

2007 FEDERAL AND STATE LEGISLATIVE REPORT

**SAN FRANCISCO DEPARTMENT OF PUBLIC HEALTH
OFFICE OF POLICY AND PLANNING**

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I. Introduction

A. Advocacy and the Strategic Plan

Currently, more than \$589.2 million or 44 percent of the Department of Public Health's (the Department) budget comes from State or federal sources. Given this great reliance on these funding sources, the Department not only pays great attention to State and federal legislation introduced, but actively advocates with our State and Congressional delegations on the Department's behalf.

Advocacy is, in fact, incorporated into the Department's Strategic Plan. Goal 4, Objective 2 directs staff to "Pursue State and federal health policy changes consistent with Department priorities" in two ways:

- Engage in local, State, and federal advocacy efforts through the Mayor's Office; and
- Advocate for State and federal legislative changes addressing programmatic issues.

B. The Department's Role in the Advocacy Process

Advocacy efforts on behalf of the Department are coordinated through the Office of Policy and Planning (OP&P). Through legislative analysis, collaboration with state and national organizations, and in concert with community partners, other City departments, colleagues from other cities and counties, and the City's state and federal lobbyists, OP&P determines the impact of legislation and policy changes on the Department and actively advocates on behalf of the Department's interests.

As with other City departments, this Department does not take positions on State or federal legislation. Instead, OP&P works closely with the Mayor's Office of Policy and Finance to recommend and inform the City's position (support, oppose, watch) on legislation. One of the tools OP&P uses to inform the City's position is the 2007-08 State Legislative Plan, which is attached in the Appendices.

Because of the number of bills that impact the City from all departments, OP&P only recommends that the City take a position on a bill that significantly impacts the Department. OP&P does, however, track all health-related bills. For those bills that we do not recommend a City position, the Department relies on positions taken by national and statewide membership organizations and coalitions to which we belong. These organizations include the County Health Executives of California (CHEAC), the California Association of Public Hospitals and Health Systems (CAPH), the National Association of Public Hospitals and Health Systems (NAPH), and Communities Advocating Emergency AIDS Response (CAEAR), among others.

Finally, the Department does not recommend that the City take a position on a piece of legislation that is not moving. Although the legislation may concern an issue important to the Department, OP&P and the Mayor's Office believe that our limited resources are best spent on bills and issues that are moving.

II. Federal Legislative Summary

A. Overview of the Legislative Session

On November 7, 2006, Democrats gained 31 seats in the House of Representatives and six seats in the Senate and took control of Congress for the first time in 12 years in what became known as the “Democratic Sweep.” When the 110th Congress convened for its first session on January 3, 2007, San Francisco’s Nancy Pelosi was elected the first Californian and first woman Speaker of the House. The Democratic majority was razor thin, however, showing just how divided the country remained. Democrats controlled 233 of the 435 House seats and 51¹ of the 100 Senate seats.

In a dramatic gesture, Speaker Pelosi promised to enact much of the Democratic platform in “the first 100 hours” of the Congressional term. According to the Speaker, “The 100 Hour Agenda responded to a nation frustrated with years of Congressional inaction, and took the initiative to address issues of concern to America’s families.”² The Speaker promised to work across party lines to enact legislation to:

- Make Americans safer at home
 - The House passed H.R. 1 implementing the recommendations of the 9/11 Commission on January 9, 2007. The Senate passed S. 4 on July 9, 2007, and the President signed it into law on August 3, 2007.
- Make our economy more fair
 - On January 10, 2007, the House passed H.R. 2, the Fair Minimum Wage Act of 2007, which raised the federal minimum wage from \$6.55 per hour to \$7.25 per hour. After much political wrangling over the effects on small business, the Act was passed by both the House and the Senate on May 24, 2007 as part of H.R. 2206, the Iraq War supplemental. President Bush signed it into law on May 25, 2007.
- Make college more affordable
 - H.R. 5, legislation to cut the interest rate on student loans by 50 percent, was passed by the House on January 17, 2007. The bill was referred to the Senate and is currently in the Senate Committee on Health, Education, Labor and Pensions, Chaired by Sen. Edward Kennedy (D. – Mass.).
- Make America more energy independent and fight global warming
 - Introduced as the CLEAN Energy Act on January 12, 2007, H.R. 6 became the sweeping Energy Bill (discussed in detail below) that passed the House on December 6, 2007 and the Senate on December, 14, 2007, and was signed into law by the President on December 19, 2007.

¹ The two Independent Senators, Joseph Lieberman of Connecticut and Bernie Sanders of Vermont, caucus with the Democrats.

² www.house.gov/pelosi

- Offer hope for new cures to devastating diseases
 - On January 11, 2007, the House passed H.R. 3, the Stem Cell Research Enhancement Act. S. 3 was passed by the Senate and then vetoed by the President on June 20, 2007.

- Help reduce the cost of drugs for seniors
 - H.R. 4, the Medicare Prescription Drug Price Negotiation Act, passed the House on January 12, 2007. It would have required the Secretary of Health and Human Services to negotiate lower Part D drug prices on behalf of Medicare beneficiaries. A cloture motion on S. 3, the companion bill in the Senate failed by a vote of 55 to 42 on April 18, 2007.

- Clean up Washington politics
 - The House voted 430 to 1 on Title II of House Resolution 6 to implement a “pay-as-you go” policy to reduce the federal deficit on January 4, 2007.
 - On January 5, 2007, voted 280 to 152 on Title IV of House Resolution 6 to curb lobbyists’ influence by banning meals and gifts to lawmakers.

Following this initial flurry of activity, the 110th Congress became increasingly mired in the partisan politics that stumped the 109th Congress. Despite a general feeling that the Iraq War was becoming increasingly unpopular with the American public, in his State of the Union Address on January 23, 2007, President Bush announced his plan for an Iraqi troop surge. In response, on February 16, the House approved 246 to 182 a nonbinding resolution expressing the support of Congress for the U.S. troops serving in Iraq while opposing the President’s plan to send 21,500 more combat troops into the war.

On March 23, 2007, the House passed H.R. 1591 by a margin of 218 to 212, which provided nearly \$95 million to extend funding for the Iraq and Afghanistan wars, but included language that dictated troop levels and withdrawal schedules. It passed the Senate by 51 to 47, but was vetoed by the President on May 1. The House was unable to muster the two-thirds majority vote to override the veto. Fearing that they would be viewed by the electorate as not supporting the troops, both houses of Congress passed a bill funding the war without timelines, but with benchmarks for the Iraq government and money for other spending projects, including disaster relief.

Congress faced additional setbacks as the year continued. Despite making much of the prior Republican-controlled Congress’ inability to pass a budget, the 110th Congress was also unable to pass a budget before the federal fiscal year ended on September 30, 2007. By mid-November 2007, the Gallup poll put Congress’ approval rating at just 20 percent, while the President enjoyed 32 percent approval.³

³ www.gallup.com

B. Federal Budget

In 2006, the Republican-controlled Congress was unable to pass a budget, and finished the fiscal year on a Continuing Resolution. The new 110th Democratically-controlled Congress made much of the Republican-controlled Congress' inability to pass a budget in 2006.

On February 5, 2007, the President released his FY 2008 budget. His \$2.9 trillion budget proposed to hold the rate of growth for non-security discretionary spending to one percent, significantly below the rate of inflation. For discretionary Health and Human Services spending, Bush requested \$69.3 billion, an increase of 0.3 percent. At the same time, he requested \$481.4 billion in discretionary spending for Defense, an increase of 12.1 percent. The Iraq and Afghanistan wars are not part of the Defense budget; they are separate appropriations. With projected revenues significantly less than projected expenditures, the budget proposed by President Bush predicted a net deficit of approximately \$240 billion, adding to the current national debt of approximately \$9 trillion. This would make 2008 the seventh straight year of federal overspending.

