

**SENATE BILL**

**No. 14**

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**Introduced by Senator Hernandez**

September 9, 2015

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An act to add Section 22971.05 to the Business and Professions Code, to amend Sections 30014, 30104, 30108, 30166, and 30181 of, and to add Article 2.5 (commencing with Section 30130.51) to Chapter 2 of Part 13 of Division 2 of, the Revenue and Taxation Code, and to add Article 6.7 (commencing with Section 14199.50) to Chapter 7 of Part 3 of Division 9 of, and to repeal Sections 12301.02 and 12301.03 of, the Welfare and Institutions Code, relating to health services, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 14, as introduced, Hernandez. Tobacco: electronic cigarettes: taxes: managed care organization provider tax: in-home supportive services.

(1) The Cigarette and Tobacco Products Licensing Act of 2003 requires the State Board of Equalization to administer a statewide program to license manufacturers, importers, distributors, wholesalers, and retailers of cigarettes and tobacco products. Under existing law, a violation of this act is a misdemeanor.

This bill would expand the definition of tobacco products for purposes of that act to include electronic cigarettes, as defined, thereby subjecting manufacturers, importers, distributors, wholesalers, and retailers of electronic cigarettes to the same licensing requirements imposed pursuant to that act on manufacturers, importers, distributors, wholesalers, and retailers of tobacco products. By broadening the act to apply to manufacturers, importers, distributors, wholesalers, and

retailers of electronic cigarettes, this bill would expand the scope of an existing crime, thereby imposing a state-mandated local program.

The Cigarette and Tobacco Products Tax Law, the violation of which is a crime, imposes a tax on distributors of cigarettes at the rate of \$0.87 per package of 20 cigarettes and a tax on distributors of tobacco products, based on wholesale cost, at a rate determined annually that is equivalent to the combined rate of all taxes imposed on cigarettes, and at a rate equivalent to \$0.50 per package of 20 cigarettes. Revenues from taxes imposed under this law are deposited in specified accounts. These taxes are inclusive of the taxes imposed under the Tobacco Tax and Health Protection Act of 1988 (Proposition 99) and the California Families and Children Act of 1998 (Proposition 10).

This bill would, on or after the first day of the first calendar quarter commencing more than 90 days on or after the effective date of the bill, impose an additional tax on the distribution of cigarettes at the rate of \$0.10 for each cigarette distributed, which would be \$2 per pack; would require a dealer and a wholesaler to file a return with the State Board of Equalization showing the number of cigarettes in its possession or under its control on that date, and impose a related floor stock tax; and would require a licensed cigarette distributor to file a return with the board and pay a cigarette indicia adjustment tax at the rate equal to the difference between the existing tax rate and the tax rate imposed by this bill for cigarette tax stamps in its possession or under its control on that date. Because the bill would impose an additional tax on cigarettes under the Cigarette and Tobacco Products Tax Law, it would thereby increase the tax upon the distribution of tobacco products pursuant to Proposition 99, the revenues from which are required to be deposited in the Cigarette and Tobacco Products Surtax Fund.

This bill would additionally, on or after the first day of the first calendar quarter commencing more than 90 days on or after the effective date of the bill, impose a tax on the distribution of electronic cigarettes, as defined, based on the wholesale cost, at a rate determined annually that is equivalent to the cigarette tax rate, which would be \$2.87 per package of 20 cigarettes.

This bill would expand the definition of “tobacco products” for purposes of the Cigarette and Tobacco Products Tax Law to include electronic cigarettes, thereby subjecting distributors, wholesalers, and transporters of electronic cigarettes to, among other things, the same licensing, bonding, and registration requirements imposed on distributors, wholesalers, and transporters of tobacco products.

This bill would provide that the revenues collected from the taxes imposed on cigarettes and electronic cigarettes by this bill, less refunds, would not be considered General Fund revenues and would be deposited in the California Health Care, Research, and Prevention Tobacco Tax Act of 2015 Fund created by this bill. The bill would continuously appropriate those amounts without regard to fiscal year to the Controller for allocation in accordance with this bill to be expended for specified purposes, which include, but are not limited to: (1) offsetting any revenue decreases directly resulting from the additional taxes imposed by this bill to the Cigarette and Tobacco Products Surtax Fund, the Breast Cancer Fund, and the California Children and Families Trust Fund; (2) reimbursing the State Board of Equalization and the State Auditor for administrative duties imposed by the bill; (3) providing funding to the University of California for the purpose of increasing the number of physicians trained in California; (4) funding state and local law enforcement efforts and investigative activities to reduce illegal sales of tobacco products; (5) providing funding to the State Department of Health Care Services for existing health care programs and services and to draw down federal funding; (6) funding the California Department of Public Health Tobacco Control Program; and (7) supplementing the Cigarette and Tobacco Products Surtax Medical Research Program administered by the University of California.

Because this bill would impose new requirements under the Cigarette and Tobacco Products Tax Law, the violation of which is a crime, it would impose a state-mandated local program.

(2) Existing law provides for the county-administered In-Home Supportive Services (IHSS) program, under which qualified aged, blind, and disabled persons are provided with services to permit them to remain in their own homes and avoid institutionalization. Existing law provides, as part of the Coordinated Care Initiative, that IHSS is a Medi-Cal benefit available through managed care health plans in specified counties. Existing law provides for a 7% reduction in hours of service to each IHSS recipient of services.

This bill would repeal the 7% reduction in hours of service to each IHSS recipient of services.

(3) Existing law establishes the Medi-Cal program, administered by the State Department of Health Care Services, under which health care services are provided to qualified low-income persons. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Under existing law, one of the methods by which Medi-Cal

services are provided is pursuant to contracts with various types of managed care plans. Existing law also imposes a sales tax on sellers of Medi-Cal managed care plans.

This bill would establish a new managed care organization provider tax, to be administered by the department in consultation with the Department of Managed Health Care. The tax would be assessed by the department on licensed health care service plans and managed care plans contracted with the department to provide Medi-Cal services, except as excluded by the bill. The bill would require the health plans to report to the department specified enrollment information, on a quarterly basis, beginning with the 2016–17 state fiscal year. On December 1, 2016, or the date upon which the department receives approval for federal financial participation, whichever is later, the department would commence notification to the health plans of the assessed tax amount and due date for the first taxable quarter.

This bill would establish applicable taxing tiers and per enrollee amounts for the 2016–17 fiscal year, for Medi-Cal enrollees, and other enrollees, as defined. Commencing with the 2017–18 fiscal year, the bill would require the department and the Department of Managed Health Care to determine tax tiers and per enrollee tax amounts. The bill would require the department to request approval from the federal Centers for Medicare and Medicaid Services, as necessary, to implement the bill. The bill would authorize the department to implement its provisions by means of provider bulletins, all-plan letters, or similar instructions, and to notify the Legislature of this action.

This bill would establish the Health and Human Services Special Fund in the State Treasury, into which all revenues, less refunds, derived from taxes imposed by the bill would be deposited. The bill would require \$230,000,000 in the fund to be transferred to the Developmental Disabilities Fund, which the bill would create, to be used upon appropriation to increase funding provided to regional centers, as specified, and increase rates paid to service providers for providing services to persons with disabilities, as specified. The remaining moneys in the fund would be continuously appropriated to the department for the purpose of funding the nonfederal share of Medi-Cal managed care rates, as prescribed, thereby making an appropriation.

(4) 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.

(5) This bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of  $\frac{2}{3}$  of the membership of each house of the Legislature.

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

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

1 SECTION 1. The Legislature hereby finds and declares all of  
2 the following:

3 (a) Tobacco use is the single most preventable cause of death  
4 and disease in California, claiming the lives of more than 40,000  
5 people every year. Each year thousands of Californians require  
6 medical and dental treatment as a result of tobacco use.

7 (b) Health care treatment of all types of cancer, cardiovascular  
8 and lung disease, oral disease, and tobacco-related diseases and  
9 conditions continues to impose a significant financial burden upon  
10 California’s overstressed health care system. Tobacco use costs  
11 Californians more than \$13.29 billion in health care expenses every  
12 year, of which \$3.5 billion is paid for by taxpayers through existing  
13 health care programs and services that provide health care,  
14 treatment, and services for Californians. The cost of lost  
15 productivity due to tobacco use adds an additional estimated \$10.35  
16 billion to the annual economic consequences of smoking and  
17 tobacco use in California.

