

AMENDED IN SENATE AUGUST 22, 2012

AMENDED IN SENATE AUGUST 21, 2012

AMENDED IN SENATE JUNE 25, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1469

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

January 10, 2012

An act to amend Sections 1324.23, 1324.27, 1324.29, and 1324.30 of the Health and Safety Code, to amend Sections 12009, 12201, 12204, 12207, 12242, 12251, 12253, 12254, 12257, 12258, 12260, 12301, 12302, 12303, 12304, 12305, 12307, 12412, 12413, 12421, 12422, 12423, 12427, 12428, 12429, 12431, 12433, 12434, 12491, 12493, 12494, 12601, 12602, 12631, 12632, 12636, 12636.5, 12679, 12681, 12801, 12951, 12977, 12983, 12984, and 13108 of, and to add Section 12201.5 to, the Revenue and Taxation Code, to amend Sections 14126.022, 14126.027, 14126.033, 14126.036, and 14301.11 of, and to add Section 14126.028 to, the Welfare and Institutions Code, and to repeal Section 92 of Chapter 11 of the First Extraordinary Session of the Statutes of 2011, relating to public health, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

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

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

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 Under existing law, the charge will cease to be assessed after July 31, 2013, and these provisions will be repealed on January 1, 2014.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

This bill would modify the calculation of rates under the above-referenced rate methodology, and would extend the assessment of the charge, implementation of the rate methodology, and implementation of related provisions until July 31, 2015. By extending the period of time during which transfers are made to the Skilled Nursing Facility Quality and Accountability Special Fund, this bill would make an appropriation. This bill would also modify the amount of moneys to be deposited into the Skilled Nursing Facility Quality and Accountability Special Fund, by, among other things, requiring that specified set-asides under the rate methodology remain in the General Fund instead of transferring to the Skilled Nursing Facility Quality and Accountability Special Fund and increasing the amount of certain set-asides to be transferred to the fund. This bill would instead require that the quality and accountability payments be made beginning with the 2013–14 rate year.

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

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

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

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

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

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

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

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

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

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

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

Vote: 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 1324.23 of the Health and Safety Code
2 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (a) Only Medi-Cal managed care plans in the two-plan model
15 counties, county organized health systems, and geographic
16 managed care pursuant to Article 2.7 (commencing with Section
17 14087.3), *Article 2.8 (commencing with Section 14087.5)*, Article
18 2.81 (commencing with Section 14087.96), and Article 2.91
19 (commencing with Section 14089) of Chapter 7 of Part 3 of
20 Division 9 of the Welfare and Institutions Code shall be eligible
21 for this program.

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

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

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

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

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

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

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

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

4 (1) Taxes upon their real estate.

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

7 (3) The tax on ocean marine insurance.

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

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

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

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

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

25 12204. (a) The tax imposed on insurers by this chapter is in
26 lieu of all other taxes and licenses, state, county, and municipal,
27 upon those insurers and their property, except:

28 (1) Taxes upon their real estate.

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

32 (3) The tax on ocean marine insurance.

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

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

1 (b) This section shall become operative on July 1, 2014.
2 SEC. 11. Section 12207 of the Revenue and Taxation Code is
3 amended to read:

4 12207. (a) Notwithstanding any other provision of this part,
5 no credit shall be allowed under Section 12206, 12208, or 12209
6 against the tax imposed on Medi-Cal managed care plans pursuant
7 to Section 12201.

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

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

14 12242. This article shall become inoperative on July 1, 2014,
15 and, as of January 1, 2015, is repealed, unless a later enacted
16 statute, that becomes operative on or before July 1, 2014, deletes
17 or extends the dates on which it becomes inoperative and is
18 repealed.

19 SEC. 13. Section 12251 of the Revenue and Taxation Code,
20 as amended by Section 8 of Chapter 11 of the First Extraordinary
21 Session of the Statutes of 2011, is amended to read:

22 12251. (a) For the calendar year 1970, and each calendar year
23 thereafter, insurers transacting insurance in this state and whose
24 annual tax for the preceding calendar year was five thousand dollars
25 (\$5,000) or more shall make prepayments of the annual tax for the
26 current calendar year imposed by Section 28 of Article XIII of the
27 California Constitution and this part, provided that no prepayments
28 shall be made with respect to the tax on ocean marine insurance
29 underwriting profit or any retaliatory tax.

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

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

1 SEC. 14. Section 12251 of the Revenue and Taxation Code,
2 as amended by Section 9 of Chapter 11 of the First Extraordinary
3 Session of the Statutes of 2011, is amended to read:

4 12251. (a) For the calendar year 1970, and each calendar year
5 thereafter, insurers transacting insurance in this state and whose
6 annual tax for the preceding calendar year was five thousand dollars
7 (\$5,000) or more shall make prepayments of the annual tax for the
8 current calendar year imposed by Section 28 of Article XIII of the
9 California Constitution and this part, provided that no prepayments
10 shall be made with respect to the tax on ocean marine insurance
11 underwriting profit or any retaliatory tax.

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

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

16 12253. (a) Each insurer and Medi-Cal managed care plan
17 required to make prepayments shall remit them on or before each
18 of the dates of April 1st, June 1st, September 1st, and December
19 1st of the current calendar year. Remittances for prepayments shall
20 be made payable to the Controller and shall be delivered to the
21 office of the commissioner, accompanied by a prepayment form
22 prescribed by the commissioner.

