

Memorandum 2019-23

**Recodification of Toxic Substance Statutes
(Part 2. Chapter 2 (Financial Provisions))**

In this study, the Commission¹ is undertaking a nonsubstantive reorganization of Chapters 6.5 (commencing with Section 25100) and 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code.² The Commission decided to proceed with the recodification of Chapter 6.8 first, before undertaking the recodification of Chapter 6.5.³

Attached to this memorandum is a draft containing Chapter 2 of Part 2 of proposed new Division 45 of the Health and Safety Code. This memorandum discusses issues the staff encountered in preparing the attached draft legislation.

Commissioners and other interested persons should review the attached draft and raise any concerns identified. **Comments on any aspect of the draft would be welcome.**⁴

This memorandum also describes the staff's outreach to stakeholders for this study. **The staff welcomes any additional suggested stakeholder contacts from Commissioners or others.**

Unless otherwise indicated, any statutory citations are to the Health and Safety Code.

1. Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission's website (www.clrc.ca.gov). Other materials can be obtained by contacting the Commission's staff, through the website or otherwise.

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting. However, comments that are received less than five business days prior to a Commission meeting may be presented without staff analysis.

2. See 2018 Cal. Stat. res. ch. 158 (SCR 91 (Roth)).

3. Minutes (Feb. 2019), p. 3.

4. Written comments can be in any form. They should be directed to kburford@clrc.ca.gov. Comments may also be made orally at the upcoming Commission meeting (scheduled for April 4, 2019), which will be open to the public. The agenda is available at http://www.clrc.ca.gov/Menu1_meetings/agenda.html.

GENERAL DRAFTING APPROACH

As with the prior draft legislation for this project, the staff has taken a fairly conservative approach to drafting. For the most part, the language used in the draft is drawn from existing law verbatim.

The language of some of the existing provisions is less direct than it could be.⁵ The staff did not propose revisions for such provisions, as the language used seemed to be consistent across the financial provisions contained in this law. While the language could perhaps be better expressed, it was not difficult to understand.

The staff did, however, find two provisions that the staff believed could benefit from restatement for clarity.⁶ However, the staff was unsure how to restate these provisions without raising concerns about substantive change. For these provisions, the staff has included Staff Notes requesting comment on the clarity of the provision. Depending on the comment received, the Commission can decide on the appropriate course of action for these provisions (i.e., leave unchanged, restate, or add to list for future study).

Any significant language changes that were proposed in the attached draft are identified in a “Staff Note” following the relevant section. The Notes ask for public comment on whether the proposed changes would be problematic.

Minor language changes to conform to legislative drafting practices or correct clear technical errors were made without notation.⁷

The proposed legislation contains an introductory, explanatory Staff Note.⁸ This initial Staff Note describes the Commission’s comments, the tables included in the proposed legislation, the Staff Notes, and other helpful information for stakeholders reviewing the proposed legislation. This Staff Note will be reproduced in future drafts of proposed legislation and will be updated as needed.

The remainder of this memorandum discusses specific issues encountered in drafting the proposed legislation.

5. See, e.g., proposed Section 68230(f) (“There is hereby created a subaccount in the state account as the successor fund to the Stringfellow Insurance Proceeds Account created pursuant to former Section 25330.6...”).

6. See proposed Sections 68200 and 68290.

7. Changes the staff made to conform to legislative drafting practice included changing uses of the word “which” to “that” and eliminating the words “such” and “thereof.” In rare cases, these changes may be flagged in a Staff Note. See, e.g., proposed Section 68310.