On November 13, the President vetoed the Labor-HHS-Education spending bill (HR 3043), the first appropriations bill to make it to his desk, objecting to its funding level. The bill would have provided \$150.7 billion in discretionary spending, \$6.2 billion above the FY 2007 level and \$9.8 billion more than the President proposed. The 274 to 141 House vote to adopt the Conference report on November 8 fell short of the two-thirds majority needed to override. The President repeatedly said that he would veto appropriations bills that could add up to more than the \$933 billion in discretionary spending he proposed for FY 2008. In the end, Congress was able to come to agreement on Fiscal 2008 Omnibus Appropriations (HR 2764), which passed Congress on December 19 and was signed by the President on December 26. The package largely adhered to the President's overall \$933 billion target for fiscal 2008 discretionary spending. The Omnibus package included 11 of the 12 appropriations bills for the fiscal year that began October 1. Only the \$459.3 billion Defense Appropriation (HR 3222) had been passed and signed previously.

1. Ryan White Appropriation

Following the 2006 mid-term elections, one item the lame-duck Congress took up when it reconvened in December was the reauthorization of Ryan White funding through the newly renamed Ryan White HIV/AIDS Treatment Modernization Act. As part of that reauthorization, Congress made its intent clear that communities funded under the previous Ryan White Act would receive funding of no less than 95 percent of their 2006 allocation for the three-year life of the Act. Despite this intent, 16 communities received cuts of more than five percent, and six communities, including San Francisco received cuts of more than 20 percent. Funding for San Francisco fell by more than \$8.6 million or 31.4 percent for 2007 over 2006.

In response, Speaker Pelosi led a hard-fought battle to include "stop-loss" funding and language in the FY 2008 Labor-HHS-Education appropriation. As a result of her efforts, \$8 million in "stop-loss" funding was included in the Omnibus appropriation bill (HR

2764) for the six hardest hit communities, including \$4.8 million for San Francisco for FY 2007. An additional \$15.2 million is included in the appropriation to augment Part A of Ryan White for FY 2008, the largest increase in seven years.

2. FY 2008 DPH Earmarks

Because of its inability to pass a budget in FY 2007, in early 2007 the new Congress cancelled all the 2007 earmarks. For FY 2008, DPH submitted four earmark funding requests, three of which were funded in the 2008 federal budget:

- **Improving HIV/AIDS Treatment and Prevention, \$1.3 million, Funded:** To extend the benefits of HIV care and treatment to at least 650 low-income, underserved, and minority individuals and families living with HIV who are currently not reached or are ineffectively served through the existing system of care.
- **Direct Access to Housing Program, Services for Chronically Homeless Individuals, \$1.5 million, Funded:** To fund an innovative “housing first” model that provides supportive housing to chronically homeless and disabled persons struggling with medical, mental health and/or substance abuse issues.
- **Ex-Offender Re-Entry Services, \$1.5 million, Funded:** To provide supportive housing coupled with the infusion of onsite behavioral health services that facilitate stabilization and re-entry into the community; and case management services for recently released inmates (including those with HIV/AIDS) that allow inmates to make a successful transition back to the community.
- **San Francisco Health Access Program (HAP), \$1.535 million, Not Funded:** To: (1) implement a centralized patient registration system; (2) develop an on-line eligibility and enrollment system; and (3) support evaluation of this model program.

C. SCHIP Reauthorization

During 2007, Congress made two attempts to reauthorize the State Children’s Health Insurance Program (SCHIP) and include additional funding. On September 25, 2007, the House passed HR 976 by 265 to 159. The bill would have expanded the State Children’s Health Insurance Program (SCHIP) by \$35 billion over the next five years, to \$60 billion. House Republicans were concerned that the program, originally designed as a program for poor children was now covering adults and that the bill would make it easier for illegal immigrants to enroll in Medicaid or SCHIP, chiefly because of a provision that would relax a provision of the 2006 budget law that required Medicaid applicants to prove their citizenship. On September 27, the Senate passed HR 976 by a margin of 67 to 29, and sent it to the President who, true to his word, vetoed the bill on October 3. The House vote to override the veto failed on October 18 by a margin of 273 to 156, or 13 votes short of the two-thirds majority needed. Although the override attempt drew eight more votes than the 265 to 159 final passage on September 25, all of the additional votes came from Democrats. Not a single Republican vote was switched.

On October 25, 2007, the House passed SCHIP reauthorization (HR 3963) for the second time by a vote of 265 to 142. The vote included 43 Republican “aye” votes and one Democratic “nay” vote. Passage of the bill would have reauthorized the program at

nearly \$60 billion over five years, expanding the program by \$35 billion. To offset the cost of the expansion, it would have increased the tax on cigarettes by 61 cents to \$1 per pack and raise taxes on other tobacco products. The bill would have limited program eligibility to families earning 300 percent FPL or less. In an effort to garner more Republican votes in the House, it also would have required the Social Security Administration to verify the citizenship of all applicants and required states to phase out coverage of childless adults by the end of 2008. On November 1, the Senate passed the bill by 64 to 30. On December 12, the President again vetoed SCHIP reauthorization, and the House, realizing that it didn't have the votes, did not even attempt an override.

With the second veto, discussion turned to extending the current SCHIP program. This put California and twenty other states in a tough position; a straight extension without additional funds would have meant that there would not be enough funds to cover all of the children enrolled. In California, the Managed Risk Medical Insurance Board (MRMIB) developed an emergency plan to begin disenrolling 66,000 children per month statewide from the Healthy Families Program (HFP) starting in January 2008 and continuing through September 2008. As a result, an estimated 860 children per month in San Francisco would have lost coverage. By mid-December, however, the House and Senate came to agreement on the Medicare, Medicaid, and SCHIP Extension Act of 2007 (S 2499), which extended the SCHIP program through March 1, 2009, and provided "adequate funding to States for the purpose of maintaining their current enrollment through that date." The President signed the Act on December 29.

D. Administrative Rule Changes to Medicaid

On January 18, 2007, the Centers for Medicare and Medicaid Services (CMS) issued a proposed rule imposing a cost limit on payments made under the Medicaid program to publicly operated hospitals. On May 23, 2007, CMS issued another proposed rule changing the treatment of graduate medical education (GME) under Medicaid and prohibiting states from paying providers for GME costs. Implementation of these two rules would cut Medi-Cal payments to San Francisco General Hospital by \$29 million annually. As part of the Iraq War funding supplemental (HR 2206), Congress was able to insert language that put a one-year moratorium on the implementation of these CMS rules. The President signed that legislation on May 25, 2007.

The moratorium, in effect until May 25, 2008, prohibits CMS from implementing a final rule limiting payments to public hospitals and a proposed rule eliminating payments for graduate medical education. In addition, CMS subsequently issued another proposed rule in September 2007 that would cut payments to hospitals for outpatient services. All three rules have been the focus of National Association of Public Hospitals and Health Systems (NAPH) advocacy efforts this past year.