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

27 SEC. 16. Section 12253 of the Revenue and Taxation Code,
28 as amended by Section 11 of Chapter 11 of the First Extraordinary
29 Session of the Statutes of 2011, is amended to read:

30 12253. (a) Each insurer required to make prepayments shall
31 remit them on or before each of the dates of April 1st, June 1st,
32 September 1st, and December 1st of the current calendar year.
33 Remittances for prepayments shall be made payable to the
34 Controller and shall be delivered to the office of the commissioner,
35 accompanied by a prepayment form prescribed by the
36 commissioner.

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

38 SEC. 17. Section 12254 of the Revenue and Taxation Code,
39 as amended by Section 12 of Chapter 11 of the First Extraordinary
40 Session of the Statutes of 2011, is amended to read:

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

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

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

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

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

21 12254. (a) The amount of each prepayment shall be 25 percent
22 of the amount of the annual insurance tax liability reported on the
23 return of the insurer for the preceding calendar year.

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

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

30 SEC. 19. Section 12257 of the Revenue and Taxation Code,
31 as amended by Section 14 of Chapter 11 of the First Extraordinary
32 Session of the Statutes of 2011, is amended to read:

33 12257. (a) If the total amount of prepayments for any calendar
34 year exceeds the amount of annual tax for that year, the excess
35 shall be treated as an overpayment of annual tax and, at the election
36 of the insurer or Medi-Cal managed care plan, may be credited
37 against the amounts due and payable for the first prepayment of
38 the following year. Any amount of the overpayment not so credited
39 shall be allowed as a credit or refund under Article 2 (commencing
40 with Section 12977) of Chapter 7 of this part.

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

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

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

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

17 SEC. 21. Section 12258 of the Revenue and Taxation Code,
18 as amended by Section 16 of Chapter 11 of the First Extraordinary
19 Session of the Statutes of 2011, is amended to read:

20 12258. (a) Any insurer or Medi-Cal managed care plan that
21 fails to pay any prepayment within the time required shall pay a
22 penalty of 10 percent of the amount of the required prepayment,
23 plus interest at the modified adjusted rate per month, or fraction
24 thereof, established pursuant to Section 6591.5, from the due date
25 of the prepayment until the date of payment but not for any period
26 after the due date of the annual tax. Assessments of prepayment
27 deficiencies may be made in the manner provided by deficiency
28 assessments of the annual tax.

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

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

37 SEC. 22. Section 12258 of the Revenue and Taxation Code,
38 as amended by Section 17 of Chapter 11 of the First Extraordinary
39 Session of the Statutes of 2011, is amended to read:

1 12258. (a) Any insurer that fails to pay any prepayment within
 2 the time required shall pay a penalty of 10 percent of the amount
 3 of the required prepayment, plus interest at the modified adjusted
 4 rate per month, or fraction thereof, established pursuant to Section
 5 6591.5, from the due date of the prepayment until the date of
 6 payment but not for any period after the due date of the annual
 7 tax. Assessments of prepayment deficiencies may be made in the
 8 manner provided by deficiency assessments of the annual tax.

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

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

13 12260. (a) Notwithstanding any other provision of this article,
 14 the commissioner may relieve an insurer or Medi-Cal managed
 15 care plan of its obligation to make prepayments where the insurer
 16 or Medi-Cal managed care plan establishes to the satisfaction of
 17 the commissioner that the insurer has ceased to transact insurance
 18 in this state or the Medi-Cal managed care plan has ceased to
 19 operate a plan in this state, or the insurer’s or Medi-Cal managed
 20 care plan’s annual tax for the current year will be less than five
 21 thousand dollars (\$5,000).

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

26 SEC. 24. Section 12260 of the Revenue and Taxation Code,
 27 as amended by Section 19 of Chapter 11 of the First Extraordinary
 28 Session of the Statutes of 2011, is amended to read:

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

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

36 SEC. 25. Section 12301 of the Revenue and Taxation Code,
 37 as amended by Section 20 of Chapter 11 of the First Extraordinary
 38 Session of the Statutes of 2011, is amended to read:

39 12301. (a) The taxes imposed upon insurers by Section 28 of
 40 Article XIII of the California Constitution and this part, except

1 with respect to taxes on ocean marine insurance and retaliatory
2 taxes, are due and payable annually on or before April 1st of the
3 year following the calendar year in which the insurer engaged in
4 the business of insurance or transacted insurance in this state. The
5 taxes imposed with respect to ocean marine insurance are due and
6 payable on or before June 15th of that year.

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

12 (c) This section shall become inoperative on July 1, 2014, and,
13 as of January 1, 2015, is repealed, unless a later enacted statute,
14 that becomes operative on or before July 1, 2014, deletes or extends
15 the dates on which it becomes inoperative and is repealed.
16 However, any tax imposed by Section 12201 shall continue to be
17 due and payable until the tax is paid.

