

VIA PERSONAL DELIVERY

08-0007

February 8, 2008

The Honorable Edmund G. Brown, Jr.
Attorney General
PO Box 944255
Sacramento, CA 94244-2550

RECEIVED

FEB 11 2008

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Attention: Krystal Paris, Initiative Coordinator

Re: Request for Title and Summary - Initiative Statutory Amendment

Dear Mr. Brown,

Pursuant to Article II, Section 10(d) of the California Constitution and Section 9002 of the Elections Code, I hereby request that a title and summary be prepared for the attached initiative related to children's health insurance and youth smoking. Enclosed, please find:

- 1) the language of the proposed initiative measure
- 2) the executed certifications required by Elections Code section 9608
- 3) a \$200 check for the filing fee.

Should you have further questions or require further information, please contact Jim Keddy, PICO California, 2510 J Street Suite 200, Sacramento CA 95816; 916-402-5802.

Sincerely,

Wendy Lazarus



Krystal Moreno Lee

INITIATIVE MEASURE TO BE SUBMITTED TO VOTERS

08-0007

THE CHILDREN'S HEALTH INSURANCE
AND YOUTH SMOKING PREVENTION ACT OF 2008

SECTION 1. Title.

This measure shall be known and may be cited as the Children's Health Insurance and Youth Smoking Prevention Act of 2008.

SECTION 2. Findings and Declarations.

The people find and declare as follows:

(a) Approximately 763,000 California children currently have no health insurance.

(b) Children with health insurance have increased access to needed health care services, are generally healthier, and do better in school compared to uninsured children. To remain healthy and ensure proper development, children require ongoing preventive care, such as immunizations and screenings, and timely treatment of illnesses and chronic conditions.

(c) Children without insurance have less access to primary care and are often forced to wait to seek treatment until a common health problem has become an emergency, resulting in significantly higher costs and longer delays for all Californians when they need emergency rooms. In California between 2000 and 2005, more than 330,000 preventable child hospitalizations occurred, at an average cost of \$7,000 per hospitalization. Many of these could have been avoided if children had been able to receive treatment from a primary care doctor.

(d) Tens of thousands of California children are at risk of losing the coverage they currently have if we do not act soon. Of the 87,000 children who were previously covered by Local Children's Health Initiative programs, thousands have lost their coverage in the past six months and as many as 55,000 are at risk of losing their health insurance before 2010 if a statewide solution is not found.

(e) When children have insurance, the California economy benefits from federal matching funds, thereby bringing more dollars into the state's health care system.

(f) When children have insurance, the California economy benefits because parent absenteeism and loss of work productivity is reduced.

(g) Covering children helps working families. Seventy-one percent (71 %) of uninsured children are in families where the head of the household works full-time, all year.

(h) California can achieve a significant piece of health care reform in 2008 by providing all children with health insurance.

(i) The vast majority of Californians from all over the state and across the political spectrum support covering all children.

(j) Covering all children is an achievable goal. Children are generally healthy and inexpensive to insure. Moreover, California is close to meeting this goal; approximately ninety-three percent (93%) of California children have health insurance.

(k) Cigarette smoking and other uses of tobacco are leading causes of many serious health problems, including cancer, heart disease, and respiratory diseases. The treatment of tobacco-related diseases imposes a significant burden upon California's health care system.

(l) Tobacco use remains the number one preventable cause of disease and death in California, killing more than 40,000 Californians each year or about 118 people every day.

(m) Tobacco use costs Californians billions of dollars a year in medical expenses and lost productivity.

(n) Almost 80% 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 and the associated health problems and economic costs.

(o) Youth smoking has increased for the first time in ten years. Between 2004 and 2006, smoking by high school students increased by 15 percent and smoking by middle school students nearly doubled.

(p) Research studies have shown that every 10 percent increase in the real price of cigarettes reduces the number of children who smoke by six or seven percent.

(q) Currently, the state imposes a tax on cigarettes and tobacco products. Funds from that tax are used in part by the state to fund programs to offset the adverse health consequences of tobacco use. The tobacco tax is an appropriate source to fund prevention, research, and treatment of chronic diseases, including improved access to health care for children and adults.

