SA 2005 RFO 120

Coalition for a Healthy California

American Cancer Society * American Heart Association * American Lung Association
California Primary Care Association * California Nurses Association * Campaign for Tobacco Free Kids * Children Now * The Children's Partnership * PICO California

November 1, 2005

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INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Office of the California Attorney General
Tricia Knight, Initiative Coordinator
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550

Dear Ms. Knight:

I would like to request Title and Summary for the enclosed proposed Constitutional Amendment Statutory Initiative, Tobacco Tax, Disease Prevention and Children's Health Insurance Act of 2006 (version 4).

A check in the amount of $200.00 is enclosed. Please direct all correspondence regarding the initiative to me at the following address:

Charles G. Smith, President
Coalition for a Healthy California
555 Capitol Mall, Suite 1425
Sacramento, CA 95814

Thank you for your attention to this matter.

Sincerely,

Charles G. Smith
President, Coalition for a Healthy California

SA 2005RF0120

INITIATIVE MEASURE TO BE SUBMITTED TO THE VOTERS

SECTION 1. *Title.* This initiative measure shall be known and may be cited as the Tobacco Tax, Disease Prevention and Children's Health Insurance Act of 2006.

SECTION 2. *Findings and Declarations.* The people find and declare as follows:

(a) Smoking is the single most preventable cause of death and disease in California. Fully one in five deaths in California are attributable to smoking: more than 40,000 every year.

(b) Smoking related diseases have a major negative economic impact on all taxpayers and the entire health care system, which justifies the use of tobacco taxes to fund prevention, early detection, treatment and research of major diseases and better access to health care.

(c) Tobacco use is a major contributor to all the leading causes of death in California, including heart disease and stroke, cancer, diabetes and lung disease.

(d) Tobacco use costs Californians more than $8.6 billion in medical expenses every year. The cost of lost productivity due to tobacco use adds an additional estimated $7.2 billion to the annual economic consequences of smoking in California.

(e) Smoking affects all Californians because secondhand smoke is linked to lung disease, heart disease and stroke, cancer, diabetes, obesity, sudden infant death syndrome, asthma and many medical conditions that disproportionately affect children.

(f) Tobacco drains California of precious medical resources and places a tremendous financial burden on state and local government. It makes it more difficult for the State to provide more resources for children's health insurance and community health clinics. It leaves many Californians with no health insurance at all, including almost 800,000 children.

(g) Uninsured and indigent adults, who are much more likely to smoke than other Californians, frequently lack access to tobacco education, tobacco cessation and other health care services.

(h) Community clinics and children's health insurance programs such as the California's Healthy Families Program provide tobacco education and smoking cessation services including pharmacology and counseling to benefit recipients.

(i) Funding for California's pioneering tobacco prevention and control program has dropped to the point where it is now far below what is recommended by federal public health agencies. Tobacco companies spend approximately 20 times more to promote tobacco use than the state spends to prevent it and to help tobacco users quit.

(j) Almost 90% of adult smokers become addicted to tobacco before age 18. Increasing the cost of cigarettes and other tobacco products and providing a comprehensive tobacco control program have proven to be two of the most effective ways to reduce smoking among youth.

(k) The health of young people, and the adults they will become, is linked to the establishment of healthy behaviors in childhood. The earlier in life people learn about the effects of tobacco, are tested for potential disease, and obtain appropriate medical care, the more likely people will avoid serious and costly health problems as adults.

(l) Children are especially susceptible to secondhand smoke: their lungs are still developing and childhood exposure to secondhand smoke results in decreased lung function. Children who breathe secondhand smoke are more likely to develop asthma, the leading serious chronic childhood disease in the United States.

(m) Inadequate access to health care during childhood, especially essential preventive care that can avert avoidable conditions and expensive emergency room visits, damages the long term health and financial well being of individuals and increases health care costs for employers, taxpayers and society as a whole.

(n) Poor diet, physical inactivity and obesity, together with tobacco use, are responsible for diseases that cause two-thirds of all premature deaths in California, and like tobacco control require strong, coordinated prevention programs.

(o) Nurses are the front line of medical care for many of the neediest Californians, and are particularly active in providing both health assessment and health education. At present, the State is unable to educate sufficient numbers of professional nurses to work in public health clinics, in schools, and in hospitals.

(p) Providing new funding for enforcement of tobacco laws will reduce cigarette smuggling, the sale of black market cigarettes and illegal sales of tobacco products to minors.

SECTION 3. *Purpose and Intent.* In recognition of the uncompensated costs that tobacco use imposes on state and local government, the people of the State of California hereby declare their purpose and intent in enacting this Act to be as follows: (a) to reduce smoking and other tobacco use, (b) to support programs to reduce the impact of chronic diseases through prevention, early detection, treatment and research, and (c) to increase access to health care starting in childhood and ensure that every child in California is eligible for comprehensive, affordable health insurance and has access to needed health services. Funds raised through this Act are intended to be appropriated and expended only for the purposes expressed in this Act.

SECTION 4. Article 4 (commencing with Section 30135) is added to Chapter 2 of Part 13 of Division 2 of the Revenue and Taxation Code, to read:

Article 4. Tobacco Surtax, Disease Prevention and Children's Health Insurance Fund

30135. Notwithstanding any other provision of law, the Tobacco Surtax, Disease Prevention and Children's Health Insurance Fund is hereby created in the State Treasury for the exclusive purpose of funding the provisions of the Tobacco Tax, Disease Prevention and Children's Health Insurance Act of 2006.

(a) The Tobacco Surtax, Disease Prevention and Children's Health Insurance Fund and its component accounts and sub-accounts shall consist only of all revenue derived from the tax

imposed by Section 30135.2, including all revenue from the resulting increase in tobacco products required by subdivision (b) of Section 30123, and any interest accrued thereon. All moneys received into the State Treasury from these sources shall be credited to the Tobacco Surtax, Disease Prevention and Children's Health Insurance Fund and shall not be deposited into the General Fund.

(b) Except for any public or private funds which may be allocated to Medi-Cal, Healthy Families or other programs implicated in Section 7 of the Tobacco Tax, Disease Prevention and Children's Health Insurance Act of 2006, such as state and federal match allocations for the Medi-Cal and Healthy Families programs and family premium contributions, all costs to implement the Tobacco Tax, Disease Prevention and Children's Health Insurance Act of 2006 shall be paid from moneys deposited in the Tobacco Surtax, Disease Prevention and Children's Health Insurance Fund.

30135.1. For purposes of this article:

(a) "Act" means Tobacco Tax, Disease Prevention and Children's Health Insurance Act of 2006.

(b) "Cigarette" has the same meaning as in Section 30003 of the Revenue and Taxation Code.