8. See page i of attached draft proposed legislation.

CHAPTER ORGANIZATION

Originally, the staff proposed the following chapters for proposed Part 2 of Division 45:⁹

- Chapter 1. General Provisions
- Chapter 2. Administration
- Chapter 3. Financial Provisions
- Chapter 4. Response Actions
- Chapter 5. Recovery Actions
- Chapter 6. Site-specific Rules for Response and Recovery Actions
- Chapter 7. Compensation for Loss due to Hazardous Substance Release
- Chapter 8. Reimbursement for Orphan Share of Insolvent or Defunct Party
- Chapter 9. Cleanup Loans and Environmental Assistance to Neighborhoods
- Chapter 10. California Financial Assurance and Insurance for Redevelopment

Proposed legislation for Chapter 1 has been reviewed by the Commission.¹⁰

In the course of preparing the attached proposed legislation, the staff concluded that proposed Chapter 2 (Administration) should be renamed and renumbered as Chapter 3. (General Powers and Duties). This would allow the chapter to contain a broader range of material. It would also place the material closer to the specific programs addressed in the later chapters. With those changes, the chapter organization would be as follows:

- Chapter 1. General Provisions
- Chapter 2. Financial Provisions
- Chapter 3. General Powers and Duties
- Chapter 4. Response Actions
- Chapter 5. Recovery Actions
- Chapter 6. Site-specific Rules for Response and Recovery Actions
- ...

To the extent that adjustments are needed to the order or content of the later chapters, the staff will address those issues as the study proceeds.

9. For a description of the anticipated content of these chapters, see Memorandum 2019-10, pp. 5-6 and the associated footnotes.

10. See Memorandum 2019-22.

CONTENT OF PROPOSED LEGISLATION

Proposed Chapter 2 includes general financial provisions (i.e., that are not part of an integrated statutory scheme for a particular program).¹¹ The more general provisions that were included in Chapter 2 relate to the state budget, accounting structures like accounts and funds, and the authority to issue bonds.

Those provisions would be organized into the following articles:

- (1) Budget
- (2) Externally-Funded Positions
- (3) State Account (i.e., Toxic Substances Control Account)
- (4) Site Remediation Account
- (5) Hazardous Substance Cleanup Bond Act of 1984
- (6) Revolving Loans Fund
- (7) Illegal Drug Lab Cleanup Account

ROUTINE REVISIONS

In preparing this draft, the staff made a few types of changes that the staff intends to implement as a matter of routine practice in this recodification. These changes are discussed below and are noted in the Staff Notes for the affected provisions.

Use of Defined Terms

Several of the provisions contained in this draft do not make use of defined terms.¹² For instance, a provision might use the phrase “Department of Toxic Substances Control” rather than the defined term “department.” For these provisions, the staff considered whether use of the defined term, in place of language stating the meaning of the defined term, might cause confusion. In the staff’s assessment, it would not. For this reason, the staff has substituted in defined terms where appropriate.

The staff intends to make such changes routinely in this recodification, without flagging such changes for discussion. Does the Commission have concerns with this approach?

11. For examples of more specific financial provisions that will be codified later in the proposed legislation, see existing Articles 7.8 (Orphan Share Reimbursement Trust Fund) and 8.5 (Cleanup Loans and Environmental Assistance to Neighborhoods) of Chapter 6.8.

12. See proposed Sections 68230, 68285, and 68295 and the associated Staff Notes.

Correction and Consistency of Federal Law Citations

The staff proposed changes to correct and standardize federal law citations.

The staff contacted the Office of Legislative Counsel for advice about the structure and format of federal law citations in California statutes. For instance, one standard practice is to use “federal” before the name of any federal act. The staff changed to conform to the current statute drafting standards.¹³

In addition, the staff proposes standardizing the form of citations to the federal act contained in this law. For the most part, citations to the federal act include parallel citations to the U.S. Code provision and are in the following form:

Section 114(c) of the federal act (42 U.S.C. Sec. 9614(c))

The staff changed citations to provisions of the federal act to this form.¹⁴

The staff intends to make such revisions routinely, without discussion. Does the Commission have concerns with this approach?

If the Commission approves that practice, the staff will also review the cumulative draft and make appropriate changes to it.

Elimination of Uses of Both Singular and Plural forms

Section 13 provides that “[t]he singular number includes the plural, and the plural the singular.” One provision contained in this draft uses both the singular and plural forms of a word, repeatedly. This looks like outdated language that could be modernized. The staff proposed changes to the provision to avoid the repetition of the singular and plural forms of the word.¹⁵

The staff intends to make similar changes routinely, if it appears that they would not create new scope for confusion.