(r) The tax on tobacco products in California has not been raised since 1998. As a consequence, the total tax currently levied on tobacco products is less than that in 29 other states. Yet the health consequences to our citizens, particularly children and young adults, and the corresponding burden on our state's health care system continue.

SECTION 3. Statement of Purpose.

(a) The people of California hereby increase the tax on tobacco to reduce the economic costs of tobacco use in California and to provide supplemental funding to:

(1) Allow all children living in California to have access to affordable, comprehensive health care coverage; and

(2) Prevent children from starting to smoke and help youth and adults quit smoking.

SECTION 4. Tobacco Tax.

Article 4 of Chapter 2 of Part 13 of Division 2 (commencing with Section 30132) of the Revenue and Taxation Code is added to read:

Article 4. The Children's Health Insurance and Youth Smoking Prevention Act of 2008 Trust Fund

§ 30132 The Children's Health Insurance and Youth Smoking Prevention Act of 2008 Trust Fund (hereinafter "Children's Trust Fund") is hereby created in the State Treasury. The Children's Trust Fund shall consist of all revenues deposited therein pursuant to this Article, including interest and investment income. Moneys deposited into the Children's Trust Fund shall be allocated and are continuously appropriated for the exclusive purpose of funding the programs and services in Section 30132.3 and, notwithstanding Section 13340 of the Government Code, shall be available for expenditure without regard to fiscal years.

§ 30132.1 (a) In addition to the taxes imposed upon the distribution of cigarettes by Article 1 (commencing with Section 30101) and Article 2 (commencing with Section 30121) and Article 3 (commencing with Section 30131) and any other taxes in this Chapter, on and after May 1, 2009, there shall be imposed an additional tax upon every distributor of cigarettes at the rate of thirty seven and one half mills (\$0.0375) for each cigarette distributed.

(b) For purposes of this Article, the term "cigarette" has the same meaning as in Section 30003 and the term "tobacco products" has the same meaning as in subdivision (b) of Section 30121 and subdivision (b) of Section 30131.1.

(c) On and after May 1, 2009, notwithstanding Section 30166, stamps and meter register settings shall be sold at their denominated values less 0.63 percent to licensed distributors.

(d) The annual determination required of the State Board of Equalization pursuant to subdivision (b) of Section 30123 and subdivision (b) of Section 30131.2 shall include the additional tax imposed by this article for the 2009-10 fiscal year tobacco products rate determination.

(e) (1) The tax imposed by this section, and the resulting increase in the tax on tobacco products pursuant to subdivision (b) of Section 30123, shall be imposed on every cigarette in the possession or under the control of every dealer, wholesaler, and distributor on and after 12:01 a.m. on May 1, 2009, and on all tobacco products in the possession or under the control of every dealer, wholesaler, and distributor on and after 12:01 a.m. on July 1, 2009, pursuant to rules and regulations promulgated by the State Board of Equalization.

(2) The taxes imposed on cigarettes required to be paid by this subdivision are due and payable on or before June 15, 2009 and the taxes imposed on tobacco products required to be paid by this subdivision are due and payable on or before August 15, 2009. Payments shall be made by remittances payable to the State Board of Equalization and the payments shall accompany such forms as required to be filed by the State Board of Equalization.

(3) Any amount required to be paid by this subdivision that is not timely paid shall bear interest at the rate and by the method established pursuant to Section 30202 from the date the tax is due and payable pursuant to paragraph (2), until paid, and shall be subject to determination, and redetermination, and any penalties provided with respect to determinations and redeterminations.

(f) The State Board of Equalization may issue regulations to implement the requirements of this Article. These regulations are emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For purposes of that Chapter, including Section 11349.6 of the Government Code, the adoption of these regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, and general welfare.

§ 30132.2 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); the Hospital Services Account, the Unallocated Account, and the Physicians Services Account within the Cigarette and Tobacco Products Surtax Fund created by Proposition 99 (1988); and the Breast Cancer Fund created by the California Breast Cancer Act of 1993, all of which are funded by excise taxes on cigarettes and tobacco products. Funds shall be transferred from the Children's Trust Fund to the California Children and Families First Trust Fund; the Hospital Services Account, the Unallocated Account, and the Physicians Services Account within the Cigarette and Tobacco Products Surtax Fund; and the Breast Cancer 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.

