

AMENDED IN SENATE AUGUST 22, 2014

AMENDED IN ASSEMBLY MARCH 18, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2730**

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**Introduced by ~~Committee on Agriculture~~ (Assembly Members  
Eggman (Chair), Olsen (Vice Chair), Atkins, Dahle, Pan, Quirk,  
and Yamada) Assembly Member Eggman  
(Principal coauthor: Senator Galgiani)**

February 24, 2014

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An act to ~~add Article 7 (commencing with Section 9190) to Chapter 1 of Part 1 of Division 5 of~~ amend, repeal, and add Sections 62564 and 62623 of, to add Article 9.5 (commencing with Section 62080) to Chapter 2 of Part 3 of Division 21 of, and to add and repeal Sections 61832.5 and 62509 of, the Food and Agricultural Code, relating to ~~animals~~ market milk.

LEGISLATIVE COUNSEL'S DIGEST

AB 2730, as amended, ~~Committee on Agriculture~~ Eggman. ~~Animal disease planning.~~ *Alternative milk marketing agreements.*

*Existing law empowers the Secretary of Food and Agriculture to formulate stabilization and marketing plans that establish the prices to be paid by milk handlers for specified classes of market milk. Existing law requires the secretary to take relevant economic factors into consideration in establishing the price to be paid for class 4a market milk and class 4b market milk. Existing law imposes various requirements related to the stabilization and marketing of market milk and makes a violation of these provisions a crime.*

*This bill would authorize class 4a and class 4b market milk to be marketed under an alternative milk marketing agreement, as specified, if certain conditions are met, including if the secretary, before July 1, 2015, takes specified regulatory action that establishes class 4a and class 4b market milk prices that are indexed to the respective federal prices. The bill would require that an alternative milk marketing agreement, and any amendments to the agreement, be filed by the producer with the secretary. The bill would require a handler to provide the secretary on a monthly basis with prescribed information regarding alternative milk marketing agreements between the handler and a market milk producer and would exempt the information contained in alternative marketing agreements from the California Public Records Act. By adding to the requirements imposed on producers and handlers through the use of an alternative milk marketing agreement, this bill would expand the scope of a crime, thereby imposing a state-mandated local program. The bill would prescribe conditions under which a referendum would take place, where producers will vote on whether these provisions shall be repealed.*

*Existing law, the Gonsalves Milk Pooling Act, provides for equalization pools and milk pooling to govern the production and distribution of fluid milk and fluid cream. The act authorizes the Secretary of Food and Agriculture to develop a pooling plan, with specified items required to be included in the pooling plan, under which producers of milk are assigned a pool quota that determines the amount of class 1 milk the producer can sell to handlers within the pooling system and the prices to be paid by handlers to producers. Existing law confers upon the secretary the ability to establish and administer the Milk Producers Security Trust Fund to protect producers against loss of payment for bulk milk through the collection of a security charge from handlers.*

*This bill would require that milk purchased under an alternative milk market agreement be valued based on the announced minimum class price, as though the minimum class price had applied to the milk, for the collection of security charges and handler's average monthly milk purchases. The bill would limit the value established for the Milk Producers Security Fund under an alternative milk marketing agreement to the value established under the alternative milk marketing agreement or the value determined using the minimum class price under the stabilization and marketing plan, whichever is lower.*

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

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

~~Existing law provides for the regulation of pest control and diseased animals. Existing law requires the Department of Food and Agriculture to develop and maintain a list of invasive pests, as defined, that have a reasonable likelihood of entering the state and for which a detection, exclusion, eradication, control, or management action by the state might be appropriate. Existing law requires the department, based on available funding, to develop and maintain a written plan on the most appropriate options for detection, exclusion, eradication, control, or management of the higher priority invasive pests on the list. Existing law requires the department to consult with certain state and federal agencies and departments and others in the scientific and research community in the preparation of the plan.~~

~~This bill would require the department to develop and maintain a similar list of animal diseases by July 1, 2015, and, to the extent funding is available, require the department to develop and maintain a similar written plan on the most appropriate options for detection, exclusion, eradication, control, or management of the higher priority animal diseases on the list.~~

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

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

- 1    SECTION 1. Section 61832.5 is added to the Food and
- 2    Agricultural Code, to read:
- 3    61832.5. (a) "Minimum price" means the class price
- 4    established for market milk used in various classes pursuant to
- 5    this chapter. Minimum prices do not apply to market milk
- 6    purchased under an alternative milk marketing agreement, as
- 7    defined in Article 9.5 (commencing with Section 62080).
- 8    (b) This section shall only be operative if the requirements of
- 9    Section 62080 are met.