(c) "Fund" means the Tobacco Surtax, Disease Prevention and Children's Health Insurance Fund created by Section 30135.

30135.2. In addition to any other taxes imposed upon the distribution of cigarettes, there shall be imposed an additional surtax upon every distributor of cigarettes at the rate of seventy-five mills ($0.075) for each cigarette distributed.

30135.3. The tax imposed by Section 30135.2, and the resulting increase in the tax on tobacco products required by subdivision (b) of Section 30123, shall be imposed on every cigarette and on all tobacco products in the possession or under the control of every dealer and distributor on and after 12:01 a.m. on January 1, 2007, pursuant to rules and regulations promulgated by the State Board of Equalization.

30135.4. Except for payments of refunds made pursuant to Article 1 (commencing with Section 30361) of Chapter 6, reimbursement of the State Board of Equalization for expenses incurred in the administration and collection of the tax imposed by Section 30135.2 and the resulting increase in the tax on tobacco products required by subdivision (b) of Section 30123, and transfers of funds in accordance with Section 30135.5, all moneys raised pursuant to the tax imposed by Section 30135.2, and the resulting increase in the tax on tobacco products required by subdivision (b) of Section 30123, shall be deposited in the Fund. Notwithstanding Section 13340 of the Government Code or any other provision of law, all moneys deposited in the Fund shall be allocated and are continuously appropriated for the exclusive purpose of funding the programs and services described in Section 30135.6, and shall be available for expenditure without regard to fiscal year.

30135.5. The State Board of Equalization shall determine within one year of the passage of this Act, and annually thereafter, the effect that the additional tax imposed on cigarettes by this Act, and the resulting increase in the tax on tobacco products required by subdivision (b) of Section 30123, have on the consumption of cigarettes and tobacco products in this state. To the extent that a decrease in consumption is determined by the State Board of Equalization to be a direct result of the additional tax imposed by this Act, or the resulting increase in the tax on tobacco products required by subdivision (b) of Section 30123, the State Board of Equalization shall determine the fiscal effect the decrease in consumption has on the California Children and Families First Trust Fund created by Proposition 10 (1998). Funds shall be transferred from the Tobacco Surtax, Disease Prevention and Children's Health Insurance Fund to the California Children and Families First Trust Fund as necessary to offset the revenue decrease directly resulting from imposition of the additional tax imposed by this Act, and the resulting increase in the tax on tobacco products required by subdivision (b) of Section 30123. The reimbursements shall occur, and at such times, as determined necessary to further the intent of this section.

30135.6. Moneys deposited in the Fund shall be allocated and appropriated from the Fund as follows:

(a) Twenty-one percent (21%) of the Fund shall be deposited in a Tobacco Use Prevention, Education and Enforcement Account, which is hereby created. Expenditures from the Tobacco Use Prevention, Education and Enforcement Account shall be made according to the following formula:

(1) Twenty-four percent (24%) shall be deposited in the Tobacco Control Media Campaign Sub-Account, which is hereby created. All funds in this Sub-Account shall be continuously appropriated to the Department of Health Services to be used solely for media advertisements and public relations programs to prevent and reduce the use of tobacco products as described in paragraph (1) of subdivision (e) of Section 104375 of the Health and Safety Code.

(2) Sixteen percent (16%) shall be deposited in a Tobacco Control Competitive Grants Sub-Account, which is hereby created. All funds in the Tobacco Control Competitive Grants Sub-Account shall be continuously appropriated to the Department of Health Services to be used solely for the competitive grants program directed at the prevention of tobacco-related diseases as described in Section 104385 of the Health and Safety Code.

(3) Fifteen percent (15%) shall be deposited in a Local Health Department Tobacco Prevention Sub-Account, which is hereby created. All funds in the Local Health Department Tobacco Prevention Sub-Account shall be continuously appropriated to the Department of Health Services to be used solely for local-health-department-based programs to prevent tobacco use as described in Section 104400 of the Health and Safety Code. Notwithstanding Section 104380 of the Health and Safety Code, funds from the Local Health Department Tobacco Prevention Sub-Account shall be appropriated to local lead agencies based on each county's proportion of the statewide population.

(4) Eight percent (8%) shall be deposited in a Tobacco Cessation Services Sub-Account, which is hereby created. All funds in the Tobacco Cessation Services Sub-Account shall be continuously appropriated to the Department of Health Services to be used solely to provide tobacco cessation programs and services to assist adult and minor tobacco users to quit tobacco. It is the intent of this Act that this appropriation supports programs and services including, but not limited to, counseling, referral and support services, pharmaceutical tobacco cessation products, and training and technical assistance activities.

(5) Two percent (2%) shall be deposited in a Tobacco Control Evaluation Sub-Account, which is hereby created. All funds in the Tobacco Control Evaluation Sub-Account shall be continuously appropriated to the Department of Health Services to be used solely for evaluation of tobacco control programs as required by subdivisions (b) and (c) of Section 104375 of the Health and Safety Code.

(6) Thirteen (13%) shall be deposited in a Tobacco Education Sub-Account, which is hereby created. All funds in the Tobacco Education Sub-Account shall be continuously appropriated to the Department of Education to be used solely for programs to prevent or reduce the use of tobacco products as described in Section 104420 of the Health and Safety Code. Any program receiving funds pursuant to this section must participate in program evaluations conducted by the Department of Health Services pursuant to Article 1 (commencing with Section 104350) of Chapter 1 of Part 3 of Division 103 of the Health and Safety Code. At least two percent (2%) of the money in this Sub-Account shall be used solely for administration of the department's tobacco prevention education program as described in Sections 104420 and 104425 of the Health and Safety Code.

(7) Fourteen percent (14%) shall be deposited in a Tobacco Control Research Sub-Account, which is hereby created. All funds in the Tobacco Control Research Sub-Account shall be continuously appropriated to the University of California to be used solely to supplement the Tobacco Related Disease Research Program described in Article 2 (commencing with Section 104500) of Chapter 1 of Part 3 of Division 103 of the Health and Safety Code. The research funded by the Tobacco-Related Disease Research Program with these supplementary funds shall include, but not be limited to:

(A) research to improve the effectiveness of tobacco control efforts in California, including programs and strategies for governmental and other organizations to reduce tobacco use and exposure to secondhand smoke; and

(B) research on the prevention, causes, and treatment of tobacco-related diseases, including, but not limited to coronary heart disease, cerebrovascular disease, chronic obstructive lung disease, and cancer.