18 (c) An increase in the tobacco tax is an appropriate way to  
19 decrease tobacco use and mitigate the costs of health care treatment  
20 and improve existing programs providing quality health care and  
21 access to health care services for families and children. It will save  
22 lives and save state and local governments money in the future.

23 (d) An increase in funding for existing health care programs  
24 and services that treat all types of cancer, cardiovascular and lung  
25 disease, oral disease, and tobacco-related diseases and conditions  
26 will expand the number of health care providers that treat patients  
27 with such diseases and conditions. Funds spent for this purpose  
28 can be used to match federal funds, with the federal government

1 putting up as much as nine dollars for every dollar spent from this  
2 fund.

3 (e) Most electronic cigarettes contain nicotine, which is derived  
4 from tobacco and is a highly addictive drug. Electronic cigarettes  
5 are currently not subject to any tobacco taxation, making them  
6 cheaper and potentially more attractive, especially to young people.

7 (f) There are more than 470 electronic cigarette brands for sale  
8 today offered in over 7,700 flavors including candy-flavors that  
9 appeal to youth, such as Captain Crunch, gummy bear, cotton  
10 candy, Atomic Fireball, and fruit loops. The fastest growing age  
11 range for electronic cigarettes is middle school and high school  
12 students and according to the Centers for Disease Control,  
13 electronic cigarette use among this group tripled from 2013 to  
14 2014.

15 (g) Research into the causes, early detection, and effective  
16 treatment, care, prevention, and potential cures of all types of  
17 cancer, cardiovascular and lung disease, oral disease, and  
18 tobacco-related diseases will ultimately save lives and save state  
19 and local governments money in the future.

20 (h) There is an urgent need for research in California for new  
21 and effective treatments for all types of cancer, cardiovascular and  
22 lung disease, oral disease, and tobacco-related diseases. Such  
23 research transforms scientific discoveries into clinical applications  
24 that reduce the incidence and mortality of such diseases and  
25 conditions.

26 (i) Funding prevention programs designed to discourage  
27 individuals, particularly youth, from taking up smoking and the  
28 use of other tobacco products through health education and health  
29 promotion programs will save lives and save state and local  
30 governments money in the future.

31 (j) A reinvigorated tobacco control program will allow targeted  
32 public health efforts to combat the tobacco industry's predatory  
33 marketing to ethnic groups, driving down smoking rates and  
34 ultimately reducing cancer, cardiovascular and lung disease, oral  
35 disease, and tobacco-related diseases in these California  
36 communities.

37 (k) Funding implementation and administrative programs to  
38 support law enforcement efforts to reduce illegal sales of tobacco  
39 products to minors, cigarette smuggling, and tobacco tax evasion

1 will save lives and save state and local governments money in the  
2 future.

3 (l) California faces a shortage of physicians and dentists to meet  
4 the growing health care needs of its residents. As a result, access  
5 to primary and oral health care, treatment for tobacco-related  
6 diseases, regular check-ups and other urgent health care needs will  
7 suffer. California taxpayers support the education of thousands of  
8 medical and dental students every year, yet because of limits on  
9 the number of residency programs, many of those physicians and  
10 dentists are forced out of state to continue their training, leaving  
11 patients in California without access to care. Funding  
12 implementation and administrative programs that will help keep  
13 hundreds more doctors in California every year to improve the  
14 health of Californians will save lives and save state and local  
15 governments money in the future.

16 (m) Increasing the cost of cigarettes and tobacco products is  
17 widely recognized as the most effective way to reduce smoking  
18 across California, especially by young people. The 2000 U.S.  
19 Surgeon General’s Report, Reducing Tobacco Use, found that  
20 raising tobacco-product prices decreases the prevalence of tobacco  
21 use, particularly among kids and young adults, and that tobacco  
22 tax increases produce “substantial long-term improvements in  
23 health.” From its review of existing research, the report concluded  
24 that raising tobacco taxes is one of the most effective tobacco  
25 prevention and control strategies. Reducing smoking will save  
26 lives and saves state and local governments money in the future.

27 (n) Because increasing the tobacco tax will reduce smoking and  
28 use of other tobacco products, it is important to protect existing  
29 tobacco tax-funded programs from a decline in tax revenues.

30 (o) California currently taxes cigarettes at only \$0.87 per pack,  
31 and ranks 35th in tobacco tax rates, reflecting one of the lowest  
32 tobacco tax rates in the United States. The national average is  
33 \$1.60 per pack. Thirty-five states have cigarette tax rates of \$1.00  
34 per pack or higher, and California is well below other western  
35 states (Washington: \$3.025, Oregon: \$1.31, Nevada: \$1.80, and  
36 Arizona: \$2.00). California last raised its tobacco tax in 1998.

37 SEC. 2. Section 22971.05 is added to the Business and  
38 Professions Code, to read:

39 22971.05. For purposes of this division, beginning on and after  
40 the first day of the first calendar quarter commencing more than

1 90 days after the effective date of this section, “tobacco products”  
 2 also includes electronic cigarettes, as that term is defined in  
 3 subdivision (b) of Section 30130.51 of the Revenue and Taxation  
 4 Code.

5 SEC. 3. Section 30014 of the Revenue and Taxation Code is  
 6 amended to read:

7 30014. (a) “Transporter” means any person transporting into  
 8 or within this state any of the following:

9 (1) Cigarettes not contained in packages to which are affixed  
 10 California cigarette tax stamps or meter impressions.

11 (2) Tobacco products upon which the tobacco products surtax  
 12 imposed by Article 2 (commencing with Section 30121) and Article  
 13 3 (commencing with Section 30131) of Chapter 2 has not been  
 14 paid.

15 (3) *Electronic cigarettes upon which the electronic cigarette*  
 16 *tax imposed by Section 30130.52 has not been paid.*

17 (b) “Transporter” shall not include any of the following:

18 (1) A licensed distributor.

19 (2) A common carrier.

20 (3) A person transporting cigarettes and tobacco products under  
 21 federal internal revenue bond or customs control that are  
 22 non-tax-paid under Chapter 52 of the Internal Revenue Act of 1954  
 23 as amended.

24 SEC. 4. Section 30104 of the Revenue and Taxation Code is  
 25 amended to read:

26 30104. The taxes imposed by this part shall not apply to the  
 27 sale of cigarettes or tobacco products by a distributor to a common  
 28 carrier engaged in interstate or foreign passenger service or to a  
 29 person authorized to sell cigarettes or tobacco products on the  
 30 facilities of the carrier. Whenever cigarettes or tobacco products  
 31 are sold by distributors to common carriers engaged in interstate  
 32 or foreign passenger service for use or sale on facilities of the  
 33 carriers, or to persons authorized to sell cigarettes or tobacco  
 34 products on those facilities, the tax imposed by ~~Sections 30101,~~  
 35 ~~30123, and 30131.2~~ *under this part* shall not be levied with respect  
 36 to the sales of the cigarettes or tobacco products by the distributors,  
 37 but a tax is hereby levied upon the carriers or upon the persons  
 38 authorized to sell cigarettes or tobacco products on the facilities  
 39 of the carriers, as the case may be, for the privilege of making sales  
 40 in California at the same rate as set forth in ~~Sections 30101, 30123,~~



1 ~~and 30131.2.~~ *under this part.* Those common carriers and  
2 authorized persons shall pay the tax imposed by this section and  
3 file reports with the board, as provided in Section 30186.

4 SEC. 5. Section 30108 of the Revenue and Taxation Code is  
5 amended to read:

6 30108. (a) Every distributor engaged in business in this state  
7 and selling or accepting orders for cigarettes or tobacco products  
8 with respect to the sale of which the tax imposed ~~by Sections~~  
9 ~~30101, 30123, and 30131.2~~ *under this part* is inapplicable shall,  
10 at the time of making the sale or accepting the order or, if the  
11 purchaser is not then obligated to pay the tax with respect to his  
12 or her distribution of the cigarettes or tobacco products, at the time  
13 the purchaser becomes so obligated, collect the tax from the  
14 purchaser, if the purchaser is other than a licensed distributor, and  
15 shall give to the purchaser a receipt therefor in the manner and  
16 form prescribed by the board.

