eligible and ineligible children, the weighted

hours for child care and social work services provided and the capacity of the group home shall be adjusted by the ratio of AFDC-FC eligible children to all children in placement.

(iii) Pending the department's issuance of the program audit report that determines the RCL for the group home program, the group home program shall be eligible to receive a provisional rate that shall be based on the level of care and service that the group home program proposes it will provide. The group home program shall be eligible to receive only the RCL determined by the department during the pendency of any appeal of the department's RCL determination.

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

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

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

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

(iii) Total wages paid each payroll period.

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

(D) To minimize financial abuse in the startup of group home programs, when the department's RCL determination is more than three levels lower than the RCL level proposed by the group home provider, and the group home provider does not appeal the department's RCL determination, the department shall terminate the rate of a group home program 45 days after issuance of its program audit report. When the group home provider requests a hearing on the department's RCL determination, and the RCL determined by the director under subparagraph (E) is more than three levels lower than the RCL level proposed by the group home provider, the department shall terminate the rate of a group home program within 30 days of issuance of the director's decision. Notwithstanding the reapplication provisions in subparagraph (B), the department shall deny any request for a new or increased RCL from a group home provider whose RCL is terminated pursuant to this subparagraph, for a period of no greater than two years from the effective date of the RCL termination.

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

(2) Group home programs that fail to maintain at least the level of care and services associated with the RCL upon which their rate was established shall inform the department. The department shall develop regulations specifying procedures to be applied when a

group home fails to maintain the level of services projected, including, but not limited to, rate reduction and recovery of overpayments.

(3) The department shall not reduce the rate, establish an overpayment, or take other actions pursuant to paragraph (2) for any period that a group home program maintains the level of care and services associated with the RCL for children actually residing in the facility. Determinations of levels of care and services shall be made in the same way as modifications of overpayments are made pursuant to paragraph (2) of subdivision (b) of Section 11466.2.

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

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

~~Rate Classification Level~~	~~Point Ranges~~	~~FY 2002–03, 2003–04, 2004–05, 2005–06, 2006–07, and 2007–08 Standard Rate~~
~~1~~	~~Under 60~~	~~$1,454~~
~~2~~	~~60–89~~	~~1,835~~
~~3~~	~~90–119~~	~~2,210~~
~~4~~	~~120–149~~	~~2,589~~
~~5~~	~~150–179~~	~~2,966~~
~~6~~	~~180–209~~	~~3,344~~
~~7~~	~~210–239~~	~~3,723~~
~~8~~	~~240–269~~	~~4,102~~
~~9~~	~~270–299~~	~~4,479~~
~~10~~	~~300–329~~	~~4,858~~
~~11~~	~~330–359~~	~~5,234~~
~~12~~	~~360–389~~	~~5,613~~
~~13~~	~~390–419~~	~~5,994~~
~~14~~	~~420 & Up~~	~~6,371~~

Rate Classification Level	*Point ranges*	*FY 2002–03, 2003–04, 2004–05, 2005–06, 2006–07, and 2007–08 Standard Rate*
1	*Under 60*	*$1,454*
2	*60–89*	*1,835*
3	*90–119*	*2,210*
4	*120–149*	*2,589*
5	*150–179*	*2,966*
6	*180–209*	*3,344*
7	*210–239*	*3,723*
8	*240–269*	*4,102*
9	*270–299*	*4,479*
10	*300–329*	*4,858*
11	*330–359*	*5,234*
12	*360–389*	*5,613*
13	*390–419*	*5,994*
14	*420 & Up*	*6,371*

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

~~Rate Classification Level~~	~~Adjusted Point Ranges for the 2002–03, 2003–04, 2004–05, 2005–06, 2006–07, 2007–08, 2008–09, and 2009–10 Fiscal Years~~
~~1~~	~~Under 54~~
~~2~~	~~54–81~~
~~3~~	~~82–110~~
~~4~~	~~111–138~~
~~5~~	~~139–167~~
~~6~~	~~168–195~~
~~7~~	~~196–224~~

~~8~~	~~225–253~~
~~9~~	~~254–281~~
~~10~~	~~282–310~~
~~11~~	~~311–338~~
~~12~~	~~339–367~~
~~13~~	~~368–395~~
~~14~~	~~396 & Up~~

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

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

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

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

(3) (A) For group home programs that receive AFDC-FC payments for services performed during the 2009–10 fiscal year the adjusted RCL point ranges below shall be used for establishing the biennial rates for existing programs, pursuant to paragraph (3) of subdivision (a) and in performing program audits and in determining any resulting rate reduction, overpayment assessment, or other actions pursuant to paragraph (2) of subdivision (e):

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

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

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

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

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

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

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

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

(5) The new standardized schedule of rates as provided for in paragraph (4) shall be reduced by 10 percent, effective October 1,

2009, and the resulting rates shall constitute the new standardized schedule of rates.