In the weeks leading up to the end of 2007, NAPH worked with members of Congress to include an extension of the moratorium in either the omnibus appropriations bill (HR 2764) or the Medicare, Medicaid, and SCHIP Extension Act (S 2499), but was unsuccessful. Neither bill contained the moratorium extension for a number of reasons. In particular, the Administration expressed strong opposition to a moratorium extension

being included in any legislation and threatened to veto any bills including further extensions. In addition, Congress believed it had plenty of time to act, given that the existing moratorium does not expire until May 25, 2008. However, legislation has been introduced in both houses (HR 3533 and S 2460) to extend the moratorium by one year. As of January 8, 2008, the House bill has 205 co-sponsors and the Senate bill 24, meaning that extension of the moratorium will continue as an issue into 2008.

E. Farm Bill

In the week prior to the holiday recess, the Senate on December 14, 2007 passed the \$286 billion reauthorization of the Farm, Nutrition and Bioenergy Act of 2007(HR 2419). The Senate's 79 to 14 vote clears the way for a House-Senate conference in 2008 to iron out differences in the bills passed by the two houses. The House passed its version on July 27.

The bill provides \$42 billion in subsidies to five crops - corn, cotton, wheat, rice and soybeans, as well as smaller programs for sugar and dairy. Most farmers, including the 91 percent of California farmers who grow fresh fruits, nuts and vegetables, receive no subsidies. Payments are based on production, so the most money goes to the biggest farms. The bill also adds a \$5.1 billion "permanent disaster" fund that will mainly reward farmers of these same crops in the Plains states where marginal land routinely produces crop failures. Neither of California's two Democratic senators, longtime advocates of environmental protection, public health, and the state's farmers opposed the bill. Senator Feinstein voted in favor of the legislation, and Senator Boxer did not vote.

The bill also includes spending increases for environmental, nutrition and other programs favored by critics of the subsidy system. These include \$16 million for research in organic agriculture, more money for conservation, food stamps and other nutrition programs, including higher purchases of fresh fruits and vegetables. It provides more money for farmers' markets and other measures aimed at making local farm produce more accessible. But this has hardly appeased the environmental and public health groups who say the subsidies damage the environment, hurt small farmers by speeding farm industrialization, harm impoverished farmers in the developing world, and boost production of the fats, starches, and high fructose corn syrup that feed America's obesity epidemic that now finds one in three children likely to get diabetes in their lifetime.

F. Energy Bill

On December 19, 2007, President Bush signed into law a sweeping new energy bill, the Renewable Fuels, Consumer Protection, and Energy Efficiency Act of 2007. The bill, introduced in the House on January 12, 2007 as the CLEAN Energy Act as part of the Democrats "First 100 Hours" agenda, includes the first statutory increase in automobile fuel economy standards in 32 years.

The measure boosts corporate average fuel economy (CAFE) standards for cars and light trucks, including sport utility vehicles, from a combined 25 miles per gallon today to 35 miles per gallon by 2020. It also requires 36 billion gallons of ethanol and other biofuels

to be incorporated into gasoline by 2022, and mandates the use of more efficient light bulbs and home appliances.

Supporters called the bill a turning point for the nation's energy policy, moving the US away from dependence on foreign oil and sending a signal to the world that addressing global warming is now a priority for the US. Dissenters said the bill will do nothing to increase domestic oil and gas production, and would increase energy prices across the board.

Senate Republicans forced Democrats to eliminate two provisions from the House-passed version: a \$21.8 billion package of tax incentives to encourage development of alternative energy sources and a mandate that utilities produce 15 percent of their electricity from alternative sources by 2020. The White House threatened to veto the bill over those measures. Lawmakers from oil states opposed the tax package because it would have repealed about \$13 billion in tax breaks for major oil and gas companies to help pay for the new incentives and those from the Southeast said utilities there would struggle to meet a renewable electricity mandate.⁴

G. The Second Session of the 110th Congress

The nation's ongoing commitment to the Iraq war is likely to dominate much of the second session. The President's controversial pocket veto in December of the \$696.4 billion defense authorization bill that included \$189.5 billion for the wars in Iraq and Afghanistan ensures that war funding will continue to be an issue in 2008. Furthermore, in a press release issued prior to the end of the first session, Speaker Pelosi said, "I cannot support spending billions more in Iraq with no strings attached, particularly in the same week that the President said we cannot afford to fund basic priorities here at home, such as the education of our children, and increased investment in medical research and hiring more police officers on the street. Democrats will be relentless in our efforts to bring our troops home honorably, safely and soon."⁵

The battle to reauthorize and expand SCHIP and to reform Medicare will also likely continue in the second session. In another statement, the Speaker said, "We will keep fighting next year to cover 10 million children, improve benefits for low-income seniors, expand Medicare coverage and include preventive services, and prevent Administration efforts that would make it harder for states to provide health coverage to more Americans."⁶ There is widespread speculation that the Democrats will work to make SCHIP an issue in November's Presidential elections.

Also, the issue of climate change is also poised to command Congressional attention during the second term. On December 5, 2007, the Senate Committee on Environment and Public Works approved America's Climate Security Act (S. 2191), largely along party lines. The bill would cap emissions from power plants, manufacturers, petroleum

⁴ CQ Today, December 18, 2007. www.cq.com

⁵ <http://www.house.gov/pelosi/press/releases/Dec07/iraq.html>

⁶ <http://www.house.gov/pelosi/press/releases/Dec07/benefits.html>

refiners and other sectors of the economy and lead to roughly a 70 percent cut from 2005 levels by 2050 in the production of carbon dioxide and other climate-altering pollutants. The legislation would limit emissions for virtually all sectors of the economy. Supporters say the committee vote sends a signal that climate change legislation will now receive serious consideration in Congress. Senator Barbara Boxer (D-California), Chair of the committee called the vote the greatest accomplishment of her 30-year political career.⁷ The bill is expected to be taken up on the Senate floor in 2008.

III. State Legislative Summary

A. Overview of the Legislative Session

January's opening of the California State Legislature marked the start of the first year of the two-year session. Three major issues dominated the legislative session: health reform, corrections reform, and water. On January 8, 2007, two days before releasing his State budget proposal, Governor Arnold Schwarzenegger announced his \$12 billion plan for reorganizing "the state's broken health care system." His plan, which never made it into legislative language, was built upon three "essential building blocks":

- Prevention, health promotion, and wellness;
- Coverage for all Californians; and
- Affordability and cost containment.

His coverage initiative consisted of:

- 1) an individual mandate that all Californians carry a minimum level of health insurance;
- 2) expansion of the Medi-Cal and Healthy Families program for low-income residents;
- 3) market reforms requiring insurers to issue coverage (guaranteed issue); and
- 4) increased Medi-Cal provider rates to encourage greater provider participation.

Financing of the \$12 billion plan was to come from \$5.5 billion in federal financial participation for the Medi-Cal and Healthy Families expansion with the remaining \$6.5 billion to be accomplished through an employer "contribution" of four percent of payroll on employers not offering coverage, a "contribution" of four percent on hospitals' and two percent on physicians' gross revenue, and redirection of \$2 billion from counties' medically indigent care funding.

Prison reform fared better than health reform. On May 3, 2007, the Governor signed AB 900, a \$7.4 billion bill to expand state prisons 40,000 by beds and county jails by 13,000 beds. To date, water reform, a priority of Senate President pro Tem Don Perata and the subject of a Special Legislative Session called by the Governor has fared worse than health reform, with the legislature unable to come to any agreement.

⁷ Broder, John M., "Senate Panel Passes Bill to Limit Greenhouse Gasses," *New York Times*, December 6, 2006, www.nytimes.com.