17 (b) Every person engaged in business in this state and making  
18 gifts of untaxed cigarettes or tobacco products as samples with  
19 respect to which the tax imposed ~~by Sections 30101, 30123, and~~  
20 ~~30131.2~~ *under this part* is inapplicable shall, at the time of making  
21 the gift or, if the donee is not then obligated to pay the tax with  
22 respect to his or her distribution of the cigarettes or tobacco  
23 products, at the time the donee becomes so obligated, collect the  
24 tax from the donee, if the donee is other than a licensed distributor,  
25 and shall give the donee a receipt therefor in the manner and form  
26 prescribed by the board. This section shall not apply to those  
27 distributions of cigarettes or tobacco products ~~which~~ *that* are  
28 exempt from tax under Section 30105.5.

29 (c) “Engaged in business in the state” means and includes any  
30 of the following:

31 (1) Maintaining, occupying, or using, permanently or  
32 temporarily, directly or indirectly, or through a subsidiary, or agent,  
33 by whatever name called, an office, place of distribution, sales or  
34 sample room or place, warehouse or storage place, or other place  
35 of business.

36 (2) Having any representative, agent, salesperson, ~~canvasser~~  
37 *canvasser*, or solicitor operating in this state under the authority  
38 of the distributor or its subsidiary for the purpose of selling,  
39 delivering, or the taking of orders for cigarettes or tobacco  
40 products.

1 (d) The taxes required to be collected by this section constitute  
2 debts owed by the distributor, or other person required to collect  
3 the taxes, to the state.

4 SEC. 6. Article 2.5 (commencing with Section 30130.51) is  
5 added to Chapter 2 of Part 13 of Division 2 of the Revenue and  
6 Taxation Code, to read:

7

8 Article 2.5. The California Health Care, Research, and  
9 Prevention Tobacco Tax Act of 2015

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11 30130.51. For the purposes of this article:

12 (a) “Cigarette” has the same meaning as in Section 30003 as it  
13 read on January 1, 2015.

14 (b) “Electronic cigarettes” means any device that is intended to  
15 be used to deliver aerosolized or vaporized nicotine to the person  
16 inhaling from the device, including, but not limited to, an  
17 e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah. Electronic  
18 cigarettes include any component, part, or accessory of that a  
19 device that is used during the operation of the device, whether sold  
20 separately or as a package with that device, if it is intended to be  
21 used to deliver aerosolized or vaporized nicotine to the person  
22 using the device. Electronic cigarettes also include any liquid or  
23 substance containing nicotine intended to be inhaled during the  
24 use of the device. Electronic cigarettes do not include any battery,  
25 battery charger, carrying case, or other accessory not used in the  
26 operation of the device if sold separately. E-cigarettes shall not  
27 include any product that has been approved by the United States  
28 Food and Drug Administration for sale as a tobacco cessation  
29 product or for other therapeutic purposes where that product is  
30 marketed and sold solely for such an approved purpose.

31 (c) The references to “tobacco products” in this part, except in  
32 Article 2 (commencing with Section 30121) and Article 3  
33 (commencing with Section 30131) of Chapter 2 (commencing with  
34 Section 30101), and Chapter 9 (commencing with Section 30461),  
35 shall include electronic cigarettes, unless the context otherwise  
36 requires.

37 30130.52. (a) In addition to any other taxes imposed upon the  
38 distribution of cigarettes, there shall be imposed an additional tax  
39 upon every distributor of cigarettes at the rate of one hundred mills  
40 (\$0.10) for each cigarette distributed on or after the first day of

1 the first calendar quarter commencing more than 90 days after the  
2 effective date of this article.

3 (b) (1) There shall be imposed upon every distributor a tax  
4 upon the distribution of electronic cigarettes, based on the  
5 wholesale cost of these products, at a tax rate, as determined  
6 annually by the State Board of Equalization, that is equivalent to  
7 the total rate of tax imposed on cigarettes by this part, on or after  
8 the first day of the first calendar quarter commencing more than  
9 90 days after the effective date of this article.

10 (2) The board may adopt any regulations necessary to enforce  
11 and administer the tax imposed in paragraph (1), as provided for  
12 in subdivision (c) of Section 30130.51, including, but not limited  
13 to, regulations that address the following:

14 (A) The imposition of tax on the distribution of any liquid or  
15 substance containing nicotine, any device intended to be used to  
16 deliver aerosolized or vaporized nicotine to the person inhaling  
17 from the device, and any component, part, or accessory of such a  
18 device that is intended to be used to deliver aerosolized or  
19 vaporized nicotine to the person inhaling from the device.

20 (B) Describing who is a distributor of electronic cigarettes,  
21 which is consistent with the definition of the term “distributor” in  
22 Section 30111.

23 (c) The wholesale cost used to calculate the amount of tax due  
24 under subdivision (b) does not include the wholesale cost of  
25 electronic cigarettes that were returned by a customer during the  
26 same reporting period in which the electronic cigarettes were  
27 distributed, when the distributor refunds the entire amount the  
28 customer paid for the tobacco products either in cash or credit. For  
29 purposes of this subdivision, refund or credit of the entire amount  
30 shall be deemed to be given when the purchase price less  
31 rehandling and restocking costs is refunded or credited to the  
32 customer. The amount withheld for rehandling and restocking  
33 costs may be a percentage of the sales price determined by the  
34 average cost of rehandling and restocking returned merchandise  
35 during the previous accounting cycle.

36 30130.53. (a) (1) Every dealer and wholesaler, for the  
37 privilege of holding or storing cigarettes for sale, use, or  
38 consumption, shall pay a floor stock tax for each cigarette in its  
39 possession or under its control in this state at 12:01 a.m. on the  
40 first day of the first calendar quarter commencing more than 90

1 days after the effective date of this article at the rate of one hundred  
2 mills (\$0.10) for each cigarette.

3 (2) Every dealer and wholesaler shall file a return with the State  
4 Board of Equalization on or before the first day of the first calendar  
5 quarter commencing more than 180 days after the effective date  
6 of this act on a form prescribed by the State Board of Equalization,  
7 showing the number of cigarettes in its possession or under its  
8 control in this state at 12:01 a.m. on the first day of the first  
9 calendar quarter commencing more than 90 days after the effective  
10 date of this article. The amount of tax shall be computed and shown  
11 on the return.

12 (b) (1) Every licensed cigarette distributor, for the privilege of  
13 distributing cigarettes and for holding or storing cigarettes for sale,  
14 use, or consumption, shall pay a cigarette indicia adjustment tax  
15 for each California cigarette tax stamp that is affixed to any  
16 package of cigarettes and for each unaffixed California cigarette  
17 tax stamp in its possession or under its control at 12:01 a.m. on  
18 the first day of the first calendar quarter commencing more than  
19 90 days after the effective date of this article at the following rates:

20 (A) Two dollars and fifty cents (\$2.50) for each stamp bearing  
21 the designation “25.”

22 (B) Two dollars (\$2.00) for each stamp bearing the designation  
23 “20.”

24 (C) One dollar (\$1.00) for each stamp bearing the designation  
25 “10.”

26 (2) Every licensed cigarette distributor shall file a return with  
27 the board on or before the first day of the first calendar quarter  
28 commencing 180 days after the effective date of this act on a form  
29 prescribed by the board, showing the number of stamps described  
30 in subparagraphs (A), (B), and (C) of paragraph (1). The amount  
31 of tax shall be computed and shown on the return.

32 (c) The taxes required to be paid by this section are due and  
33 payable on or before the first day of the first calendar quarter  
34 commencing 180 days after the effective date of this act. Payments  
35 shall be made by remittances payable to the board and the payments  
36 shall accompany the return and forms required to be filed by this  
37 section.

38 (d) Any amount required to be paid by this section that is not  
39 timely paid shall bear interest at the rate and by the method  
40 established pursuant to Section 30202 from the first day of the first

1 calendar quarter commencing 180 days after the effective date of  
2 this article until paid, shall be subject to determination,  
3 redetermination, and any penalties provided with respect to  
4 determinations and redeterminations.

5 30130.54. (a) The California Health Care, Research, and  
6 Prevention Tobacco Tax Act of 2015 Fund is hereby established  
7 in the State Treasury for the purposes set forth in this article.  
8 Notwithstanding Section 30461, all revenues, less refunds, derived  
9 from the taxes imposed by this article on cigarettes and electronic  
10 cigarettes shall be deposited in the California Health Care,  
11 Research, and Prevention Tobacco Tax Act of 2015 Fund.