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

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

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

30 SEC. 27. Section 12302 of the Revenue and Taxation Code,
31 as amended by Section 22 of Chapter 11 of the First Extraordinary
32 Session of the Statutes of 2011, is amended to read:

33 12302. (a) On or before April 1st (or June 15th with respect
34 to taxes on ocean marine insurance) every person that is subject
35 to any tax imposed by Section 28 of Article XIII of the California
36 Constitution or this part, in respect to the preceding calendar year
37 shall file, in duplicate, a tax return with the commissioner in the
38 form as the commissioner may prescribe. The return shall show
39 that information pertaining to its insurance business, or in the case
40 of a Medi-Cal managed care plan, pertaining to contracts for

1 providing services as described in Section 12009, in this state as
2 will reflect the basis of its tax as set forth in Chapter 2
3 (commencing with Section 12071) and Chapter 3 (commencing
4 with Section 12201) of this part, the computation of the amount
5 of tax for the period covered by the return, the total amount of any
6 tax prepayments made pursuant to Article 5 (commencing with
7 Section 12251) of Chapter 3 of this part, and any other information
8 as the commissioner may require to carry out the purposes of this
9 part. Separate returns shall be filed with respect to the following
10 kinds of insurance:

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

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

20 SEC. 28. Section 12302 of the Revenue and Taxation Code,
21 as amended by Section 23 of Chapter 11 of the First Extraordinary
22 Session of the Statutes of 2011, is amended to read:

23 12302. (a) On or before April 1st (or June 15th with respect
24 to taxes on ocean marine insurance) every person that is subject
25 to any tax imposed by Section 28 of Article XIII of the California
26 Constitution or this part, in respect to the preceding calendar year
27 shall file, in duplicate, an insurance tax return with the
28 commissioner in the form as the commissioner may prescribe. The
29 return shall show that information pertaining to its insurance
30 business in this state as will reflect the basis of its tax as set forth
31 in Chapter 2 (commencing with Section 12071) and Chapter 3
32 (commencing with Section 12201) of this part, the computation
33 of the amount of tax for the period covered by the return, the total
34 amount of any tax prepayments made pursuant to Article 5
35 (commencing with Section 12251) of Chapter 3 of this part, and
36 any other information as the commissioner may require to carry
37 out the purposes of this part. Separate returns shall be filed with
38 respect to the following kinds of insurance:

- 39 (1) Life insurance (or life insurance and disability insurance).
- 40 (2) Ocean marine insurance.

1 (3) Title insurance.

2 (4) Insurance other than life insurance (or life insurance and
3 disability insurance), ocean marine insurance or title insurance.

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

5 SEC. 29. Section 12303 of the Revenue and Taxation Code,
6 as amended by Section 24 of Chapter 11 of the First Extraordinary
7 Session of the Statutes of 2011, is amended to read:

8 12303. (a) Every return required by this article to be filed with
9 the commissioner shall be signed by the insurer or Medi-Cal
10 managed care plan or an executive officer of the insurer or plan
11 and shall be made under oath or contain a written declaration that
12 it is made under penalty of perjury. A return of a foreign insurer
13 may be signed and verified by its manager residing within this
14 state. A return of an alien insurer may be signed and verified by
15 the United States manager of the insurer.

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

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

23 12303. (a) Every return required by this article to be filed with
24 the commissioner shall be signed by the insurer or an executive
25 officer of the insurer and shall be made under oath or contain a
26 written declaration that it is made under penalty of perjury. A
27 return of a foreign insurer may be signed and verified by its
28 manager residing within this state. A return of an alien insurer may
29 be signed and verified by the United States manager of the insurer.

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

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

34 12304. (a) Blank forms of returns shall be furnished by the
35 commissioner on application, but failure to secure the form shall
36 not relieve any insurer or Medi-Cal managed care plan from
37 making or filing a timely return.

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

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

3 SEC. 32. Section 12304 of the Revenue and Taxation Code,
4 as amended by Section 27 of Chapter 11 of the First Extraordinary
5 Session of the Statutes of 2011, is amended to read:

6 12304. (a) Blank forms of returns shall be furnished by the
7 commissioner on application, but failure to secure the form shall
8 not relieve any insurer from making or filing a timely return.

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

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

13 12305. (a) The insurer or Medi-Cal managed care plan required
14 to file a return shall deliver the return in duplicate, together with
15 a remittance payable to the Controller, for the amount of tax
16 computed and shown thereon, less any prepayments made pursuant
17 to Article 5 (commencing with Section 12251) of Chapter 3 of this
18 part, to the office of the commissioner.

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

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

26 12305. (a) The insurer required to file a return shall deliver
27 the return in duplicate, together with a remittance payable to the
28 Controller, for the amount of tax computed and shown thereon,
29 less any prepayments made pursuant to Article 5 (commencing
30 with Section 12251) of Chapter 3 of this part, to the office of the
31 commissioner.

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

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

36 12307. (a) Any insurer or Medi-Cal managed care plan to
37 which an extension is granted shall pay, in addition to the tax,
38 interest at the modified adjusted rate per month, or fraction thereof,
39 established pursuant to Section 6591.5, from April 1st until the
40 date of payment.

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

5 SEC. 36. Section 12307 of the Revenue and Taxation Code,
6 as amended by Section 31 of Chapter 11 of the First Extraordinary
7 Session of the Statutes of 2011, is amended to read:

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

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

13 SEC. 37. Section 12412 of the Revenue and Taxation Code,
14 as amended by Section 32 of Chapter 11 of the First Extraordinary
15 Session of the Statutes of 2011, is amended to read:

16 12412. (a) Upon receipt of the duplicate copy of the return of
17 an insurer or Medi-Cal managed care plan the board shall initially
18 assess the tax in accordance with the data as reported by the insurer
19 or Medi-Cal managed care plan on the return.

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

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

27 12412. (a) Upon receipt of the duplicate copy of the return of
28 an insurer the board shall initially assess the tax in accordance
29 with the data as reported by the insurer on the return.