1 (c) *This section shall no longer be operative and shall be*  
2 *repealed if the secretary makes a finding in accordance with*  
3 *subdivision (c) of Section 62087.*

4 SEC. 2. *Article 9.5 (commencing with Section 62080) is added*  
5 *to Chapter 2 of Part 3 of Division 21 of the Food and Agricultural*  
6 *Code, to read:*

7

8 *Article 9.5. Alternative Milk Marketing Agreements*

9

10 62080. (a) *It is the intent of the Legislature to transition the*  
11 *dairy industry to self-regulating marketing practices that*  
12 *incorporate methods, other than the minimum pricing provisions*  
13 *set forth in this chapter, for establishment of prices for milk*  
14 *purchased for class 4a and class 4b uses.*

15 (b) *This article and the powers granted in this article shall only*  
16 *become effective if the secretary takes regulatory action pursuant*  
17 *to Article 8 (commencing with Section 62031) before July 1, 2015,*  
18 *that establishes class 4a and class 4b milk prices indexed to*  
19 *Federal Class IV and III prices, respectively, and that meets both*  
20 *of the following conditions:*

21 (1) *The indexing shall be phased in beginning July 1, 2015, with*  
22 *the class 4b price equal to the Federal Order Class III less one*  
23 *dollar (\$1.00) per hundredweight and the class 4a price shall be*  
24 *equal to the Federal Order Class IV less thirty-five cents (\$0.35)*  
25 *per hundredweight.*

26 (2) *Commencing July 1, 2016, the class 4b price shall be equal*  
27 *to the Federal Order Class III less fifty cents (\$0.50) per*  
28 *hundredweight and the class 4a price shall be no greater than the*  
29 *Federal Order Class IV less fifty cents (\$0.50) per hundredweight.*

30 (c) *On or after July 1, 2017, if the conditions set forth in*  
31 *subdivision (b) are met, both class 4a and class 4b milk prices*  
32 *may be adjusted through the hearing process described in Section*  
33 *62031 to an amount that is equal to, or no more than fifty cents*  
34 *(\$0.50) less than, the Federal Order Class IV and III, respectively.*

35 62081. (a) *Milk classified as either class 4a or class 4b shall*  
36 *be marketed under an alternative milk marketing agreement in*  
37 *accordance with the phase-in period described in Section 62082.*  
38 *Milk marketed under an alternative milk marketing agreement*  
39 *shall not be subject to any regulated minimum price outlined in*  
40 *Sections 62077, 62078, and 62079, or any obligation or inclusion*

1 *in the pool value described in subdivision (d) of Section 62712*  
2 *and Section 62720.*

3 *(b) For the purpose of this article, the following terms have the*  
4 *following definitions:*

5 *(1) “Cooperative handler” means a cooperative that acts as a*  
6 *handler.*

7 *(2) “Handler” means the entity that has contracted with the*  
8 *producer for the purchase of milk.*

9 *(3) “Proprietary handler” means a handler that is not a*  
10 *cooperative.*

11 *(4) “Proprietary plant operator” means the operator of a plant*  
12 *with class 4a or class 4b usage that is not a cooperative.*

13 *(c) An alternative milk marketing agreement may be executed*  
14 *between any of the following:*

15 *(1) A cooperative and its members.*

16 *(2) A cooperative and producers that are not members of the*  
17 *cooperative.*