12 (b) Notwithstanding any other law, the California Health Care,  
13 Research, and Prevention Tobacco Tax Act of 2015 Fund is a trust  
14 fund established solely to carry out the purposes set forth in this  
15 article, and all revenues deposited into the California Health Care,  
16 Research, and Prevention Tobacco Tax Act of 2015 Fund, together  
17 with interest earned by the fund, are hereby continuously  
18 appropriated without regard to fiscal year to the Controller for  
19 allocation in accordance with this article, and to be expended only  
20 in accordance with this article and its purposes.

21 (c) Notwithstanding any other law, the taxes imposed by this  
22 article and the revenue derived therefrom, including investment  
23 interest, shall not be considered to be part of the General Fund, as  
24 that term is used in Chapter 1 (commencing with Section 16300)  
25 of Part 2 of Division 4 of Title 2 of the Government Code, and  
26 shall not be considered General Fund revenue for purposes of  
27 Section 8 of Article XVI of the California Constitution, and its  
28 implementing statutes.

29 (d) Notwithstanding any other law, revenues deposited into the  
30 California Health Care, Research, and Prevention Tobacco Tax  
31 Act of 2015 Fund, and any interest earned by the fund, shall only  
32 be used for the specific purposes set forth in this article. Revenues  
33 deposited into the California Health Care, Research, and Prevention  
34 Tobacco Tax Act of 2015 Fund shall not be subject to  
35 appropriation, reversion, or transfer by the Legislature, the  
36 Governor, the Director of Finance, or the Controller for any other  
37 purpose, nor shall the funds be loaned to the General Fund or any  
38 other fund of the state or any local government fund.

39 30130.55. (a) The State Board of Equalization shall determine  
40 within one year of the effective date of this act, and annually

1 thereafter, the effect that the additional taxes imposed on cigarettes  
2 by this article, and the resulting increase in the tax on tobacco  
3 products required by subdivision (b) of Section 30123, have on  
4 the consumption of cigarettes and tobacco products in this state.  
5 To the extent that a decrease in consumption is determined by the  
6 State Board of Equalization to be a direct result of the additional  
7 tax imposed by this article, or the resulting increase in the tax on  
8 tobacco products required by subdivision (b) of Section 30123,  
9 the State Board of Equalization shall determine the fiscal effect  
10 the decrease in consumption has on the Cigarette and Tobacco  
11 Products Surtax Fund created by Section 30122 (Proposition 99  
12 as approved by the voters at the November 8, 1988, statewide  
13 general election), the Breast Cancer Fund created by Section  
14 30461.6, and the California Children and Families Trust Fund  
15 created by Section 30131 (Proposition 10 as approved by the voters  
16 at the November 3, 1998, statewide general election).

17 (b) Funds shall be transferred from the California Health Care,  
18 Research, and Prevention Tobacco Tax Act of 2015 Fund to the  
19 Cigarette and Tobacco Products Surtax Fund, the Breast Cancer  
20 Fund, and the California Children and Families Trust Fund, to  
21 offset the revenue decrease directly resulting from the imposition  
22 of additional taxes by this article.

23 (c) Transfers under this section shall be made by the Controller  
24 at times as the Controller determines necessary to further the intent  
25 of this section.

26 (d) For purposes of this section, “tobacco products” shall not  
27 include electronic cigarettes.

28 30130.56. (a) Moneys from the California Health Care,  
29 Research, and Prevention Tobacco Tax Act of 2015 Fund shall be  
30 used to reimburse the board for expenses incurred in the  
31 administration, calculation, and collection of the tax imposed by  
32 this article and for expenses incurred in the calculation and  
33 distribution of moneys and in the promulgation of regulations as  
34 required by this article, provided, however, that after deducting  
35 the necessary amounts pursuant to subdivision (b) of Section  
36 30130.55, not more than 1 percent annually of the moneys  
37 remaining in the California Health Care, Research, and Prevention  
38 Tobacco Tax Act of 2015 Fund shall be used for those  
39 administrative costs.

1 (b) Moneys from the California Health Care, Research, and  
2 Prevention Tobacco Tax Act of 2015 Fund shall be used to  
3 reimburse the California State Auditor up to four hundred thousand  
4 dollars (\$400,000) annually for actual costs incurred to conduct  
5 each of the audits required by Section 30130.58 for the purpose  
6 of providing public transparency and ensuring that the revenues  
7 generated by this article are used for health care, tobacco use  
8 prevention, and research.

9 (c) Moneys from the California Healthcare, Research, and  
10 Prevention Tobacco Tax Act of 2015 Fund in the amount of forty  
11 million dollars (\$40,000,000) annually shall be used to provide  
12 funding to the University of California for the purpose and goal  
13 of increasing the number of physicians trained in California. This  
14 goal shall be achieved by providing this funding to the University  
15 of California to sustain, retain, and expand graduate medical  
16 education programs in the State of California based on  
17 demonstrated workforce needs and priorities.

18 (d) Moneys from the California Health Care, Research, and  
19 Prevention Tobacco Tax Act of 2015 Fund in the amount of  
20 forty-eight million dollars (\$48,000,000) annually shall be used  
21 for the purpose of funding law enforcement efforts and  
22 investigative activities to reduce illegal sales of tobacco products,  
23 including illegal sales to minors; to reduce cigarette smuggling,  
24 tobacco tax evasion, and counterfeit tobacco products; to enforce  
25 licensing requirements; to enforce tobacco-related laws, court  
26 judgments, and legal settlements; and to conduct law enforcement  
27 training and technical assistance activities for tobacco-related  
28 statutes, provided that these moneys are not to be used to supplant  
29 existing state or local funds for these same purposes. These moneys  
30 shall be apportioned in the following manner:

31 (1) Thirty million dollars (\$30,000,000) annually to the  
32 Department of Justice to be distributed to local law enforcement  
33 agencies to support and hire front-line law enforcement peace  
34 officers for programs, including, but not limited to, enforcement  
35 of state and local laws related to the illegal sales and marketing of  
36 tobacco to minors, and increasing investigative activities and  
37 compliance checks to reduce illegal sales of tobacco products to  
38 minors and youth tobacco use.

39 (2) Six million dollars (\$6,000,000) annually to the board to be  
40 used to enforce laws that regulate the distribution and retail sale

1 of cigarettes and other tobacco products, such as laws that prohibit  
2 cigarette and tobacco product smuggling, counterfeiting, selling  
3 untaxed cigarettes and other tobacco products, and selling cigarettes  
4 and other tobacco products without a proper license.

5 (3) Six million dollars (\$6,000,000) annually to the California  
6 Department of Public Health to be used to support programs,  
7 including, but not limited to, providing grants and contracts to  
8 local law enforcement agencies to provide training and funding  
9 for the enforcement of state and local laws related to the illegal  
10 sales of tobacco to minors, increasing investigative activities and  
11 compliance checks, and other appropriate activities to reduce illegal  
12 sales of tobacco products to minors including, but not limited to,  
13 the Stop Tobacco Access to Kids Enforcement (STAKE) Act  
14 (Division 8.5 (commencing with Section 22950) of the Business  
15 and Professions Code), pursuant to Section 22952 of the Business  
16 and Professions Code.

17 (4) Six million dollars (\$6,000,000) annually to the California  
18 Attorney General to be used for activities including, but not limited  
19 to, enforcing laws that regulate the distribution and sale of  
20 cigarettes and other tobacco products, such as laws that prohibit  
21 cigarette smuggling, counterfeiting, selling untaxed tobacco, selling  
22 tobacco without a proper license and selling tobacco to minors,  
23 and enforcing tobacco-related laws, court judgments, and  
24 settlements.

25 (e) Not more than 1 percent of the amounts received pursuant  
26 to subdivision (a) of Section 30130.57 or subdivision (d) of this  
27 section shall be used by any state or local agency or department  
28 receiving such amounts for administrative costs.

29 (f) Not more than 5 percent of the amounts received pursuant  
30 to subdivisions (b) and (c) of Section 30130.57 shall be used by  
31 any state agency or department receiving such amounts for  
32 administrative costs.

33 (g) The California State Auditor shall promulgate regulations  
34 pursuant to the rulemaking provisions of the Administrative  
35 Procedure Act (Chapter 3.5 (commencing with Section 11340) of  
36 Part 1 of Division 3 of Title 2 of the Government Code) to define  
37 administrative costs for purposes of this article.