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

31 SEC. 39. Section 12413 of the Revenue and Taxation Code,
32 as amended by Section 34 of Chapter 11 of the First Extraordinary
33 Session of the Statutes of 2011, is amended to read:

34 12413. (a) The board shall promptly transmit notice of its
35 initial assessment to the commissioner and the Controller, and if
36 the initial assessment differs from the amount computed by the
37 insurer or Medi-Cal managed care plan, notice shall also be given
38 to the insurer or Medi-Cal managed care plan.

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

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

3 SEC. 40. Section 12413 of the Revenue and Taxation Code,
4 as amended by Section 35 of Chapter 11 of the First Extraordinary
5 Session of the Statutes of 2011, is amended to read:

6 12413. (a) The board shall promptly transmit notice of its
7 initial assessment to the commissioner and the Controller, and if
8 the initial assessment differs from the amount computed by the
9 insurer, notice shall also be given to the insurer.

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

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

14 12421. (a) As soon as practicable after an insurer's, surplus
15 line broker's, or Medi-Cal managed care plan's return is filed, the
16 commissioner shall examine it, together with any information
17 within his or her possession or that may come into his or her
18 possession, and he or she shall determine the correct amount of
19 tax of the insurer, surplus line broker, or Medi-Cal managed care
20 plan.

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

25 SEC. 42. Section 12421 of the Revenue and Taxation Code,
26 as amended by Section 37 of Chapter 11 of the First Extraordinary
27 Session of the Statutes of 2011, is amended to read:

28 12421. (a) As soon as practicable after an insurer's or surplus
29 line broker's return is filed, the commissioner shall examine it,
30 together with any information within his or her possession or that
31 may come into his or her possession, and he or she shall determine
32 the correct amount of tax of the insurer or surplus line broker.

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

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

37 12422. (a) If the commissioner determines that the amount of
38 tax disclosed by the insurer's tax return and assessed by the board
39 is less than the amount of tax disclosed by his or her examination,
40 he or she shall propose, in writing, to the board a deficiency

1 assessment for the difference. The proposal shall set forth the basis
2 for the deficiency assessment and the details of its computation.

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

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

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

19 SEC. 44. Section 12422 of the Revenue and Taxation Code,
20 as amended by Section 39 of Chapter 11 of the First Extraordinary
21 Session of the Statutes of 2011, is amended to read:

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

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

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

35 SEC. 45. Section 12423 of the Revenue and Taxation Code,
36 as amended by Section 40 of Chapter 11 of the First Extraordinary
37 Session of the Statutes of 2011, is amended to read:

38 12423. (a) If an insurer, surplus line broker, or Medi-Cal
39 managed care plan fails to file a return, the commissioner may
40 require a return by mailing notice to the insurer, surplus line broker,

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

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

17 SEC. 46. Section 12423 of the Revenue and Taxation Code,
18 as amended by Section 41 of Chapter 11 of the First Extraordinary
19 Session of the Statutes of 2011, is amended to read:

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

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

34 SEC. 47. Section 12427 of the Revenue and Taxation Code,
35 as amended by Section 42 of Chapter 11 of the First Extraordinary
36 Session of the Statutes of 2011, is amended to read:

37 12427. (a) The board shall promptly notify the insurer, surplus
38 line broker, or Medi-Cal managed care plan of a deficiency
39 assessment made against the insurer, surplus line broker, or
40 Medi-Cal managed care plan.

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

5 SEC. 48. Section 12427 of the Revenue and Taxation Code,
6 as amended by Section 43 of Chapter 11 of the First Extraordinary
7 Session of the Statutes of 2011, is amended to read:

8 12427. (a) The board shall promptly notify the insurer or
9 surplus line broker of a deficiency assessment made against the
10 insurer or surplus line broker.

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

12 SEC. 49. Section 12428 of the Revenue and Taxation Code,
13 as amended by Section 44 of Chapter 11 of the First Extraordinary
14 Session of the Statutes of 2011, is amended to read:

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

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

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

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

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

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

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

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

7 SEC. 51. Section 12429 of the Revenue and Taxation Code,
8 as amended by Section 46 of Chapter 11 of the First Extraordinary
9 Session of the Statutes of 2011, is amended to read:

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

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

24 SEC. 52. Section 12429 of the Revenue and Taxation Code,
25 as amended by Section 47 of Chapter 11 of the First Extraordinary
26 Session of the Statutes of 2011, is amended to read:

27 12429. (a) If a petition for redetermination of a deficiency
28 assessment is filed within the time allowed under Section 12428,
29 the board shall reconsider the deficiency assessment and, if the
30 insurer or surplus line broker has so requested in the petition, shall
31 grant an oral hearing for the presentation of evidence and argument
32 before the board or its authorized representative. The board shall
33 give the petitioner and the commissioner at least 20 days' notice
34 of the time and place of hearing. The hearing may be continued
35 from time to time as may be necessary.

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

37 SEC. 53. Section 12431 of the Revenue and Taxation Code,
38 as amended by Section 48 of Chapter 11 of the First Extraordinary
39 Session of the Statutes of 2011, is amended to read:

1 12431. (a) The order or decision of the board upon a petition
2 for redetermination of a deficiency assessment becomes final 30
3 days after service on the insurer, surplus line broker, or Medi-Cal
4 managed care plan of a notice thereof, and any resulting deficiency
5 assessment is due and payable at the time the order or decision
6 becomes final.

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

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

14 12431. (a) The order or decision of the board upon a petition
15 for redetermination of a deficiency assessment becomes final 30
16 days after service on the insurer or surplus line broker of a notice
17 thereof, and any resulting deficiency assessment is due and payable
18 at the time the order or decision becomes final.