18 *(3) A cooperative and a proprietary plant operator.*

19 *(4) A proprietary handler and individual producers.*

20 *(5) A proprietary handler and a cooperative handler.*

21 *(d) At the end of a month, a handler may elect, at its discretion,*  
22 *to pool milk marketed under an alternative milk marketing*  
23 *agreement. If a handler elects to pool milk under an alternative*  
24 *milk market agreement, the milk shall be obligated to the pool at*  
25 *class prices based on the class of the handler’s usage. A milk plant*  
26 *that receives market milk from either a cooperative handler or a*  
27 *proprietary handler is not obligated to pay regulated minimum*  
28 *prices for any market milk received, regardless of whether or not*  
29 *the market milk is pooled by the handler. If the handler elects to*  
30 *pool market milk, the producer of the market milk shall be paid*  
31 *the higher of either (1) the applicable pool price or (2) the price*  
32 *established in the alternative milk marketing agreement for the*  
33 *milk that is pooled. A payment by a cooperative handler to its*  
34 *producer member is governed solely by the producer’s agreement*  
35 *with the cooperative and any associated members.*

36 *(e) Milk marketed under an alternative milk marketing*  
37 *agreement shall be covered by a mutually agreeable contract*  
38 *between a handler and producer that specifies payment terms,*  
39 *duration, and price or contract pricing formula such as a pool*  
40 *price contract, class price contract, or a forward price contract.*

1 *A spot purchase contract may be implemented on milk volumes*  
2 *that would exceed the volumes specified in the contracts already*  
3 *in force. The secretary has authority to enforce these contracts,*  
4 *as well as alternative milk marketing agreement terms and*  
5 *conditions.*

6 *62082. Notwithstanding any other law, upon regulatory action*  
7 *taken by the secretary, class 4a and class 4b milk purchases shall*  
8 *be marketed under an alternative milk marketing agreement as*  
9 *follows:*

10 *(a) From July 1, 2015, through December 31, 2015, inclusive,*  
11 *up to 50 percent of a handler's daily market milk purchases shall*  
12 *be a part of an alternative milk marketing agreement.*

13 *(b) From January 1, 2016, through June 30, 2016, inclusive,*  
14 *up to 75 percent of a handler's daily market milk purchases shall*  
15 *be a part of an alternative milk marketing agreement.*

16 *(c) Commencing July 1, 2016, and thereafter, 100 percent of a*  
17 *handler's daily market milk purchases shall be a part of an*  
18 *alternative milk marketing agreement.*

19 *62083. The secretary may adopt regulations in a stabilization*  
20 *and marketing plan for market milk, or in a pooling plan for market*  
21 *milk, or both, the purpose of which are to accomplish the intent*  
22 *of this article, including the orderly marketing of milk, as described*  
23 *in subdivision (e) of Section 61802.*

24 *62084. (a) A valid alternative milk marketing agreement to*  
25 *purchase market milk for class 4a utilization, class 4b utilization,*  
26 *or both, shall be covered by a mutually agreeable, written contract*  
27 *between a handler and producer and shall include all of the*  
28 *following:*

29 *(1) The type of alternative milk marketing agreement, including,*  
30 *but not limited to, fixed price contracts, marketing contracts,*  
31 *forward marketing arrangements, and forward contracts entered*  
32 *into voluntarily between handlers and producers, including*  
33 *producer-handlers.*

34 *(2) Names and signatures of all parties involved, including, but*  
35 *not limited to, handlers and producers, including*  
36 *producer-handlers.*

37 *(3) The execution date of the alternative milk marketing*  
38 *agreement.*

39 *(4) The time period for which market milk is to be received.*

1 (5) *The formula or method for calculating the final price to be*  
2 *paid for all market milk received, including any base price to be*  
3 *paid for all market milk received.*

4 (6) *The amount of market milk which is to be received for any*  
5 *period.*

6 (7) *A provision requiring that charges for transportation, if*  
7 *hauled by the handler, shall be in compliance with Section 62073.*

8 (8) *The date and method of payment for market milk. Payment*  
9 *shall be made for the amount of the market milk delivered during*  
10 *the first 15 days of any calendar month not later than the first day*  
11 *of the next following month and for the amount delivered during*  
12 *the remainder of the month not later than the 15th day of the next*  
13 *following month.*

14 (b) *The alternative milk marketing agreement may contain*  
15 *additional provisions that are not in conflict with this article.*

16 (c) *A signed copy of the alternative milk marketing agreement*  
17 *shall be filed by the producer with the secretary within five days*  
18 *from the date it's agreed upon and signed by a handler and a*  
19 *producer.*