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

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

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

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

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

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

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

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

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

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

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

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

(k) For the purpose of this subdivision, "program change" means any alteration to an existing group home program planned by a provider that will increase the RCL or AFDC-FC rate. An increase in the licensed capacity or other alteration to an existing group home program that does not increase the RCL or AFDC-FC rate shall not constitute a program change.

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

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

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

~~(a) Outpatient services are covered as follows:~~

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

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

~~(2) For Medi-Cal fee-for-service beneficiaries, emergency services and care that are necessary for the treatment of an emergency medical condition and medical care directly related to the emergency medical condition. This paragraph shall not be construed to change the obligation of Medi-Cal managed care plans to provide emergency services and care. For the purposes of this paragraph, "emergency services and care" and "emergency~~

~~medical condition" shall have the same meanings as those terms are defined in Section 1317.1 of the Health and Safety Code.~~

~~(c) Nursing facility services, subacute care services, and services provided by any category of intermediate care facility for the developmentally disabled, including podiatry, physician, nurse practitioner services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Respiratory care, physical therapy, occupational therapy, speech therapy, and audiology services for patients in nursing facilities and any category of intermediate care facility for the developmentally disabled are covered subject to utilization controls.~~

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

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

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

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

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

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

~~(iii) Nonlegend cough and cold products selected by the department are not covered benefits. This clause shall be implemented on the first day of the first calendar month following 90 days after the effective date of the act that added this clause, or on the first day of the first calendar month following 60 days after the date the department secures all necessary federal approvals to implement this section, whichever is later.~~

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

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

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

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

~~(g) Blood and blood derivatives are covered.~~

~~(h) (1) (A) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished~~

~~prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control.~~

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

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

~~(A) Periodontal treatment is not a benefit.~~

~~(B) Endodontic therapy is not a benefit except for vital pulpotomy.~~

~~(C) Laboratory processed crowns are not a benefit.~~

~~(D) Removable prosthetics shall be a benefit only for patients as a requirement for employment.~~

~~(E) The director may, by regulation, provide for the provision of fixed artificial dentures that are necessary for medical conditions that preclude the use of removable dental prostheses.~~

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

~~(3) Paragraph (2) shall become inoperative July 1, 1995.~~

~~(i) Medical transportation is covered, subject to utilization controls.~~

~~(j) Home health care services are covered, subject to utilization controls.~~

~~(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.~~

~~Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically~~

~~indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.~~

~~Therapeutic shoes and inserts are covered when provided to beneficiaries with a diagnosis of diabetes, subject to utilization controls, to the extent that federal financial participation is available.~~

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

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

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

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

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

~~(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in~~

~~Section 14064 to maintain the patient's present functional level as long as possible.~~

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

~~(2) Commencing 30 days after the effective date of the act that added this paragraph, and notwithstanding the number of days previously approved through a treatment authorization request, adult day health care is covered for a maximum of three days per week.~~

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

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

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

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

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

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

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

~~(s) In-home medical care services are covered when medically appropriate and subject to utilization controls, for beneficiaries who would otherwise require care for an extended period of time~~

~~in an acute care hospital at a cost higher than in-home medical care services. The director shall have the authority under this section to contract with organizations qualified to provide in-home medical care services to those persons. These services may be provided to patients placed in shared or congregate living arrangements, if a home setting is not medically appropriate or available to the beneficiary. As used in this section, "in-home medical care service" includes utility bills directly attributable to continuous, 24-hour operation of life-sustaining medical equipment, to the extent that federal financial participation is available.~~

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

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

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

~~(3) Physician fees for home visits.~~

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

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

~~(6) Medically related personal services.~~

~~(7) Home nursing education.~~

~~(8) Emergency maintenance repair.~~

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

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

~~(11) Emergency and nonemergency medical transportation.~~

~~(12) Medical supplies.~~

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

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

~~(15) Special drugs and medications.~~

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

~~(17) Therapy services.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(aa) (1) There is hereby established in the department, a program to provide comprehensive clinical family planning services to any person who has a family income at or below 200 percent of the federal poverty level, as revised annually, and who~~