38 (h) The board shall determine beginning two years following  
39 the effective date of this article, and annually thereafter, any  
40 reduction in revenues, following the first year after the effective



1 date of this article, resulting from a reduction in the consumption  
2 of cigarettes and tobacco products due to the additional taxes  
3 imposed on cigarettes by this article, and the increase in the tax  
4 on tobacco products required by subdivision (b) of Section 30123.  
5 If the board determines there has been a reduction in revenues, the  
6 amount of moneys allocated pursuant to subdivisions (c) and (d)  
7 shall be reduced proportionately.

8 30130.57. Moneys in the California Health Care, Research,  
9 and Prevention Tobacco Tax Act of 2015 Fund, less moneys  
10 transferred pursuant to Section 30130.55 and subdivisions (a), (b),  
11 (c), and (d) of Section 30130.56, shall be allocated by the  
12 Controller as follows:

13 (a) Eighty-two percent shall be transferred to the Health Care  
14 Treatment Fund, which is hereby created, and, upon appropriation  
15 by the Legislature, shall be used by the State Department of Health  
16 Care Services to increase funding for the existing health care  
17 programs and services described in Chapter 7 (commencing with  
18 Section 14000) to Chapter 8.9 (commencing with Section 14700),  
19 inclusive, of Part 3 of Division 9 of the Welfare and Institutions  
20 Code, including those that provide health care, treatment, and  
21 services for Californians with tobacco-related diseases and  
22 conditions, by providing improved payments, including funding  
23 support to designated public hospitals, as defined in subdivision  
24 (d) of Section 14166.1 of the Welfare and Institutions Code, and  
25 the governmental entities with which those designated public  
26 hospitals are affiliated for the nonfederal share of payments, for  
27 all health care, treatment, and services described in Chapter 7  
28 (commencing with Section 14000) to Chapter 8.9 (commencing  
29 with Section 14700), inclusive, of Part 3 of Division 9 of the  
30 Welfare and Institutions Code. To the extent possible given the  
31 limits of funding under this article, payments and support for the  
32 nonfederal share of payments for health care, services, and  
33 treatment shall be increased based on criteria developed, and  
34 periodically updated, as needed, by the department, in consultation  
35 with the Legislature as part of the annual state budget process,  
36 provided that these funds are not to be used to supplant existing  
37 state general funds for these same purposes. This criteria shall  
38 include, but not be limited to, ensuring timely access, specific  
39 geographic shortages of services, or ensuring quality care.  
40 Consistent with federal law, the funding shall be used to draw

1 down federal funds. The funding shall be used to the greatest extent  
2 feasible only for care provided by health care professionals who  
3 are enrolled with the Medi-Cal program, health facilities  
4 contracting with the State Department of Health Care Services  
5 under, or enrolled with, the Medi-Cal program, and health plans  
6 contracting with the State Department of Health Care Services  
7 under the Medi-Cal program to provide health benefits to Medi-Cal  
8 beneficiaries. The department shall, if required, submit a request  
9 for an amendment to California's State Plan to the federal Centers  
10 for Medicare and Medicaid Services.

11 (b) Thirteen percent shall be used for the purpose of funding  
12 comprehensive tobacco prevention and control programs, provided  
13 that these funds are not used to supplant existing state or local  
14 funds for these same purposes. These funds shall be apportioned  
15 in the following manner:

16 (1) Eighty-five percent to the California Department of Public  
17 Health Tobacco Control Program to be used for the tobacco control  
18 programs described in Article 1 (commencing with Section 104350)  
19 of Chapter 1 of Part 3 of Division 103 of the Health and Safety  
20 Code. The State Department of Public Health shall award funds  
21 to state and local governmental agencies, tribes, universities and  
22 colleges, community-based organizations, and other qualified  
23 agencies for the implementation, evaluation, and dissemination of  
24 evidence-based health promotion and health communication  
25 activities in order to monitor, evaluate, and reduce tobacco use,  
26 tobacco-related disease rates, and tobacco-related health disparities,  
27 and develop a stronger evidence base of effective prevention  
28 programming with not less than 15 percent of health promotion,  
29 health communication activities, and evaluation and tobacco use  
30 surveillance funds being awarded to accelerate and monitor the  
31 rate of decline in tobacco-related disparities with the goal of  
32 eliminating tobacco-related disparities.

33 (2) Fifteen percent to the State Department of Education to be  
34 used for school programs to prevent and reduce the use of tobacco  
35 and nicotine products by young people as described in Section  
36 104420 of the Health and Safety Code, with not less than 15  
37 percent of these funds being awarded to accelerate and monitor  
38 the rate of decline in tobacco-related disparities for the purpose of  
39 eliminating tobacco-related disparities.

1 (c) Five percent to the University of California Tobacco-Related  
2 Disease Research Program pursuant to Article 2 (commencing  
3 with Section 104500) of Chapter 1 of Part 3 of Division 103 of  
4 the Health and Safety Code to supplement the Cigarette and  
5 Tobacco Products Surtax Medical Research Program, provided  
6 that these funds be used under the following conditions:

7 (1) The funds shall be used for grants and contracts for basic,  
8 applied, and translational medical research in California into the  
9 prevention of, early detection of, treatments for, complementary  
10 treatments for, and potential cures for all types of cancer,  
11 cardiovascular and lung disease, oral disease, and tobacco-related  
12 diseases. Notwithstanding any other law, the Tobacco-Related  
13 Disease Research Program shall have authority to expend funds  
14 received under this article for the purposes set forth in this  
15 subdivision.

16 (2) Any grants and contracts awarded shall be awarded using  
17 existing medical research program infrastructure and on the basis  
18 of scientific merit as determined by an open, competitive peer  
19 review process that assures objectivity, consistency, and high  
20 quality.

21 (3) Individuals or entities that receive the grants and contracts  
22 shall reside or be located entirely in California.

23 (4) The research shall be performed entirely in California.

24 (5) The funds shall not be used to supplant existing state or local  
25 funds for these same purposes.

26 30130.58. To provide full public accountability concerning the  
27 uses to which moneys from the California Health Care, Research,  
28 and Prevention Tobacco Tax Act of 2015 Fund are put, and to  
29 ensure full compliance with this article, all of the following shall  
30 occur:

31 (a) The California State Auditor shall conduct at least biennially  
32 an independent financial audit of the state and local agencies  
33 receiving moneys pursuant to this article. An audit conducted  
34 pursuant to this section shall include, but not be limited to, a review  
35 of the administrative costs expended by the state agencies that  
36 administer the fund.

37 (b) Based on the independent audit, the California State Auditor  
38 shall prepare a report detailing its review and include any  
39 recommendations for improvements. The report shall be made  
40 available to the public.

1 (c) Each state agency and department receiving funds pursuant  
 2 to this article shall, on an annual basis, publish on its respective  
 3 Internet Web site an accounting of how much money was received  
 4 from the California Health Care, Research, and Prevention Tobacco  
 5 Tax Act of 2015 Fund and how that money was spent. The annual  
 6 accounting shall also be posted on any social media outlets the  
 7 state agency or department deems appropriate.

8 (d) The use of the funds received by the State Department of  
 9 Health Care Services pursuant to subdivision (a) of Section  
 10 30130.57 shall be subject to the same restrictions, including, but  
 11 not limited, to audits and prevention of fraud, imposed by existing  
 12 law.

13 (e) The use of the funds received by the State Department of  
 14 Public Health, the State Department of Education, and the  
 15 University of California pursuant to subdivisions (b) and (c) of  
 16 Section 30130.57 shall be subject to oversight by the Tobacco  
 17 Education and Research Oversight Committee pursuant to Sections  
 18 104365 and 104370 of the Health and Safety Code.

19 SEC. 7. Section 30166 of the Revenue and Taxation Code is  
 20 amended to read:

21 30166. Stamps and meter register settings shall be sold at their  
 22 denominated values less *a discount of 0.85 percent to licensed*  
 23 ~~distributors: percent, which shall be calculated on the first one~~  
 24 ~~dollar (\$1.00) in denomination value.~~ Payment for stamps or meter  
 25 register settings shall be made at the time of purchase, provided  
 26 that a licensed distributor, subject to the conditions and provisions  
 27 of this article, may be permitted to defer payments therefor.