(8) Eight percent (8%) shall be deposited in a Tobacco Control Enforcement Sub-Account, which is hereby created. All funds in this Sub-Account shall be used solely for programs to enforce tobacco-related statutes and policies, to enforce legal settlement provisions and to conduct law enforcement training and technical assistance activities, and shall be appropriated as follows:

(A) Fifty percent (50%) of the funds in the Tobacco Control Enforcement Sub-Account is continuously appropriated to the Department of Health Services to be used to support programs, including, but not limited to:

(i) Providing grants to local law enforcement agencies to provide training and funding for the enforcement of state and local tobacco-related laws and policies, including, but not limited to the illegal sales of tobacco to minors, tobacco retailer licensing and exposure to secondhand smoke.

(ii) Increasing investigative activities, compliance checks and other appropriate activities to reduce illegal sales of tobacco products to minors under the Stop Tobacco Access to Kids Enforcement (STAKE) Act, pursuant to Section 22952 of the Business and Professions Code.

(B) Twenty five percent (25%) of the funds in the Tobacco Control Enforcement Sub-Account is continuously appropriated to the California Office of the Attorney General to be used for activities including, but not limited to:

(i) Enforcing laws that regulate the distribution and sale of cigarettes and other tobacco products, such as laws that prohibit cigarette smuggling, counterfeiting, selling untaxed tobacco, selling tobacco without a proper license and selling tobacco to minors.

(ii) Enforcing tobacco-related laws, court judgments and settlements, such as the Tobacco Master Settlement Agreement and the Smokeless Tobacco Master Settlement Agreement, entered into on November 23, 1998, by the State of California and leading United States tobacco product manufacturers, including tracking tobacco industry advertising, marketing, and promotional activities in California, and bringing actions against violators.

(iii) Assisting local law enforcement agencies in the enforcement of tobacco related statutes and local ordinances through technical assistance and training activities.

(C) Twenty five percent (25%) of the funds in the Tobacco Control Enforcement Sub-Account is continuously appropriated to the State Board of Equalization to be used to enforce laws that regulate the distribution and sale of cigarettes and other tobacco products, such as laws that prohibit cigarette smuggling, counterfeiting, selling untaxed tobacco, and selling tobacco without a proper license.

(b) Thirty-five percent (35%) of the Fund shall be deposited in the Disease Prevention, Treatment and Research Account. Expenditures from the Disease Prevention, Treatment and Research Account shall be made according to the following formula:

(1) Nineteen percent (19%) shall be deposited in a Breast and Cervical Cancer Early Detection Sub-Account, which is hereby created. All funds in the Breast and Cervical Cancer Early Detection Sub-Account shall be continuously appropriated to the Department of Health Services to be used solely for breast and cervical cancer prevention and early detection services that result in the reduction of breast and cervical cancer morbidity and mortality in California. These early detection services shall be part of a program that includes a significant quality assurance and improvement component, including patient and provider education, community outreach, and program evaluation.

(2) Five percent (5%) shall be deposited in a Prostate Cancer Treatment Sub-Account, which is hereby created. All funds in the Prostate Cancer Treatment Sub-Account shall be continuously appropriated to the Department of Health Services to be used solely to provide for prostate cancer prevention and treatment for low income and uninsured men.

(3) Four percent (4%) shall be deposited in a Cancer Registry Sub-Account, which is hereby created. All funds in the Cancer Registry Sub-Account shall be continuously appropriated to the Department of Health Services to be used solely for a statewide population-based cancer surveillance system as provided for in Chapter 2 (commencing with Section 103875) of Part 2 of Division 102 of the Health and Safety Code.

(4) Seven percent (7%) shall be deposited in a Breast Cancer Research Sub-Account, which is hereby created. All funds in the Breast Cancer Research Sub-Account shall be continuously appropriated to the University of California to be used solely for the Breast Cancer Research Program provided for in Article 1 (commencing with Section 104145) of Chapter 2 of Part 1 of Division 103 of the Health and Safety Code.

(5) Four percent (4%) shall be deposited in a Cancer Research Sub-Account, which is hereby created. All funds in the Cancer Research Sub-Account shall be continuously appropriated to the Department of Health Services to be used solely for the Cancer Research Program described in Section 104181 of the Health and Safety Code, with a focus on applied research, which includes but is not limited to, research that is geared towards the accelerated transfer of recent laboratory and clinical technologic advances into primary care, public health and community settings so that the majority of California's population may benefit. This research should be focused on converting recent discoveries into interventions and technologies, proving that they work, and learning how best to apply them.

(6) Twenty percent (20%) shall be deposited in a Heart Disease and Stroke Prevention Sub-Account, which is hereby created. All funds in the Heart Disease and Stroke Prevention Sub-Account shall be continuously appropriated to the Department of Health Services to be used solely for the California Heart Disease and Stroke Prevention Program provided for in Section 104142 of the Health and Safety Code. The intent of this program is to reduce the risk, disability and death from heart disease and stroke.

(7) Eighteen percent (18%) shall be deposited in an Obesity Prevention and Nutrition and Physical Activity Promotion Sub-Account, which is hereby created. All funds in the Obesity Prevention and Nutrition and Physical Activity Promotion Sub-Account shall be appropriated as follows:

(A) Seventy percent (70%) shall be continuously appropriated to the Department of Health Services to support programs and activities to be used solely to prevent obesity, diabetes and chronic diseases through the promotion of community norm change, healthy eating and physical activity. The department shall design, develop and enhance a comprehensive program that includes, but need not be limited to:

(i) media advertisements and public relations programs;

(ii) competitive grants to community based organizations and agencies;

(iii) grants to local health departments;

(iv) research and evaluation of program effectiveness; and

(v) those provisions contained in Section 104650 of the Health and Safety Code.

(B) Thirty percent (30%) shall be continuously appropriated to the Department of Education to be used solely to design, develop and support programs and activities to prevent obesity, diabetes and chronic diseases through the promotion of, and access to, healthy eating and physical activity for children and their families within the context of coordinated school health. Such programs and activities shall include but need not be limited to:

(i) promotion of, and access to, fruits, vegetables and other healthy foods;

(ii) promotion of moderate and vigorous physical activity;

(iii) promotion of health education and physical education;

(iv) research, surveillance and evaluation of program effectiveness;

(v) professional development for teachers and other appropriate staff in health education and physical education; and

(vi) monitoring local educational agencies compliance with state laws for nutrition and physical education.

(C) The Department of Health Services, in consultation with the Department of Education, shall establish an Oversight Committee composed of 13 members selected for their expertise in nutrition, physical activity and education, and related disciplines pertinent to the purposes of this Sub-Account. Membership shall include, but need not be limited to, representation from the following: health and education organizations, public health and local education agencies, advocacy groups, and healthcare professionals and organizations.

The Oversight Committee shall advise the Department of Health Services and the State Department of Education with respect to policy development and evaluation and provide guidance on strategic priorities, coordination, and collaboration among State agencies with regard to the programs funded by the Obesity Prevention and Nutrition and Physical Activity Promotion Sub-Account.

