

AMENDED IN SENATE AUGUST 25, 2009

AMENDED IN SENATE AUGUST 24, 2009

AMENDED IN ASSEMBLY MAY 21, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1422

Introduced by Assembly Member Bass
(Principal coauthor: Senator Steinberg)
(Coauthor: Assembly Member Jones)
(Coauthor: Senator Alquist)

February 27, 2009

An act to amend Section 130105 of the Health and Safety Code, to amend Section 12693.43 of, and to add Section 12693.22 to, the Insurance Code, to amend, repeal, and add Sections 12201, 12204, 12251, 12253, 12254, 12257, 12258, 12260, 12301, 12302, 12303, 12304, 12305, 12307, 12412, 12413, 12421, 12422, 12423, 12427, 12428, 12429, 12431, 12433, 12434, 12491, 12493, 12494, 12601, 12602, 12631, 12632, 12636, 12636.5, 12679, 12681, 12801, 12951, 12977, 12983, 12984, and 13108 of, to add and repeal Sections 12009 and 12207 of, and to add and repeal Article 4 (commencing with Section 12240) of Chapter 3 of Part 7 of Division 2 of, the Revenue and Taxation Code, and to add and repeal Section 14301.11 of the Welfare and Institutions Code, relating to health, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1422, as amended, Bass. Health Care Programs: California Children and Families Act of 1998.

Existing law imposes various taxes, including a tax at a specified rate on the gross premiums of an insurer, as defined.

Existing law provides for the Medi-Cal program, administered by the State Department of Health Care Services, under which health care services are provided to qualified low-income recipients. One of the methods by which these services are provided is pursuant to contracts with various types of managed care plans.

This bill would, until January 1, 2011, impose that tax on the total operating revenue, as specified, of a Medi-Cal managed care plan, as defined. The proceeds from the tax would be continuously appropriated ~~(1) an amount to the department necessary to ensure that these plans receive rates contracted for under the Medi-Cal Program, and (2) any additional revenues to the Managed Risk Medical Insurance Board for purposes of the Healthy Families Program to the department for purposes of the Medi-Cal program in an amount equal to 38.41% of the proceeds from the tax and (2) to the Managed Risk Medical Insurance Board for purposes of the Healthy Families Program in an amount equal to 61.59% of the proceeds from the tax.~~

The bill would provide that the tax would have no force or effect if any of specified conditions apply.

Existing law requires every return required to be filed with the State Insurance Commissioner pursuant to provisions governing taxes on the gross premiums of insurers to be signed by the insurer or an executive officer of the insurer and to be made under oath or contain a written declaration that it is made under penalty of perjury.

This bill would also require Medi-Cal managed care plans to file returns with the commissioner under oath or with a written declaration that is made under penalty of perjury. By expanding the crime of perjury, this bill would impose a state-mandated local program.

Existing law creates the Healthy Families Program, administered by the Managed Risk Medical Insurance Board, to arrange for the provision of health care services to children less than 19 years of age who meet certain criteria, including having a limited gross household income. Existing law requires families with children participating in the program to pay specified family contribution amounts.

This bill would, commencing November 1, 2009, increase the amounts to be paid for the family contributions. This bill would require the Healthy Families Program to provide prior notice to any applicant for a subscriber whose premium will increase as a result of the increases in the family contribution amounts and would require the program to

provide the applicant with an opportunity to demonstrate that, based on reduced family income, the subscriber is subject to a lower premium pursuant to the above-described provisions.

The California Children and Families Act of 1998, an initiative measure approved by the voters as Proposition 10 at the November 3, 1998, statewide general election, requires that the California Children and Families Program, established by the act, be funded by certain taxes imposed on the sale and distribution of cigarettes and tobacco products, that revenues be deposited into the California Children and Families Trust Fund, and that the fund be used for the implementation of comprehensive early childhood development and smoking prevention programs. Existing law provides that 20% of moneys allocated and appropriated from the trust fund shall be deposited, in accordance with a prescribed formula, in specified accounts, including the Unallocated Account, for expenditure by the California Children and Families Commission, also known as First 5 California, for various subjects relating to, and furthering the goals and purposes of, the act. Existing law prohibits amendment of this initiative measure by the Legislature unless the amendment is approved by the voters, or the amendment is accomplished by a vote of $\frac{2}{3}$ of the membership of both houses of the Legislature and the amendment furthers the act and is consistent with its purposes.

This bill would provide that any funds not needed in specified accounts may be transferred to the Unallocated Account upon approval of the commission. The bill would make a legislative finding and declaration that these changes further the goals and purposes of that act.

This bill would require the Director of Finance to make the necessary budgetary adjustments to allow the expenditure of funds allocated by the commission pursuant to the above provisions.

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.

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

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. Section 130105 of the Health and Safety Code
2 is amended to read:

3 130105. The California Children and Families Trust Fund is
4 hereby created in the State Treasury.

5 (a) The California Children and Families Trust Fund shall
6 consist of moneys collected pursuant to the taxes imposed by
7 Section 30131.2 of the Revenue and Taxation Code.

8 (b) All costs to implement this act shall be paid from moneys
9 deposited in the California Children and Families Trust Fund.

10 (c) The State Board of Equalization shall determine within one
11 year of the passage of this act the effect that additional taxes
12 imposed on cigarettes and tobacco products by this act has on the
13 consumption of cigarettes and tobacco products in this state. To
14 the extent that a decrease in consumption is determined by the
15 State Board of Equalization to be the direct result of additional
16 taxes imposed by this act, the State Board of Equalization shall
17 determine the fiscal effect the decrease in consumption has on the
18 funding of any Proposition 99 (the Tobacco Tax and Health
19 Protection Act of 1988) state health-related education or research
20 programs in effect as of November 1, 1998, and the Breast Cancer
21 Fund programs that are funded by excise taxes on cigarettes and
22 tobacco products. Funds shall be transferred from the California
23 Children and Families Trust Fund to those affected programs as
24 necessary to offset the revenue decrease directly resulting from
25 the imposition of additional taxes by this act. These reimbursements
26 shall occur, and at any times, as determined necessary to further
27 the intent of this subdivision.

28 (d) Moneys shall be allocated and appropriated from the
29 California Children and Families Trust Fund as follows:

30 (1) Twenty percent shall be allocated and appropriated to
31 separate accounts of the state commission for expenditure
32 according to the following formula:

33 (A) Six percent shall be deposited in a Mass Media
34 Communications Account for expenditures for communications
35 to the general public utilizing television, radio, newspapers, and
36 other mass media on subjects relating to and furthering the goals
37 and purposes of this act, including, but not limited to, methods of
38 nurturing and parenting that encourage proper childhood

1 development, the informed selection of child care, information
2 regarding health and social services, the prevention and cessation
3 of tobacco, alcohol, and drug use by pregnant women, the
4 detrimental effects of secondhand smoke on early childhood
5 development, and to ensure that children are ready to enter school.
6 Any funds not needed in this account may be transferred to the
7 Unallocated Account described in subparagraph (F), upon approval
8 by the state commission.

9 (B) Five percent shall be deposited in an Education Account
10 for expenditures to ensure that children are ready to enter school
11 and for programs relating to education, including, but not limited
12 to, the development of educational materials, professional and
13 parental education and training, and technical support for county
14 commissions in the areas described in subparagraph (A) of
15 paragraph (1) of subdivision (b) of Section 130125. Any funds not
16 needed in this account may be transferred to the Unallocated
17 Account described in subparagraph (F), upon approval by the state
18 commission.

19 (C) Three percent shall be deposited in a Child Care Account
20 for expenditures to ensure that children are ready to enter school
21 and for programs relating to child care, including, but not limited
22 to, the education and training of child care providers, the
23 development of educational materials and guidelines for child care
24 workers, and other areas described in subparagraph (B) of
25 paragraph (1) of subdivision (b) of Section 130125. Any funds not
26 needed in this account may be transferred to the Unallocated
27 Account described in subparagraph (F), upon approval by the state
28 commission.

29 (D) Three percent shall be deposited in a Research and
30 Development Account for expenditures to ensure that children are
31 ready to enter school and for the research and development of best
32 practices and standards for all programs and services relating to
33 early childhood development established pursuant to this act, and
34 for the assessment and quality evaluation of those programs and
35 services. Any funds not needed in this account may be transferred
36 to the Unallocated Account described in subparagraph (F), upon
37 approval by the state commission.

38 (E) One percent shall be deposited in an Administration Account
39 for expenditures for the administrative functions of the state
40 commission. Any funds not needed for the administrative functions

1 of the state commission may be transferred to the Unallocated
2 Account described in subparagraph (F), upon approval by the state
3 commission.

4 (F) Two percent shall be deposited in an Unallocated Account
5 for expenditure by the state commission for any of the purposes
6 of this act described in Section 130100 provided that none of these
7 moneys shall be expended for the administrative functions of the
8 state commission.