28 SEC. 8. Section 30181 of the Revenue and Taxation Code is  
 29 amended to read:

30 30181. (a) ~~When~~ *If* any tax imposed upon cigarettes under  
 31 ~~Article 1 (commencing with Section 30101), Article 2~~  
 32 ~~(commencing with Section 30121), and Article 3 (commencing~~  
 33 ~~with Section 30131) of Chapter 2 this part~~ is not paid through the  
 34 use of stamps or meter impressions, the tax shall be due and  
 35 payable monthly on or before the 25th day of the month following  
 36 the calendar month in which a distribution of cigarettes occurs, or  
 37 in the case of a sale of cigarettes on the facilities of a common  
 38 carrier for which the tax is imposed pursuant to Section 30104,  
 39 the tax shall be due and payable monthly on or before the 25th day

1 of the month following the calendar month in which a sale of  
2 cigarettes on the facilities of the carrier occurs.

3 (b) Each distributor of tobacco products shall file a return in the  
4 form, as prescribed by the board, ~~which~~ *that* may include, but not  
5 be limited to, electronic media respecting the distributions of  
6 tobacco products and their wholesale cost during the preceding  
7 month, and any other information as the board may require to carry  
8 out this part. The return shall be filed with the board on or before  
9 the 25th day of the calendar month following the close of the  
10 monthly period for which it relates, together with a remittance  
11 payable to the board, of the amount of tax, if any, due under Article  
12 2 (commencing with Section 30121) or Article 3 (commencing  
13 with Section 30131) of Chapter 2 for that period.

14 (c) To facilitate the administration of this part, the board may  
15 require the filing of the returns for longer than monthly periods.

16 (d) Returns shall be authenticated in a form or pursuant to  
17 methods as may be prescribed by the board.

18 ~~(e) This section shall become operative on January 1, 2007.~~

19 SEC. 9. Section 12301.02 of the Welfare and Institutions Code  
20 is repealed.

21 ~~12301.02. (a) (1) Notwithstanding any other law, except as~~  
22 ~~provided in subdivision (e), the department shall implement a 7~~  
23 ~~percent reduction in hours of service to each recipient of services~~  
24 ~~under this article, which shall be applied to the recipient's hours~~  
25 ~~as authorized pursuant to the most recent assessment. This~~  
26 ~~reduction shall become effective 12 months after the~~  
27 ~~implementation of the reduction set forth in Section 12301.01. The~~  
28 ~~reduction required by this section shall not preclude any~~  
29 ~~reassessment to which a recipient would otherwise be entitled.~~  
30 ~~However, hours authorized pursuant to a reassessment shall be~~  
31 ~~subject to the 7 percent reduction required by this section.~~

32 ~~(2) A request for reassessment based only on the reduction~~  
33 ~~required in paragraph (1) may be administratively denied by the~~  
34 ~~county.~~

35 ~~(3) A recipient of services under this article may direct the~~  
36 ~~manner in which the reduction of hours is applied to the recipient's~~  
37 ~~previously authorized services.~~

38 ~~(4) For those individuals who have a documented unmet need,~~  
39 ~~excluding protective supervision because of the limitations on~~

1 authorized hours under Section 12303.4, the reduction shall be  
2 taken first from the documented unmet need.

3 (b) The notice of action informing the recipient of the reduction  
4 pursuant to subdivision (a) shall be mailed at least 20 days prior  
5 to the reduction going into effect. The notice of action shall be  
6 understandable to the recipient and translated into all languages  
7 spoken by a substantial number of the public served by the  
8 In-Home Supportive Services program, in accordance with Section  
9 7295.2 of the Government Code. The notice shall not contain any  
10 recipient financial or confidential identifying information other  
11 than the recipient's name, address, and Case Management  
12 Information and Payroll System (CMIPS) client identification  
13 number, and shall include, but not be limited to, all of the following  
14 information:

15 (1) The aggregate number of authorized hours before the  
16 reduction pursuant to subdivision (a) and the aggregate number of  
17 authorized hours after the reduction.

18 (2) That the recipient may direct the manner in which the  
19 reduction of authorized hours is applied to the recipient's  
20 previously authorized services.

21 (3) A county shall assess a recipient's need for supportive  
22 services any time that the recipient notifies the county of a need  
23 to adjust the supportive services hours authorized, or when there  
24 are other indications or expectations of a change in circumstances  
25 affecting the recipient's need for supportive services. Counties  
26 shall not require recipients to submit a medical certification form  
27 or a doctor's note to show evidence of a change in the recipient's  
28 circumstances.

29 (e) A recipient shall have all appeal rights otherwise provided  
30 for under Chapter 7 (commencing with Section 10950) of Part 2.

31 (d) The reduction specified in paragraph (1) of subdivision (a)  
32 shall be ongoing and may be adjusted pursuant to Section 12301.03.

33 SEC. 10. Section 12301.03 of the Welfare and Institutions  
34 Code is repealed.

35 12301.03. (a) It is the intent of this section to offset the  
36 reductions described in Section 12301.02 to the extent that an  
37 assessment as described in Section 12301.05 provides General  
38 Fund savings. This section shall become operative only upon  
39 certification by the State Department of Health Care Services that  
40 any necessary federal approvals to implement the assessment

1 ~~referenced in Section 12301.05 have been obtained. This~~  
2 ~~certification shall be provided promptly to the Joint Legislative~~  
3 ~~Budget Committee and the Department of Finance.~~

4 ~~(b) Within 30 days after receipt of the certification described~~  
5 ~~in subdivision (a), the Director of Finance shall perform the~~  
6 ~~obligations described in this subdivision for the fiscal year in which~~  
7 ~~the certification is received and for the following fiscal year.~~  
8 ~~Specifically, the Director of Finance shall do the following:~~

9 ~~(1) Estimate the total amount of additional funding, less refunds,~~  
10 ~~that will be derived from the assessment for the next fiscal year.~~

11 ~~(2) Estimate the amount of the total revenues, if any, that are~~  
12 ~~attributable to any permitted retroactive implementation of the~~  
13 ~~assessment.~~

14 ~~(3) Estimate the amount of the total General Fund savings~~  
15 ~~generated by the assessment revenues that remain after taking into~~  
16 ~~account reductions such as the revenues attributable to any~~  
17 ~~retroactive application of the assessment that will be allocated~~  
18 ~~pursuant to Section 12301.04, and any General Fund costs~~  
19 ~~associated with establishment and administration of the assessment.~~  
20 ~~The General Fund costs shall be estimated following consultation~~  
21 ~~with the appropriate budget subcommittees of the Legislature.~~

22 ~~(4) Calculate, as a percentage, the amount by which the~~  
23 ~~reduction described in Section 12301.02 is offset by General Fund~~  
24 ~~savings. In making this calculation, the Director of Finance shall~~  
25 ~~estimate the amount of the reduction that may be partially or~~  
26 ~~completely offset. If the estimated General Fund savings from the~~  
27 ~~assessment are less than the amount required to fully offset the~~  
28 ~~reduction pursuant to Section 12301.02, then the percentage offset~~  
29 ~~shall be proportionate to the level of General Fund savings. At no~~  
30 ~~point may the reduction pursuant to Section 12301.02 become~~  
31 ~~negative or go below zero.~~

32 ~~(5) Notify the Joint Legislative Budget Committee of the~~  
33 ~~determinations made in paragraphs (1) to (4), inclusive.~~

34 ~~(e) On or before May 14, prior to the third fiscal year after the~~  
35 ~~certification described in subdivision (a) is received, the Director~~  
36 ~~of Finance shall perform the activities described in paragraphs (1)~~  
37 ~~to (5), inclusive, of subdivision (b).~~

38 ~~(d) Within 10 days of the effective date of any federal change~~  
39 ~~or action that prevents or reduces the amount of General Fund~~  
40 ~~savings received from the assessment, the Director of Health Care~~

1 Services shall provide a notification to the Joint Legislative Budget  
 2 Committee and the Director of Finance of that change. Within 30  
 3 days of the receipt of this notification, the Director of Finance shall  
 4 perform the activities described in paragraphs (1) to (5), inclusive,  
 5 of subdivision (b).