(8) Ten percent (10%) shall be deposited in an Asthma Prevention and Control Sub-Account, which is hereby created. All funds in the Asthma Prevention and Control Sub-Account shall be used solely to support asthma assessment, community intervention strategies, training and technical assistance, surveillance, evaluation of asthma prevention and control activities, translational research to implement effective interventions, and school-based asthma education, training and coordination activities. These funds shall be appropriated as follows:

(A) Sixty percent (60%) of the funds in the Asthma Prevention and Control Sub-Account is continuously appropriated to the Department of Health Services to fund programs and services

including, but not limited to those described in Chapter 6.5 (commencing with Section 104316) of Part 1 of Division 103 of the Health and Safety Code, including community childhood asthma programs within the California Asthma Public Health Initiative and asthma surveillance within the Environmental Health Investigations Branch, and to support media advertisements, public relations and other public education activities. Areas in the state that have the highest asthma prevalence, and areas with low socioeconomic status populations shall receive priority consideration in the expenditure of these funds.

(B) Forty percent (40%) of the funds in the Asthma Prevention and Control Sub-Account is continuously appropriated to the Department of Education to improve the management of asthma within the school setting. Funds shall be for activities and programs, including, but not limited to: statewide coordination of asthma programs and services, the development or purchase and dissemination of educational and training materials, delivery of asthma education and training to school personnel, and the reduction of asthma triggers in the indoor and outdoor school environments. Schools in areas of the state that have the highest asthma prevalence, schools serving low socioeconomic status students and school districts that do not have school nurses shall receive priority consideration in the expenditure of these funds.

(9) Ten percent (10%) shall be deposited in a Colorectal Cancer Sub-Account, which is hereby created. All funds in the Colorectal Cancer Sub-Account shall be continuously appropriated to the Department of Health Services to be used solely for the Colorectal Cancer Prevention, Detection and Treatment Program described in Article 2.7 (commencing with Section 104195) of Chapter 2 of Part 1 of Division 103 of the Health and Safety Code. The intent of this program is to reduce the incidence, morbidity, and mortality due to colorectal cancer. This program shall include various public health components, including a significant quality assurance and improvement component, patient and provider education, community outreach, and program evaluation. No less than forty percent (40%) of the funds for this program shall be used for those non-clinical public health components.

(10) Three percent (3%) shall be deposited in the Lung Disease Research Sub-Account, which is hereby created. All funds deposited in this Sub-Account shall be continuously appropriated to the University of California to be used solely to provide research grants to develop and advance the understanding, causes, techniques, and modalities effective in the prevention, care, treatment, and cure of lung disease. For purposes of this section, the lung disease research areas shall include, but not be limited to lung cancer, asthma, tuberculosis, and chronic obstructive pulmonary disease, which includes chronic bronchitis and emphysema.

(c) Six percent (6%) of the Fund shall be deposited in the Community Clinics Uninsured Account, which is hereby created to fund nonprofit clinic corporations providing vital health care service to the uninsured in accordance with Article 6 (commencing with Section 1246) of Chapter 1 of Division 2 of the Health and Safety Code. All funds in this Account shall be continuously appropriated to the Department of Health Services solely for implementation of Article 6 (commencing with Section 1246) of Chapter 1 of Division 2 of the Health and Safety Code.

(d) Thirty-four percent (34%) of the Fund shall be deposited in the California Healthy Kids Account, which is hereby created to ensure that every child in California is eligible for

comprehensive, affordable health insurance and has access to needed health care. All moneys in this Account shall be continuously appropriated to the California Health and Human Services Agency only for implementation by the Department of Health Services and the Managed Risk Medical Insurance Board of Chapter 17 (commencing with Section 12693.99) of Part 6.2 of Division 2 of the Insurance Code pursuant to the provisions and restrictions thereof. No less than ninety percent (90%) of the funds appropriated from this account shall be used for implementation of Section 12693.99 of the Insurance Code. No more than ten percent (10%) of the funds appropriated from this Account shall be used for implementation of Section 12693.991 of the Insurance Code.

(e) Four percent (4%) of the Fund shall be deposited in a Nursing Education, Student Health and Public Health Account, which is hereby created. All funds in the Nursing Education, Student Health and Public Health Account shall be continuously appropriated to separate sub-accounts of the Office of Statewide Health Planning and Development according to the following formula:

(1) Fifty percent (50%) shall be deposited in the Registered Nurse Scholarship Sub-Account, which is hereby created. All funds in this Sub-Account shall be used solely to provide loan forgiveness for registered nurse graduates of California nursing programs who agree to work as direct care providers in medically underserved areas.

(2) Fifteen percent (15%) shall be deposited in the School Nurse Sub-Account, which is hereby created. All funds in this Sub-Account shall be used solely to fund the cost of school nurses for public schools, grades K-12, without school nurses.

(3) Fifteen percent (15%) shall be deposited in the Public Health Safety Net Clinics Sub-Account, which is hereby created. All funds in this Sub-Account shall be used solely to pay for the costs of supporting public health clinics, with priority given to the funding of public health nurses and Advanced Practice Nurses, to provide health education and direct care services.

(4) Twenty percent (20%) shall be deposited in the Registered Nurse Education Sub-Account, which is hereby created. All funds in this Sub-Account shall be used solely to support the expansion of Board-of-Registered-Nursing-approved registered nurse education pre-licensure programs in the California Community Colleges, California State University and University of California.

30135.7 All moneys allocated to and deposited in the specific Accounts and Sub-Accounts of the Fund shall be expended pursuant to the formula specific to each Account or Sub-Account set forth in Section 30135.6. Any moneys allocated and appropriated to any of the Accounts or Sub-Accounts of the Fund that are not encumbered or expended within any applicable period prescribed by law shall, together with the accrued interest on the amount, revert to and remain in the same Account or Sub-Account for encumbrance and expenditure for the next fiscal period.

30135.8. (a) All moneys raised pursuant to the tax imposed by Section 30135.2, and all moneys raised by the resulting increase in the tax on tobacco products required by subdivision (b) of Section 30123, shall be appropriated and expended only for the purposes

expressed in this Act, and shall be used only to supplement existing levels of service and not to fund existing levels of service. Except as specified in subdivision (b), no moneys in the Fund shall be used to supplant state or local General Fund money for any purpose, including back-filling state or local General Fund obligations.