~~is eligible to receive these services pursuant to the waiver identified in paragraph (2). This program shall be known as the Family Planning, Access, Care, and Treatment (Family PACT) Program.~~

~~(2) The department shall seek a waiver in accordance with Section 1315 of Title 42 of the United States Code, or a state plan amendment adopted in accordance with Section 1396a(a)(10)(A)(ii)(XXI) of Title 42 of the United States Code, which was added to Section 1396a of Title 42 of the United States Code by Section 2303(a)(1) of the federal Patient Protection and Affordable Care Act (PPACA) (Public Law 111-148), for a program to provide comprehensive clinical family planning services as described in paragraph (8). Under the waiver, the program shall be operated only in accordance with the waiver and the statutes and regulations in paragraph (4) and subject to the terms, conditions, and duration of the waiver. Under the state plan amendment, which shall replace the waiver and shall be known as the Family PACT successor state plan amendment, the program shall be operated only in accordance with this subdivision and the statutes and regulations in paragraph (4). The state shall use the standards and processes imposed by the state on January 1, 2007, including the application of an eligibility discount factor to the extent required by the federal Centers for Medicare and Medicaid Services, for purposes of determining eligibility as permitted under Section 1396a(ii)(2) of Title 42 of the United States Code. To the extent that federal financial participation is available, the program shall continue to conduct education, outreach, enrollment, service delivery, and evaluation services as specified under the waiver. The services shall be provided under the program only if the waiver and, when applicable, the successor state plan amendment are approved by the federal Centers for Medicare and Medicaid Services and only to the extent that federal financial participation is available for the services. Nothing in this section shall prohibit the department from seeking the Family PACT successor state plan amendment during the operation of the waiver.~~

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

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

~~(5) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, without taking regulatory action, the provisions of the waiver after its approval by the federal Health Care Financing Administration and the provisions of this section by means of an all-county letter or similar instruction to providers. Thereafter, the department shall adopt regulations to implement this section and the approved waiver in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.~~

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

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

~~(8) For purposes of this subdivision, "comprehensive clinical family planning services" means the process of establishing objectives for the number and spacing of children, and selecting~~

~~the means by which those objectives may be achieved. These means include a broad range of acceptable and effective methods and services to limit or enhance fertility, including contraceptive methods, federal Food and Drug Administration-approved contraceptive drugs, devices, and supplies, natural family planning, abstinence methods, and basic, limited fertility management. Comprehensive clinical family planning services include, but are not limited to, preconception counseling, maternal and fetal health counseling, general reproductive health care, including diagnosis and treatment of infections and conditions, including cancer, that threaten reproductive capability, medical family planning treatment and procedures, including supplies and followup, and informational, counseling, and educational services. Comprehensive clinical family planning services shall not include abortion, pregnancy testing solely for the purposes of referral for abortion or services ancillary to abortions, or pregnancy care that is not incident to the diagnosis of pregnancy. Comprehensive clinical family planning services shall be subject to utilization control and include all of the following:~~

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

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

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

~~(i) Psychosocial and medical aspects of contraception.~~

~~(ii) Sexuality.~~

~~(iii) Fertility.~~

~~(iv) Pregnancy.~~

~~(v) Parenthood.~~

~~(vi) Infertility.~~

~~(vii) Reproductive health care.~~

~~(viii) Preconception and nutrition counseling.~~

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

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

~~(xi) Possible contraceptive consequences and followup.~~

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

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

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

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

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

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

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

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

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

~~(5) The amendments made to this subdivision by the act that added this paragraph shall be implemented on June 1, 2011, or on the first day of the first calendar month following 60 days after the date the department secures all necessary federal approvals to implement this section, whichever is later.~~

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

~~SEC. 21.~~

SEC. 11. Section 14701 of the Welfare and Institutions Code is amended to read:

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

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

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

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

(C) Explanations of the operational steps, timelines, and key milestones for determining when and how each function or program will be transferred. These explanations shall also be developed for the transition of positions and staff serving Medi-Cal specialty mental health managed care and the EPSDT Program, and how these will relate to, and align with, positions at the State Department of Health Care Services. The State Department of Health Care Services and the California Health and Human Services Agency shall consult with the Department of Personnel Administration in developing this aspect of the transition plan.

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

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

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

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

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