Does the Commission have any concerns with this approach?

Questionable or Problematic Cross-references

In preparing the draft legislation, the staff reviews the material cross-referenced in the recodified provisions. Where the staff identifies a potentially erroneous or obsolete cross-reference, the staff includes a Staff Note describing the issue.¹⁶ Where the appropriate resolution seems clear, the staff proposes a

13. See proposed Section 68360 and the associated Staff Note.

14. See proposed Sections 68360 and 68365 and the associated Staff Notes.

15. See proposed Section 68300 and the associated Staff Note.

16. See proposed Sections 68210, 68260, and 68345 and the associated Staff Notes.

change and requests comment on that change.¹⁷ Where the appropriate resolution is unclear, the draft proposed legislation makes no change to existing language, but includes a Staff Note seeking comment on whether any changes are needed.¹⁸

Does the Commission have any concerns with the staff following that approach routinely?

STAKEHOLDER OUTREACH

The electronic distribution list for this study was built from scratch, as none of the Commission’s existing distribution lists seemed appropriate for this topic.

To build this mailing list, the staff reached out to a variety of potential stakeholders. As is the typical practice, the staff sought out representative organizations for interested segments of the public.

The potential stakeholders contacted by staff include representatives of government,¹⁹ industry,²⁰ environmental nonprofits,²¹ and the Environmental Section of the California Lawyers Association.

The staff also notified the members and staff of the Independent Review Panel (“IRP”) for the Department of Toxic Substances Control (“DTSC”) about this study. The IRP’s review of DTSC led to the assignment of this study to the

17. See proposed Section 68345 and the associated Staff Note.

18. See proposed Sections 68210 and 68260 and the associated Staff Notes.

19. The agencies and organizations contacted include the Department of Toxic Substances Control, the California Environmental Protection Agency, the U.S. Environmental Protection Agency, the State and Regional Water Quality Control Boards, the League of California Cities, the California State Association of Counties, California District Attorneys Association, California Conference of Directors of Environmental Health, California CUPA Forum, California Department of Justice, County Counsels’ Association of California, California Association of Environmental Health Administrators, California Fire Chiefs Association, California Professional Firefighters, California Association of Sanitary Agencies, and Cal Recycle.

20. The organizations and companies contacted include the Western States Petroleum Association, Solid Waste Association of North America (California Legislative Task Force), California Manufacturers and Technology Association, Chemical Industry Council of California, California Chamber of Commerce, California Building Industry Association, California Small Business Association, California Independent Oil Marketers Association, California New Car Dealers Association, Industrial Environmental Association, investor-owned utilities, Solar Energy Industries Association, Waste Management, Union Pacific Railroad, California Retailers Association, Clean Harbors and the California Council for Environmental and Economic Balance.

21. The organizations contacted include Center for Race, Poverty, and Environment; Natural Resources Defense Council; Californians Against Waste; California Environmental Justice Alliance; Sierra Club; Communities for a Better Environment; Environmental Defense Fund; EMERGE; League of Conservation Voters; East Yard Communities for Environmental Justice; California Safe Schools; Breast Cancer Fund; American Lung Association; Coalition for Clean Air; Coalition for a Safe Environment; Community Dreams; California Coalition for Youth; Environment California; Physicians for Social Responsibility; and Environmental Working Group.

Commission. Certain legislative staff with an interest in this subject area were also notified about the commencement of this study.

In accordance with the Commission's Tribal Consultation Policy, California Native American Tribes were sent notice about this study. The notice provided staff contact information and information on how to subscribe to the distribution list.

The staff also solicited suggestions from DTSC and legislative staff about individuals or groups to add to our outreach list. The staff appreciates the helpful suggestions offered by DTSC and legislative staff.

Currently, the electronic distribution list for this topic includes roughly 40 entries.

The staff welcomes any suggestions from Commissioners or others regarding possible stakeholders in this study.