9 (G) In the event that, for whatever reason, the expenditure of
10 any moneys allocated and appropriated for the purposes specified
11 in subparagraphs (A) to (F), inclusive, is enjoined by a final
12 judgment of a court of competent jurisdiction, then those moneys
13 shall be available for expenditure by the state commission for mass
14 media communication emphasizing the need to eliminate smoking
15 and other tobacco use by pregnant women, the need to eliminate
16 smoking and other tobacco use by persons under 18 years of age,
17 and the need to eliminate exposure to secondhand smoke.

18 (H) Any moneys allocated and appropriated to any of the
19 accounts described in subparagraphs (A) to (F), inclusive, that are
20 not encumbered or expended within any applicable period
21 prescribed by law shall (together with the accrued interest on the
22 amount) revert to and remain in the same account for the next
23 fiscal period.

24 (2) Eighty percent shall be allocated and appropriated to county
25 commissions in accordance with Section 130140.

26 (A) The moneys allocated and appropriated to county
27 commissions shall be deposited in each local Children and Families
28 Trust Fund administered by each county commission, and shall
29 be expended only for the purposes authorized by this act and in
30 accordance with the county strategic plan approved by each county
31 commission.

32 (B) Any moneys allocated and appropriated to any of the county
33 commissions that are not encumbered or expended within any
34 applicable period prescribed by law shall (together with the accrued
35 interest on the amount) revert to and remain in the same local
36 Children and Families Trust Fund for the next fiscal period under
37 the same conditions as set forth in subparagraph (A).

38 (e) All grants, gifts, or bequests of money made to or for the
39 benefit of the state commission from public or private sources to
40 be used for early childhood development programs shall be

1 deposited in the California Children and Families Trust Fund and
2 expended for the specific purpose for which the grant, gift, or
3 bequest was made. The amount of any such grant, gift, or bequest
4 shall not be considered in computing the amount allocated and
5 appropriated to the state commission pursuant to paragraph (1) of
6 subdivision (d).

7 (f) All grants, gifts, or bequests of money made to or for the
8 benefit of any county commission from public or private sources
9 to be used for early childhood development programs shall be
10 deposited in the local Children and Families Trust Fund and
11 expended for the specific purpose for which the grant, gift, or
12 bequest was made. The amount of any such grant, gift, or bequest
13 shall not be considered in computing the amount allocated and
14 appropriated to the county commissions pursuant to paragraph (2)
15 of subdivision (d).

16 SEC. 2. Section 12693.22 is added to the Insurance Code, to
17 read:

18 12693.22. During the 2009–10 and 2010–11 fiscal years, the
19 adoption and readoption of regulations to modify health, dental,
20 and vision benefits or otherwise modify program requirements and
21 operations consistent with the provisions of this part shall be
22 deemed to be an emergency and necessary for the immediate
23 preservation of public peace, health and safety, or general welfare
24 for purposes of Sections 11346.1 and 11349.6 of the Government
25 Code, and the board is hereby exempted from the requirement that
26 it describe facts showing the need for immediate action and from
27 review by the Office of Administrative Law.

28 SEC. 3. Section 12693.43 of the Insurance Code is amended
29 to read:

30 12693.43. (a) Applicants applying to the purchasing pool shall
31 agree to pay family contributions, unless the applicant has a family
32 contribution sponsor. Family contribution amounts consist of the
33 following two components:

- 34 (1) The flat fees described in subdivision (b) or (d).
35 (2) Any amounts that are charged to the program by participating
36 health, dental, and vision plans selected by the applicant that exceed
37 the cost to the program of the highest cost Family Value Package
38 in a given geographic area.

1 (b) In each geographic area, the board shall designate one or
2 more Family Value Packages for which the required total family
3 contribution is:

4 (1) Seven dollars (\$7) per child with a maximum required
5 contribution of fourteen dollars (\$14) per month per family for
6 applicants with annual household incomes up to and including 150
7 percent of the federal poverty level.

8 (2) (A) Nine dollars (\$9) per child with a maximum required
9 contribution of twenty-seven dollars (\$27) per month per family
10 for applicants with annual household incomes greater than 150
11 percent and up to and including 200 percent of the federal poverty
12 level and for applicants on behalf of children described in clause
13 (ii) of subparagraph (A) of paragraph (6) of subdivision (a) of
14 Section 12693.70.

15 (B) Commencing the first day of the fifth month following the
16 enactment of the 2008–09 Budget Act, the family contribution
17 pursuant to this paragraph shall be twelve dollars (\$12) per child
18 with a maximum required contribution of thirty-six dollars (\$36)
19 per month per family.

20 (C) Commencing November 1, 2009, the family contribution
21 pursuant to this paragraph shall be sixteen dollars (\$16) per child
22 with a maximum required contribution of forty-eight dollars (\$48)
23 per month per family.

24 (3) (A) On and after July 1, 2005, fifteen dollars (\$15) per child
25 with a maximum required contribution of forty-five dollars (\$45)
26 per month per family for applicants with annual household income
27 to which subparagraph (B) of paragraph (6) of subdivision (a) of
28 Section 12693.70 is applicable. Notwithstanding any other
29 provision of law, if an application with an effective date prior to
30 July 1, 2005, was based on annual household income to which
31 subparagraph (B) of paragraph (6) of subdivision (a) of Section
32 12693.70 is applicable, then this subparagraph shall be applicable
33 to the applicant on July 1, 2005, unless subparagraph (B) of
34 paragraph (6) of subdivision (a) of Section 12693.70 is no longer
35 applicable to the relevant family income. The program shall provide
36 prior notice to any applicant for currently enrolled subscribers
37 whose premium will increase on July 1, 2005, pursuant to this
38 subparagraph and, prior to the date the premium increase takes
39 effect, shall provide that applicant with an opportunity to
40 demonstrate that subparagraph (B) of paragraph (6) of subdivision

1 (a) of Section 12693.70 is no longer applicable to the relevant
2 family income.

3 (B) Commencing the first day of the fifth month following the
4 enactment of the 2008–09 Budget Act, the family contribution
5 pursuant to this paragraph shall be seventeen dollars (\$17) per
6 child with a maximum required contribution of fifty-one dollars
7 (\$51) per month per family.

8 (C) Commencing November 1, 2009, the family contribution
9 pursuant to this paragraph shall be twenty-four dollars (\$24) per
10 child with a maximum required contribution of seventy-two dollars
11 (\$72) per month per family.

12 (c) Combinations of health, dental, and vision plans that are
13 more expensive to the program than the highest cost Family Value
14 Package may be offered to and selected by applicants. However,
15 the cost to the program of those combinations that exceeds the
16 price to the program of the highest cost Family Value Package
17 shall be paid by the applicant as part of the family contribution.

18 (d) The board shall provide a family contribution discount to
19 those applicants who select the health plan in a geographic area
20 that has been designated as the Community Provider Plan. The
21 discount shall reduce the portion of the family contribution
22 described in subdivision (b) to the following:

23 (1) A family contribution of four dollars (\$4) per child with a
24 maximum required contribution of eight dollars (\$8) per month
25 per family for applicants with annual household incomes up to and
26 including 150 percent of the federal poverty level.

27 (2) (A) Six dollars (\$6) per child with a maximum required
28 contribution of eighteen dollars (\$18) per month per family for
29 applicants with annual household incomes greater than 150 percent
30 and up to and including 200 percent of the federal poverty level
31 and for applicants on behalf of children described in clause (ii) of
32 subparagraph (A) of paragraph (6) of subdivision (a) of Section
33 12693.70.

34 (B) Commencing the first day of the fifth month following the
35 enactment of the 2008–09 Budget Act, the family contribution
36 pursuant to this paragraph shall be nine dollars (\$9) per child with
37 a maximum required contribution of twenty-seven dollars (\$27)
38 per month per family.

39 (C) Commencing November 1, 2009, the family contribution
40 pursuant to this paragraph shall be thirteen dollars (\$13) per child

1 with a maximum required contribution of thirty-nine dollars (\$39)
2 per month per family.

3 (3) (A) On and after July 1, 2005, twelve dollars (\$12) per child
4 with a maximum required contribution of thirty-six dollars (\$36)
5 per month per family for applicants with annual household income
6 to which subparagraph (B) of paragraph (6) of subdivision (a) of
7 Section 12693.70 is applicable. Notwithstanding any other
8 provision of law, if an application with an effective date prior to
9 July 1, 2005, was based on annual household income to which
10 subparagraph (B) of paragraph (6) of subdivision (a) of Section
11 12693.70 is applicable, then this subparagraph shall be applicable
12 to the applicant on July 1, 2005, unless subparagraph (B) of
13 paragraph (6) of subdivision (a) of Section 12693.70 is no longer
14 applicable to the relevant family income. The program shall provide
15 prior notice to any applicant for currently enrolled subscribers
16 whose premium will increase on July 1, 2005, pursuant to this
17 subparagraph and, prior to the date the premium increase takes
18 effect, shall provide that applicant with an opportunity to
19 demonstrate that subparagraph (B) of paragraph (6) of subdivision
20 (a) of Section 12693.70 is no longer applicable to the relevant
21 family income.

