

**SECTION 12.** Section 17043 is added to the Revenue and Taxation Code to read:

17043. (a) For each taxable year beginning on or after January 1, 2005, in addition to any other taxes imposed by this part, an additional tax shall be imposed at the rate of 1% on that portion of a taxpayer's taxable income in excess of one million dollars (\$1,000,000).
- (b) For purposes of applying Part 10.2 (commencing with Section 18401), the tax imposed under this section shall be treated as if imposed under Section 17041.
- (c) The following shall not apply to the tax imposed by this section:
- (1) The provisions of Section 17039, relating to the allowance of credits.
  - (2) The provisions of Section 17041, relating to filing status and recomputation of the income tax brackets.
  - (3) The provisions of Section 17045, relating to joint returns.

**SECTION 13.** Section 19602 of the Revenue and Taxation Code is amended to read:

19602. Except for amounts collected or accrued under Sections 17935, 17941, 17948, 19532, and 19561, and revenues deposited pursuant to Section 19602.5, all moneys and remittances received by the Franchise Tax Board as amounts imposed under Part 10 (commencing with Section 17001), and related penalties, additions to tax, and interest imposed under this part, shall be deposited, after clearance of remittances, in the State Treasury and credited to the Personal Income Tax Fund.

**SECTION 14.** Section 19602.5 is added to the Revenue and Taxation Code to read:

- 19602.5 (a) There is in the State Treasury the Mental Health Services Fund (MHS Fund). The estimated revenue from the additional tax imposed under Section 17043 for the applicable fiscal year, as determined under subparagraph (B) of paragraph (3) of subdivision (c), shall be deposited to the MHS Fund on a monthly basis, subject to an annual adjustment as described in this section.
- (b) (1) Beginning with fiscal year 2004-2005 and for each fiscal year thereafter, the Controller shall deposit on a monthly basis in the MHS Fund an amount equal to the applicable percentage of net personal income tax receipts as defined in paragraph (4).
- (2) (A) Except as provided in subparagraph (B), the applicable percentage referred to in paragraph (1) shall be 1.76 percent.
- (B) For fiscal year 2004-2005, the applicable percentage shall be 0.70 percent.
- (3) Beginning with fiscal year 2006-2007, monthly deposits to the MHS Fund pursuant to this subdivision are subject to suspension pursuant to subdivision (f).
- (4) For purposes of this subdivision, "net personal income tax receipts" refers to amounts received by the Franchise Tax Board and the Employment Development Department under the Personal Income Tax Law, as reported by the Franchise Tax Board to the Department of Finance pursuant to law, regulation, procedure, and practice (commonly referred to as the "102 Report") in effect on the effective date of the Act establishing this section.
- (c) No later than March 1, 2006, and each March 1<sup>st</sup> thereafter, the Department of Finance, in consultation with the Franchise Tax Board, shall determine the annual adjustment amount for the following fiscal year.

- (1) The “annual adjustment amount” for any fiscal year shall be an amount equal to the amount determined by subtracting the “revenue adjustment amount” for the applicable revenue adjustment fiscal year, as determined by the Franchise Tax Board under paragraph (3), from the “tax liability adjustment amount” for applicable tax liability adjustment tax year, as determined by the Franchise Tax Board under paragraph (2).
- (2) (A) (i) The “tax liability adjustment amount” for a tax year is equal to the amount determined by subtracting the estimated tax liability increase from the additional tax imposed under Section 17043 for the applicable year under subparagraph (B) from the amount of the actual tax liability increase from the additional tax imposed under Section 17043 for the applicable tax year, based on the returns filed for that tax year.
- (ii) For purposes of the determinations required under this paragraph, actual tax liability increase from the additional tax means the increase in tax liability resulting from the tax of 1% imposed under Section 17043, as reflected on the original returns filed by October 15<sup>th</sup> of the year after the close of the applicable tax year.
- (iii) The applicable tax year referred to in this paragraph means the 12-calendar month taxable year beginning on January 1<sup>st</sup> of the year that is two (2) years before the beginning of the fiscal year for which an annual adjustment amount is calculated.
- (B) (i) The estimated tax liability increase from the additional tax for the following tax years is:

<u>Tax Year</u>	<u>Estimated Tax Liability Increase from the Additional Tax</u>
2005	\$ 634 million
2006	\$ 672 million
2007	\$ 713 million
2008	\$ 758 million

- (ii) The “estimated tax liability increase from the additional tax” for the tax year beginning in 2009 and each tax year thereafter shall be determined by applying an annual growth rate of seven (7) percent to the “estimated tax liability increase from additional tax” of the immediately preceding tax year.
- (3) (A) The “revenue adjustment amount” is equal to the amount determined by subtracting the “estimated revenue from the additional tax” for the applicable fiscal year, as determined under subparagraph (B), from the actual amount transferred for the applicable fiscal year.
- (B) (i) The “estimated revenue from the additional tax” for the following applicable fiscal years is:

<u>Applicable Fiscal Year</u>	<u>Estimated Revenue From Additional Tax</u>
2004-05	\$ 254 million
2005-06	\$ 683 million
2006-07	\$ 690 million
2007-08	\$ 733 million

- (ii) The “estimated revenue from the additional tax” for applicable fiscal year 2007-08 and each applicable fiscal year thereafter shall

be determined by applying an annual growth rate of 7 percent to the “estimated revenue from the additional tax” of the immediately preceding applicable fiscal year.