20 (d) *Any amendments to the alternative milk marketing agreement*  
21 *shall be filed by the producer with the secretary within five days*  
22 *from the date the amendment is agreed upon and signed by both*  
23 *the handler and the producer.*

24 (e) *Alternative milk market agreements do not include*  
25 *membership agreements between producers and their cooperatives.*

26 62085. (a) *On a monthly basis each handler shall provide the*  
27 *secretary with a list of the name, address, and date of every current*  
28 *alternative milk marketing agreement between the handler and a*  
29 *market milk producer. Monthly thereafter, the handler shall report*  
30 *to the secretary the same information on all terminated, new, and*  
31 *amended alternative milk marketing agreements that have not been*  
32 *previously reported.*

33 (b) *The information contained in alternative milk marketing*  
34 *agreements is exempt from the California Public Records Act*  
35 *(Chapter 3.5 (commencing with Section 6250) of Division 7 of*  
36 *Title 1 of the Government Code).*

37 (c) *On a monthly basis, the secretary shall publish the total*  
38 *amount of milk sold using alternative milk marketing agreements*  
39 *and the weighted average price paid under those agreements.*

1 62086. *The secretary shall have authority to enforce any*  
2 *mutually agreeable contracts executed pursuant to Section 62081*  
3 *and any alternative milk marketing agreement contract terms and*  
4 *conditions.*

5 62087. (a) *The secretary may hold a public hearing after*  
6 *January 1, 2020, to consider whether this article, Sections 61832.5*  
7 *and 62509, and the amendments to Sections 62564 and 62623 as*  
8 *amended by the act that added this article, shall be repealed, and*  
9 *shall hold a public hearing to review a petition requesting the*  
10 *repeal of this article, Sections 61832.5 and 62509, and the*  
11 *amendments to Sections 62564 and 62623 as amended by the act*  
12 *that added this article, signed by not less than 25 percent of the*  
13 *producers who produced not less than 25 percent of the total*  
14 *amount of fluid milk produced in this state during the preceding*  
15 *calendar month.*

16 (b) *The secretary shall establish a period of 60 days in which*  
17 *to conduct the referendum. The secretary may extend the*  
18 *referendum period an additional 30 days if he or she determines*  
19 *that the additional time is needed to adequately conduct the*  
20 *referendum, and may prescribe additional procedures necessary*  
21 *to conduct the referendum.*

22 (c) *The secretary shall find that producers have assented to the*  
23 *repeal of this article and Sections 61832.5 and 62509 and the*  
24 *restoration of Sections 62564 and 62623 to as those sections*  
25 *existed on January 1, 2014, if the secretary finds on a statewide*  
26 *basis that not less than 51 percent of the total number of eligible*  
27 *producers in the state have voted in the referendum and that 51*  
28 *percent or more of the total number of eligible producers who*  
29 *voted in the referendum and who produced 51 percent or more of*  
30 *the total amount of fluid milk produced in the state during the*  
31 *calendar month next preceding the month of the commencement*  
32 *of the referendum period by all producers who voted in the*  
33 *referendum, approve the repeal of this article and Sections 61832.5*  
34 *and 62509 and the restoration of Sections 62564 and 62623 to as*  
35 *those sections existed on January 1, 2014.*

36 SEC. 3. *Section 62509 is added to the Food and Agricultural*  
37 *Code, to read:*

38 62509. (a) *Milk purchased under an alternative milk marketing*  
39 *agreement pursuant to Article 9.5 (commencing with Section*  
40 *62080) of Chapter 2 shall be valued based on the announced*

1 *minimum class price, as if they had applied to such milk, for the*  
2 *collection of security charges and handler's average monthly milk*  
3 *purchases pursuant to Section 62560.*

4 *(b) This section shall only be operative if the requirements of*  
5 *Section 62080 are met.*

6 *(c) This section shall no longer be operative and shall be*  
7 *repealed if the secretary makes a finding in accordance with*  
8 *subdivision (c) of Section 62087.*

9 *SEC. 4. Section 62564 of the Food and Agricultural Code is*  
10 *amended to read:*