§ 30132.3 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 30132.1 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 30132.2, all moneys raised pursuant to the tax imposed by Section 30132.1, and, notwithstanding any other provision of law, the resulting

increase in the tax on tobacco products required by subdivision (b) of Section 30123, shall be deposited in the Children's Trust Fund. Moneys shall be immediately appropriated from the Children's Trust Fund and allocated as follows:

(a) Seventy-five percent (75%) to the Children's Health Insurance Account, which is hereby created, to ensure that every child in California has access to affordable, comprehensive health care coverage. All moneys in the Children's Health Insurance Account are continuously appropriated to the California Health and Human Services Agency only for implementation by the Department of Health Care Services and the Managed Risk Medical Insurance Board of Chapter 17 (commencing with Section 12694.10) 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 pursuant to paragraphs (1) and (2) of subdivision (a) of Section 12694.107 of the Insurance Code. No more than ten percent (10%) of the funds appropriated from this Account shall be used pursuant to paragraph (3) of subdivision (a) of Section 12694.107 of the Insurance Code;

(b) Twenty-five percent (25%) to the Tobacco Use Prevention Account, which is hereby created, and immediately allocated to the following Sub-Accounts for the purposes stated therein:

(1) Twenty-five percent (25%) of the Tobacco Use Prevention Account shall be allocated to and deposited in the Anti-Tobacco Media Sub-Account, which is hereby created. All funds in the Anti-Tobacco Media Sub-Account are continuously appropriated to the Department of Public Health 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) Twenty percent (20%) of the Tobacco Use Prevention Account shall be allocated to and deposited in the Competitive Grants Sub-Account, which is hereby created. All funds in the Competitive Grants Sub-Account are continuously appropriated to the Department of Public Health for programs directed at the prevention of tobacco-related diseases as described in Section 104385 of the Health and Safety Code;

(3) Twenty percent (20%) of the Tobacco Use Prevention Account shall be allocated to and deposited in the Local Health Departments Sub-Account, which is hereby created. All funds in the Local Health Departments Sub-Account are continuously appropriated to the Department of Public Health for 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 in the Local Health Departments Sub-Account shall be appropriated to local health departments based on each county's proportion of the statewide population;

(4) Ten percent (10%) of the Tobacco Use Prevention Account shall be allocated to and deposited in the Education and Prevention Sub-Account, which is hereby created. All funds in the Education and Prevention Sub-Account are continuously appropriated to the State Department of Education for programs to prevent or reduce the use of tobacco products as described in Section 104420 of the Health and Safety Code;

(5) Ten percent (10%) of the Tobacco Use Prevention Account shall be allocated to and deposited in the Tobacco Cessation Sub-Account, which is hereby created. All funds in the Tobacco Cessation Sub-Account are continuously appropriated to the Department of Public Health to be used to provide tobacco cessation programs and services to children, youth, and adult tobacco users. It is the intent of this Act that this appropriation support programs and services including, but not limited to, counseling, referral and support services, pharmaceutical tobacco cessation products, and training and technical assistance activities;

(6) Two percent (2%) of the Tobacco Use Prevention Account shall be allocated to and deposited in the Evaluation Sub-Account, which is hereby created. All funds in the Evaluation Sub-Account are continuously appropriated to the Department of Public Health for evaluation of tobacco control programs as required by subdivisions (b) and (c) of Section 104375 of the Health and Safety Code; and

(7) Thirteen percent (13%) of the Tobacco Use Prevention Account shall be allocated to and deposited in the Disease Research Sub-Account, which is hereby created. All funds in the Disease Research Sub-Account are continuously appropriated to the University of California for tobacco related disease research and the establishment of a lung cancer detection and treatment research program, as follows:

(A) Fifty percent (50%) of the funds from the Disease Research Sub-Account are appropriated to the Tobacco-Related Disease Research Program, as 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 using moneys from the Disease Research Sub-Account 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; and

(B) Fifty percent (50%) of the funds from the Disease Research Sub-Account are appropriated to the University of California, which shall establish the Lung Cancer Early Detection and Treatment Research Program. Funds appropriated to the University of California for the Lung Cancer Early Detection and Treatment Research Program shall be used to support grants made to support research efforts related to lung cancer early detection and treatment and a program for the collection, assessment, and periodic publication of data pertinent to the research.