NEXT STEPS

The staff will prepare an updated cumulative draft, which incorporates the decisions made by the Commission on the attached proposed legislation.

The staff will then proceed with drafting the remaining chapters of the proposed Part 2. According to the proposed outline for this recodification, the next chapters will address: general powers and duties, response actions, recovery actions, and site-specific rules for response and recovery actions.

Respectfully submitted,

Kristin Burford
Staff Counsel

PROPOSED CHAPTER 2 OF PART 2 OF
DIVISION 45 OF HEALTH & SAFETY CODE

1 **Staff Note.** This is a work in progress. The material shown below may be changed. For the
2 tentative outline of new Part 2 of Division 45 of the Health & Safety Code, see Memoranda 2019-
3 10 and 2019-23. All of the proposed provisions would be located in the Health & Safety Code.
4 All references are to the Health & Safety Code unless otherwise indicated.

5 **Comments.** A draft of an official Commission “Comment” follows each proposed code section
6 in the recodification. Such Comments will be included in any final recommendation. The
7 Comments are drafted as if the existing code sections have been repealed and replaced with the
8 proposed legislation. Thus, existing code sections are referred to as “former” sections. The
9 Comments indicate the source of each recodified code section and describe how the recodified
10 code section compares with prior law. Courts have routinely held that the Commission’s
11 Comments are evidence of legislative intent with regard to any legislation that implements a
12 Commission recommendation.

13 **Tables.** There is a “disposition table” at the end of the proposed recodification. It summarizes,
14 in tabular form, the disposition of every provision of the existing code that has been included in
15 this draft.

16 There is also a “derivation table” at the end of the proposed recodification. It summarizes, in
17 tabular form, the statutory derivation of every new code provision in this draft.

18 **Notes.** Some provisions in this draft are followed by a “Staff Note.” Staff Notes are typically
19 intended to be temporary and will not be part of the Commission’s final recommendation. Staff
20 Notes are drafted to reflect the state of the law today. Thus, the sections in the proposed
21 legislation are referred to as “proposed” sections.

22 Staff Notes serve to flag issues requiring special attention or treatment. The staff does not plan
23 to discuss each of these matters at the upcoming meeting. Rather, persons should review the draft,
24 identify any issues of concern, and then raise those issues for discussion at the meeting or express
25 their concerns in writing before the meeting, or both. Where a Staff Note serves as a prompt for
26 public comment, these prompts for comment will typically be continued in the Commission’s
27 tentative recommendation as “Notes” calling for comment. However, where the Commission
28 decides against a staff-proposed restatement and reverts to existing statutory language, the Staff
29 Note would not be continued in future drafts.

30 **Cross-references.** In some places, the provisions proposed for recodification in this draft
31 cross-refer to provisions contained in Chapter 6.8. Where the cross-referenced provision has not
32 yet been included in the recodification draft, the cross-reference is unchanged and is shown in
33 bold text. Bracketed text designates cross-references that have been updated in form, but still
34 need to be updated to reflect the recodified section number.

35 As new Division 45 is drafted, these references will be updated to reflect the new numbering
36 scheme. Where the cross-referenced material is contained in this or a prior draft of the
37 recodification, the cross-reference was updated to reflect the proposed recodification.

38 Where a Commission Comment is drafted to refer to a section of the recodified law that has not
39 yet been included in the draft, the Comment refers to “Section [6XXXX].” These references will
40 be updated when the relevant provision is drafted.

41 **Public comment.** The Commission welcomes public comment on any issue relating to the
42 content of this draft or any other aspect of its ongoing Recodification of Toxic Substance Statutes
43 study. Comments should be directed to Kristin Burford (kburford@clrc.ca.gov).

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DRAFT LEGISLATION

1 **Health & Safety Code §§ 68000-[6XXXX] (added). Hazardous substance response and**
2 **remediation**

3 SEC. ____ . Division 45 (commencing with Section 68000) is added to the Health
4 and Safety Code, to read:

5 DIVISION 45. HAZARDOUS SUBSTANCE RESPONSE AND
6 REMEDIATION

7 ...