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

20 SEC. 55. Section 12433 of the Revenue and Taxation Code,
21 as amended by Section 50 of Chapter 11 of the First Extraordinary
22 Session of the Statutes of 2011, is amended to read:

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

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

35 SEC. 56. Section 12433 of the Revenue and Taxation Code,
36 as amended by Section 51 of Chapter 11 of the First Extraordinary
37 Session of the Statutes of 2011, is amended to read:

38 12433. (a) If before the expiration of the time prescribed in
39 Section 12432 for giving of a notice of deficiency assessment the
40 insurer or surplus line broker has consented in writing to the giving

1 of the notice after that time, the notice may be given at any time
2 prior to the expiration of the time agreed upon. The period so
3 agreed upon may be extended by subsequent agreements in writing
4 made before the expiration of the period previously agreed upon.

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

6 SEC. 57. Section 12434 of the Revenue and Taxation Code,
7 as amended by Section 52 of Chapter 11 of the First Extraordinary
8 Session of the Statutes of 2011, is amended to read:

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

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

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

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

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

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

6 SEC. 59. Section 12491 of the Revenue and Taxation Code,
7 as amended by Section 54 of Chapter 11 of the First Extraordinary
8 Session of the Statutes of 2011, is amended to read:

9 12491. (a) Every tax levied upon an insurer under Article XIII
10 of the California Constitution and this part is a lien upon all
11 property and franchises of every kind and nature belonging to the
12 insurer, and has the effect of a judgment against the insurer.

13 (b) (1) Every tax levied upon a surplus line broker under Part
14 7.5 (commencing with Section 13201) of Division 2 is a lien upon
15 all property and franchises of every kind and nature belonging to
16 the surplus line broker, and has the effect of a judgment against
17 the surplus line broker.

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

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

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

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

32 SEC. 60. Section 12491 of the Revenue and Taxation Code,
33 as amended by Section 55 of Chapter 11 of the First Extraordinary
34 Session of the Statutes of 2011, is amended to read:

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

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

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

8 (c) This section shall become operative on July 1, 2014.

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

12 12493. (a) Every lien has the effect of an execution duly levied
13 against all property of a delinquent insurer, surplus line broker, or
14 Medi-Cal managed care plan.

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

19 SEC. 62. Section 12493 of the Revenue and Taxation Code,
20 as amended by Section 57 of Chapter 11 of the First Extraordinary
21 Session of the Statutes of 2011, is amended to read:

22 12493. (a) Every lien has the effect of an execution duly levied
23 against all property of a delinquent insurer or surplus line broker.

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

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

28 12494. (a) No judgment is satisfied nor lien removed until
29 either:

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

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

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

37 SEC. 64. Section 12494 of the Revenue and Taxation Code,
38 as amended by Section 59 of Chapter 11 of the First Extraordinary
39 Session of the Statutes of 2011, is amended to read:

1 12494. (a) No judgment is satisfied nor lien removed until
2 either:

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

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

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

7 SEC. 65. Section 12601 of the Revenue and Taxation Code,
8 as amended by Section 60 of Chapter 11 of the First Extraordinary
9 Session of the Statutes of 2011, is amended to read:

10 12601. (a) Amounts of taxes, interest, and penalties not
11 remitted to the commissioner with the original return of the insurer
12 or Medi-Cal managed care plan shall be payable to the Controller.

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

17 SEC. 66. Section 12601 of the Revenue and Taxation Code,
18 as amended by Section 61 of Chapter 11 of the First Extraordinary
19 Session of the Statutes of 2011, is amended to read:

20 12601. (a) Amounts of taxes, interest, and penalties not
21 remitted to the commissioner with the original return of the insurer
22 shall be payable to the Controller.

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

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

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

36 (2) Each Medi-Cal managed care plan shall make payment by
37 electronic funds transfer, as defined by Section 45 of the Insurance
38 Code. The plan shall choose one of the acceptable methods
39 described in Section 45 of the Insurance Code for completing the
40 electronic funds transfer.

1 (b) Payment shall be deemed complete on the date the electronic
 2 funds transfer is initiated, if settlement to the state’s demand
 3 account occurs on or before the banking day following the date
 4 the transfer is initiated. If settlement to the state’s demand account
 5 does not occur on or before the banking day following the date the
 6 transfer is initiated, payment shall be deemed to occur on the date
 7 settlement occurs.

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

13 (2) If the Department of Insurance finds that an insurer’s or
 14 Medi-Cal managed care plan’s failure to make payment by an
 15 appropriate electronic funds transfer in accordance with subdivision
 16 (a) is due to reasonable cause or circumstances beyond the insurer’s
 17 or Medi-Cal managed care plan’s control, and occurred
 18 notwithstanding the exercise of ordinary care and in the absence
 19 of willful neglect, that insurer or Medi-Cal managed care plan
 20 shall be relieved of the penalty provided in paragraph (1).

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

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

29 SEC. 68. Section 12602 of the Revenue and Taxation Code,
 30 as amended by Section 63 of Chapter 11 of the First Extraordinary
 31 Session of the Statutes of 2011, is amended to read:

32 12602. (a) On and after January 1, 1994, and before January
 33 1, 1995, each insurer whose annual taxes exceed fifty thousand
 34 dollars (\$50,000) shall make payment by electronic funds transfer,
 35 as defined by Section 45 of the Insurance Code. On and after
 36 January 1, 1995, each insurer whose annual taxes exceed twenty
 37 thousand dollars (\$20,000) shall make payment by electronic funds
 38 transfer. The insurer shall choose one of the acceptable methods
 39 described in Section 45 of the Insurance Code for completing the
 40 electronic funds transfer.