(b) In addition to the provisions of subdivision (a), all moneys raised pursuant to the tax imposed by Section 30135.2, and all moneys raised by the resulting increase in the tax on tobacco products required by subdivision (b) of Section 30123, shall not supplant the following:

(1) local funds used to secure state or federal matching funds for any children's health services, children's health, or medical assistance programs, including but not limited to the following: (A) Healthy Families, (B) Medi-Cal, whether full-scope or emergency or pregnancy-related care only, and (C) the Child Health and Disability Prevention Program; but not including funds generated by or expended from the California Children and Families First Trust Fund (Division 108 (commencing with Section 130100) of the Health and Safety Code) or from the County Health Initiative Matching Fund (Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code);

(2) state funds used to secure federal matching funds for any children's health services, children's health, or medical assistance programs, including but not limited to the following:

(A) Healthy Families,

(B) Medi-Cal, whether full-scope or emergency or pregnancy-related care only, and

(C) the Child Health and Disability Prevention Program; or

(3) state or federal funds to continue or maintain the amount, duration, scope and structure of benefits that existed as of September 30, 2005 for any children's health services, children's health, or medical assistance programs, including but not limited to the following:

(A) Healthy Families,

(B) Medi-Cal, whether full-scope or emergency or pregnancy-related care only, and

(C) the Child Health and Disability Prevention Program.

(c) It is the intent of the people of the State of California that Section 7 of the Tobacco Tax, Disease Prevention and Children's Health Insurance Act of 2006 shall, in accordance with the purposes and intent of this Act, maximize, and not reduce, federal matching funds made available to the State for children's health coverage under Title XIX and/or Title XXI of the Social Security Act.

30135.9. Notwithstanding any other provision of law, money deposited in the Fund may not be loaned to, or borrowed by, any other special fund or the General Fund, or a county general fund or any other county fund, for any purpose other than those authorized by the Tobacco Tax, Disease Prevention and Children's Health Insurance Act of 2006.

30135.10. Due to the necessity to rapidly and efficiently implement the mandates of the Tobacco Tax, Disease Prevention and Children's Health Insurance Act of 2006, any contract made pursuant to any provision of subdivision (b) of Section 30135.6 shall not be subject to Part 2 (commencing with Section 10100) of the Public Contract Code for the first five full years after enactment.

30135.11. At least two percent (2%) of the money appropriated to the Department of Health Services pursuant to subdivision (a) of Section 30135.6 shall be used solely for administration of the department's tobacco control programs.

30135.12. Moneys in the Tobacco Surtax, Disease Prevention and Children's Health Insurance Fund may be used to maximize federal matching funds, so long as all moneys in the Fund are expended in a manner fully consistent with the Tobacco Tax, Disease Prevention and Children's Health Insurance Act of 2006.

30135.13. To provide full public accountability concerning the uses to which moneys in the Tobacco Surtax, Disease Prevention and Children's Health Insurance Fund are put, and to ensure full compliance with the Tobacco Tax, Disease Prevention and Children's Health Insurance Act of 2006:

(a) Beginning with the first full fiscal year after the adoption of the Tobacco Tax, Disease Prevention and Children's Health Insurance Act of 2006, and annually thereafter, the Department of Health Services shall prepare a report describing all programs that received Fund moneys in the previous fiscal year, and describing in detail the uses to which Fund moneys were put during the previous fiscal year. This report shall be made available to the public on the department's web site, no later than March 31.

(b) All programs and departments receiving moneys from the Tobacco Surtax, Disease Prevention and Children's Health Insurance Fund are subject to audits by the Bureau of State Audits.

(c) No more than five percent (5%) of the funds appropriated to any Account or Sub-Account created by the Tobacco Tax, Disease Prevention and Children's Health Insurance Act of 2006 may be used for administration.

SECTION 5. Article 2.7 (commencing with Section 104195) is added to Chapter 2 of Part 1 of Division 103 of the Health and Safety Code, to read:

104195. The Colorectal Cancer Detection and Treatment Program shall be established within the State Department of Health Services.

104195.1. The program shall apply to both of the following groups:

(a) Uninsured and underinsured persons 50 years of age and older with incomes at or below two hundred percent (200%) of the federal poverty level.

(b) Uninsured and underinsured persons below 50 years of age who are at high risk for colorectal cancer according to the most recently published colorectal cancer screening guidelines

of the U.S. Preventive Services Task Force and who have incomes at or below two hundred percent (200%)of the federal poverty level.

104195.2. Services provided under this article shall include, but are not limited to, all of the following:

(a) Screening of men and women for colorectal cancer as an early detection health care measure, in accordance with the most recent cancer screening guidelines of the U.S. Preventive Services Task Force.

(b) After screening, medical referral of the screened person and services necessary for a definitive diagnosis.

(c) If a positive diagnosis is made, then assistance and advocacy shall be provided to help the person obtain necessary treatment.

(d) Necessary treatment in accordance with the most recent cancer treatment guidelines of the National Comprehensive Cancer Network.

(e) Outreach and health education activities to ensure that uninsured and underinsured persons are aware of, and appropriately utilize, the services provided by the program.

104195.3. The department shall award one or more contracts to provide colorectal cancer screening and treatment through private or public nonprofit organizations, which may include, but shall not be limited to, community-based organizations, local health care providers, and the University of California medical centers.

SECTION 6. Section 104142 is added to Chapter 1 of Part 1 of Division 103 of the Health and Safety Code, to read:

104142. The California Heart Disease and Stroke Prevention Program (CHDSP) is hereby created in the State Department of Health Services. The CHDSP program that is hereby created is consistent with the existing CHDSP program within the department and shall not be duplicated by another cardiovascular disease (CVD) program.

(a) The CHDSP program shall do, but is not limited to, all of the following:

(1) Conduct programs to prevent and reduce risk factors for CVD including, but not limited to, high blood pressure, as provided for in Section 104100, and high cholesterol.

(2) Design, implement, and support programs to improve disease treatment and management, including quality of care for CVD.

(3) Promote and support medical professional development for the prevention and treatment of CVD.

(4) Collect, analyze, and publish data on CVD, which may include the establishment of a heart disease and stroke registry to track the incidence and prevalence of CVD.

(5) Guide the development of public health policies, including linkages with appropriate state agencies, to improve health outcomes from CVD.

(6) Conduct a statewide public education campaign that focuses on the incidence, signs, symptoms, and risk factor reduction strategies for CVD.

(b) The department shall consider, as a priority, the recommendations of the Heart Disease and Stroke Prevention and Treatment Task Force, as provided for in Section 104141.

(c) The department may authorize CVD research, including pilot demonstration projects.

(d) Nothing in this section shall duplicate other programs in the department.

SECTION 7. Chapter 17 (commencing with Section 12693.99) is added to Part 6.2 of Division 2 of the Insurance Code, to read:

Section 12693.99.