8 PART 2. HAZARDOUS SUBSTANCE ACCOUNT

9 ...

10 CHAPTER 2. FINANCIAL PROVISIONS

11 Article 1. Budget

12 § 68200. Items to be scheduled in Budget Act

13 68200. The Director of Finance shall schedule in the annual Budget Act the
14 projects proposed in any fiscal year, that will incur direct costs for removal and
15 remedial actions at hazardous substance release sites.

16 **Comment.** Section 68200 continues former Section 25342 without substantive change.

17 See Section 68075 (“hazardous substance” defined), 68105 (“release” defined), 68125
18 (“remedy” defined), 68135 (“remove” defined), 68155 (“site” defined).

19 **Staff Note.** The staff believes that Section 25342 could benefit from restatement for clarity, but is
20 unsure how to restate this provision without raising the possibility of substantive change. **The**
21 **staff welcomes comment on whether this provision is sufficiently clear and, if so, the**
22 **intended meaning of the provision.**

23 Article 2. Externally-Funded Positions

24 § 68210. Protection of positions funded by a federal grant or responsible party

25 68210. (a)(1) Notwithstanding Section 12439 of the Government Code, the
26 Controller may not eliminate any externally-funded position.

27 (2) Notwithstanding any other provision of law, including Section 4.10 of the
28 Budget Act of 2003, for the 2003–04 and 2004–05 fiscal years, the Director of
29 Finance may not eliminate any externally-funded position.

1 (b) Neither the Controller nor the Department of Finance may impose any hiring
2 freeze or personal services limitations, including any position reductions, upon any
3 externally-funded position.

4 (c) The Controller and Department of Finance shall exclude, from the
5 department's base for purposes of calculating any budget or position reductions
6 required by any state agency or any state law, any externally-funded position and
7 the specific amounts attributable to any externally-funded position.

8 (d) Notwithstanding any other provision of law, neither the Controller nor the
9 Department of Finance may require the department to reduce authorized positions
10 or other appropriations for other department programs, including personal
11 services, to replace the reductions precluded by subdivisions (a), (b), and (c).

12 (e) Notwithstanding any other provision of law, upon the request of the
13 department, and upon review and approval by the Department of Finance, the
14 Controller shall augment any Budget Act appropriations, except for appropriations
15 from the General Fund, necessary to implement this section.

16 (f)(1) This section does not apply to any department appropriation or
17 expenditure of General Fund moneys.

18 (2) This section does not limit the authority of the Department of Finance to
19 eliminate a position when funding for the position, through an agreement with a
20 party or by a federal grant, is no longer available.

21 (g) For the purposes of this section, "externally-funded position" includes both
22 of the following:

23 (1) A direct or indirect position that provides oversight and related support of
24 remediation and hazardous substance management at a military base, including a
25 closed military base, that is funded through an agreement with a party responsible
26 for paying the department's costs.

27 (2) A direct or indirect position that is funded by a federal grant that does not
28 require a state match funded from the General Fund.

29 **Comment.** Section 68210 restates former Section 25353.5 without substantive change.
30 See Sections 68050 ("department" defined), 68075 ("hazardous substance" defined).

31 **Staff Notes.** (1) Paragraph (a)(2) refers to a section of the Budget Act from 2003 and specifies
32 certain fiscal years (2003-04 and 2004-05). It is unclear whether any aspect of this provision is
33 obsolete. **The staff welcomes comment on this issue.**

34 (2) Proposed Section 68210 includes a new subdivision (g), defining the term "externally-funded
35 position" and restates subdivisions (a)-(c) to use the defined term. The term "externally-funded
36 position" is defined to avoid the repetition of text describing such positions in subdivisions (a)-(c)
37 of Section 25353.5. This change is intended to improve clarity.