B. State Efforts at Health Care Reform

Following the Governor's release of his health care reform proposal there was a flurry of bills introduced by legislators. No fewer than two dozen bills aimed at reforming some part of the state's healthcare system were introduced in the session in both houses and from both sides of the aisle. The two that had the most promise of passing, AB 8 and SB 48, were introduced by Assembly Speaker Núñez and Senate pro Tem Perata, respectively.

In its initial form, AB 8, the Fair Share Health Care Bill required a partnership between employers, individuals and government.

- **Employer responsibility:** Employers would be expected to contribute to the cost of health care for workers and dependents in a "pay or play" model. For those opting to pay the fee, coverage would be made available through a state cooperative purchasing pool. Excluded from the requirement would be firms with less than two workers, firms with a payroll of \$100,000 or less, and new businesses for the first three years of operation.
- **Individual responsibility:** All employees offered coverage at work would be required to accept coverage for themselves and their dependents, and to pay "a fair share" of the cost of coverage (premiums and co-pays). Employees of firms that choose the "pay" option would be required to pay a defined percentage of their income and obtain coverage through the state cooperative purchasing pool. Medi-Cal and Healthy Families would be expanded for individuals at or below 300 percent of the federal poverty level (FPL).
- **Government responsibility:** The State would establish the California Cooperative Health Insurance Purchasing Program (Cal-CHIPP) administered by the Managed Risk Medical Insurance Board (MRMIB) to negotiate and purchase insurance for individuals whose employers choose the "pay" option. In addition, the State would maximize federal funds by expanding coverage through Medi-Cal and Healthy Families Program (HFP).

AB 8 also called for health insurance market reforms including simplified medical underwriting, which would require all health plans to use a standard screening form and a uniform list of excludable pre-existing conditions, and prohibit coverage exclusion for minor health conditions or prior health service use. A high risk pool would be established for the medically uninsurable managed by MRMIB and funded through a surcharge on health insurance premiums. All health plans would also be required to offer uniform benefit packages that would also be available through Cal-CHIPP.

Cost-containment provisions in AB 8 would be accomplished through reductions in uncompensated care, emphasis on preventive services and disease management, pay for performance, electronic medical records, simplified benefit design, centralized technology assessment, and employee tax breaks through required Section 125 plans. Section 125 plans are "cafeteria" plans that offer employees pre-tax benefits such as dependent care, group-term life insurance, and health savings accounts.

Senator Perata's SB 48 proposed to cover all working Californians and their dependents by creating the "Health Insurance 'Connector'" managed by MRMIB, which would act a purchasing pool for the uninsured. The "Connector" would develop standards for coverage and negotiate favorable rates through its purchasing power. SB 48 allowed for choice of plans with ground rules established by the "Connector," attained cost containment through capped administrative costs and profits and implementation of evidence-based practices, allowed the "Connector" to buy in to Medi-Cal managed care plans, and included health insurance market reforms such as guaranteed issue and community rating. AB 48 was to be financed through a Health Insurance Trust Fund to collect employer and employee contributions and any other revenues to be used by the "Connector" to purchase coverage for uninsured residents. Employers would be required to spend a to-be-determined percentage of Social Security wages for employee health insurance costs or pay an equivalent amount to the Trust Fund. All working Californians and their dependents would be required to maintain at least a minimum coverage policy, which would be enforced through the tax code. Federal financial participation would be maximized through Medi-Cal and HFP expansions.

In early July, despite their significant differences, Speaker Núñez and pro Tem Perata were able to negotiate compromise legislation in the form of AB 8. Under the amended AB 8, the State would establish the California Cooperative Health Insurance Purchasing Program (Cal-CHIPP) under MRMIB, which would offer three tiers of comprehensive health care coverage. All children (regardless of documentation status) and parents under 300 percent FPL would be covered by Medi-Cal or HFP.

Insurance market reforms would include a standardized health questionnaire designed to identify the three to five percent of persons who would be most expensive to treat, who would be eligible for expanded MRMIP coverage. Otherwise, health plans could not exclude on the basis of pre-existing conditions. Plans would be required to spend 85 percent of revenues on patient care and to use a community rating system.

Employers would be required either to provide coverage for full- and part-time employees or pay 7.5 percent of Social Security wages into Cal-CHIPP ("pay or play model"). They would also be required to offer a Section 125 plan. Employers who choose the "pay" option would be required to commit to Cal-CHIPP for two years, would be required to wait two years before rejoining the pool if they chose to leave. Employees would be required to accept employer-offered coverage for employers who "play" or to secure coverage through Cal-CHIPP for employers who "pay," unless accepting coverage or participating in Cal-CHIPP cost more than five percent of the employee's wages or if the employee could demonstrate coverage through another source.

Despite reaching agreement in July, the State's budget battle required postponing consideration by the Assembly and the Senate until September. AB 8 was passed by both houses on September 10 and vetoed by the Governor on October 2, 2007. In his veto message the Governor stated: "While I appreciate the Legislature's efforts to reform our broken health care system and applaud the hard work that has gone into AB 8, I cannot sign this bill. AB 8 would put more pressure on an already broken system. AB 8 does not

achieve coverage for all, a critical step needed to reduce health care costs for everyone. Comprehensive reform cannot leave Californians vulnerable to loss or denial of coverage when they need it most. Finally, to be sustainable, comprehensive reform cannot place the majority of the financial burden on any one segment of our economy. Unfortunately, AB 8 falls short on all three accounts. California needs a financially sustainable health care reform plan that shares responsibility, covers all Californians, and keeps our emergency rooms open and operating. I cannot support reform efforts that fall short of these goals and threaten to weaken our already broken system.”

In vetoing the bill, Governor Schwarzenegger called the legislature into special session to take up the issues of health and water reform.

The result of the special session is ABX 1-1 (Núñez), which was passed in a 45 to 31 party-line vote by the Assembly on December 17, and not heard in the Senate until January 23. ABX 1-1, the California Health Care Security and Cost Reduction Act, contains many of the provisions central to the health care reform debate for the last 12 months, most of which would become effective on July 1, 2010. ABX 1-1 includes an individual mandate requiring all able persons to purchase health care coverage either on the private market or through an employer, expands the Medi-Cal program and the Healthy Families Program (HFP), creates a statewide health care purchasing pool (called the California Cooperative Health Insurance Purchasing Pool or Cal-CHIPP), and includes other insurance market reforms and new preventative health programs. Most of the financing for this \$14.4 billion overhaul of California’s healthcare system is contained in a voter initiative scheduled to go to the state’s voters in November 2008.

The major provisions of ABX 1-1 include:

- Expansion of Medi-Cal and HFP
- Creation of a statewide purchasing pool (the California Cooperative Health Insurance Purchasing Pool – CalCHIPP)
- Creation of an individual mandate to purchase health insurance
- Public hospital issues
- Individual insurance market reforms
- In-Home Supportive Services issues
- Creation of a medical loss ratio
- Expansion of preventive health programs
- Financing

Expansion of Medi-Cal and HFP

All low-income children regardless of immigration status would be covered under Medi-Cal or HFP. Children age birth to one year who are under 200 percent FPL would be covered by Medi-Cal, and those between 200 percent and 300 percent FPL would be covered by HFP. Children age one year through age 18 who are under 133 percent FPL would be covered by Medi-Cal, and those 133 percent FPL through 300 percent FPL would be covered by HFP. The children’s expansion would become effective July 1, 2009.