(a) To ensure that every child in California is eligible for comprehensive, affordable health insurance and has access to needed health care, all children described in subdivision (b) shall be eligible for the California Healthy Families Program (Part 6.2 (commencing with Section 12693) of Division 2 of the Insurance Code (hereinafter "Healthy Families").

(b) All children under 19 years of age shall be eligible for the services and benefits provided under this Chapter, notwithstanding paragraph (4) of subdivision (a) of Section 12693.70 and Section 12693.73, if they meet all of the following:

(1) are in families with countable household income up to and including 300 percent of the federal poverty level. In a family with annual or monthly household income greater than 300 percent of the federal poverty level, any income deduction that is applicable under Medi-Cal shall be applied in determining annual or monthly household income under this Section;

(2) meet the state residency requirements of Healthy Families in place as of September 30, 2005, as set forth in paragraph 5 of subdivision (a) of Section 12693.70;

(3) are in compliance with Sections 12693.71 and 12693.72; and

(4) are not eligible for Healthy Families, or for full-scope Medi-Cal (Chapter 7 (commencing at Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code) without a share of cost, under the eligibility rules in place as of September 30, 2005.

(c) The confidentiality and privacy protections set forth in Sections 10500 and 14100.2 of the Welfare and Institutions Code shall apply to all children seeking, applying for or enrolled in Healthy Families.

(d) Families of children enrolled in Healthy Families through this Chapter shall be required to contribute premiums equal to those required of families of children enrolled in Healthy Families not through this Chapter, subject to the following exceptions:

(1) Families of children up to and including 18 years of age who apply for or are enrolled in Healthy Families and whose countable household incomes are up to and including 100 percent of the federal poverty level shall not be required to contribute any premiums; families of children up to one year of age who apply for or are enrolled in Healthy Families and whose countable household incomes are up to and including 200 percent of the federal poverty level shall not be required to contribute any premiums; and families of children up to and including six years of age who apply for or are enrolled in Healthy Families and whose countable household incomes are up to and including 133 percent of the federal poverty level shall not be required to contribute any premiums.

(2) Families of children who are enrolled in Healthy Families whose countable household incomes are greater than 250 percent and up to and including 300 percent of the federal poverty level shall be required to contribute premiums at 150 percent of the premiums required for children who are enrolled in Healthy Families whose countable household incomes are greater than 200 percent and up to and including 250 percent of the federal poverty level. The same premium discounts available to children enrolled in Healthy Families whose families have countable incomes of 200 through 250 percent of the federal poverty level shall be available on the same terms to children enrolled in Healthy Families whose families' countable incomes are greater than 250 percent of the federal poverty level.

(e) Less restrictive Healthy Families eligibility requirements than those established at subdivision (b) may be established by the Legislature at any time before or after adoption of this Section. If the Legislature adopts less restrictive eligibility criteria for Healthy Families at any time, such a change shall supersede the eligibility requirements of this Section. Nothing in this Section shall preclude a child from eligibility for Medi-Cal or Healthy Families if less restrictive eligibility criteria are enacted. For purposes of this subsection, requirements or criteria are considered to be "less restrictive" if, under such requirements or criteria, additional individuals may be eligible for medical assistance and no individuals who are otherwise eligible are made ineligible for such assistance.

12693.991.

(a) The Managed Risk Medical Insurance Board and the State Department of Health Services (hereinafter "administering agencies") shall continue to administer the Healthy Families and Medi-Cal programs, respectively, for all eligible children. The administering agencies shall coordinate their respective administrations of each program in a cost-effective, coordinated and seamless manner with respect to children seeking, applying for or enrolled in Medi-Cal or Healthy Families. Both administering agencies shall coordinate enrollment, renewal, eligibility, and outreach, and shall assign clear lines of responsibility for all associated agency activities with enforceable accountability. Implementation of duties and responsibilities that require the participation of both agencies shall be done jointly, as coordinated between them by agreement.

(b) The administering agencies, in consultation with the Healthy Kids Oversight and Accountability Commission, shall design and implement streamlined application, enrollment and retention procedures and mechanisms for all benefits available under Healthy Families and Medi-Cal. From the child's perspective there shall appear to be a single program, though the details are handled by two programs and administering agencies. The administering agencies

shall implement strategies including at least the following to ensure that all children who are eligible for Healthy Families or Medi-Cal under the eligibility rules in place on September 30, 2005, and all children who are eligible for Healthy Families under this Chapter, receive health insurance:

(1) Simplify paperwork requirements for families to enroll their children and retain coverage as long as they remain eligible by requesting documentation and verifying information only to the extent required under federal law.

(2) Expedite and streamline enrollment by offering enrollment, which may be known as "express lane" or "gateway" enrollment, through entry points such as the National School Lunch Program, the California Supplemental Special Nutrition Program for Women, Infants and Children, the Food Stamp Program, and the Child Health and Disability Prevention Program or similar programs; by utilizing the enrollment information provided by families to these other programs, with families' consent and ensuring confidentiality pursuant to subdivision (c) of Section 12693.99 for all children seeking, applying for, and enrolled in Healthy Families or Medi-Cal; and by implementing an electronic gateway system to process that enrollment.

(3) Develop a plan to ensure that eligible, enrolled children do not experience a gap in benefits and to ensure continuity of medical care for children when renewing or transferring between Medi-Cal and Healthy Families, or from a local children's health insurance program (hereinafter "local CHI"). The plan shall include simplifying renewal forms and renewal and transition processes.

(4) Facilitate outreach and education to current and potential beneficiaries, applicants, health care providers, and insurers.

(5) In coordination with the Healthy Kids Oversight and Accountability Commission, and while preserving confidentiality in accordance with subdivision (c) of Section 12693.99, undertake a pilot research demonstration project to test effective strategies, and gather data about the impact of specific efforts, to increase coverage for uninsured children in families with incomes above 300 percent of the federal poverty level; and recommend to the Legislature strategies for increasing coverage for this population based upon the pilot research demonstration project results.

(6) In coordination with the Healthy Kids Oversight and Accountability Commission, design and implement a process for ensuring a smooth transition for local CHI enrollees to Healthy Families. The transition shall provide that any child who applies for and is determined eligible for Healthy Families pursuant to this Chapter, and who is enrolled in a local CHI both as of enactment of this Chapter and as of his/her Healthy Families eligibility determination, shall be automatically rolled over into his/her existing local CHI health plan under Healthy Families, if the health plan is a participating plan in Healthy Families. For good cause or upon the child's next annual renewal, a child may switch plans or otherwise remain in his/her existing plan. Nothing in this paragraph is intended to delay immediate implementation of this Chapter, including eligibility for Healthy Families.

(7) Maximize federal matching funds available for eligible children's health insurance under Medi-Cal and Healthy Families and implement strategies that coordinate and integrate existing children's health insurance programs to maximize available federal and state matching funds, such as matching funds available for emergency or pregnancy-related Medi-Cal benefits, for all eligible children.