§ 30132.4 All moneys allocated to and deposited in the specific Accounts and Sub-Accounts of the Children's Trust Fund shall be expended as set forth pursuant to the requirements specific to each Account or Sub-Account as set forth in Section 30132.3, and may not be expended for any other purpose. Notwithstanding Government Code section 13340, any moneys allocated and appropriated to any of the Accounts or Sub-Accounts of the Children's Trust 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 and are hereby appropriated for such purpose.

§ 30132.5(a) All moneys raised pursuant to the tax imposed by Section 30132.1, and all moneys raised by the resulting increase in the tax on tobacco products required by subdivision (b) of Section 30123, are appropriated only for the purposes expressed in this Act and shall be expended only for such purposes.

(b) Funds appropriated pursuant to this Act shall be used only to supplement existing levels of service and not to supplant funding for existing levels of service. Funds may be used to match available state, federal, or local funds. Except as specified in subdivision (b) of Section 12694.107 of the Insurance Code, no moneys in the Children's Trust Fund shall be used to supplant state or local General Fund money appropriated for any purpose, including back-filling state or local General Fund obligations.

§ 30132.6 (a) It is the intent of the people of the State of California that the Children's Health Insurance and Youth Smoking Prevention Act of 2008 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.

(b) Moneys in the Children's Trust Fund and any Account or Sub-Account therein, may be used to maximize federal matching funds, so long as all moneys are expended in a manner fully consistent with the Children's Health Insurance and Youth Smoking Prevention Act of 2008.

§ 30132.7 Notwithstanding any other provision of law, money deposited in the Children's Trust 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 Children's Health Insurance and Youth Smoking Prevention Act of 2008.

§ 30132.8 To provide full public accountability concerning the uses to which moneys in the Children's Trust Fund are put, and to ensure full compliance with the Children's Health Insurance and Youth Smoking Prevention Act of 2008:

(a) Beginning with the first full fiscal year after the adoption of the Children's Health Insurance and Youth Smoking Prevention Act of 2008, and annually thereafter, the California Health and Human Services Agency shall prepare a report describing all programs that received Children's Trust Fund moneys in the previous fiscal year, and describing in detail the uses to which such moneys were put during the previous fiscal year. This report is a public record and, in addition to access as otherwise provided by law, it shall also 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 Children's Trust 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 Children's Health Insurance and Youth Smoking Prevention Act of 2008 may be used for state administration.

SECTION 5. Children's Health Insurance.

Chapter 17 (commencing with Section 12694.10) is added to Part 6.2 of Division 2 of the Insurance Code, to read:

§ 12694.10(a) (I) On and after July 1, 2009, all children under 19 years of age who meet the state residency requirements of the Medi-Cal program (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code) or the Healthy Families Program shall be eligible for health care coverage in accordance with subdivision (b) if they satisfy either of the following criteria:

(A) Live in families with countable household income at or below 300 percent of the federal poverty level.

(B) Meet the income requirements of Section 14005.7 of the Welfare and Institutions Code.

(2) The eligibility under paragraph (1) includes for both programs all children for whom federal financial participation under Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.), or under Title XXI of the federal Social Security Act (42 U.S.C. Sec. 1397aa et seq.) is not available because of their immigration status or date of entry into the United States, but does not include children who are ineligible for funds under those titles for other reasons.

(b) Subject to Sections 12693.71 and 12693.72, children described in subdivision (a) in families whose household income would make them ineligible for the Medi-Cal program with no share of cost or for Medicare shall be eligible for the Healthy Families Program and shall also be eligible for the Medi-Cal program with a share or cost in accordance with Section 14005.7 or the Welfare and Institutions Code. The remaining children described in subdivision (a) shall be eligible for the Medi-Cal program with no share of cost.