1 (b) Payment shall be deemed complete on the date the electronic
2 funds transfer is initiated, if settlement to the state's demand
3 account occurs on or before the banking day following the date
4 the transfer is initiated. If settlement to the state's demand account
5 does not occur on or before the banking day following the date the
6 transfer is initiated, payment shall be deemed to occur on the date
7 settlement occurs.

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

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

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

24 (d) This section shall become operative on July 1, 2014.

25 SEC. 69. Section 12631 of the Revenue and Taxation Code,
26 as amended by Section 64 of Chapter 11 of the First Extraordinary
27 Session of the Statutes of 2011, is amended to read:

28 12631. (a) Any insurer or Medi-Cal managed care plan that
29 fails to pay any tax, except a tax determined as a deficiency
30 assessment by the board under Article 3 (commencing with Section
31 12421) of Chapter 4, within the time required, shall pay a penalty
32 of 10 percent of the amount of the tax in addition to the tax, plus
33 interest at the modified adjusted rate per month, or fraction thereof,
34 established pursuant to Section 6591.5, from the due date of the
35 tax until the date of payment.

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

1 SEC. 70. Section 12631 of the Revenue and Taxation Code,
2 as amended by Section 65 of Chapter 11 of the First Extraordinary
3 Session of the Statutes of 2011, is amended to read:

4 12631. (a) Any insurer that fails to pay any tax, except a tax
5 determined as a deficiency assessment by the board under Article
6 3 (commencing with Section 12421) of Chapter 4, within the time
7 required, shall pay a penalty of 10 percent of the amount of the
8 tax in addition to the tax, plus interest at the modified adjusted rate
9 per month, or fraction thereof, established pursuant to Section
10 6591.5, from the due date of the tax until the date of payment.

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

12 SEC. 71. Section 12632 of the Revenue and Taxation Code,
13 as amended by Section 66 of Chapter 11 of the First Extraordinary
14 Session of the Statutes of 2011, is amended to read:

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

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

29 SEC. 72. Section 12632 of the Revenue and Taxation Code,
30 as amended by Section 67 of Chapter 11 of the First Extraordinary
31 Session of the Statutes of 2011, is amended to read:

32 12632. (a) An insurer that fails to pay any deficiency
33 assessment when it becomes due and payable shall, in addition to
34 the deficiency assessment, pay a penalty of 10 percent of the
35 amount of the deficiency assessment, exclusive of interest and
36 penalties. The amount of any deficiency assessment, exclusive of
37 penalties, shall bear interest at the modified adjusted rate per
38 month, or fraction thereof, established pursuant to Section 6591.5,
39 from the date on which the amount, or any portion thereof, would

1 have been payable if properly reported and assessed until the date
2 of payment.

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

4 SEC. 73. Section 12636 of the Revenue and Taxation Code,
5 as amended by Section 68 of Chapter 11 of the First Extraordinary
6 Session of the Statutes of 2011, is amended to read:

7 12636. (a) If the board finds that an insurer's or Medi-Cal
8 managed care plan's failure to make a timely return or payment
9 is due to reasonable cause and to circumstances beyond the
10 insurer's or Medi-Cal managed care plan's control, and which
11 occurred despite the exercise of ordinary care and in the absence
12 of willful neglect, the insurer or Medi-Cal managed care plan may
13 be relieved of the penalty provided by Section 12258, 12282,
14 12287, 12631, 12632, or 12633.

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

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

23 SEC. 74. Section 12636 of the Revenue and Taxation Code,
24 as amended by Section 69 of Chapter 11 of the First Extraordinary
25 Session of the Statutes of 2011, is amended to read:

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

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

35 (c) This section shall become operative on July 1, 2014.

36 SEC. 75. Section 12636.5 of the Revenue and Taxation Code,
37 as amended by Section 70 of Chapter 11 of the First Extraordinary
38 Session of the Statutes of 2011, is amended to read:

1 12636.5. (a) Every payment on an insurer’s, surplus line
2 broker’s, or Medi-Cal managed care plan’s delinquent annual tax
3 shall be applied as follows:

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

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

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

14 12636.5. (a) Every payment on an insurer’s or surplus line
15 broker’s delinquent annual tax shall be applied as follows:

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

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

20 SEC. 77. Section 12679 of the Revenue and Taxation Code,
21 as amended by Section 72 of Chapter 11 of the First Extraordinary
22 Session of the Statutes of 2011, is amended to read:

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

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

36 SEC. 78. Section 12679 of the Revenue and Taxation Code,
37 as amended by Section 73 of Chapter 11 of the First Extraordinary
38 Session of the Statutes of 2011, is amended to read:

39 12679. (a) If an insurer’s right to do business has been forfeited
40 or its corporate powers suspended, service of summons may be

1 made upon the persons designated by law to be served as agents
2 or officers of the insurer, and these persons are the agents of the
3 insurer for all purposes necessary in order to prosecute the action.
4 In the case of corporations whose powers have been suspended,
5 the persons constituting the board of directors may defend the
6 action.

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

8 SEC. 79. Section 12681 of the Revenue and Taxation Code,
9 as amended by Section 74 of Chapter 11 of the First Extraordinary
10 Session of the Statutes of 2011, is amended to read:

11 12681. (a) In the action, a certificate of the Controller or of
12 the secretary of the board, showing unpaid taxes against an insurer
13 or Medi-Cal managed care plan is prima facie evidence of:

14 (1) The assessment of the taxes.