(8) Take any additional steps necessary to ensure that from a child's perspective, Medi-Cal and Healthy Families operate as a single program.

(c) The Healthy Kids Oversight and Accountability Commission is hereby established to guide the implementation and administration of this Chapter; advise the administering agencies on how best to provide affordable health insurance for all children; review financial audits of the children's Medi-Cal and Healthy Families programs by the Bureau of State Audits; and identify inefficient practices or waste in the administration or operation of Healthy Families and Medi-Cal and direct anticipated savings back into providing health insurance for more children.

(1) The Commission shall consist of 15 members with expertise in children's health, health insurance and health insurance programs, and shall include representatives from the following categories:

(A) consumers;

(B) consumer advocates, including representatives of specific child populations;

(C) health care providers, including physicians and public hospitals;

(D) health plans, including local CHIs; and

(E) other stakeholders, including but not limited to schools, business and organized labor, and county agencies.

(2) The Speaker of the Assembly, the Senate President Pro Tempore, and the Governor shall each appoint five commissioners such that each appoints one commissioner from each of the five categories.

(3) Members shall serve without compensation, but shall be reimbursed for all actual and necessary expenses incurred in the performance of their duties.

(4) The term of each member shall be three years, to be staggered so that approximately one-third of the appointments expire in each year.

(5) In carrying out its duties and responsibilities, the Commission may do all of the following:

(A) Meet at least once each quarter at any time and location convenient to the public as it may deem appropriate. All meetings of the Commission shall be open to the public.

(B) Establish technical advisory committees such as a committee of parents and guardians.

(C) Advise the Governor and the Legislature regarding actions the state may take to improve access to, enrollment in, retention of, and use of health coverage for children and their families.

(D) Recommend strategies to: increase the efficiency of Medi-Cal and Healthy Families, reduce paperwork requirements for benefit administration, and implement electronic gateways and other "express lanes" for increasing enrollment.

(E) Recommend strategies for transitioning children among and between local CHIs, Medi-Cal and Healthy Families.

(F) Recommend voluntary strategies with employers to maintain or increase employer-sponsored health coverage for employees' dependents under the age of 19 years.

(G) Provide guidance in the development of the pilot research demonstration project for pursuing affordable health insurance or assistance options for uninsured children whose families have incomes over 300 percent of the federal poverty level and, based on the results of the pilot research projects, recommend to the Legislature strategies for increasing coverage for this population.

(H) Review the adequacy of the provider network and seek broad participation from traditional and safety-net providers by recommending strategies to ensure adequate provider reimbursement rates.

(I) Employ all other appropriate strategies necessary or convenient to enable it to fully and adequately perform its duties and exercise the powers expressly granted, notwithstanding any authority expressly granted to any officer or employee of state government.

12693.992.

(a) For the purposes specified in this Chapter and notwithstanding subdivision (b) of Section 30135 of the Revenue and Taxation Code, and subject to subdivision (c) of Section 30135.13 of the Revenue and Taxation Code, funds appropriated from the California Healthy Kids Account established at subdivision (d) of Section 30135.6 of the Revenue and Taxation Code shall be used only for:

(1) the provision of children's health insurance, through Healthy Families, only for children defined in subdivision (b) of Section 12693.99; and

(2) implementation of those measures contained in Section 12693.991.

(b) Pursuant to Section 30135.8 of the Revenue and Taxation Code, funds expended or transferred from the California Healthy Kids Account shall supplement and not supplant the following:

(1) local funds used to secure state or federal matching funds for any children's health services, children's health, or medical assistance programs, including but not limited to the following: (A) Healthy Families; (B) Medi-Cal, whether full-scope or emergency or pregnancy-related care only; and (C) the Child Health and Disability Prevention Program; but not including funds generated by or expended from the California Children and Families First Trust Fund (Division 108 (commencing at Section 130100) of the Health and Safety Code) or from the County Health Initiative Matching Fund (Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code);

(2) state funds used to secure federal matching funds for any children's health services, children's health, or medical assistance programs, including but not limited to the following:

(A) Healthy Families;

(B) Medi-Cal, whether full-scope or emergency or pregnancy-related care only; and

(C) the Child Health and Disability Prevention Program; or

(3) state or federal funds to continue or maintain the amount, duration, scope and structure of benefits that existed as of September 30, 2005 for any children's health services, children's health, or medical assistance programs, including but not limited to the following:

(A) Healthy Families;

(B) Medi-Cal, whether full-scope or emergency or pregnancy-related care only; and

(C) the Child Health and Disability Prevention Program.

(c) The state may not increase a county's share of costs for children's health services unless the state includes adequate funding to fully compensate for such increased costs.

12693.993.

(a) Nothing in this Chapter is intended to:

(1) reduce or restrict any existing entitlement under Medi-Cal;

(2) reduce or restrict the existing eligibility levels or the amount, duration, scope or structure of benefits in place as of September 30, 2005 under either Healthy Families or Medi-Cal;

(3) create a new entitlement for children enrolled in Healthy Families;

(4) preclude a child from eligibility for any other children's health insurance, medical service or medical assistance program, including but not limited to restricted Medi-Cal or Medi-Cal with a share of cost;

(5) preclude a child from eligibility for Healthy Families or Medi-Cal if less restrictive eligibility criteria are enacted;

(6) reduce or erode children's existing employer-sponsored health insurance coverage;

(7) restrict any public appropriations or private contributions for the provision of children's health insurance through Medi-Cal or Healthy Families, such as federal financial match for state or county Medi-Cal funding; county, regional or local funding; private foundation grants, and family premium contributions;

(8) prohibit eligibility for Medi-Cal or Healthy Families based on concurrent eligibility for a local CHI; nor

(9) create or require creation of a new State department or agency.

(b) The State Department of Health Services and the Managed Risk Medical Insurance Board may explore and utilize any options available under federal law to allow the use of charitable or other funding by private and public not-for-profit organizations as a match for federal funds for use in the provision of coverage consistent with the provisions of this Chapter.

SECTION 8. Article 6 (commencing with Section 1246) is added to Chapter 1 of Division 2 of the Health and Safety Code, to read:

Section 1246.

(a) Funds in the Community Clinics Uninsured Account established at subdivision (c) of Section 30135.6 of the Revenue and Taxation Code shall be administered by the Department of Health Services solely for the purposes of this section. The Department shall allocate the funds for eligible non-profit clinic corporations providing vital health care services, including services related to smoking cessation programs to assist smokers to quit smoking, and educational efforts related to tobacco prevention, to the uninsured. The funds shall be allocated by the Department pursuant to the provisions of this section.