(c) Families of children enrolled in the Healthy Families Program through this Chapter shall be required to contribute premiums equal to those required of families of children enrolled in the Healthy Families Program not through this Chapter, except that families of children who are enrolled in the Healthy Families Program 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 the Healthy Families Program 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 the Healthy Families Program 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 the Healthy Families Program whose families' countable incomes are greater than 250 percent of the federal poverty level.

(d) Less restrictive Medi-Cal program or Healthy Families Program eligibility requirements than those established at subdivision (a) 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 the Medi-Cal program or Healthy Families Program 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 the Medi-Cal program or the Healthy Families Program if less restrictive eligibility criteria are enacted. For purposes of this subdivision, 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.

§ 12694.101 The Managed Risk Medical Insurance Board (hereinafter "board") and the State Department of Health Care Services (hereinafter "department") shall continue to administer the Healthy Families Program and the Medi-Cal program, respectively, for all eligible children. The department and board 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 the Medi-Cal program or the Healthy Families Program. The department and board shall coordinate enrollment, renewal, eligibility, and outreach, and shall assign clear lines of responsibility for all associated agency activities. Implementation of duties and responsibilities that require the participation of both the department and board shall be done jointly, as coordinated between them by agreement.

§ 12694.102 In order to provide cost-effective strategies for increasing coverage for uninsured children in families with incomes above 300 percent of the federal poverty level, the board shall undertake a pilot research demonstration project to test coverage methods and gather data about the impact of specific efforts to increase coverage for this population. The board shall convene a stakeholders group to advise the board on implementation of this demonstration project, and to develop recommendations, to be presented to the Legislature on or before January 1, 2010, for long-term sustainable strategies for increasing coverage for this population. The involved stakeholders shall include, but not be limited to, children's advocate, consumer organizations, labor organizations, employers, health plans, physicians and other health care providers, legislative staff, and others as appropriate.

§ 12694.103 The department, in consultation with the board, shall convene a stakeholders group to develop outreach, enrollment, retention, and utilization processes, including, but not limited to, simplifying paperwork requirements by requesting documentation and verifying information only to the extent required under federal law, to ensure seamless access to coverage through the Medi-Cal program and the Healthy Families Program for all eligible children. The involved stakeholders shall include, but not be limited to, children's advocates, consumer organizations, labor organizations, physicians and other health care providers, legislative staff, counties, and others as appropriate. In developing the procedures, items to be considered shall include, but not be limited to, simplicity and ease of enrollment, current enrollment practices, confidentiality and privacy, quality, accuracy, competence, customer service, cost-effectiveness, need for automation, problem resolution, timeliness, and ensuring that federal requirements regarding screening and enrollment processes and procedures are met.

§ 12694.104 The board, in consultation with the department, shall convene a stakeholders group to develop a process for the smooth transition of eligible children from Local Children's Health Initiatives to the Medi-Cal program and the Healthy Families Program, ensuring that all children are transferred without a disruption in coverage. The involved stakeholders shall include, but not be limited to, Local Children's Health Initiative program officials, children's advocates, consumer advocates, legislative staff, counties, and others as appropriate.

§ 12694.105 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 the Healthy Families Program.

§ 12694.106 The board and department shall make every effort to maximize federal matching funds available for eligible children's health insurance under the Medi-Cal program and the Healthy Families Program 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.

§ 12694.107(a) For the purposes specified in this Chapter and subject to Section 30132.5 of the Revenue and Taxation Code, funds appropriated from the Children's Health Insurance Account established at subdivision (a) of Section 30132.3 of the Revenue and Taxation Code shall be used only for:

(1) The provision of children's health insurance through the Medi-Cal program and the Healthy Families Program only for the children defined in subdivision (a) of Section 12694.10 who would not otherwise have been eligible for the full scope Medi-Cal program with no share of cost or the Healthy Families Program under the eligibility rules in place as of January 1, 2008;

(2) The provision of health care through the California Children's Services program, including both the county and state share of cost, only for the children defined in subdivision (a) of Section 12694.10 who would not otherwise have been eligible for the California Children's Services program under the financial eligibility rules in place as of January 1, 2008; and

(3) Implementation of those measures contained in Sections 12694.101 through 12694.105.