38 Currently, subdivisions (a)-(c) of Section 25353.5 read as follows:

39 "25353.5. (a)(1) Notwithstanding Section 12439 of the Government Code, the Controller
40 may not eliminate any direct or indirect position that provides oversight and related support of
41 remediation and hazardous substance management at a military base, including a closed military
42 base, that is funded through an agreement with a party responsible for paying the department's
43 costs, and may not eliminate any direct or indirect position that is funded by a federal grant that
44 does not require a state match funded from the General Fund.

1 (2) Notwithstanding any other provision of law, including Section 4.10 of the Budget Act of
2 2003, for the 2003–04 and 2004–05 fiscal years, the Director of Finance may not eliminate any
3 direct or indirect position that provides oversight and related support of remediation and
4 hazardous substance management at a military base, including a closed military base, that is
5 funded through an agreement with a party responsible for paying the department’s costs, and may
6 not eliminate any direct or indirect position that is funded by a federal grant that does not require
7 a state match funded from the General Fund.

8 (b) Neither the Controller nor the Department of Finance may impose any hiring freeze or
9 personal services limitations, including any position reductions, upon any direct or indirect
10 position of the department that provides oversight and related support of remediation and
11 hazardous substance management at a military base, including a closed military base, that is
12 funded through an agreement with a party responsible for paying the department’s costs, or on
13 any direct or indirect position that is funded by a federal grant that does not require a state match
14 funded from the General Fund.

15 (c) The Controller and Department of Finance shall exclude, from the department’s base for
16 purposes of calculating any budget or position reductions required by any state agency or any
17 state law, the specific amounts and direct or indirect positions that provide oversight and related
18 support of remediation and hazardous substance management at a military base, including a
19 closed military base, that are funded through an agreement with a party responsible for paying the
20 department’s costs, and shall exclude the specific amounts and any direct or indirect positions
21 that are funded by a federal grant that does not require a state match funded from the General
22 Fund.”

23 The changes reflected in proposed Section 68210 are intended to be nonsubstantive. **The staff**
24 **welcomes any comment on the proposed restatement of these subdivisions, as well as the**
25 **definition in proposed subdivision (g).**

26 Article 3. State Account

27 § 68220. Actions involving state account

28 68220. The state account may sue and be sued in its own name.

29 **Comment.** Section 68220 continues former Section 25331 without substantive change.
30 See Section 68165 (“state account” defined).

31 § 68225. Excess expenditures

32 68225. Expenditures from the state account shall not be made in excess of the
33 total amount of money in the state account at any one time. Expenditures in excess
34 of that amount may be made only when additional money is collected or otherwise
35 added to the state account.

36 **Comment.** Section 68225 continues former Section 25357 without substantive change.
37 See Section 68165 (“state account” defined).

38 § 68230. Subaccount for funds for response action at a specific site

39 68230. (a) Notwithstanding any other provision of law, the Controller shall
40 establish a separate subaccount in the state account, for any funds received from a
41 settlement agreement or the General Fund for a removal or remedial action to be
42 performed at a specific site.

1 (b) Notwithstanding Section 13340 of the Government Code, funds deposited in
2 the subaccount for those removal or remedial actions are hereby continuously
3 appropriated to the department, without regard to fiscal years, for removal or
4 remedial action at the specific site, and for administrative costs associated with the
5 removal or remedial action at the specific site.

6 (c) Notwithstanding any other provision of law, money in the subaccount for
7 those removal or remedial actions shall not revert to the General Fund or be
8 transferred to any other fund or account in the State Treasury, except for purposes
9 of investment as provided in Article 4 (commencing with Section 16470) of
10 Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code.

11 (d) Notwithstanding Section 16305.7 of the Government Code, all interest or
12 other increment resulting from investment of the funds specified in subdivision (a)
13 pursuant to Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of
14 Division 4 of Title 2 of the Government Code shall be deposited in the subaccount
15 for removal or remedial action at the specific sites.

16 (e) At the conclusion of all removal or remedial actions at the specific site, any
17 unexpended funds in any subaccounts established pursuant to this section shall be
18 transferred to the subaccount for site operation and maintenance established
19 pursuant to Section 68235, if necessary, for those activities at the site, or, if not
20 needed for site operation and maintenance at the site, to the state account.