On July 1, 2010, coverage would extend to 19- and 20-year olds and to low-income parents and caretaker relatives up to 250 percent FPL. Parents and caretaker relatives with incomes at or below 100 percent FPL would be covered under Medi-Cal. Adults with incomes between 100 and 250 percent FPL would be covered by a benchmark plan pursuant to new federal Medicaid rules under the federal Deficit Reduction Act (DRA) of 2006, which allows states to vary the benefit designs they offer to some groups using federal Medicaid funds. This benchmark plan would be provided under Cal-CHIP and be known as the Cal-CHIP Healthy Families Plan (CCHFP). Childless adults who are citizens or qualified immigrants below 100 percent FPL would be covered under a new program contingent on unspecified county contributions to the State.

Creation of a statewide purchasing pool (the California Cooperative Health Insurance Purchasing Pool – CalCHIP)

The new purchasing pool, the California Cooperative Health Insurance Purchasing Pool (CalCHIP) would provide subsidized coverage for individuals and families under 250 percent FPL through MRMIB. Coverage through CalCHIP would be required to meet Knox-Keene mandates plus prescription drug coverage. The Act limits contributions of individuals and families purchasing health coverage via CalCHIP based on income:

- Under 150 percent FPL: no contribution
- 151 to 250 percent FPL: premium limited to no more than 5% of income

There would be two categories of Cal-CHIP enrollees, CalCHIP Healthy Families Plan (CCHFP) enrollees, and those who are not eligible for CCHFP. To be eligible for CCHFP coverage an individual would need to be a legal resident of the state, 19 years of age or older have a family income between 151 percent and 250 percent FPL, and not be offered employer-sponsored insurance or have been offered only coverage where the employer does not make any financial contribution toward the premium. Residents of the state would be eligible for non-CCHFP coverage if they meet ONE of the following criteria:

- Are an employee or a dependent of an employee of an employer who elected to pay into the California Health Trust Fund (see financing, below);
- Are an employee paying the full costs of coverage through an employee tax savings plan where the employer designates Cal-CHIP in the cafeteria plan; or
- Are eligible for a state health coverage tax credit established in this bill.

Benefits would include at least three different coverage options: a plan that offers the same benefits as the minimum coverage for the individual market; a mid-range coverage product; and a high-range comprehensive benefit plan.

Creation of an individual mandate to purchase health insurance

The bill would require all residents of California (defined as someone who has lived in the state for at least six months) to maintain at least minimum healthcare coverage. MRMIB would be required to determine what constitutes minimum coverage by March

1, 2009, but it would be required to meet Knox-Keene requirements and include prescription drug coverage. The only exemptions would be for people with incomes below 250 percent FPL whose out-of-pocket cost of coverage exceeds five percent of their income and for people who “demonstrate they are facing significant financial hardship or otherwise cannot afford coverage” (e.g., disaster victims). Low income Californians would be covered through Medi-Cal, HFP, or Cal-CHIPP as described above.

Public hospital issues

All hospitals would receive Medi-Cal rate increases. Public hospitals would be paid on a cost basis set at allowable costs for the 2009-10 fiscal year and adjusted in subsequent years based on the medical component of the federal Consumer Price index. Designated public hospitals (including San Francisco General Hospital) would continue to receive federal disproportionate share payments as well as funds from the Safety Net Care Pool (SNCP) pursuant to California’s Medicaid Hospital Financing Waiver. SNCP payments would be capped statewide at \$100 million annually.

The bill also includes a Local Coverage Option (LCO). Childless adults below 100 percent FPL in counties with an LCO would access services exclusively through the LCO for the first four years. In the fifth year, enrollees would have the ability to opt out of the LCO in the first 30 days of enrollment. After five years, newly eligible individuals would be allowed to choose to enroll in the LCO, the county organized health system or one of the two-plan Medi-Cal managed care contractors in that county. LCOs would be allowed to offer a limited network of providers.

Individual insurance market reforms

All carriers who offer individual coverage would be required to offer, accept, and renew coverage to individuals in the carrier’s service area (guaranteed issue and renewal). Guaranteed issue would be contingent upon implementation of the individual mandate. Exempts from the guaranteed issue requirement include carriers that do not have sufficient provider resources in an area, health plans that do not offer coverage to individuals in the commercial market, and carriers whose membership and revenues are primarily from persons eligible for Medicare or Medi-Cal.

Carriers would be prohibited from excluding people due to pre-existing conditions or imposing waiting periods for coverage except for individuals who fail to comply with the individual mandate for more than 62 days, for whom a carrier may impose a preexisting condition exclusion of up to 12 months. Carriers could reject the application of individuals who have resided in California for less than six months unless they are eligible for coverage under the federal Health Insurance Portability and Accountability Act (HIPAA) or can demonstrate at least two years of prior coverage, or individuals exempt from the individual mandate as described above. If after the first nine months of guarantee issue, the risk profile of those enrolled in individual coverage is more than five

percent higher than that of Cal-CHIPP enrollees, carriers in the individual market would be eligible for a reinsurance program for to compensate for the adverse selection.

Plan rating rules would be determined by the Insurance Commissioner and the Director of the Department of Managed Health Care (DMHC), and would include separate rate differentials for age, geographic location, family size, and perceived health risk (e.g., smoking). The bill requires DMHC, in consultation with the Insurance Commissioner and MRMIB, to develop a standardized form and uniform evaluation to be used by all carriers in determining any risk adjustment factor by March 1, 2009.

The bill requires the Department of Insurance and DMHC to develop and enforce a system to categorize all health plan policies into five coverage choice categories, by April 1, 2009. The lowest level would constitute the mandatory minimum coverage. The bill also requires at least one standard HMO and one standard Preferred Provider Organization (PPO) in each category. Carriers would be required to offer coverage in all five choice categories.

In-Home Supportive Services (IHSS) issues

The bill specifies that IHSS recipients are not the employer for purposes of the employer fee. Additionally, the bill includes language to require the public authority to provide health care benefits through a trust fund if the employee representatives request it during collective bargaining. San Francisco has gone on record as opposing this element of ABX1-1. A copy of the Mayor's letter concerning all aspects of ABX1-1 is attached in the Appendices.

Creation of a medical loss ratio

The bill requires that health plans spend no less than 85 percent of revenues on patient care.

Expansion of preventive health programs

Effective July 1, 2009, all carriers would be required to include and communicate the availability of a "Healthy Action Incentives and Reward Program" (Healthy Action plan) for group and individual coverage. It requires that Healthy Action plans include specified incentives or rewards for enrollees and insured persons to "become more engaged in their health care and to make appropriate choices that support good health." It also requires that any carrier that offers Healthy Action plan incentives in the form of premium reductions to make the premium reductions standard and uniform for all groups and subscribers and to offer the incentives only after the enrollee or subscriber successfully completes the specified program or practice. It includes specific initiatives for diabetes, obesity, and smoking cessation.

Financing

The majority of the funding elements for implementation of this bill, roughly \$9 billion of the \$14.4 billion estimated cost, are contained in a separate initiative that would go before California voters in November 2008. However, the bill includes legislative intent language to finance the Act with contributions from employers, individuals, federal, state and local governments and health care providers.

Elements in the intent language include:

- Increased federal Medicaid and State Children's Health Insurance Program (SCHIP) funds;
- Unspecified revenue from counties (county share of cost) based on enrollment in coverage of low-income adults now served by counties. The Governor has stated that he expects counties to contribute a total of \$1 billion with the breakdown by county to be determined at a later date;
- A four percent fee on hospital patient revenues;
- Employer fees of one to 6.5 percent of payroll depending on size for employers who do not provide and pay for employees' coverage to be paid into the California Health Trust Fund;
- Premium contributions paid into the California Health Trust Fund from currently offering employers when employees choose to enroll in public programs;
- Premium payments by individuals in publicly subsidized coverage;
- Funds obtained through increasing the tax on each pack of cigarettes by between \$1.50 and \$2.00 per package of cigarettes.