(b) Annually, commencing August 1, 2007, the Department shall allocate to each eligible non-profit clinic corporation a percentage of the balance present in the Community Clinics Uninsured Account as of July 1 of the year the allocations are made based on the formula provided for in subdivision (c) and subject to subdivision (d).

(c) Funds in the Community Clinics Uninsured Account shall be allocated only to eligible non-profit clinic corporations. Funds in the Community Clinics Uninsured Account shall be allocated to eligible non-profit clinic corporations on a percentage basis based on the total number of uninsured patient encounters.

(1) For purposes of this section, an "eligible non-profit clinic corporation" shall meet both of the following requirements:

(A) The corporation shall consist of non-profit free and community clinics licensed

pursuant to subdivision (a) of Section 1204 or of clinics operated by a federally recognized Indian tribe or tribal organization and exempt from licensure pursuant to subdivision (c) of Section 1206.

(B) The corporation must provide at least 1,000 uninsured patient encounters based on data submitted to the Office of Statewide Health Planning and Development pursuant to the reporting procedures established under Section 1216 of the Health and Safety Code for the year the allocations are made.

(2) The total number of uninsured patient encounters shall be based on data submitted by each eligible non-profit clinic corporation to the Office of Statewide Health Planning and Development pursuant to the reporting procedures established under Section 1216 of the Health and Safety Code. Beginning August 1, 2007 and every year thereafter, the allocations shall be made by the Department based on data submitted by each eligible non-profit clinic corporation to the Office of Statewide Health Planning and Development by February 15 of the year the allocations are made.

(3) For purposes of this section, except as otherwise provided in paragraph (4), an uninsured patient encounter shall be defined as an encounter for which the patient has no public or private third party coverage. An uninsured patient encounter shall also include encounters involving patients in programs operated by counties pursuant to Part 4.7 (commencing with Section 16900) and Part 5 (commencing with Section 17000) of Division 9 of the Welfare and Institutions Code. An uninsured patient encounter must consist of a primary and preventive health care service, including tobacco cessation and prevention services, and specialty care services traditionally provided by comprehensive primary care providers.

(4) Each uninsured patient encounter shall count as one encounter, except that the encounters involving patients in programs operated pursuant to paragraph (1) of subdivision (aa) of Section 14132 and Division 24 (commencing with Section 24000) of the Welfare and Institutions Code, and pursuant to Article 6 (commencing with Section 124025) of Chapter 3 of Part 2 of Division 106 of the Health and Safety Code shall count as 0.15 encounter for purposes of determining the total number of uninsured patient encounters for each eligible non-profit clinic corporation.

(5) The Department shall compute each eligible non-profit clinic corporation's percentage of total uninsured patient encounters for all eligible non-profit clinic corporations. The Department shall then apply these percentages to the available funds in the Account to compute a preliminary allocation amount for each eligible non-profit clinic corporation. Final allocation amounts will be created pursuant to paragraph (6).

(6) Final allocation amounts shall be determined as follows:

(A) If the preliminary allocation for an eligible non-profit clinic corporation is equal to or less than twenty-five thousand dollars ($25,000), the allocation for that eligible non-profit corporation shall be twenty-five thousand dollars ($25,000).

(B) For all eligible non-profit clinic corporations with preliminary allocations of more than twenty-five thousand dollars ($25,000), the Department shall compute each such eligible

non-profit clinic corporation's percentage of the total uninsured patient encounters and apply the percentage to the remaining funds available to determine the final allocation amount for each such eligible non-profit clinic corporation, subject to subparagraph (C).

(C) No eligible non-profit clinic corporation shall receive an allocation in excess of 2% of the total monies distributed to all eligible non-profit clinic corporations in that year. Allocations that are subject to the 2% limit shall be reallocated to those other eligible non-profit clinic corporations receiving allocations under subparagraph (B) utilizing the methodology in paragraphs 3 and 4, but provided that reallocations shall not make any final allocation surpass the 2% limit.

(d) The Department of Health Services shall be reimbursed from the Community Clinics Uninsured Account for the Department's actual cost of administration. The total amount available for reimbursement of the Department's administrative costs shall not exceed 1% of the monies credited to the Account during the fiscal year.

SECTION 9. Section 8 is added to Article XIII A of the Constitution, to read:

SEC. 8. Section 3 of this article does not apply to the Tobacco Tax, Disease Prevention and Children's Health Insurance Act of 2006.

SECTION 10. Section 14 is added to Article XIII B of the Constitution, to read:

SEC. 14. (a) "Appropriations subject to limitation" of each entity of government shall not include appropriations of revenue from the Tobacco Surtax, Disease Prevention and Children's Health Insurance Fund created by the Tobacco Tax, Disease Prevention and Children's Health Insurance Act of 2006. No adjustment in the appropriations limit of any entity of government shall be required pursuant to Section 3 as a result of revenue being deposited in or appropriated from the Tobacco Surtax, Disease Prevention and Children's Health Insurance Fund. The surtax created by the Tobacco Tax, Disease Prevention and Children's Health Insurance Act of 2006, and the resulting increase in the tax on tobacco products required by subdivision (b) of Section 30123 of the Revenue and Taxation Code, shall not be considered General Fund revenues for the purposes of Section 8 of Article XVI.

(b) Notwithstanding any other provision of this Constitution, and specifically notwithstanding proposed amendments to Section 10 of Article IV on the November 2005 special election ballot, appropriations from the Tobacco Surtax, Disease Prevention and Children's Health Insurance Fund are not subject to reduction by the Governor, and shall be excluded from any computation of the maximum amount of total expenditures allowable.

SECTION 11. If any provision of this Act, or part thereof, is for any reason held to be invalid or unconstitutional, the remaining provisions shall not be affected, but shall remain in full force and effect, and to this end the provisions of this Act are severable.

SECTION 12. (a) If this measure is approved by the voters but superseded by law by any other conflicting ballot measure approved by the voters at the same election, and the conflicting ballot measure is later held invalid, this measure shall be self-executing and given full force of law.

(b) In the event that this measure and another initiative measure or measures imposing a tobacco tax are approved in 2006, the provisions of the other measure or measures shall not go into effect until 12:01 a.m. on July 1, 2010.

SECTION 13. This Act shall be broadly construed to accomplish its purposes. Sections 7 and 8 of this Act may be amended by the Legislature so long as such amendments are consistent with and further the intent of this Act, except the Legislature may not amend subdivision (b) of Insurance Code Section 12693.992, nor subdivision (a) or paragraph 1 of subdivision (c) of Section 1246 of the Health and Safety Code.

SECTION 14. Unless otherwise stated, all references in this Act to existing statutes are to statutes as they existed on December 31, 2005.