22 (B) Commencing the first day of the fifth month following the
23 enactment of the 2008–09 Budget Act, the family contribution
24 pursuant to this paragraph shall be fourteen dollars (\$14) per child
25 with a maximum required contribution of forty-two dollars (\$42)
26 per month per family.

27 (C) Commencing November 1, 2009, the family contribution
28 pursuant to this paragraph shall be twenty-one dollars (\$21) per
29 child with a maximum required contribution of sixty-three dollars
30 (\$63) per month per family.

31 (e) Applicants, but not family contribution sponsors, who pay
32 three months of required family contributions in advance shall
33 receive the fourth consecutive month of coverage with no family
34 contribution required.

35 (f) Applicants, but not family contribution sponsors, who pay
36 the required family contributions by an approved means of
37 electronic fund transfer shall receive a 25-percent discount from
38 the required family contributions.

39 (g) It is the intent of the Legislature that the family contribution
40 amounts described in this section comply with the premium cost

1 sharing limits contained in Section 2103 of Title XXI of the Social
2 Security Act. If the amounts described in subdivision (a) are not
3 approved by the federal government, the board may adjust these
4 amounts to the extent required to achieve approval of the state
5 plan.

6 (h) The adoption and one readoption of regulations to implement
7 paragraph (3) of subdivision (b) and paragraph (3) of subdivision
8 (d) shall be deemed to be an emergency and necessary for the
9 immediate preservation of public peace, health, and safety, or
10 general welfare for purposes of Sections 11346.1 and 11349.6 of
11 the Government Code, and the board is hereby exempted from the
12 requirement that it describe specific facts showing the need for
13 immediate action and from review by the Office of Administrative
14 Law. For purpose of subdivision (e) of Section 11346.1 of the
15 Government code, the 120-day period, as applicable to the effective
16 period of an emergency regulatory action and submission of
17 specified materials to the Office of Administrative law, is hereby
18 extended to 180 days.

19 (i) The board may adopt, and may only one-time readopt,
20 regulations to implement the changes to this section that are
21 effective the first day of the fifth month following the enactment
22 of the 2008–09 Budget Act. The adoption and one-time readoption
23 of a regulation authorized by this section is deemed to address an
24 emergency, for purposes of Sections 11346.1 and 11349.6 of the
25 Government Code, and the board is hereby exempted for this
26 purpose from the requirements of subdivision (b) of Section
27 11346.1 of the Government Code.

28 (j) The program shall provide prior notice to any applicant for
29 a subscriber whose premium will increase as a result of
30 amendments made to this section by the act that added this
31 subdivision and shall provide the applicant with an opportunity to
32 demonstrate that, based on reduced family income, the subscriber
33 is subject to a lower premium pursuant to this section.

34 SEC. 4. Section 12009 is added to the Revenue and Taxation
35 Code, to read:

36 12009. (a) “Medi-Cal managed care plan” or “plan” means
37 any individual, organization, or entity, other than an insurer as
38 described in Section 12003 *or a dental managed care plan as*
39 *described in Section 14087.46 of the Welfare and Institutions Code,*
40 that enters into a contract with the State Department of Health

1 Care Services pursuant to Article 2.7 (commencing with Section
 2 14087.3), Article 2.8 (commencing with Section 14087.5), Article
 3 2.81 (commencing with Section 14087.96), Article 2.9
 4 (commencing with Section 14088), or Article 2.91 (commencing
 5 with Section 14089) of Chapter 7 of, or pursuant to Article 1
 6 (commencing with Section 14200) or Article 7 (commencing with
 7 Section 14490) of Chapter 8 of, Part 3 of Division 9 of the Welfare
 8 and Institutions Code.

9 (b) This section shall remain in effect only until January 1, 2011,
 10 and as of that date is repealed.

11 SEC. 5. Section 12201 of the Revenue and Taxation Code is
 12 amended to read:

13 12201. (a) Every insurer and Medi-Cal managed care plan
 14 doing business in this state shall annually pay to the state a tax on
 15 the bases, at the rates, and subject to the deductions from the tax
 16 hereinafter specified. For purposes of the tax imposed by this
 17 chapter, “insurer” shall be deemed to include a home protection
 18 company as defined in Section 12740 of the Insurance Code.

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

23 ~~(1) To the State Department of Health Care Services in an~~
 24 ~~amount necessary to ensure that the Medi-Cal managed care plans~~
 25 ~~receive contracted rates of payment for services provided to~~
 26 ~~Medi-Cal enrollees that are actuarially sound, as required by federal~~
 27 ~~law and Section 14301.1 of the Welfare and Institutions Code.~~

28 ~~(2) Any additional revenues to the Managed Risk Medical~~
 29 ~~Insurance Board for purposes of the Healthy Families Program.~~

30 *(1) To the State Department of Health Care Services for*
 31 *purposes of the Medi-Cal program in an amount equal to 38.41*
 32 *percent of the total revenues derived from the imposition of the*
 33 *tax by this chapter on Medi-Cal managed care plans.*

34 *(2) To the Managed Risk Medical Insurance Board for purposes*
 35 *of the Healthy Families Program in an amount equal to 61.59*
 36 *percent of the total revenues derived from the imposition of the*
 37 *tax by this chapter on Medi-Cal managed care plans*

38 (c) For purposes of imposing the tax on Medi-Cal managed care
 39 plans during the 2009 calendar year, the tax shall be based on total

1 revenue for the period of January 1, 2009, to December 31, 2009,
2 inclusive.

3 *(d) The Insurance Commissioner shall report the amount of*
4 *revenue derived from the tax imposed on Medi-Cal managed care*
5 *plans pursuant to this section to the California Health and Human*
6 *Services Agency, the Joint Legislative Budget Committee, and the*
7 *Department of Finance.*

8 ~~(d)~~

9 *(e) This section shall remain in effect only until January 1, 2011,*
10 *and as of that date is repealed.*

11 SEC. 6. Section 12201 is added to the Revenue and Taxation
12 Code, to read:

13 12201. (a) Every insurer doing business in this state shall
14 annually pay to the state a tax on the bases, at the rates, and subject
15 to the deductions from the tax hereinafter specified. For purposes
16 of the tax imposed by this chapter, “insurer” shall be deemed to
17 include a home protection company as defined in Section 12740
18 of the Insurance Code.

19 (b) This section shall become operative on January 1, 2011.

20 SEC. 7. Section 12204 of the Revenue and Taxation Code is
21 amended to read:

22 12204. (a) The tax imposed on insurers by this chapter is in
23 lieu of all other taxes and licenses, state, county, and municipal,
24 upon those insurers and their property, except:

25 (1) Taxes upon their real estate.

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

28 (3) The tax on ocean marine insurance.

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

32 (5) That each corporate or other attorney in fact of a reciprocal
33 or interinsurance exchange shall be subject to all taxes imposed
34 upon corporations or others doing business in the state, other than
35 taxes on income derived from its principal business as attorney in
36 fact.

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

39 (c) This section shall remain in effect only until January 1, 2011,
40 and as of that date is repealed.

1 SEC. 8. Section 12204 is added to the Revenue and Taxation
2 Code, to read:

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

- 6 (1) Taxes upon their real estate.
- 7 (2) Any retaliatory exactions imposed by paragraph (3) of
8 subdivision (f) of Section 28 of Article XIII of the California
9 Constitution.

10 (3) The tax on ocean marine insurance.

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

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

19 (b) This section shall become operative on January 1, 2011.

20 SEC. 9. Section 12207 is added to the Revenue and Taxation
21 Code, to read:

22 12207. (a) Notwithstanding any other provision of this part,
23 no credit shall be allowed under Section 12206, 12208, or 12209
24 against the tax imposed on Medi-Cal managed care plans pursuant
25 to Section 12201.

26 (b) This section shall remain in effect only until January 1, 2011,
27 and as of that date is repealed.

28 SEC. 10. Article 4 (commencing with Section 12240) is added
29 to Chapter 3 of Part 7 of Division 2 of the Revenue and Taxation
30 Code, to read:

31
32 Article 4. Basis of Tax for Medi-Cal Managed Care Plans
33

34 12240. In the case of a Medi-Cal managed care plan, the basis
35 of the tax is, in respect to each year, total operating revenue.

36 12241. For purposes of this article, “total operating revenue”
37 means all amounts received by a Medi-Cal managed care plan in
38 premium or capitation payments for the coverage or provision of
39 all health care services, including, but not limited to, Medi-Cal
40 services. Total operating revenue shall not include amounts

1 received by a Medi-Cal managed care plan pursuant to a
2 subcontract with a Medi-Cal managed care plan to provide health
3 care services to Medi-Cal beneficiaries.

4 12242. This article shall remain in effect only until January 1,
5 2011, and as of that date is repealed.

6 SEC. 11. Section 12251 of the Revenue and Taxation Code is
7 amended to read:

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

16 (b) Medi-Cal managed care plans shall make prepayments of
17 the tax imposed by Section 12201 for the current calendar year,
18 *except that no prepayments shall be required prior to the effective*
19 *date of the act adding this subdivision, and no penalties and*
20 *interest shall be imposed pursuant to Section 12261 for not making*
21 *those prepayments.*

22 (c) This section shall remain in effect only until January 1, 2011,
23 and as of that date is repealed.