The initiative, the Secure and Affordable Health Care Act of 2008, which was filed with the Secretary of State's office on December 29, contains the employer contribution, the hospital fee, the county share-of-cost, and the tobacco tax. Because of the initiative filing, the Senate is limited in the changes it can make to the bill when it begins its deliberations without creating a requirement to refile a new initiative. Signature gathering cannot begin until the Secretary of State provides title and summary, which she is required to do within seven weeks. Signatures must be submitted to counties by April 21 for verification in order for the initiative to appear on the November ballot. It is estimated that 1.2 million signatures must be collected to assure the required 694,354 valid signatures. A copy of the California State Association of Counties (CSAC) summary of the initiative is included in the Appendices.

Waiting in the wings is SB 840, Senator Kuehl's single-payer healthcare bill, which passed the Senate and the Assembly last year, and was vetoed by the Governor. Currently, SB 840 is a two-year bill. It passed out of the Senate on June 6, 2007, and is in the Assembly Appropriations Committee.

C. State Budget

On January 10, 2007, two days after announcing his plan to overhaul the state's health care system, Governor Schwarzenegger released his FY 2007-2008 State budget. Despite being one of his policy priorities, the Governor's budget made no mention of health care

reform, although funding for local health programs saw few of the cuts like those proposed for other departments. Overall, the Governor's proposed budget included an increase of 3.5 percent in spending for health and human services programs over the FY 2006-2007 budget.

The biggest State budget impact on the Department has been the Governor's "blue pencil" elimination (line-item veto) of the AB 2034 (Integrated Services for Homeless Mentally Ill) program. This has meant a \$2.8 million cut for the Department's Community Behavioral Health Services program, which has been backfilled using county General Fund. In "blue penciling" the program the Governor noted that "similar services are available under Proposition 63. Proposition 63, the Mental Health Services Act, was passed by California voters in November 2004, and imposes an additional one percent tax on individuals with incomes over \$1 million to expand funding of mental health services and programs. The Act specifically prohibits supplantation of funds, and Alameda County has filed suit against the State on those grounds.

The other major impacts to health in the 06-07 budget include a \$670,000 cut to the Proposition 36 (Drug Court) program due to the Governor's reduction of \$20 million statewide in that program, and a \$258,000 cut to pandemic influenza preparedness due to a statewide reduction of \$8.6 million. The City also saw its Outreach, Enrollment, Retention, and Utilization (OERU) funding cut from \$289,000 to \$0. These funds were used for outreach and enrollment of children into Medi-Cal and Healthy Families. These funds flowed to the Department of Children, Youth and Families (DCYF).

On the upside, the 07-08 budget does include full funding for the prior years of the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program. San Francisco was owed \$3.3 million for the 2005-2006 fiscal year.

Citing a projected current-year budget shortfall of \$3.3 billion, on December 21, 2007, Governor Schwarzenegger declared a fiscal emergency and called for a special session of the Legislature to address it on Thursday, January 10, 2008. That is concurrent with the release of the Governor's proposed 2008-09 State budget. Under the provisions of Proposition 58, approved by Californians in March 2004, the Governor has the authority to declare a fiscal emergency if he determines that the state faces substantial revenue shortfalls or expenditure increases. The Governor is then required to call a special session of the Legislature and to propose legislation to address the fiscal emergency. If the Legislature fails to approve and send legislation to the Governor to address the fiscal emergency within 45 days, it would be prohibited from acting on any other bills or adjourning in joint recess until such legislation is passed.

As part of his attempts to close the \$14.5 billion budget gap for FY 2008-09, in his January budget proposal, the Governor has called for \$2.7 billion in State General Fund cuts to health and human services programs, including cuts to the Medi-Cal and Healthy Families programs. One such budget proposal, reinstatement of quarterly financial status reporting for adult and child Medi-Cal recipients would lead to 160,000 children per month being disenrolled. Other budget proposals related to Medi-Cal and Healthy

Families include ten percent cuts in rates paid to providers and plan in both programs, elimination of all adult dental coverage in Medi-Cal, and annual caps on dental benefits and increases in premiums and co-payments for Healthy Families beneficiaries. Over the course of the State's budget discussions, the Commission will be receiving regular updates.

D. Summary of Selected Health-Related Bills Enacted in 2007

AB 110 (Laird) Drug paraphernalia: clean needle and syringe exchange projects -

This bill would authorize a public entity that receives General Fund money from the State Department of Public Health for HIV prevention and education to use that money to support clean needle and syringe exchange projects authorized by the public entity. The bill would authorize the money to be used for the purchase of sterile hypodermic needles and syringes. The bill would require funds allocated for that purpose to be based upon epidemiological data as reported by the health jurisdiction in its local HIV prevention plan submitted to the Office of AIDS.

SF Position: Support

Status: Chaptered by Secretary of State - Chapter 707, Statutes of 2007

AB 647 (Salas) Tobacco use programs - Revises tobacco education programs by requiring the Department of Education to administer a competitive grant program for school-based anti-tobacco education programs and tobacco use intervention and cessation activities.

SF Position: Watch

Status: Chaptered by Secretary of State – Chapter 135, Statutes of 2007

AB 682 (Berg) HIV/AIDS testing - Revises the written and informed consent standards associated with testing blood for the human immunodeficiency virus (HIV), including prenatal HIV testing, to no longer require affirmative approval prior to administering an HIV test. Establishes the new HIV testing consent standard as the right to decline the test, providing medical care providers present specified information to the individual about treatment options and the individual's right to decline the test, and the medical care provider notes in the chart when the patient declines to be tested.

SF Position: Watch

Status: Chaptered by Secretary of State - Chapter 550, Statutes of 2007

AB 752 (Dymally) Medi-Cal: hospital funding - Extends the Medi-Cal hospital financing provisions for 2007-08, 2008-09 and 2009-10.

SF Position: Watch

Status: Chaptered by Secretary of State - Chapter 544, Statutes of 2007

AB 1108 (Ma) Children's products: phthalates - This bill would, commencing January 1, 2009, prohibit the manufacture, sale, or distribution in commerce of certain toys and child care articles, as defined, if those products contain types of phthalates in concentrations exceeding one-tenth of one percent.

SF Position: Support

Status: Chaptered by Secretary of State - Chapter 672, Statutes of 2007

SB 7 (Oropeza) Smoking in vehicles with minor children - This bill makes it an infraction for a person to smoke a cigar, cigarette or pipe in a vehicle, whether in motion or at rest, in which there is a minor.

SF Position: Watch

Status: Chaptered by Secretary of State - Chapter 425, Statutes of 2007

SB 306 (Ducheny) Hospital facilities: seismic safety - This bill amends the Alfred E. Alquist Hospital Facilities Seismic Safety Act to permit hospitals to delay compliance with the July 1, 2008 seismic retro deadline, and the 2013 extension, and instead rebuild by the year 2020.

SF Position: Support

Status: Chaptered by Secretary of State - Chapter 642, Statutes of 2007

SB 767 (Ridley-Thomas) Drug overdose treatment: liability - This bill would authorize, until January 1, 2011, a licensed health care provider, who is already permitted pursuant to existing law to prescribe an opioid antagonist, if acting with reasonable care, to prescribe and subsequently dispense or distribute an opioid antagonist to be administered by an unlicensed third party in conjunction with an opioid overdose prevention and treatment training program, without being subject to civil liability or criminal liability.