6 ~~(e) Notwithstanding any provision of Section 12301.02, the~~  
 7 ~~reduction of services required by Section 12301.02 shall be~~  
 8 ~~mitigated by the percentage offset determined by the Director of~~  
 9 ~~Finance in paragraph (4) of subdivision (b).~~

10 ~~(f) (1) Any change in the percentage reduction of services as~~  
 11 ~~provided in Section 12301.02 shall occur on the first day of the~~  
 12 ~~first full month occurring 30 days after the determination provided~~  
 13 ~~for in subdivision (b) is made by the Director of Finance.~~

14 ~~(2) Any change in the percentage reduction of services as~~  
 15 ~~provided in Section 12301.02 due to a determination of the Director~~  
 16 ~~of Finance required by subdivision (e) shall occur on July 1 of the~~  
 17 ~~fiscal year immediately following the determination.~~

18 ~~(3) If a change in the percentage reduction of services as~~  
 19 ~~provided in Section 12301.02 is triggered based on a determination~~  
 20 ~~of the Director of Finance required by subdivision (d), that change~~  
 21 ~~in hours of service shall occur on July 1 after the notification~~  
 22 ~~referenced in subdivision (d) from the Director of Health Care~~  
 23 ~~Services is received, if the notification is received between the~~  
 24 ~~preceding September 30 and January 2. If the notification is~~  
 25 ~~received on any other date, then a change in hours shall occur on~~  
 26 ~~the first of the month that is nine months after the notification is~~  
 27 ~~received.~~

28 ~~(g) In preparation of every Governor's Budget and for every~~  
 29 ~~May Revision, the Director of Finance shall perform the obligation~~  
 30 ~~described in paragraphs (1) to (3), inclusive, of subdivision (b).~~

31 SEC. 11. Article 6.7 (commencing with Section 14199.50) is  
 32 added to Chapter 7 of Part 3 of Division 9 of the Welfare and  
 33 Institutions Code, to read:

34

35 Article 6.7. Managed Care Organization Provider Tax

36

37 14199.50. It is the intent of the Legislature that the department  
 38 implement a managed care organization provider tax effective July  
 39 1, 2016, to provide ongoing funding for the Medi-Cal program,



1 minimize to the extent possible any need for new reductions to the  
2 program, and meet all of the following goals:

3 (a) Generate an amount of nonfederal funds for the Medi-Cal  
4 program equivalent to the funds generated by the tax imposed  
5 pursuant to Article 5 (commencing with Section 6174) of Chapter  
6 2 of Part 1 of Division 2 of the Revenue and Taxation Code.

7 (b) In addition to the amount in subdivision (a), generate an  
8 additional two hundred thirty million dollars (\$230,000,000) to  
9 increase the funding provided to regional centers and  
10 developmental disabilities service providers.

11 (c) Comply with federal Medicaid requirements applicable to  
12 permissible health care-related taxes.

13 (d) Structure the tax, to the extent possible, to have the lowest  
14 aggregate net financial impact on the health plans subject to the  
15 tax imposed pursuant to this article.

16 14199.51. The following definitions shall apply for the purposes  
17 of this article:

18 (a) “Countable enrollee” means an individual enrolled in a health  
19 plan, as defined in subdivision (e), each month of a taxable quarter.  
20 “Countable enrollee” does not include an individual enrolled in a  
21 Medicare plan, or a plan-to-plan enrollee, as defined in subdivision  
22 (l).

23 (b) “Department” means the State Department of Health Care  
24 Services.

25 (c) “Director” means the Director of Health Care Services.

26 (d) “Excluded plan” means a health plan licensed pursuant to  
27 Section 1351.2 of the Health and Safety Code.

28 (e) “Health care service plan” or “health plan” means a  
29 full-service health care service plan licensed by the Department  
30 of Managed Health Care under the Knox-Keene Health Care  
31 Service Plan Act of 1975 (Chapter 2.2 (commencing with Section  
32 1340) of Division 2 of the Health and Safety Code) or a managed  
33 care plan contracted with the State Department of Health Care  
34 Services to provide Medi-Cal services.

35 (f) “Medi-Cal enrollee” means an individual enrolled in a health  
36 plan, as defined in subdivision (e), who is a Medi-Cal beneficiary  
37 and who is not concurrently enrolled in an additional health plan  
38 during a taxable quarter.

1 (g) “Medi-Cal per enrollee tax amount” means the amount of  
2 tax assessed per countable Medi-Cal enrollee within a Medi-Cal  
3 taxing tier.

4 (h) “Medi-Cal taxing tier” means a range of cumulative  
5 enrollment of countable Medi-Cal enrollees for a taxable quarter.

6 (i) “Other enrollee” means an individual enrolled in a health  
7 plan, as defined in subdivision (e), who is not a Medi-Cal  
8 beneficiary.

9 (j) “Other per enrollee tax amount” means the amount of tax  
10 assessed per countable other enrollee within another taxing tier.

11 (k) “Other taxing tier” means a range of cumulative enrollment  
12 of countable other enrollees for a taxable quarter.

13 (l) “Plan-to-plan enrollee” means an individual who receives  
14 his or her health care services through a full-service health plan  
15 pursuant to a subcontract from another full-service health plan.

16 (m) “Taxable quarter” means a calendar quarter of the state  
17 fiscal year.

18 14199.52. (a) The Health and Human Services Special Fund  
19 is hereby created in the State Treasury.

20 (b) All revenues, less refunds, derived from the taxes provided  
21 for in this article shall be deposited in the State Treasury to the  
22 credit of the fund.

23 (c) Notwithstanding Section 16305.7 of the Government Code,  
24 any interest and dividends earned on moneys in this fund shall be  
25 retained in the fund for purposes specified in subdivisions (d) and  
26 (e).

27 (d) The sum of two hundred thirty million dollars  
28 (\$230,000,000) shall be transferred annually to the Developmental  
29 Disabilities Fund, which is hereby created, and shall be used, upon  
30 appropriation by the Legislature, to do both of the following:

31 (1) Increase the funding provided to a regional center for the  
32 regional center’s operating budget by up to 10 percent above the  
33 levels in effect on the effective date of the act that added this  
34 section.

35 (2) Notwithstanding any other law, increase all rates paid to  
36 service providers for providing services under Division 4.5  
37 (commencing with Section 4500) of the Welfare and Institutions  
38 Code by up to 10 percent above the levels in effect on the effective  
39 date of the act that added this section.

1 (e) After meeting the funding obligations pursuant to subdivision  
2 (d), and notwithstanding Section 13340 of the Government Code,  
3 the remaining funds deposited in the Health and Human Services  
4 Special Fund pursuant to this article shall be continuously  
5 appropriated, without regard to fiscal years, to the State Department  
6 of Health Care Services for purposes of funding the nonfederal  
7 share of Medi-Cal managed care rates for health care services  
8 furnished to children, adults, seniors and persons with disabilities,  
9 and persons dually eligible for Medi-Cal and Medicare.

10 14199.53. (a) Beginning with the 2016–17 state fiscal year,  
11 within 45 days after the end of each state fiscal quarter, each health  
12 plan shall submit reports to the department for the state fiscal  
13 quarter that includes all of the following:

- 14 (1) Total cumulative enrollment for the quarter.
- 15 (2) Total Medicare cumulative enrollment for the quarter.
- 16 (3) Total Medi-Cal cumulative enrollment for the quarter.
- 17 (4) Total plan-to-plan cumulative enrollment for the quarter.
- 18 (5) Total other cumulative enrollment for the quarter that is not  
19 otherwise counted in paragraphs (2) through (4), inclusive.

20 (b) The department, in consultation with the Department of  
21 Managed Health Care, shall develop the methodologies used to  
22 determine the enrollments required to be reported by health plans  
23 and the format of those submissions.

24 (c) A report submitted under this section shall be accompanied  
25 by a certification by the health plan attesting to the accuracy of  
26 the reports.

27 (d) For the efficient operation of this section, the director, in  
28 consultation with the Director of the Department of Managed  
29 Health Care, may delegate the development of the format of the  
30 reports or the collection of the reports, or both, to the Department  
31 of Managed Health Care.

32 14199.54. (a) A managed care organization provider tax shall  
33 be imposed on each health plan that is not an excluded plan.

34 (b) The department shall compute the quarterly tax for each  
35 health plan subject to the tax during the state fiscal year pursuant  
36 to Section 14199.55.

37 (c) On December 1, 2016, or the date the department receives  
38 federal approval necessary for receipt of federal financial  
39 participation in conjunction with the tax assessed pursuant to this  
40 article, whichever is later, the following activities shall commence:

1 (1) The director shall certify in writing that federal approval  
2 has been received, and within five business days shall post the  
3 certification on its Internet Web site and send a copy of the  
4 certification to the Secretary of State, the Secretary of the Senate,  
5 the Chief Clerk of the Assembly, and the Legislative Counsel.