15 (2) The delinquency.

16 (3) The amount of the taxes, interest, and penalties due and
17 unpaid to the state.

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

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

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

27 SEC. 80. Section 12681 of the Revenue and Taxation Code,
28 as amended by Section 75 of Chapter 11 of the First Extraordinary
29 Session of the Statutes of 2011, is amended to read:

30 12681. (a) In the action, a certificate of the Controller or of
31 the secretary of the board, showing unpaid taxes against an insurer
32 is prima facie evidence of:

33 (1) The assessment of the taxes.

34 (2) The delinquency.

35 (3) The amount of the taxes, interest, and penalties due and
36 unpaid to the state.

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

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

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

2 SEC. 81. Section 12801 of the Revenue and Taxation Code,
3 as amended by Section 76 of Chapter 11 of the First Extraordinary
4 Session of the Statutes of 2011, is amended to read:

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

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

20 SEC. 82. Section 12801 of the Revenue and Taxation Code,
21 as amended by Section 77 of Chapter 11 of the First Extraordinary
22 Session of the Statutes of 2011, is amended 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 July 1, 2014.

33 SEC. 83. Section 12951 of the Revenue and Taxation Code,
34 as amended by Section 78 of Chapter 11 of the First Extraordinary
35 Session of the Statutes of 2011, is amended to read:

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

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

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

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

15 12951. (a) If any amount has been illegally assessed, the board
16 shall set forth that fact in its records, certify the amount determined
17 to be assessed in excess of the amount legally assessed and the
18 insurer or surplus line broker against which the assessment was
19 made, and authorize the cancellation of the amount upon the
20 records of the Controller and the board. The board shall mail a
21 notice to the insurer or surplus line broker of any cancellation
22 authorized. Any proposed determination by the board pursuant to
23 this section with respect to an amount in excess of fifty thousand
24 dollars (\$50,000) shall be available as a public record for at least
25 10 days prior to the effective date of that determination.

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

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

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

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

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

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

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

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

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

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

27 (d) This section shall become operative on July 1, 2014.

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

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

1 upon the claimant with respect to the amount being refunded or
2 credited.

3 The interest shall be paid as follows:

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

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

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

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

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

28 The interest shall be paid as follows:

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

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

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

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

1 12984. (a) If the board determines that any overpayment has
2 been made intentionally or made not incident to a bona fide and
3 orderly discharge of a liability reasonably assumed by the insurer,
4 surplus line broker, or Medi-Cal managed care plan to be imposed
5 by law, no interest shall be allowed on the overpayment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 (i) Immunization rates.

33 (ii) Facility acquired pressure ulcer incidence.

34 (iii) The use of physical restraints.

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

38 (v) Resident and family satisfaction.

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

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

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

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

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

19 (iii) The use of chemical restraints.

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

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

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

1 average Medi-Cal reimbursement rate increase for the Skilled
2 Nursing Facility Quality and Accountability Special Fund.

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

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

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

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

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

35 (3) Notwithstanding paragraph (1), if a facility appeals the
36 performance measure of compliance with the nursing hours per
37 patient per day requirements, pursuant to Section 1276.5 of the
38 Health and Safety Code, to the State Department of Public Health,
39 and it is unresolved by the department’s published due date, the

1 department shall not use that performance measure when
2 determining the facility's supplemental payment.

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

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

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

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

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

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

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

17 SEC. 94. Section 14126.027 of the Welfare and Institutions
18 Code is amended to read:

19 14126.027. (a) (1) The Director of Health Care Services, or
20 his or her designee, shall administer this article.

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

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

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

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

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

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

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

16 SEC. 95. Section 14126.028 is added to the ~~HealthWelfare and~~
17 ~~Safety-Institutions~~ Code, to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (9) (A) For the 2012–13 rate year, all of the following shall
2 apply:
3 (i) The department shall determine the amounts of reduced
4 payments for each skilled nursing facility, as defined in subdivision
5 (c) of Section 1250 of the Health and Safety Code, resulting from
6 the 10-percent reduction imposed pursuant to clause (i) of
7 subparagraph (A) of paragraph (6) for the period beginning on
8 June 1, 2011, through July 31, 2012.
9 (ii) For claims adjudicated through October 1, 2012, each skilled
10 nursing facility as defined in subdivision (c) of Section 1250 of
11 the Health and Safety Code that is reimbursed under the Medi-Cal
12 fee-for-service program, shall receive the total payments calculated
13 by the department in clause (i), not later than December 31, 2012.
14 (iii) For managed care plans that contract with the department
15 pursuant to this chapter or Chapter 8 (commencing with Section
16 14200), except contracts with Senior Care Action Network and
17 AIDS Healthcare Foundation, and to the extent that skilled nursing
18 services are provided through any of those contracts, payments
19 shall be adjusted by the actuarial equivalent amount of the
20 reimbursements calculated in clause (i) pursuant to contract
21 amendments or change orders effective on July 1, 2012, or
22 thereafter.
23 (B) Notwithstanding subparagraph (A), beginning on August
24 1, 2012, through July 31, 2013, the department shall pay the facility
25 specific Medi-Cal reimbursement rate that was on file and
26 applicable to the specific skilled nursing facility on August 1, 2011,
27 prior to and excluding any rate reduction implemented pursuant
28 to clause (i) of subparagraph (A) of paragraph (6) for the period
29 beginning on June 1, 2011, to July 31, 2012, inclusive, and adjusted
30 for the projected costs of complying with new state or federal
31 mandates. These rates are deemed to be sufficient to meet operating
32 expenses.
33 (C) The weighted average Medi-Cal reimbursement rate increase
34 specified in subparagraph (B) shall be adjusted by the department
35 if the federal Centers for Medicare and Medicaid Services does
36 not approve any proposed modification to the methodology for
37 calculation of the skilled nursing quality assurance fee pursuant
38 to Article 7.6 (commencing with Section 1324.20) of Chapter 2
39 of Division 2 of the Health and Safety Code.