- (iii) The applicable fiscal year referred to in this paragraph means the fiscal year that is two (2) years before the fiscal year for which an annual adjustment amount is calculated.
- (d) The Department of Finance shall notify the Legislature and the Controller of the results of the determinations required under subdivision (c) no later than ten (10) business days after the determinations are final.
- (e) If the annual adjustment amount for a fiscal year is a positive number, the Controller shall transfer that amount from the General Fund to the MHS Fund on July 1 of that fiscal year.
- (f) If the annual adjustment amount for a fiscal year is a negative number, the Controller shall suspend monthly transfers to the MHS Fund for that fiscal year, as otherwise required by paragraph (1) of subdivision (b), until the total amount of suspended deposits for that fiscal year equals the amount of the negative annual adjustment amount for that fiscal year.

**SECTION 15.** Part 4.5 (commencing with Section 5890) is added to Division 5 of the Welfare and Institutions Code, to read:

**PART 4.5. MENTAL HEALTH SERVICES FUND**

5890. (a) The Mental Health Services Fund is hereby created in the State Treasury. The Fund shall be administered by the department of Mental Health. Notwithstanding Section 13340 of the Government Code, all monies in the Fund are continuously appropriated to the Department, without regard to fiscal years, for the purpose of funding the following programs and other related activities as designated by other provisions of this Division:
- (1) Part 3 commencing with Section 5800, the Adult and Older Adult System of Care Act.
  - (2) Part 3.6 commencing with Section 5840, Prevention and Early Intervention Programs.
  - (3) Part 4 commencing with Section 5850, the Children’s Mental Health Services Act.
- (b) Nothing in the establishment of this Fund, nor any other provisions of the Act establishing it or the programs funded shall be construed to modify the obligation of health care service plans and disability insurance policies to provide coverage for mental health services, including those services required under Section 1374.72 of the Health and Safety Code and Section 10144.5 of the Insurance Code, related to mental health parity. Nothing in this Act shall be construed to modify the oversight duties of the Department of Managed Health Care or the duties of the Department of Insurance with respect to enforcing such obligations of plans and insurance policies.
- (c) Nothing in this Act shall be construed to modify or reduce the existing authority or responsibility of the Department of Mental Health.
- (d) The Department of Health Services, in consultation with the Department of Mental Health, shall seek approval of all applicable federal Medicaid approvals to maximize the availability of federal funds and eligibility of participating children, adults and seniors for medically necessary care.

- (e) Share of costs for services pursuant to Parts 3 and 4 shall be determined in accordance with the Uniform Method for Determining Ability to Pay applicable to other publicly funded mental health services, unless such Uniform Method is replaced by another method of determining co-payments, in which case the new method applicable to other mental health services shall be applicable to services pursuant to Parts 3 and 4.

5891. The funding established pursuant to this Act shall be utilized to expand mental health services. These funds shall not be used to supplant existing state or county funds utilized to provide mental health services. The state shall continue to provide financial support for mental health programs with not less than the same entitlements, amounts of allocations from the General Fund and formula distributions of dedicated funds as provided in the last fiscal year which ended prior to the effective date of this Act. The state shall not make any change to the structure of financing mental health services, which increases a county's share of costs or financial risk for mental health services unless the state includes adequate funding to fully compensate for such increased costs or financial risk. These funds shall only be used to pay for the programs authorized in Section 5892. These funds may not be used to pay for any other program. These funds may not be loaned to the state General Fund or any other fund of the state, or a county general fund or any other county fund for any purpose other than those authorized by Section 5892.

5892. (a) In order to promote efficient implementation of this Act allocate the following portions of funds available in the Mental Health Services Fund in 2005-06 and each year thereafter:
- (1) In 2005-06, 2006-07, and in 2007-08 10% shall be placed in a trust fund to be expended for education and training programs pursuant to Part 3.1.
  - (2) In 2005-06, 2006-07 and in 2007-08 10% for capital facilities and technological needs distributed to counties in accordance with a formula developed in consultation with the California Mental Health Directors Association to implement plans developed pursuant to Section 5847.
  - (3) 20% for Prevention and Early Intervention Programs distributed to counties in accordance with a formula developed in consultation with the California Mental Health Directors Association pursuant to Part 3.6. Each county's allocation of funds shall be distributed only after its annual program for expenditure of such funds has been approved by the Oversight and Accountability Commission established pursuant to Section 5845.
  - (4) The allocation for Prevention and Early Intervention may be increased in any county which the department determines that such increase will decrease the need and cost for additional services to severely mentally ill persons in that county by an amount at least commensurate with the proposed increase. The statewide allocation for Prevention and Early Intervention may be increased whenever the Oversight and Accountability Commission determines that all counties are receiving all necessary funds for services to severely mentally ill persons and have established prudent reserves and there are additional revenues available in the Fund.
  - (5) The balance of funds shall be distributed to county mental health programs for services to persons with severe mental illnesses pursuant to Part 4 for the Children's System of Care and Part 3, for the Adult and Older Adult System of Care.