11 *62564. Any (a) A handler receiving milk not subject to any*  
12 *pooling plan in effect pursuant to Chapter 3 (commencing with*  
13 *Section 62700) shall be obligated to remit to the secretary any*  
14 *security charges in effect pursuant to Section 62561 for class 1,*  
15 *class 2, class 3, class 4a, and class 4b products produced from the*  
16 *milk and may deduct the security charges from the minimum prices*  
17 *required to be paid to producers or from the price established under*  
18 *an alternative milk marketing agreement pursuant to Article 9.5*  
19 *(commencing with Section 62080) of Chapter 2.*

20 *(b) The amendments to this section made by the act adding this*  
21 *subdivision shall become operative only if the requirements of*  
22 *Section 62080 are met.*

23 *(c) This section is repealed if the secretary makes a finding in*  
24 *accordance with subdivision (c) of Section 62087.*

25 *SEC. 5. Section 62564 is added to the Food and Agricultural*  
26 *Code, to read:*

27 *62564. (a) A handler receiving milk not subject to any pooling*  
28 *plan in effect pursuant to Chapter 3 (commencing with Section*  
29 *62700) shall be obligated to remit to the secretary any security*  
30 *charges in effect pursuant to Section 62561 for class 1, class 2,*  
31 *class 3, class 4a, and class 4b products produced from the milk*  
32 *and may deduct the security charges from the minimum prices*  
33 *required to be paid to producers.*

34 *(b) This section shall only be operative if the secretary makes*  
35 *a finding in accordance with subdivision (c) of Section 62087.*

36 *SEC. 6. Section 62623 of the Food and Agricultural Code is*  
37 *amended to read:*

38 *62623. (a) For purposes of this chapter, the amounts owed to*  
39 *the producers shall be calculated as follows:*

40 *(a)*

1 (1) Only shipments ~~which~~ *that* occur during the first 35 days  
2 from the date of the earliest shipment for which a producer has  
3 not been paid shall be used.

4 ~~(b)~~

5 (2) The minimum prices established in the stabilization and  
6 marketing plans applied to the usage assigned under the pooling  
7 plan shall be used for cooperative marketing associations.

8 ~~(c)~~

9 (3) The price specified in the contract with the handler shall be  
10 used for manufacturing milk producers unless a lower price is  
11 contained in the stabilization and marketing plans, in which case  
12 the lower price shall be used.

13 ~~(d)~~

14 (4) The minimum prices established in the stabilization and  
15 marketing plans shall be used for direct market milk producers  
16 who are not shipping their milk under the pooling plan.

17 ~~(e)~~

18 (5) The quota, base, and overbase prices, as provided for in the  
19 pooling plan, shall be used for producers, other than cooperative  
20 marketing associations, who ship their milk directly to a handler.

21 ~~(f)~~

22 (6) Deductions shall be made for those items ~~which~~ *that* the  
23 handler customarily deducts from the payments, unless the  
24 deductions are in violation of Chapter 1 (commencing with Section  
25 61301), Chapter 2 (commencing with Section 61801), or Chapter  
26 3 (commencing with Section 62700), or the deductions are for  
27 voluntary assignments made by the producer.

28 ~~(g)~~

29 (7) The producer's share of any bond recovery under Chapter  
30 1 (commencing with Section 61301) or Chapter 2 (commencing  
31 with Section 61801) shall be deducted.

32 (8) *For the terms and prices to be paid for milk purchased from*  
33 *producers under an alternative milk marketing agreement, pursuant*  
34 *to Article 9.5 (commencing with Section 62080) of Chapter 2, the*  
35 *value established for the Milk Producers Security Trust Fund under*  
36 *an alternative milk marketing agreement shall be limited to the*  
37 *lower of the following:*

38 (A) *The value established under the alternative milk marketing*  
39 *agreement.*

1 (B) *The value determined using the minimum price, as though*  
2 *the minimum class price had been applied to the milk, under the*  
3 *stabilization and marketing plan.*

4 (b) *The amendments to this section made by the act adding this*  
5 *subdivision shall become operative only if the requirements of*  
6 *Section 62080 are met.*

7 (c) *This section is repealed if the secretary makes a finding in*  
8 *accordance with subdivision (c) of Section 62087.*

9 *SEC. 7. Section 62623 is added to the Food and Agricultural*  
10 *Code, to read:*