24 SEC. 12. Section 12251 is added to the Revenue and Taxation
25 Code, to read:

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

34 (b) This section shall become operative on January 1, 2011.

35 SEC. 13. Section 12253 of the Revenue and Taxation Code is
36 amended to read:

37 12253. (a) Each insurer and Medi-Cal managed care plan
38 required to make prepayments shall remit them on or before each
39 of the dates of April 1st, June 1st, September 1st, and December
40 1st of the current calendar year. Remittances for prepayments shall

1 be made payable to the Controller and shall be delivered to the
2 office of the commissioner, accompanied by a prepayment form
3 prescribed by the commissioner.

4 (b) This section shall remain in effect only until January 1, 2011,
5 and as of that date is repealed.

6 SEC. 14. Section 12253 is added to the Revenue and Taxation
7 Code, to read:

8 12253. (a) Each insurer required to make prepayments shall
9 remit them on or before each of the dates of April 1st, June 1st,
10 September 1st, and December 1st of the current calendar year.
11 Remittances for prepayments shall be made payable to the
12 Controller and shall be delivered to the office of the commissioner,
13 accompanied by a prepayment form prescribed by the
14 commissioner.

15 (b) This section shall become operative on January 1, 2011.

16 SEC. 15. Section 12254 of the Revenue and Taxation Code is
17 amended to read:

18 12254. (a) (1) For each insurer, the amount of each
19 prepayment shall be 25 percent of the amount of the annual
20 insurance tax liability reported on the return of the insurer for the
21 preceding calendar year.

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

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

31 (c) This section shall remain in effect only until January 1, 2011,
32 and as of that date is repealed.

33 SEC. 16. Section 12254 is added to the Revenue and Taxation
34 Code, to read:

35 12254. (a) The amount of each prepayment shall be 25 percent
36 of the amount of the annual insurance tax liability reported on the
37 return of the insurer for the preceding calendar year.

38 (b) In establishing the prepayment amount of an insurer that
39 has acquired the business of another insurer, the amount of tax
40 liability of the acquiring insurer reported for the preceding calendar

1 year shall be deemed to include the amount of tax liability of the
2 acquired insurer reported for that year.

3 (c) This section shall become operative on January 1, 2011.

4 SEC. 17. Section 12257 of the Revenue and Taxation Code is
5 amended to read:

6 12257. (a) If the total amount of prepayments for any calendar
7 year exceeds the amount of annual tax for that year, the excess
8 shall be treated as an overpayment of annual tax and, at the election
9 of the insurer or Medi-Cal managed care plan, may be credited
10 against the amounts due and payable for the first prepayment of
11 the following year. Any amount of the overpayment not so credited
12 shall be allowed as a credit or refund under Article 2 (commencing
13 with Section 12977) of Chapter 7 of this part.

14 (b) This section shall remain in effect only until January 1, 2011,
15 and as of that date is repealed.

16 SEC. 18. Section 12257 is added to the Revenue and Taxation
17 Code, to read:

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

26 (b) This section shall become operative on January 1, 2011.

27 SEC. 19. Section 12258 of the Revenue and Taxation Code is
28 amended to read:

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

38 (b) This section shall remain in effect only until January 1, 2011,
39 and as of that date is repealed.

1 SEC. 20. Section 12258 is added to the Revenue and Taxation
2 Code, to read:

3 12258. (a) Any insurer that fails to pay any prepayment within
4 the time required shall pay a penalty of 10 percent of the amount
5 of the required prepayment, plus interest at the modified adjusted
6 rate per month, or fraction thereof, established pursuant to Section
7 6591.5, from the due date of the prepayment until the date of
8 payment but not for any period after the due date of the annual
9 tax. Assessments of prepayment deficiencies may be made in the
10 manner provided by deficiency assessments of the annual tax.

11 (b) This section shall become operative on January 1, 2011.

12 SEC. 21. Section 12260 of the Revenue and Taxation Code is
13 amended to read:

14 12260. (a) Notwithstanding any other provision of this article,
15 the commissioner may relieve an insurer or Medi-Cal managed
16 care plan of its obligation to make prepayments where the insurer
17 or Medi-Cal managed care plan establishes to the satisfaction of
18 the commissioner that the insurer has ceased to transact insurance
19 in this state or the Medi-Cal managed care plan has ceased to
20 operate a plan in this state, or the insurer’s or Medi-Cal managed
21 care plan’s annual tax for the current year will be less than five
22 thousand dollars (\$5,000).

23 (b) This section shall remain in effect only until January 1, 2011,
24 and as of that date is repealed.

25 SEC. 22. Section 12260 is added to the Revenue and Taxation
26 Code, to read:

27 12260. Notwithstanding any other provision of this article, the
28 commissioner may relieve an insurer of its obligation to make
29 prepayments where the insurer establishes to the satisfaction of
30 the commissioner that either the insurer has ceased to transact
31 insurance in this state, or the insurer’s annual tax for the current
32 year will be less than five thousand dollars (\$5,000).

33 (b) This section shall become operative on January 1, 2011.

34 SEC. 23. Section 12301 of the Revenue and Taxation Code is
35 amended to read:

36 12301. (a) The taxes imposed upon insurers by Section 28 of
37 Article XIII of the California Constitution and this part, except
38 with respect to taxes on ocean marine insurance and retaliatory
39 taxes, are due and payable annually on or before April 1st of the
40 year following the calendar year in which the insurer engaged in

1 the business of insurance or transacted insurance in this state. The
2 taxes imposed with respect to ocean marine insurance are due and
3 payable on or before June 15th of that year.

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

9 (c) This section shall remain in effect only until January 1, 2011,
10 and as of that date is repealed. However, any tax imposed by
11 Section 12201 shall continue to be due and payable until the tax
12 is paid.

13 SEC. 24. Section 12301 is added to the Revenue and Taxation
14 Code, to read:

15 12301. (a) The taxes imposed upon insurers by Section 28 of
16 Article XIII of the California Constitution and this part, except
17 with respect to taxes on ocean marine insurance and retaliatory
18 taxes, are due and payable annually on or before April 1st of the
19 year following the calendar year in which the insurer engaged in
20 the business of insurance or transacted insurance in this state. The
21 taxes imposed with respect to ocean marine insurance are due and
22 payable on or before June 15th of that year.

23 (b) This section shall become operative on January 1, 2011.

24 SEC. 25. Section 12302 of the Revenue and Taxation Code is
25 amended to read:

26 12302. (a) On or before April 1st (or June 15th with respect
27 to taxes on ocean marine insurance) every person that is subject
28 to any tax imposed by Section 28 of Article XIII of the California
29 Constitution or this part, in respect to the preceding calendar year
30 shall file, in duplicate, a tax return with the commissioner in the
31 form as the commissioner may prescribe. The return shall show
32 that information pertaining to its insurance business ~~(or, or in the~~
33 case of a Medi-Cal managed care plan, pertaining to contracts for
34 providing services as described in Section ~~12009~~ 12009, in this
35 state as will reflect the basis of its tax as set forth in Chapter 2
36 (commencing with Section 12071) and Chapter 3 (commencing
37 with Section 12201) of this part, the computation of the amount
38 of tax for the period covered by the return, the total amount of any
39 tax prepayments made pursuant to Article 5 (commencing with
40 Section 12251) of Chapter 3 of this part, and any other information

1 as the commissioner may require to carry out the purposes of this
2 part. Separate returns shall be filed with respect to the following
3 kinds of insurance:

- 4 (1) Life insurance (or life insurance and disability insurance).
- 5 (2) Ocean marine insurance.
- 6 (3) Title insurance.
- 7 (4) Insurance other than life insurance (or life insurance and
8 disability insurance), ocean marine insurance or title insurance.

9 (b) This section shall remain in effect only until January 1, 2011,
10 and as of that date is repealed.

11 SEC. 26. Section 12302 is added to the Revenue and Taxation
12 Code, to read:

13 12302. (a) On or before April 1st (or June 15th with respect
14 to taxes on ocean marine insurance) every person that is subject
15 to any tax imposed by Section 28 of Article XIII of the California
16 Constitution or this part, in respect to the preceding calendar year
17 shall file, in duplicate, an insurance tax return with the
18 commissioner in the form as the commissioner may prescribe. The
19 return shall show that information pertaining to its insurance
20 business, *or in the case of a Medi-Cal managed care plan,*
21 *pertaining to its total operating revenue as defined in Section*
22 *12241*, in this state as will reflect the basis of its tax as set forth in
23 Chapter 2 (commencing with Section 12071) and Chapter 3
24 (commencing with Section 12201) of this part, the computation
25 of the amount of tax for the period covered by the return, the total
26 amount of any tax prepayments made pursuant to Article 5
27 (commencing with Section 12251) of Chapter 3 of this part, and
28 any other information as the commissioner may require to carry
29 out the purposes of this part. Separate returns shall be filed with
30 respect to the following kinds of insurance:

- 31 (1) Life insurance (or life insurance and disability insurance).
- 32 (2) Ocean marine insurance.
- 33 (3) Title insurance.
- 34 (4) Insurance other than life insurance (or life insurance and
35 disability insurance), ocean marine insurance or title insurance.