6 (2) Within 10 business days following receipt of the notice of  
7 federal approval, the department shall send a notice to each health  
8 plan subject to the tax, which shall contain the following  
9 information:

10 (A) The quarterly tax due for the first taxable quarter, and any  
11 subsequent taxable quarters for which data has been submitted and  
12 a tax has been calculated.

13 (B) The date on which the tax payments are due.

14 (3) A health plan shall pay the quarterly tax, based on a schedule  
15 developed by the department. The department shall establish the  
16 date that each tax payment is due, provided that the first tax  
17 payment shall be due no earlier than 20 days following the date  
18 the department sends the notice pursuant to paragraph (2), and the  
19 tax payments shall be paid at least one month apart, but no more  
20 than one quarter apart.

21 (4) A health plan shall pay the quarterly taxes that are due, if  
22 any, in the amounts and at the times set forth in the notice unless  
23 superseded by a subsequent notice issued by the department.

24 (d) The managed care organization provider tax, as assessed  
25 pursuant to this article, shall be paid by each health plan subject  
26 to the tax to the department for deposit in the Health and Human  
27 Services Special Fund created pursuant to Section 14199.52.

28 (e) (1) Interest shall be assessed on managed care organization  
29 provider taxes that are not paid on the date due at a rate of 10  
30 percent per annum. Interest shall begin to accrue the day after the  
31 date the tax payment was due, and shall be deposited in the Health  
32 and Human Services Special Fund created pursuant to Section  
33 14199.52.

34 (2) If a tax payment is more than 60 days overdue, a penalty  
35 equal to the interest charge described in paragraph (1) shall be  
36 assessed and due for each month for which the tax payment is not  
37 received after 60 days.

38 (f) (1) Subject to paragraph (2), the director may waive a portion  
39 or all of either the interest or penalties, or both, assessed under this  
40 article in the event that the director determines, in his or her sole

1 discretion, that the health plan has demonstrated that imposition  
2 of the full amount of the managed care organization provider tax  
3 pursuant to the timelines applicable under this article has a high  
4 likelihood of creating an undue financial hardship for the health  
5 plan, or creates a significant financial difficulty in providing needed  
6 services to Medi-Cal beneficiaries.

7 (2) Waiver of some or all of the interest or penalties pursuant  
8 to this subdivision shall be conditioned on the health plan's  
9 agreement to make tax payments on an alternative schedule  
10 developed by the department that takes into account the financial  
11 situation of the health plan and the potential impact on services.

12 (g) For the efficient operation of this section, the director, in  
13 consultation with the Director of Managed Health Care, may  
14 delegate the collection of the taxes under this article to the  
15 Department of Managed Health Care.

16 14199.55. (a) Prior to each fiscal year, beginning with the  
17 2017–18 fiscal year and each fiscal year thereafter, the department,  
18 in consultation with the Department of Managed Health Care, shall  
19 determine the Medi-Cal taxing tiers, the other taxing tiers, the  
20 Medi-Cal per enrollee tax amounts for each Medi-Cal taxing tier,  
21 and the other per enrollee tax amounts for each other taxing tier,  
22 for the fiscal year, in order to achieve the goals specified in Section  
23 14199.50.

24 (b) For each fiscal year, beginning with the 2017-18 fiscal year,  
25 the department shall include in the Medi-Cal Local Assistance  
26 Estimate, released each January and May of the preceding fiscal  
27 year, the Medi-Cal taxing tiers, the other taxing tiers, the Medi-Cal  
28 per enrollee tax amounts for each Medi-Cal taxing tier and the  
29 other per enrollee tax amounts for each other taxing tier, determined  
30 pursuant to subdivision (a) and attributable to the applicable fiscal  
31 year.

32 (c) For the 2016–17 fiscal year, the Medi-Cal taxing tiers for  
33 each fiscal quarter shall be as follows:

34 (1) Medi-Cal taxing tier I shall consist of all countable Medi-Cal  
35 enrollees in a health plan for the fiscal quarter from 0 through  
36 500,000, inclusive.

37 (2) Medi-Cal taxing tier II shall consist of all countable  
38 Medi-Cal enrollees in a health plan for the fiscal quarter from  
39 500,001 through 1,250,000, inclusive.

1 (3) Medi-Cal taxing tier III shall consist of all countable  
2 Medi-Cal enrollees in a health plan for the fiscal quarter from  
3 1,250,001 through 2,500,000, inclusive.

4 (4) Medi-Cal taxing tier IV shall consist of all countable  
5 Medi-Cal enrollees in a health plan for the fiscal quarter greater  
6 than 2,500,000.

7 (d) For the 2016–17 fiscal year, the Medi-Cal per enrollee tax  
8 amount for each Medi-Cal taxing tier for each fiscal quarter shall  
9 be as follows:

10 (1) The Medi-Cal per enrollee tax for Medi-Cal taxing tier I  
11 shall be twenty-seven dollars and fifty cents (\$27.50).

12 (2) The Medi-Cal per enrollee tax for Medi-Cal taxing tier II  
13 shall be ten dollars and twenty-five cents (\$10.25).

14 (3) The Medi-Cal per enrollee tax for Medi-Cal taxing tier III  
15 shall be five dollars (\$5.00).

16 (4) The Medi-Cal per enrollee tax for Medi-Cal taxing tier IV  
17 shall be one dollar (\$1.00).

18 (e) For the 2016–17 fiscal year, the other taxing tiers for each  
19 fiscal quarter shall be as follows:

20 (1) Other taxing tier I shall consist of all countable other  
21 enrollees in a health plan for the fiscal quarter from 0 through  
22 125,000, inclusive.

23 (2) Other taxing tier II shall consist of all countable other  
24 enrollees in a health plan for the fiscal quarter from 125,001  
25 through 1,250,000, inclusive.

26 (3) Other taxing tier III shall consist of all countable other  
27 enrollees in a health plan for the fiscal quarter greater than  
28 1,250,000.

29 (f) For the 2016–17 fiscal year, the other per enrollee tax amount  
30 for each other taxing tier for each fiscal quarter shall be as follows:

31 (1) The other per enrollee tax for the other taxing tier I shall be  
32 five dollars and eighty cents (\$5.80).

33 (2) The other per enrollee tax for the other taxing tier II shall  
34 be three dollars (\$3.00).

35 (3) The other per enrollee tax for the other taxing tier III shall  
36 be seventy-five cents (\$0.75).

37 (g) The department may modify any methodology or other  
38 provision specified in this article to the extent necessary to meet  
39 the requirements of federal law or regulations, obtain federal  
40 approval, or ensure federal financial participation is available,

1 provided the modifications do not otherwise conflict with the  
2 purposes of this article.

3 (h) The department shall make adjustments, as necessary, to the  
4 tax amounts specified in this section in order to ensure compliance  
5 with the federal requirements set forth in Section 433.68 of Title  
6 42 of the Code of Federal Regulations, or elsewhere in federal law  
7 or regulation.

8 (i) The department shall request approval from the federal  
9 Centers for Medicare and Medicaid Services as is necessary to  
10 implement this article. In making such request, the department  
11 may seek, as it deems necessary, a request for waiver of the  
12 broad-based requirement, waiver of the uniformity requirement,  
13 or both, pursuant to paragraphs (1) and (2) of subsection (e) of  
14 Section 433.68 of Title 42 of the Code of Federal Regulations, or  
15 a request for waiver of any other provision of federal law or  
16 regulation necessary to implement this article.

17 (j) Notwithstanding Chapter 3.5 (commencing with Section  
18 11340) of Part 1 of Division 3 of Title 2 of the Government Code,  
19 the department may implement this article by means of provider  
20 bulletins, all-plan letters, or other similar instruction, without taking  
21 regulatory action. The department shall provide notification to the  
22 Joint Legislative Budget Committee and to the Senate Committees  
23 on Appropriations, Budget and Fiscal Review, and Health, and the  
24 Assembly Committees on Appropriations, Budget, and Health  
25 within 10 business days after the above-described action is taken  
26 to inform the Legislature that the action is being implemented.

27 SEC. 12. No reimbursement is required by this act pursuant  
28 to Section 6 of Article XIII B of the California Constitution because  
29 the only costs that may be incurred by a local agency or school  
30 district will be incurred because this act creates a new crime or  
31 infraction, eliminates a crime or infraction, or changes the penalty  
32 for a crime or infraction, within the meaning of Section 17556 of  
33 the Government Code, or changes the definition of a crime within  
34 the meaning of Section 6 of Article XIII B of the California  
35 Constitution.

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