11 *62623. (a) For purposes of this chapter, the amounts owed to*  
12 *the producers shall be calculated as follows:*

13 (1) *Only shipments that occur during the first 35 days from the*  
14 *date of the earliest shipment for which a producer has not been*  
15 *paid shall be used.*

16 (2) *The minimum prices established in the stabilization and*  
17 *marketing plans applied to the usage assigned under the pooling*  
18 *plan shall be used for cooperative marketing associations.*

19 (3) *The price specified in the contract with the handler shall be*  
20 *used for manufacturing milk producers unless a lower price is*  
21 *contained in the stabilization and marketing plans, in which case*  
22 *the lower price shall be used.*

23 (4) *The minimum prices established in the stabilization and*  
24 *marketing plans shall be used for direct market milk producers*  
25 *who are not shipping their milk under the pooling plan.*

26 (5) *The quota, base, and overbase prices, as provided for in the*  
27 *pooling plan, shall be used for producers, other than cooperative*  
28 *marketing associations, who ship their milk directly to a handler.*

29 (6) *Deductions shall be made for those items that the handler*  
30 *customarily deducts from the payments, unless the deductions are*  
31 *in violation of Chapter 1 (commencing with Section 61301),*  
32 *Chapter 2 (commencing with Section 61801), or Chapter 3*  
33 *(commencing with Section 62700), or the deductions are for*  
34 *voluntary assignments made by the producer.*

35 (7) *The producer's share of any bond recovery under Chapter*  
36 *1 (commencing with Section 61301) or Chapter 2 (commencing*  
37 *with Section 61801) shall be deducted.*

38 (b) *This section shall only be operative if the secretary makes*  
39 *a finding in accordance with subdivision (c) of Section 62087.*

1     *SEC. 8. No reimbursement is required by this act pursuant to*  
 2     *Section 6 of Article XIII B of the California Constitution because*  
 3     *the only costs that may be incurred by a local agency or school*  
 4     *district will be incurred because this act creates a new crime or*  
 5     *infraction, eliminates a crime or infraction, or changes the penalty*  
 6     *for a crime or infraction, within the meaning of Section 17556 of*  
 7     *the Government Code, or changes the definition of a crime within*  
 8     *the meaning of Section 6 of Article XIII B of the California*  
 9     *Constitution.*

10     ~~SECTION 1. Article 7 (commencing with Section 9190) is~~  
 11     ~~added to Chapter 1 of Part 1 of Division 5 of the Food and~~  
 12     ~~Agricultural Code, to read:~~

13  
 14                     ~~Article 7. Animal Disease Planning~~

15  
 16     ~~9190. The Legislature finds and declares both of the following:~~  
 17     ~~(a) Global travel, global trade, and climate change introduce~~  
 18     ~~invasive animals, plants, and insects, and plant and animal diseases~~  
 19     ~~to California.~~

20     ~~(b) Humans are susceptible to the transfer of animal diseases~~  
 21     ~~because 85 percent of all human diseases are zoonotic, meaning~~  
 22     ~~the disease is communicable from animals to humans.~~

23     ~~9191. On or before July 1, 2015, the department shall develop~~  
 24     ~~and maintain a list of animal diseases that have a reasonable~~  
 25     ~~likelihood of entering California for which a detection, exclusion,~~  
 26     ~~eradication, control, or management action by the state might be~~  
 27     ~~appropriate.~~

28     ~~9192. The department, to the extent funding is available, shall~~  
 29     ~~develop and maintain a written plan on the most appropriate options~~  
 30     ~~for detection, exclusion, eradication, control, or management of~~  
 31     ~~the higher priority animal diseases on the list prepared pursuant~~  
 32     ~~to Section 9191. In determining which animal diseases are the~~  
 33     ~~higher priority and in developing the most appropriate options for~~  
 34     ~~detection, exclusion, eradication, control, or management, the~~  
 35     ~~department shall consult with the United States Department of~~  
 36     ~~Agriculture, the University of California, other state agencies and~~  
 37     ~~departments, and others in the scientific and research community.~~

38     ~~9193. In implementing this article, the department may~~  
 39     ~~undertake or contract for scientific research with the University~~  
 40     ~~of California or other institutions of higher learning.~~

O