36 (b) This section shall become operative on January 1, 2011.

37 SEC. 27. Section 12303 of the Revenue and Taxation Code is
38 amended to read:

39 12303. (a) Every return required by this article to be filed with
40 the commissioner shall be signed by the insurer or Medi-Cal

1 managed care plan or an executive officer of the insurer or plan
2 and shall be made under oath or contain a written declaration that
3 it is made under penalty of perjury. A return of a foreign insurer
4 may be signed and verified by its manager residing within this
5 state. A return of an alien insurer may be signed and verified by
6 the United States manager of the insurer.

7 (b) This section shall remain in effect only until January 1, 2011,
8 and as of that date is repealed.

9 SEC. 28. Section 12303 is added to the Revenue and Taxation
10 Code, to read:

11 12303. (a) Every return required by this article to be filed with
12 the commissioner shall be signed by the insurer or an executive
13 officer of the insurer and shall be made under oath or contain a
14 written declaration that it is made under penalty of perjury. A
15 return of a foreign insurer may be signed and verified by its
16 manager residing within this state. A return of an alien insurer may
17 be signed and verified by the United States manager of the insurer.

18 (b) This section shall become operative on January 1, 2011.

19 SEC. 29. Section 12304 of the Revenue and Taxation Code is
20 amended to read:

21 12304. (a) Blank forms of returns shall be furnished by the
22 commissioner on application, but failure to secure the form shall
23 not relieve any insurer or Medi-Cal managed care plan from
24 making or filing a timely return.

25 (b) This section shall remain in effect only until January 1, 2011,
26 and as of that date is repealed.

27 SEC. 30. Section 12304 is added to the Revenue and Taxation
28 Code, to read:

29 12304. (a) Blank forms of returns shall be furnished by the
30 commissioner on application, but failure to secure the form shall
31 not relieve any insurer from making or filing a timely return.

32 (b) This section shall become operative on January 1, 2011.

33 SEC. 31. Section 12305 of the Revenue and Taxation Code is
34 amended to read:

35 12305. (a) The insurer or Medi-Cal managed care plan required
36 to file a return shall deliver the return in duplicate, together with
37 a remittance payable to the Controller, for the amount of tax
38 computed and shown thereon, less any prepayments made pursuant
39 to Article 5 (commencing with Section 12251) of Chapter 3 of this
40 part, to the office of the commissioner.

1 (b) This section shall remain in effect only until January 1, 2011,
2 and as of that date is repealed.

3 SEC. 32. Section 12305 is added to the Revenue and Taxation
4 Code, to read:

5 12305. (a) The insurer required to file a return shall deliver
6 the return in duplicate, together with a remittance payable to the
7 Controller, for the amount of tax computed and shown thereon,
8 less any prepayments made pursuant to Article 5 (commencing
9 with Section 12251) of Chapter 3 of this part, to the office of the
10 commissioner.

11 (b) This section shall become operative on January 1, 2011.

12 SEC. 33. Section 12307 of the Revenue and Taxation Code is
13 amended to read:

14 12307. (a) Any insurer or Medi-Cal managed care plan to
15 which an extension is granted shall pay, in addition to the tax,
16 interest at the modified adjusted rate per month, or fraction thereof,
17 established pursuant to Section 6591.5, from April 1st until the
18 date of payment.

19 (b) This section shall remain in effect only until January 1, 2011,
20 and as of that date is repealed.

21 SEC. 34. Section 12307 is added to the Revenue and Taxation
22 Code, to read:

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

27 (b) This section shall become operative on January 1, 2011.

28 SEC. 35. Section 12412 of the Revenue and Taxation Code is
29 amended to read:

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

34 (b) This section shall remain in effect only until January 1, 2011,
35 and as of that date is repealed.

36 SEC. 36. Section 12412 is added to the Revenue and Taxation
37 Code, to read:

38 12412. (a) Upon receipt of the duplicate copy of the return of
39 an insurer the board shall initially assess the tax in accordance
40 with the data as reported by the insurer on the return.

1 (b) This section shall become operative on January 1, 2011.

2 SEC. 37. Section 12413 of the Revenue and Taxation Code is
3 amended to read:

4 12413. (a) The board shall promptly transmit notice of its
5 initial assessment to the commissioner and the Controller, and if
6 the initial assessment differs from the amount computed by the
7 insurer or Medi-Cal managed care plan, notice shall also be given
8 to the insurer or Medi-Cal managed care plan.

9 (b) This section shall remain in effect only until January 1, 2011,
10 and as of that date is repealed.

11 SEC. 38. Section 12413 is added to the Revenue and Taxation
12 Code, to read:

13 12413. (a) The board shall promptly transmit notice of its
14 initial assessment to the commissioner and the Controller, and if
15 the initial assessment differs from the amount computed by the
16 insurer, notice shall also be given to the insurer.

17 (b) This section shall become operative on January 1, 2011.

18 SEC. 39. Section 12421 of the Revenue and Taxation Code is
19 amended to read:

20 12421. (a) As soon as practicable after an insurer's, surplus
21 line broker's, or Medi-Cal managed care plan's return is filed, the
22 commissioner shall examine it, together with any information
23 within his or her possession or that may come into his or her
24 possession, and he or she shall determine the correct amount of
25 tax of the insurer, surplus line broker, or Medi-Cal managed care
26 plan.

27 (b) This section shall remain in effect only until January 1, 2011,
28 and as of that date is repealed.

29 SEC. 40. Section 12421 is added to the Revenue and Taxation
30 Code, to read:

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

36 (b) This section shall become operative on January 1, 2011.

37 SEC. 41. Section 12422 of the Revenue and Taxation Code is
38 amended to read:

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

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

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

11 (c) If the commissioner determines that the amount of tax
12 disclosed by the Medi-Cal managed care plan’s tax return is less
13 than the amount of tax disclosed by his or her examination, he or
14 she shall propose, in writing, to the board a deficiency assessment
15 for the difference. The proposal shall set forth the basis for the
16 deficiency assessment and the details of its computation.

17 (d) This section shall remain in effect only until January 1, 2011,
18 and as of that date is repealed.

19 SEC. 42. Section 12422 is added to the Revenue and Taxation
20 Code, to read:

21 12422. (a) If the commissioner determines that the amount of
22 tax disclosed by the insurer’s tax return and assessed by the board
23 is less than the amount of tax disclosed by his or her examination,
24 he or she shall propose, in writing, to the board a deficiency
25 assessment for the difference. The proposal shall set forth the basis
26 for the deficiency assessment and the details of its computation.

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

33 (c) This section shall become operative on January 1, 2011.

34 SEC. 43. Section 12423 of the Revenue and Taxation Code is
35 amended to read:

36 12423. (a) If an insurer, surplus line broker, or Medi-Cal
37 managed care plan fails to file a return, the commissioner may
38 require a return by mailing notice to the insurer, surplus line broker,
39 or Medi-Cal managed care plan to file a return by a specified date
40 or he or she may without requiring a return, or upon no return

1 having been filed pursuant to the demand therefor, make an
2 estimate of the amount of tax due for the calendar year or years in
3 respect to which the insurer, surplus line broker, or Medi-Cal
4 managed care plan failed to file the return. The estimate shall be
5 made from any available information which is in the
6 commissioner's possession or may come into his or her possession,
7 and the commissioner shall propose, in writing, to the board a
8 deficiency assessment for the amount of the estimated tax. The
9 proposal shall set forth the basis of the estimate and the details of
10 the computation of the tax.

11 (b) This section shall remain in effect only until January 1, 2011,
12 and as of that date is repealed.

13 SEC. 44. Section 12423 is added to the Revenue and Taxation
14 Code, to read:

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

28 (b) This section shall become operative on January 1, 2011.

29 SEC. 45. Section 12427 of the Revenue and Taxation Code is
30 amended to read:

31 12427. (a) The board shall promptly notify the insurer, surplus
32 line broker, or Medi-Cal managed care plan of a deficiency
33 assessment made against the insurer, surplus line broker, or
34 Medi-Cal managed care plan.

35 (b) This section shall remain in effect only until January 1, 2011,
36 and as of that date is repealed.

37 SEC. 46. Section 12427 is added to the Revenue and Taxation
38 Code, to read:

1 12427. (a) The board shall promptly notify the insurer or
2 surplus line broker of a deficiency assessment made against the
3 insurer or surplus line broker.

4 (b) This section shall become operative on January 1, 2011.