SF Position: Support

Status: Chaptered by Secretary of State - Chapter 477, Statutes of 2007

SB 966 (Simitian) Pharmaceutical drug waste disposal - This bill would, until January 1, 2013, require the California Integrated Waste Management Board to develop, in consultation with appropriate state, local, and federal agencies, model programs for the collection and proper disposal of pharmaceutical drug waste.

SF Position: Support

Status: Chaptered by Secretary of State - Chapter 542, Statutes of 2007

E. Summary of Selected Two-Year Health-Related Bills

AB 1 (Laird) Health Care Coverage - Expands Medi-Cal and Healthy Families Program (HFP) eligibility to cover all children with family incomes at or below 300% of the federal poverty level (FPL). Establishes a HFP Buy-In Program for children in families with incomes above 300% FPL.

SF Position: Watch

Status: Held at Assembly Desk

AB 23 (Ma) Department of Transportation: marked crosswalk: control signal - This bill requires the Department of Transportation to place and maintain pedestrian signals and displays, if certain conditions are met.

SF Position: Watch

Status: Assembly Transportation

AB 90 (Lieu) Pupil Nutrition: Trans Fat - This bill prohibits a school or school district, beginning July 1, 2009, from serving or selling to K-12 students any food containing artificial trans fat, and prohibits the use of artificial trans fat in the preparation of food served or sold to those pupils.

SF Position: Watch

Status: Appropriations Suspense File

AB 364 (Berg) Discharge policy: preadmission screening - This bill would require that the hospital discharge policy inform the patient of the availability of home and community-based options prior to discharge, and would require that prior to a transfer of an older adult patient to any skilled nursing facility, the patient be assessed by a preadmission screening to ensure the appropriateness of the proposed skilled nursing facility placement.

SF Position: Support

Status: Assembly Health Committee

AB 547 (Ma) County Health Initiative Matching Fund: application assistance - Allows local Healthy Kids (AB 495) programs to pay community-based organizations and individuals to assist children and youth to apply for Healthy Kids coverage.

SF Position: Support

Status: Assembly Health Committee

AB 606 (Galgiani) Medi-Cal: Reimbursement Rates - Provides a five percent Medi-Cal provider rate increase commencing January 1, 2008.

SF Position: Watch

Status: Assembly Health Committee

AB 1358 (Leno) Planning: circulation element: transportation - Enacts the California Complete Streets Act, which would require local governments to consider and accommodate all users in the planning and development of their local highways and public transportation systems.

SF Position: Support

Status: Senate Third Reading File

AB 1434 (Dymally) Medi-Cal: home health care services - This bill requires the Department of Health Care Services to implement a Medi-Cal rate setting system, subject to federal approval and the availability of federal funds, that reflects the costs and services associated with home health agency services.

SF Position: Support

Status: Senate Appropriations Suspense File

AB 1451 (Leno) Property tax: exclusion from newly constructed: active solar energy system - This bill extends the existing property tax exclusion through FY 2015-16 and modifies the existing exclusion for active solar energy equipment used for electricity transmitted to a utility.

SF Position: Support

Status: Senate Appropriations

AB 1472 (Leno) Public Health: California Healthy Places Act of 2007 - This bill would establish the California Healthy Places Act of 2008, which would require various state agencies and departments to collaboratively support childhood development, prevent injury, illness, and chronic disease, ensure environmental health, and reduce health disparities by providing knowledge, guidance, and resources for public health assessments of land use and transportation system planning.

SF Position: Support

Status: Senate Appropriations Suspense File

SB 11 (Migden) Domestic partnerships - Existing law provides that two unmarried, unrelated adults with a common residence may establish a domestic partnership by filing a declaration with the Secretary of State if both persons are members of the same sex or are over 62 years of age. This bill would delete the same-sex or age eligibility requirement, thereby allowing any two persons to register as domestic partners.

SF Position: Support

Status: Assembly Appropriations Suspense File

SB 119 (Cedillo) Medi-Cal: minors: drug and alcohol treatment - This bill would require that residential drug and alcohol treatment services and other specified services described in the Youth Treatment Guidelines issued by the State Department of Alcohol and Drug Programs for persons 12 to 20 years of age be a covered benefit under the Medi-Cal Drug Treatment Program. The bill would provide that a county shall not be responsible for the costs of board and care related to the provision of the above residential drug and alcohol treatment services.

SF Position: Support

Status: Assembly Appropriations Suspense File

SB 153 (Migden) Victim services - Redistributes money in the State Penalty Fund and establishes grant programs for Child Advocacy and Victim Trauma Recovery Centers.

SF Position: Support

Status: Assembly Inactive File

SB 297 (Romero) Taxation: alcoholic beverages - This bill would authorize a board of supervisors, subject to certain conditions that include voter approval, to levy on a countywide basis a tax on beer, wine and distilled spirits.

SF Position: Watch

Status: Senate Revenue and Taxation

SB 578 (Simitian) Environment: high production volume chemical - This bill would require a manufacturer of a high production volume chemical, by October 1, 2008, to submit to the Department of Toxic Substances Control, in an electronic format specified by the department, any environmental health information that the manufacturer previously submitted, on or after January 1, 2000, to the High Production Volume Challenge Program conducted by the Environmental Protection Agency or to any foreign

government. A manufacturer would be required to submit to the department, by October 1, 2009, and on or before October 1 annually thereafter, the information the manufacturer submitted to those entities the previous calendar year.

SF Position: Support

Status: Assembly Suspense File

SB 840 (Kuehl) Health care coverage - Creates the California Healthcare System (CHS), a single-payer health care system, administered by the California Healthcare Agency, to provide health insurance coverage to all California residents. CHS would become operative when the Secretary of Health and Human Services determines the Healthcare Fund has sufficient revenues to implement this bill.

SF Position: Watch

Status: Assembly Appropriations

SB 1014 (Kuehl) Taxation: single-payer health care coverage tax - Imposes additional taxes on incomes that exceed \$200,000 per year, self-employment income, and non-wage income. Also imposes a health care coverage tax on the wages of an employee to be paid by both the employee and the employer. Requires all funds to be transmitted to the Health Insurance Fund (funding mechanism for SB 840).

SF Position: Watch

Status: Senate Revenue and Taxation

F. Summary of Selected Health-Related Bills that Failed in 2007

AB 43 (Leno) Gender-neutral marriage - This bill would enact the Religious Freedom and Civil Marriage Protection Act, which would provide that marriage is a personal relation arising out of a civil contract between 2 persons.

SF Position: Support

Status: Vetoed by the Governor 10/12/07. In his veto message the Governor stated: "I am returning Assembly Bill 43 without my signature. As I stated in vetoing similar legislation in 2005, I am proud California is a leader in recognizing and respecting domestic partnerships. I believe that all Californians are entitled to full protection under the law and should not be discriminated against based upon their sexual orientation. I support current domestic partnership rights and will continue to vigorously defend and enforce these rights. In 2000, the voters approved Proposition 22, a challenge to which is currently pending before the California Supreme Court. I maintain my position that the appropriate resolution to this issue is to allow the Court to rule on Proposition 22."

AB 423 (Beall) Health care coverage: mental health services - Expands coverage requirements for health plans and insurance, beginning January 1, 2008, to include diagnosis and treatment and of mental illness (current law covers only "severe mental illness) and substance abuse.