1 (D) Notwithstanding any other provision of law, beginning on
2 January 1, 2013, Article 7.6 (commencing with Section 1324.20)
3 of Chapter 2 of Division 2 of the Health and Safety Code, which
4 imposes a skilled nursing facility quality assurance fee, shall not
5 be enforceable against any skilled nursing facility unless each
6 skilled nursing facility is paid the rate provided for in
7 subparagraphs (A) and (B). Any amount collected during the
8 2012–13 rate year by the department pursuant to Article 7.6
9 (commencing with Section 1324.20) of Chapter 2 of Division 2
10 of the Health and Safety Code shall be refunded to each facility
11 not later than February 1, 2013.

12 (E) The provisions of this paragraph shall also be included as
13 part of a state plan amendment implementing the 2011–12 and
14 2012–13 Medi-Cal reimbursement rates authorized under this
15 article.

16 (10) (A) Subject to the following provisions, for the 2013–14
17 and 2014–15 rate years, the annual increase in the weighted average
18 Medi-Cal reimbursement rate for the purpose of this article, for
19 each skilled nursing facility as defined in subdivision (c) of Section
20 1250 of the Health and Safety Code, shall be 3 percent for each
21 rate year, respectively, plus the projected cost of complying with
22 new state or federal mandates.

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

30 (ii) For the 2014–15 rate year, if there is a rate increase in the
31 weighted average Medi-Cal reimbursement rate, the department
32 shall set aside at least one-third of the weighted average Medi-Cal
33 reimbursement rate increase, up to a maximum of 1 percent, from
34 which the department shall transfer the nonfederal portion of this
35 amount into the Skilled Nursing Facility Quality and Accountability
36 Special Fund.

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

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

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

7 (11) The director shall seek any necessary federal approvals for
8 the implementation of this section. This section shall not be
9 implemented until federal approval is obtained. When federal
10 approval is obtained, the payments resulting from the application
11 of paragraph (6) shall be implemented retroactively to June 1,
12 2011, or on any other date or dates as may be applicable.

13 (d) The rate methodology shall cease to be implemented after
14 July 31, 2015.

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

21 (2) Not later than December 1, 2006, the Bureau of State Audits
22 shall conduct an accountability evaluation of the department's
23 progress toward implementing a facility-specific reimbursement
24 system, including a review of data to ensure that the new system
25 is appropriately reimbursing facilities within specified cost
26 categories and a review of the fiscal impact of the new system on
27 the General Fund.

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

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

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

35 (C) The staffing retention rates prior to the implementation of
36 this article.

37 (D) The numbers and percentage of freestanding skilled nursing
38 facilities with findings of immediate jeopardy, substandard quality
39 of care, or actual harm, as determined by the certification survey

1 of each freestanding skilled nursing facility conducted prior to the
2 implementation of this article.

3 (E) The number of freestanding skilled nursing facilities that
4 received state citations and the number and class of citations issued
5 during calendar year 2004.

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

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

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

12 (B) Reports on the extent to which residents who had expressed
13 a preference to return to the community, as provided in Section
14 1418.81 of the Health and Safety Code, were able to return to the
15 community.

16 (5) The department may contract for the reports required under
17 this subdivision.

18 SEC. 97. Section 14126.036 of the Welfare and Institutions
19 Code is amended to read:

20 14126.036. This article shall become inoperative on August 1,
21 2015, and as of January 1, 2016, is repealed, unless a later enacted
22 statute that is enacted before January 1, 2016, deletes or extends
23 that date.

24 SEC. 98. Section 14301.11 of the Welfare and Institutions
25 Code is amended to read:

26 14301.11. (a) The department shall use funds attributable to
27 the tax on Medi-Cal managed care plans imposed by Section 12201
28 of the Revenue and Taxation Code for the purpose specified in
29 paragraph (1) of subdivision (b) of Section 12201 of the Revenue
30 and Taxation Code.

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

35 SEC. 99. Section 92 of Chapter 11 of the First Extraordinary
36 Session of the Statutes of 2011, is repealed.

37 SEC. 100. Notwithstanding Section 92 of Chapter 11 of the
38 First Extraordinary Session of the Statutes of 2011, the provisions
39 of Chapter 11 of the First Extraordinary Session of the Statutes of

1 2011 shall not become inoperative upon the amendment or repeal
2 of those provisions made by this act.

3 SEC. 101. No reimbursement is required by this act pursuant
4 to Section 6 of Article XIII B of the California Constitution because
5 the only costs that may be incurred by a local agency or school
6 district will be incurred because this act creates a new crime or
7 infraction, eliminates a crime or infraction, or changes the penalty
8 for a crime or infraction, within the meaning of Section 17556 of
9 the Government Code, or changes the definition of a crime within
10 the meaning of Section 6 of Article XIII B of the California
11 Constitution.

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

16 In order to make statutory changes necessary for implementation
17 of the Budget Act of 2012, it is necessary that this act take effect
18 immediately.