5 SEC. 47. Section 12428 of the Revenue and Taxation Code is
6 amended to read:

7 12428. (a) An insurer, surplus line broker, or Medi-Cal
8 managed care plan against which a deficiency assessment is made
9 under Section 12424 or 12425 may petition for redetermination
10 of the deficiency assessment within 30 days after service upon the
11 insurer, surplus line broker, or Medi-Cal managed care plan of the
12 notice thereof, by filing with the board a written petition setting
13 forth the grounds of objection to the deficiency assessment and
14 the correction sought. At the time the petition is filed with the
15 board, a copy of the petition shall be filed with the commissioner.

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

19 (b) This section shall remain in effect only until January 1, 2011,
20 and as of that date is repealed.

21 SEC. 48. Section 12428 is added to the Revenue and Taxation
22 Code, to read:

23 12428. (a) An insurer or surplus line broker against which a
24 deficiency assessment is made under Section 12424 or 12425 may
25 petition for redetermination of the deficiency assessment within
26 30 days after service upon the insurer or surplus line broker of the
27 notice thereof, by filing with the board a written petition setting
28 forth the grounds of objection to the deficiency assessment and
29 the correction sought. At the time the petition is filed with the
30 board, a copy of the petition shall be filed with the commissioner.

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

34 (b) This section shall become operative on January 1, 2011.

35 SEC. 49. Section 12429 of the Revenue and Taxation Code is
36 amended to read:

37 12429. (a) If a petition for redetermination of a deficiency
38 assessment is filed within the time allowed under Section 12428,
39 the board shall reconsider the deficiency assessment and, if the
40 insurer, surplus line broker, or Medi-Cal managed care plan has

1 so requested in the petition, shall grant an oral hearing for the
2 presentation of evidence and argument before the board or its
3 authorized representative. The board shall give the petitioner and
4 the commissioner at least 20 days' notice of the time and place of
5 hearing. The hearing may be continued from time to time as may
6 be necessary.

7 (b) This section shall remain in effect only until January 1, 2011,
8 and as of that date is repealed.

9 SEC. 50. Section 12429 is added to the Revenue and Taxation
10 Code, to read:

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

20 (b) This section shall become operative on January 1, 2011.

21 SEC. 51. Section 12431 of the Revenue and Taxation Code is
22 amended to read:

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

29 (b) This section shall remain in effect only until January 1, 2011,
30 and as of that date is repealed.

31 SEC. 52. Section 12431 is added to the Revenue and Taxation
32 Code, to read:

33 12431. (a) The order or decision of the board upon a petition
34 for redetermination of a deficiency assessment becomes final 30
35 days after service on the insurer or surplus line broker of a notice
36 thereof, and any resulting deficiency assessment is due and payable
37 at the time the order or decision becomes final.

38 (b) This section shall become operative on January 1, 2011.

39 SEC. 53. Section 12433 of the Revenue and Taxation Code is
40 amended to read:

1 12433. (a) If before the expiration of the time prescribed in
2 Section 12432 for giving of a notice of deficiency assessment the
3 insurer, surplus line broker, or Medi-Cal managed care plan has
4 consented in writing to the giving of the notice after that time, the
5 notice may be given at any time prior to the expiration of the time
6 agreed upon. The period so agreed upon may be extended by
7 subsequent agreements in writing made before the expiration of
8 the period previously agreed upon.

9 (b) This section shall remain in effect only until January 1, 2011,
10 and as of that date is repealed.

11 SEC. 54. Section 12433 is added to the Revenue and Taxation
12 Code, to read:

13 12433. (a) If before the expiration of the time prescribed in
14 Section 12432 for giving of a notice of deficiency assessment the
15 insurer or surplus line broker has consented in writing to the giving
16 of the notice after that time, the notice may be given at any time
17 prior to the expiration of the time agreed upon. The period so
18 agreed upon may be extended by subsequent agreements in writing
19 made before the expiration of the period previously agreed upon.

20 (b) This section shall become operative on January 1, 2011.

21 SEC. 55. Section 12434 of the Revenue and Taxation Code is
22 amended to read:

23 12434. (a) Any notice required by this article shall be placed
24 in a sealed envelope, with postage paid, addressed to the insurer,
25 surplus line broker, or Medi-Cal managed care plan at its address
26 as it appears in the records of the commissioner or the board. The
27 giving of notice shall be deemed complete at the time of deposit
28 of the notice in the United States Post Office, or a mailbox, subpost
29 office, substation or mail chute or other facility regularly
30 maintained or provided by the United States Postal Service, without
31 extension of time for any reason. In lieu of mailing, a notice may
32 be served personally by delivering to the person to be served and
33 service shall be deemed complete at the time of the delivery.
34 Personal service to a corporation may be made by delivery of a
35 notice to any person designated in the Code of Civil Procedure to
36 be served for the corporation with summons and complaint in a
37 civil action.

38 (b) This section shall remain in effect only until January 1, 2011,
39 and as of that date is repealed.

1 SEC. 56. Section 12434 is added to the Revenue and Taxation
2 Code, to read:

3 12434. (a) Any notice required by this article shall be placed
4 in a sealed envelope, with postage paid, addressed to the insurer
5 or surplus line broker at its address as it appears in the records of
6 the commissioner or the board. The giving of notice shall be
7 deemed complete at the time of deposit of the notice in the United
8 States Post Office, or a mailbox, subpost office, substation or mail
9 chute or other facility regularly maintained or provided by the
10 United States Postal Service, without extension of time for any
11 reason. In lieu of mailing, a notice may be served personally by
12 delivering to the person to be served and service shall be deemed
13 complete at the time of the delivery. Personal service to a
14 corporation may be made by delivery of a notice to any person
15 designated in the Code of Civil Procedure to be served for the
16 corporation with summons and complaint in a civil action.

17 (b) This section shall become operative on January 1, 2011.

18 SEC. 57. Section 12491 of the Revenue and Taxation Code is
19 amended to read:

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

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

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

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

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

39 (d) This section shall remain in effect only until January 1, 2011,
40 and as of that date is repealed.

1 SEC. 58. Section 12491 is added to the Revenue and Taxation
2 Code, to read:

3 12491. (a) Every tax levied upon an insurer under the
4 provisions of Article XIII of the California Constitution and of
5 this part is a lien upon all property and franchises of every kind
6 and nature belonging to the insurer, and has the effect of a
7 judgment against the insurer.

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

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

15 (c) This section shall become operative on January 1, 2011.

16 SEC. 59. Section 12493 of the Revenue and Taxation Code is
17 amended to read:

18 12493. (a) Every lien has the effect of an execution duly levied
19 against all property of a delinquent insurer, surplus line broker, or
20 Medi-Cal managed care plan.

21 (b) This section shall remain in effect only until January 1, 2011,
22 and as of that date is repealed.

23 SEC. 60. Section 12493 is added to the Revenue and Taxation
24 Code, to read:

25 12493. (a) Every lien has the effect of an execution duly levied
26 against all property of a delinquent insurer or surplus line broker.

27 (b) This section shall become operative on January 1, 2011.

28 SEC. 61. Section 12494 of the Revenue and Taxation Code is
29 amended to read:

30 12494. (a) No judgment is satisfied nor lien removed until
31 either:

- 32 (1) The taxes, interest, penalties, and costs are paid.
- 33 (2) The insurer's, surplus line broker's, or Medi-Cal managed
34 care plan's property is sold for the payment thereof.

35 (b) This section shall remain in effect only until January 1, 2011,
36 and as of that date is repealed.

37 SEC. 62. Section 12494 is added to the Revenue and Taxation
38 Code, to read:

39 12494. (a) No judgment is satisfied nor lien removed until
40 either:

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

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

4 (b) This section shall become operative on January 1, 2011.

5 SEC. 63. Section 12601 of the Revenue and Taxation Code is
6 amended to read:

7 12601. (a) Amounts of taxes, interest, and penalties not
8 remitted to the commissioner with the original return of the insurer
9 or Medi-Cal managed care plan shall be payable to the Controller.

10 (b) This section shall remain in effect only until January 1, 2011,
11 and as of that date is repealed.

12 SEC. 64. Section 12601 is added to the Revenue and Taxation
13 Code, to read:

14 12601. (a) Amounts of taxes, interest, and penalties not
15 remitted to the commissioner with the original return of the insurer
16 shall be payable to the Controller.

17 (b) This section shall become operative on January 1, 2011.

18 SEC. 65. Section 12602 of the Revenue and Taxation Code is
19 amended to read:

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

29 (2) Each Medi-Cal managed care plan shall make payment by
30 electronic funds transfer, as defined by Section 45 of the Insurance
31 Code. The plan shall choose one of the acceptable methods
32 described in Section 45 of the Insurance Code for completing the
33 electronic funds transfer.

34 (b) Payment shall be deemed complete on the date the electronic
35 funds transfer is initiated, if settlement to the state's demand
36 account occurs on or before the banking day following the date
37 the transfer is initiated. If settlement to the state's demand account
38 does not occur on or before the banking day following the date the
39 transfer is initiated, payment shall be deemed to occur on the date
40 settlement occurs.

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

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

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

18 (d) This section shall remain in effect only until January 1, 2011,
 19 and as of that date is repealed.