SF Position: Watch

Status: Vetoed by the Governor 10/14/07. In his veto message the Governor stated: "I am returning Assembly Bill 423 without my signature. While I share the author's interest in improving access to mental health and substance abuse services, I cannot support this

bill as it would contribute to higher health care costs, potentially making coverage less affordable. California needs comprehensive health care reform that will provide coverage for all, promote shared responsibility and make health care more affordable. I encourage the author to work with me to enact comprehensive health care reform that will provide all Californians access to health coverage, strengthen prevention efforts, increase access to mental health and substance abuse services, and promote affordability.”

AB 706 (Leno) Fire retardants: toxic effects - Commencing January 1, 2010, bans the use of brominated and chlorinated fire retardants in all seating furniture, mattresses, box springs, mattress sets, futons, other bedding products, and reupholstered furniture.

SF Position: Support

Status: Died in the Senate

AB 888 (Lieu) Green building standards - This bill requires new commercial buildings for which a public agency deems the application for a development project complete on or after July 1, 2013, and that are 50,000 feet or greater be designed constructed and operated to meet the applicable standards described in the United States Green Building Council Leadership in Energy and Environmental Design gold rating or its equivalent, unless the state adopts specified minimum green building standards, in which case those commercial buildings will be required to meet the adopted standards.

SF Position: Support

Status: Vetoed by the Governor 10/14/07. In his veto message the Governor stated: “I am returning Assembly Bill 888 without my signature. I support the development of green building standards and share the goals of this bill. However, if implemented, provisions in this bill would create a bias for certain building materials over others without a clear benefit. For instance, the use of California wood building construction materials is highly discouraged in favor of foreign grown bamboo and wheatgrass. Additionally, building standards should not be statutory. The Building Standards Commission was created to ensure an open public adoption process allowing experts to develop standards and periodic updates to the building codes. Allowing private entities, such as proposed in this bill, to dictate California's building standards usurps the state's authority to develop and adopt those standards and could compromise the health and safety of Californians. I encourage state agencies to review all nationally recognized programs and glean from those programs, standards that promote greener construction, energy and water conservation, and reduce Green House Emissions. It is imperative to expedite the greening of California's building standards. As such, I am directing the California Building Standards Commission to work with specified state agencies on the adoption of green building standards for residential, commercial, and public building construction for the 2010 code adoption process.”

AB 1334 (Swanson) Corrections: sexual barrier protection devices - Enacts the Inmate and Community Public Health and Safety Act, which requires the Secretary of the California Department of Corrections and Rehabilitation (CDCR) to allow any non-profit or health care agency to distribute sexual barrier protection devices (condoms).

SF Position: Watch

Status: Vetoed by the Governor 10/14/07. In his veto message the Governor stated: “I am returning Assembly Bill 1334 without my signature. This bill would enact the Inmate and Community Public Health and Safety Act, which would allow any nonprofit or health care agency to distribute sexual barrier protection devices to inmates in state prisons. As stated in my veto of AB 1677 last year, the provisions of this bill conflict with Penal Code Sections 286 (e) and 288 (e), which make sexual activity in prison unlawful. However, condom distribution in prisons is not an unreasonable public policy and it is consistent with the need to improve our prison healthcare system and overall public health. Local jail systems in both Los Angeles and San Francisco have already implemented condom distribution programs. Therefore, I am directing the California Department of Corrections and Rehabilitation to determine the risk and viability of such a program by identifying one state prison facility for the purpose of allowing non-profit and health agencies to distribute sexual barrier devices.”

AB 1669 (Leno) Crime victims: trauma center grants - Appropriates \$3 million from the Restitution Fund in order to fund a program to award grants for regional trauma recovery centers.

SF Position: Support

Status: Vetoed by the Governor 10/14/07. In his veto message the Governor stated: “I am returning Assembly Bill 1669 without my signature. In my signing message for AB 50 in 2006, I stated that the use of Restitution Funds for the San Francisco Trauma Recovery Center (TRC) should be considered a one-time appropriation. This appropriation was granted in order to provide time to identify alternate sources of funding for the TRC and other similar programs. The use of the Restitution Fund to replicate and fund programs of this type presents a significant concern to its ongoing ability to support the compensation of crime victims for which it was established. While the model of service supported by this bill has proven effective at the TRC, the Restitution Fund is an inappropriate ongoing source of funding for this type of program. The Restitution Fund is the funding source of the Victim Compensation Program, which was designated to pay for certain out-of-pocket expenses to specific victims of crime. In contrast, the trauma centers that would be supported by this bill provide comprehensive services, which exceed out-of-pocket expenses, to individuals that are not restricted to victims of crime. For these reasons, I am unable to sign this bill.”

SB 260 (Steinberg) Medi-Cal - This bill allows federally qualified health centers to be reimbursed by Medi-Cal for multiple visits by a patient with a single or different health care professional on the same day at a single location, and specifically allows for billing for two visits when a patient has a medical visit and an additional visit with a mental health practitioner or a dental professional.

SF Position: Watch

Status: Vetoed by the Governor 10/14/07. In his veto message the Governor stated: “I am returning Senate Bill 260 without my signature. While I support improving access to health care services, including mental health services, I cannot support this bill as it would increase General Fund pressure at a time of continuing budget challenges. Mental health services are already included in the Medi-Cal rates for federally qualified health

centers and rural health clinics. Allowing separate billing for mental health services would lead to increased costs that our state cannot afford.”

SB 275 (Cedillo) Health facilities: patient transporting - Prohibits hospitals from transporting patients to a location other than the residence of the patient without the informed consent of the patient. Prohibition also applies to staff members of those health facilities.

SF Position: Watch

Status: Vetoed by the Governor 10/14/07. In his veto message the Governor stated: “I am returning Senate Bill 275 without my signature. While I strongly oppose patient dumping and believe those who engage in this behavior should be held accountable, I cannot support this bill. Hospitals already must meet specific discharge planning requirements and make appropriate arrangements for post-hospital care. Federal and state laws already provide sanctions, including potential loss of licensure and funding, against hospitals that violate licensing or certification requirements. Enforcement of existing laws is critical, however, additional penalties are premature. Vigorous enforcement of existing requirements should be complemented by local planning efforts and coordinated service delivery. To that end, last year I signed legislation that requires hospitals to improve post-hospital transition of homeless patients. If this problem persists, in spite of current law and recently enacted requirements, legislation imposing additional penalties in the future may be appropriate.

SB 893 (Cox) California Children and Families Commission: funding - This bill eliminates existing allocations of tobacco tax revenue under Proposition 10 to state and local county children and families commission accounts (First 5 Commission) and instead requires those funds to be allocated and appropriated to the California Children and Families Commission (CCFC) to provide health care services to children consistent with the purposes of Proposition 10.

SF Position: Oppose

Status: Failed passage in the Senate Health Committee

G. The Second Session

Health care is certain to be high on the agenda of California lawmakers in the second session. ABX 1-1, the healthcare reform bill passed out of the special legislative session by the Assembly is set to be taken up by the Senate in January. Given the emphasis in this legislation on drawing down federal funds through the Medicaid and SCHIP programs, it will be interesting to see how healthcare reform and the budget process progress given the Governor’s initial budget proposal that recommends significant cuts to the Medi-Cal and Healthy Families programs.

In addition to the larger issue of reforming all of California’s health care delivery and financing, other health issues including nutrition and obesity, the built environment, trauma care funding, alcoholic beverage taxation, and hospital discharge policy, among others, will see attention during the legislature’s second session.

IV. Appendices:

- A. State Legislative Plan**
- B. CCSF Letter to Senate Health Committee re: ABX1-1**
- C. California State Association of Counties Summary of Initiative**