(b) Funds expended or transferred from the Children's Health Insurance 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) the Healthy Families Program; (B) the Medi-Cal program, 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) The Healthy Families Program;

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

(C) The Child Health and Disability Prevention Program.

(3) State or federal funds to continue or maintain the amount, duration, scope, and structure of benefits that existed as of January 1, 2008 for any children's health services, children's health, or medical assistance programs, including, but not limited to, the following:

(A) The Healthy Families Program;

(B) The Medi-Cal program, 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.

§ 12694.108 (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 rules or the amount, duration, scope, or structure of benefits in place as of January 1, 2008 under either the Healthy Families Program or the Medi-Cal program;

(3) Create a new entitlement for children enrolled in the Medi-Cal program or the Healthy Families Program through this Chapter;

(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 the Healthy Families Program or the Medi-Cal program 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 the Medi-Cal program or the Healthy Families Program, 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 the Medi-Cal program or the Healthy Families Program based on concurrent eligibility for a Local Children's Health Insurance Program; nor

(9) Create or require creation of a new state department or agency.

SECTION 6. Local Children's Health Initiatives.

(a) On or before December 1, 2008, the State Controller shall transfer twenty five million dollars (\$25,000,000) from the General Fund to the Managed Risk Medical Insurance Board (hereinafter "board") as a one-time loan, which shall be fully distributed by the board no later than January 1, 2009, to entities operating a Local Children's Health Initiative. Such funds shall be made available to provide coverage to children under 19 years of age in families whose income is at or below three hundred percent (300%) of the poverty level and may only be used to eliminate Local Children's Health Initiative enrollment and waiting lists. For purposes of this section, "Local Children's Health Initiative" means an entity that, as of January 1, 2008, was operational and actively providing for administration of health care coverage to children who did not qualify for either the Healthy Families Program or full-scope Medi-Cal with no share of cost. Prior to January 1, 2009, the board, in consultation with the director of the Department of Health Care Services, representatives of Local Children's Health Initiatives and children's advocates, shall develop an allocation formula for distribution of the funding. Notwithstanding any other provision of law, the loan authorized under this section shall be repaid to the General Fund on or before July 30, 2009 from the Children's Health Insurance Account of the Children's Trust Fund created by subdivision (a) of Section 30132.3 of the Revenue and Taxation Code added by this Act.

SECTION 7. Amendment.

(a) Except as hereafter provided, this Act may only be amended by the electors pursuant to Article II, Section 10(c) of the California Constitution.

(b) Notwithstanding subdivision (a), the Legislature may amend Section 5 of this Act to further its purposes by a statute passed in each house by roll-call vote entered in the journal, a majority of the membership concurring, except that the Legislature may not amend Section 12694.107 of the Insurance Code added by Section 5 of this Act.

SECTION 8. Statutory References.

Unless otherwise stated, all references in this Act to existing statutes are to statutes as they existed on January 1, 2008.

SECTION 9. Severability.

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 10. Conflicting Measures.

(a) This measure is intended to be comprehensive. It is the intent of the People that in the event that this measure and another initiative measure or measures relating to the same subject shall appear on the same statewide election ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure shall receive a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and all provisions of the other measure or measures shall be null and void.

(b) If this measure is approved by 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.

SECTION 11. Conformity with State Constitution.

Section 14 is added to Article XIII B of the Constitution to read:

SEC. 14(a) For the purposes of this Article, "appropriations subject to limitation" of each entity of government shall not include appropriations of revenue from the Children's Health Insurance and Youth Smoking Prevention Act of 2008. 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 Children's Health Insurance and Youth Smoking Prevention Act of 2008 Trust Fund.

(b) The tax created by the Children's Health Insurance and Youth Smoking Prevention Act of 2008 and the revenue derived therefrom shall not be considered General Fund revenues or proceeds of taxes for the purposes of this Article or of Section 8 of Article XVI.

(c) Distribution of moneys in the Children's Trust Fund or any of the Accounts or Sub-Accounts created therein, shall be made pursuant to the Children's Health Insurance and Youth Smoking Prevention Act of 2008 notwithstanding any other provision of this Constitution.