20 SEC. 66. Section 12602 is added to the Revenue and Taxation
 21 Code, to read:

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

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

38 (c) (1) Any insurer required to remit taxes by electronic funds
 39 transfer pursuant to this section that remits those taxes by means
 40 other than an appropriate electronic funds transfer, shall be assessed

1 a penalty in an amount equal to 10 percent of the taxes due at the
2 time of the payment.

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

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

14 (d) This section shall become operative on January 1, 2011.

15 SEC. 67. Section 12631 of the Revenue and Taxation Code is
16 amended to read:

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

25 (b) This section shall remain in effect only until January 1, 2011,
26 and as of that date is repealed.

27 SEC. 68. Section 12631 is added to the Revenue and Taxation
28 Code, to read:

29 12631. (a) Any insurer that fails to pay any tax, except a tax
30 determined as a deficiency assessment by the board under Article
31 3 (commencing with Section 12421) of Chapter 4, within the time
32 required, shall pay a penalty of 10 percent of the amount of the
33 tax in addition to the tax, plus interest at the modified adjusted rate
34 per month, or fraction thereof, established pursuant to Section
35 6591.5, from the due date of the tax until the date of payment.

36 (b) This section shall become operative on January 1, 2011.

37 SEC. 69. Section 12632 of the Revenue and Taxation Code is
38 amended to read:

39 12632. (a) An insurer or Medi-Cal managed care plan that
40 fails to pay any deficiency assessment when it becomes due and

1 payable shall, in addition to the deficiency assessment, pay a
2 penalty of 10 percent of the amount of the deficiency assessment,
3 exclusive of interest and penalties. The amount of any deficiency
4 assessment, exclusive of penalties, shall bear interest at the
5 modified adjusted rate per month, or fraction thereof, established
6 pursuant to Section 6591.5, from the date on which the amount,
7 or any portion thereof, would have been payable if properly
8 reported and assessed until the date of payment.

9 (b) This section shall remain in effect only until January 1, 2011,
10 and as of that date is repealed.

11 SEC. 70. Section 12632 is added to the Revenue and Taxation
12 Code, to read:

13 12632. (a) An insurer that fails to pay any deficiency
14 assessment when it becomes due and payable shall, in addition to
15 the deficiency assessment, pay a penalty of 10 percent of the
16 amount of the deficiency assessment, exclusive of interest and
17 penalties. The amount of any deficiency assessment, exclusive of
18 penalties, shall bear interest at the modified adjusted rate per
19 month, or fraction thereof, established pursuant to Section 6591.5,
20 from the date on which the amount, or any portion thereof, would
21 have been payable if properly reported and assessed until the date
22 of payment.

23 (b) This section shall become operative on January 1, 2011.

24 SEC. 71. Section 12636 of the Revenue and Taxation Code is
25 amended to read:

26 12636. (a) If the board finds that an insurer's or Medi-Cal
27 managed care plan's failure to make a timely return or payment
28 is due to reasonable cause and to circumstances beyond the
29 insurer's or Medi-Cal managed care plan's control, and which
30 occurred despite the exercise of ordinary care and in the absence
31 of willful neglect, the insurer or Medi-Cal managed care plan may
32 be relieved of the penalty provided by Section 12258, 12282,
33 12287, 12631, 12632, or 12633.

34 Any insurer or Medi-Cal managed care plan seeking to be
35 relieved of the penalty shall file with the board a statement under
36 penalty of perjury setting forth the facts upon which the claim for
37 relief is based.

38 (b) This section shall remain in effect only until January 1, 2011,
39 and as of that date is repealed.

1 SEC. 72. Section 12636 is added to the Revenue and Taxation
2 Code, to read:

3 12636. (a) If the board finds that an insurer's failure to make
4 a timely return or payment is due to reasonable cause and to
5 circumstances beyond the insurer's control, and which occurred
6 despite the exercise of ordinary care and in the absence of willful
7 neglect, the insurer may be relieved of the penalty provided by
8 Section 12258, 12282, 12287, 12631, 12632, or 12633.

9 Any insurer seeking to be relieved of the penalty shall file with
10 the board a statement under penalty of perjury setting forth the
11 facts upon which the claim for relief is based.

12 (b) This section shall become operative on January 1, 2011.

13 SEC. 73. Section 12636.5 of the Revenue and Taxation Code
14 is amended to read:

15 12636.5. (a) Every payment on an insurer's, surplus line
16 broker's, or Medi-Cal managed care plan's delinquent annual tax
17 shall be applied as follows:

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

21 (b) This section shall remain in effect only until January 1, 2011,
22 and as of that date is repealed.

23 SEC. 74. Section 12636.5 is added to the Revenue and Taxation
24 Code, to read:

25 12636.5. (a) Every payment on an insurer's or surplus line
26 broker's delinquent annual tax shall be applied as follows:

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

30 (b) This section shall become operative on January 1, 2011.

31 SEC. 75. Section 12679 of the Revenue and Taxation Code is
32 amended to read:

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

1 corporations whose powers have been suspended, the persons
2 constituting the board of directors may defend the action.

3 (b) This section shall remain in effect only until January 1, 2011,
4 and as of that date is repealed.

5 SEC. 76. Section 12679 is added to the Revenue and Taxation
6 Code, to read:

7 12679. (a) If an insurer’s right to do business has been forfeited
8 or its corporate powers suspended, service of summons may be
9 made upon the persons designated by law to be served as agents
10 or officers of the insurer, and these persons are the agents of the
11 insurer for all purposes necessary in order to prosecute the action.
12 In the case of corporations whose powers have been suspended,
13 the persons constituting the board of directors may defend the
14 action.

15 (b) This section shall become operative on January 1, 2011.

16 SEC. 77. Section 12681 of the Revenue and Taxation Code is
17 amended to read:

18 12681. (a) In the action, a certificate of the Controller or of
19 the secretary of the board, showing unpaid taxes against an insurer
20 or Medi-Cal managed care plan is prima facie evidence of:

- 21 (1) The assessment of the taxes.
- 22 (2) The delinquency.
- 23 (3) The amount of the taxes, interest, and penalties due and
24 unpaid to the state.
- 25 (4) That the insurer or Medi-Cal managed care plan is indebted
26 to the state in the amount of taxes, interest, and penalties appearing
27 unpaid.
- 28 (5) That there has been compliance with all the requirements
29 of law in relation to the assessment of the taxes.

30 (b) This section shall remain in effect only until January 1, 2011,
31 and as of that date is repealed.

32 SEC. 78. Section 12681 is added to the Revenue and Taxation
33 Code, to read:

34 12681. (a) In the action, a certificate of the Controller or of
35 the secretary of the board, showing unpaid taxes against an insurer
36 is prima facie evidence of:

- 37 (1) The assessment of the taxes.
- 38 (2) The delinquency.
- 39 (3) The amount of the taxes, interest, and penalties due and
40 unpaid to the state.

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

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

5 (b) This section shall become operative on January 1, 2011.

6 SEC. 79. Section 12801 of the Revenue and Taxation Code is
7 amended to read:

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

19 (b) This section shall remain in effect only until January 1, 2011,
20 and as of that date is repealed.

21 SEC. 80. Section 12801 is added to the Revenue and Taxation
22 Code, to read:

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

32 (b) This section shall become operative on January 1, 2011.

33 SEC. 81. Section 12951 of the Revenue and Taxation Code is
34 amended to read:

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

1 board shall mail a notice to the insurer, surplus line broker, or
2 Medi-Cal managed care plan of any cancellation authorized. Any
3 proposed determination by the board pursuant to this section with
4 respect to an amount in excess of fifty thousand dollars (\$50,000)
5 shall be available as a public record for at least 10 days prior to
6 the effective date of that determination.

7 (b) This section shall remain in effect only until January 1, 2011,
8 and as of that date is repealed.

9 SEC. 82. Section 12951 is added to the Revenue and Taxation
10 Code, to read:

11 12951. (a) If any amount has been illegally assessed, the board
12 shall set forth that fact in its records, certify the amount determined
13 to be assessed in excess of the amount legally assessed and the
14 insurer or surplus line broker against which the assessment was
15 made, and authorize the cancellation of the amount upon the
16 records of the Controller and the board. The board shall mail a
17 notice to the insurer or surplus line broker of any cancellation
18 authorized. Any proposed determination by the board pursuant to
19 this section with respect to an amount in excess of fifty thousand
20 dollars (\$50,000) shall be available as a public record for at least
21 10 days prior to the effective date of that determination.

22 (b) This section shall become operative on January 1, 2011.

23 SEC. 83. Section 12977 of the Revenue and Taxation Code is
24 amended to read:

25 12977. (a) If the board determines that any tax, interest, or
26 penalty has been paid more than once or has been erroneously or
27 illegally collected or computed, the board shall set forth that fact
28 in its records of the board, certify the amount of the taxes, interest,
29 or penalties collected in excess of what was legally due, and from
30 whom they were collected or by whom paid, and certify the excess
31 to the Controller for credit or refund.

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

36 (c) Any proposed determination by the board pursuant to this
37 section with respect to an amount in excess of fifty thousand dollars
38 (\$50,000) shall be available as a public record for at least 10 days
39 prior to the effective date of that determination.

1 (d) This section shall remain in effect only until January 1, 2011,
2 and as of that date is repealed.

3 SEC. 84. Section 12977 is added to the Revenue and Taxation
4 Code, to read:

5 12977. (a) If the board determines that any tax, interest, or
6 penalty has been paid more than once or has been erroneously or
7 illegally collected or computed, the board shall set forth that fact
8 in its records of the board, certify the amount of the taxes, interest,
9 or penalties collected in excess of what was legally due, and from
10 whom they were collected or by whom paid, and certify the excess
11 to the Controller for credit or refund.

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

16 (c) Any proposed determination by the board pursuant to this
17 section with respect to an amount in excess of fifty thousand dollars
18 (\$50,000) shall be available as a public record for at least 10 days
19 prior to the effective date of that determination.

20 (d) This section shall become operative on January 1, 2011.

21 SEC. 85. Section 12983 of the Revenue and Taxation Code is
22 amended to read:

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

34 The interest shall be paid as follows:

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

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

4 (b) This section shall remain in effect only until January 1, 2011,
5 and as of that date is repealed.

6 SEC. 86. Section 12983 is added to the Revenue and Taxation
7 Code, to read:

8 12983. (a) Interest shall be allowed upon the amount of any
9 overpayment of tax by an insurer pursuant to this part at the
10 modified adjusted rate per month established pursuant to Section
11 6591.5, from the first day of the monthly period following the
12 period during which the overpayment was made. For purposes of
13 this section, “monthly period” means the month commencing on
14 the day after the due date of the payment through the same date
15 as the due date in each successive month. In addition, a refund or
16 credit shall be made of any interest imposed upon the claimant
17 with respect to the amount being refunded or credited.

18 The interest shall be paid as follows:

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

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

26 (b) This section shall become operative on January 1, 2011.

27 SEC. 87. Section 12984 of the Revenue and Taxation Code is
28 amended to read:

29 12984. (a) If the board determines that any overpayment has
30 been made intentionally or made not incident to a bona fide and
31 orderly discharge of a liability reasonably assumed by the insurer,
32 surplus line broker, or Medi-Cal managed care plan to be imposed
33 by law, no interest shall be allowed on the overpayment.

34 (b) If any insurer, surplus line broker, or Medi-Cal managed
35 care plan which has filed a claim for refund requests the board to
36 defer action on its claim, the board, as a condition to deferring
37 action, may require the claimant to waive interest for the period
38 during which the insurer, surplus line broker, or Medi-Cal managed
39 care plan requests the board to defer action on the claim.

1 (c) This section shall remain in effect only until January 1, 2011,
2 and as of that date is repealed.

3 SEC. 88. Section 12984 is added to the Revenue and Taxation
4 Code, to read:

5 12984. (a) If the board determines that any overpayment has
6 been made intentionally or made not incident to a bona fide and
7 orderly discharge of a liability reasonably assumed by the insurer
8 or surplus line broker to be imposed by law, no interest shall be
9 allowed on the overpayment.

10 (b) If any insurer or surplus line broker which has filed a claim
11 for refund requests the board to defer action on its claim, the board,
12 as a condition to deferring action, may require the claimant to
13 waive interest for the period during which the insurer or surplus
14 line broker requests the board to defer action on the claim.

15 (c) This section shall become operative on January 1, 2011.

16 SEC. 89. Section 13108 of the Revenue and Taxation Code is
17 amended to read:

18 13108. (a) A judgment shall not be rendered in favor of the
19 plaintiff when the action is brought by or in the name of an assignee
20 of the insurer paying the tax, interest, or penalties, or by any person
21 other than the insurer or Medi-Cal managed care plan that has paid
22 the tax, interest, or penalties.

23 (b) This section shall remain in effect only until January 1, 2011,
24 and as of that date is repealed.

25 SEC. 90. Section 13108 is added to the Revenue and Taxation
26 Code, to read:

27 13108. (a) A judgment shall not be rendered in favor of the
28 plaintiff when the action is brought by or in the name of an assignee
29 of the insurer paying the tax, interest, or penalties, or by any person
30 other than the insurer that has paid the tax, interest, or penalties.

31 (b) This section shall become operative on January 1, 2011.

32 SEC. 91. Section 14301.11 is added to the Welfare and
33 Institutions Code, to read:

34 14301.11. (a) The department shall use funds attributable to
35 the tax on Medi-Cal managed care plans imposed by Section 12201
36 of the Revenue and Taxation Code for the purpose specified in
37 paragraph (1) of subdivision (b) of Section 12201 of the Revenue
38 and Taxation Code.

39 (b) This section shall remain in effect only until January 1, 2011,
40 and as of that date is repealed.

1 SEC. 92. Notwithstanding any other law to the contrary, the
 2 amendments to Sections 12201, 12204, 12251, 12253, 12254,
 3 12257, 12258, 12260, 12301, 12302, 12303, 12304, 12305, 12307,
 4 12412, 12413, 12421, 12422, 12423, 12427, 12428, 12429, 12431,
 5 12433, 12434, 12491, 12493, 12494, 12601, 12602, 12631, 12632,
 6 12636, 12636.5, 12679, 12681, 12801, 12951, 12977, 12983,
 7 12984, and 13108 of, the addition of Sections 12009 and 12207
 8 to, and the addition of Article 4 (commencing with Section 12240)
 9 to Chapter 3 of Part 7 of Division 2 of, the Revenue and Taxation
 10 Code, and the addition of Section 14301.11 to the Welfare and
 11 Institutions Code, by this act shall have no force or effect if any
 12 of the following applies:

13 (a) There is a final judicial determination made by any state or
 14 federal court that is not appealed, or by a court of appellate
 15 jurisdiction that is not further appealed, in any action by any party,
 16 or a final determination by the administrator of the federal Centers
 17 for Medicare and Medicaid Services, that federal financial
 18 participation is not available with respect to any payment made
 19 under the methodology implemented pursuant to this act because
 20 the methodology is invalid, unlawful, or contrary to any provision
 21 of federal law or regulations, or of state law.

22 (b) The revenues derived from the imposition of the tax pursuant
 23 to Section 12201 of the Revenue and Taxation Code on Medi-Cal
 24 managed care plans are diverted in whole or in part from the
 25 purpose of implementing the purposes specified in subdivision (b)
 26 of Section 12201 of the Revenue and Taxation Code.

27 (c) There is a final judicial determination made by any state or
 28 federal court that is not appealed, or by a court of appellate
 29 jurisdiction that is not further appealed, in any action by any party,
 30 that the tax imposed pursuant to this act on Medi-Cal managed
 31 care plans is required to be in lieu of all other taxes as described
 32 in Section 12204 of the Revenue and Taxation Code.

33 SEC. 93. If there is a delay for any reason in the implementation
 34 of Section 14301.11 of the Welfare and Institutions Code in the
 35 2009–10 rate year or in any other rate year, both of the following
 36 shall apply:

37 (a) A Medi-Cal managed care plan subject to the tax imposed
 38 pursuant to Section 12201 of the Revenue and Taxation Code shall
 39 be assessed the amount the plan will be required to pay, but shall
 40 not be required to pay the tax until the State Department of Health

1 Care Services meets all of its obligations pursuant to Sections
2 14301.1 and 14301.11 of the Welfare and Institutions Code.

3 (b) The department may retroactively increase rates and make
4 payments to plans.

5 SEC. 94. The Legislature finds and declares that the
6 amendments to Section 130105 of the Health and Safety Code
7 made by Section 1 of this act further the goals and purposes of the
8 California Children and Families Act of 1998.

9 SEC. 95. (a) The Director of Finance shall make the necessary
10 budgetary adjustments to allow the expenditure of funds allocated
11 by the commission pursuant to the amendments to Section 130105
12 of the Health and Safety Code made by this act.

13 (b) Within 30 days of making any budgetary adjustments
14 pursuant to subdivision (a), the Director of Finance shall notify
15 ~~the appropriate committees of the Legislature of those adjustments.~~
16 *the Joint Legislative Budget Committee and the fiscal and*
17 *appropriate policy committees of the Legislature of those*
18 *adjustments, including a description of the revenues and*
19 *expenditures.*

20 SEC. 96. No reimbursement is required by this act pursuant to
21 Section 6 of Article XIII B of the California Constitution because
22 the only costs that may be incurred by a local agency or school
23 district will be incurred because this act creates a new crime or
24 infraction, eliminates a crime or infraction, or changes the penalty
25 for a crime or infraction, within the meaning of Section 17556 of
26 the Government Code, or changes the definition of a crime within
27 the meaning of Section 6 of Article XIII B of the California
28 Constitution.

29 SEC. 97. This act is an urgency statute necessary for the
30 immediate preservation of the public peace, health, or safety within
31 the meaning of Article IV of the Constitution and shall go into
32 immediate effect. The facts constituting the necessity are:

33 In order to address important issues relating to health care, it is
34 necessary that this act go into effect immediately.