21 (f) There is hereby created a subaccount in the state account as the successor
22 fund to the Stringfellow Insurance Proceeds Account created pursuant to former
23 Section 25330.6, as amended by Chapter 178 of the Statutes of 2007. All assets,
24 liabilities, and surplus in the Stringfellow Insurance Proceeds Account shall be
25 transferred to, and become a part of, this subaccount for the Stringfellow
26 Superfund Site in Riverside County, as provided in Section 16346 of the
27 Government Code. All appropriations from the Stringfellow Insurance Proceeds
28 Account, to the extent encumbered, shall continue to be available from the
29 subaccount for expenditure for the same purposes and periods.

30 **Comment.** Section 68230 continues former Section 25330.4, with the exception of paragraph
31 (f)(2), without substantive change. For ease of reference, subdivision (f) was revised to replace
32 “former Section 25330.6, as that section read on January 1, 2013” with a reference to the last
33 statute to amend the section prior to that date. This is a nonsubstantive change.

34 Paragraph (f)(2) was not continued as the provision is obsolete.

35 See Sections 68050 (“department” defined), 68080 (“operation and maintenance” defined),
36 68125 (“remedy” defined), 68135 (“remove” defined), 68155 (“site” defined), 68165 (“state
37 account” defined).

38 **Staff Notes. (1)** Subdivision (e) of Section 25330.4 refers to the “Toxic Substances Control
39 Account.” Proposed Section 68230 replaces that reference with the “state account.” In proposed
40 Section 68165, “state account” is defined as “the Toxic Substances Control Account established
41 pursuant to Section 25173.6.”

42 **(2)** The staff was unable to find any information about the subaccount created by subdivision (f)
43 (i.e., the successor fund to the Stringfellow Insurance Proceeds Account). **The staff welcomes**
44 **comment on the status of this subaccount.**

1 (3) Subdivision (f) of proposed Section 68230 is currently paragraph (1) of subdivision (f) of
2 Section 25330.4. Section 25330.4 contains a paragraph (f)(2) that provides:

3 “(2) This subdivision shall become operative on July 1, 2013.”

4 This provision appears to no longer be needed, as subdivision (f) is now operative. The staff has
5 proposed not to continue this paragraph. This change is intended to be nonsubstantive. **The staff
6 welcomes comment on whether this proposed change is problematic for any reason.**

7 **§ 68235. Subaccount for site operation and maintenance**

8 68235. (a) The Controller shall establish a separate subaccount for site operation
9 and maintenance in the state account. All of the following amounts shall be
10 deposited in the subaccount:

11 (1) Funds received from responsible parties for site operation and maintenance.

12 (2) Funds received from the federal government pursuant to the federal act for
13 site operation and maintenance.

14 (3) Funds received from cities, counties, or any other state or local agency for
15 site operation and maintenance.

16 (4) Funds appropriated from the state account by the Legislature for site
17 operation and maintenance.

18 (b) Notwithstanding Section 13340 of the Government Code, funds deposited in
19 the subaccount for site operation and maintenance are hereby continuously
20 appropriated to the department, without regard to fiscal years, for site operation
21 and maintenance, and for administrative costs associated with site operation and
22 maintenance.

23 (c) Notwithstanding any other provision of law, money in the subaccount for site
24 operation and maintenance shall not revert to the General Fund or be transferred to
25 any other fund or account in the State Treasury, except for purposes of investment
26 as provided in Article 4 (commencing with Section 16470) of Chapter 3 of Part 2
27 of Division 4 of Title 2 of the Government Code.

28 (d) Notwithstanding Section 16305.7 of the Government Code, all interest or
29 other increment resulting from investment of the funds specified in subdivision (a)
30 pursuant to Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of
31 Division 4 of Title 2 of the Government Code shall be deposited in the subaccount
32 for site operation and maintenance.

33 **Comment.** Section 68235 continues former Section 25330.5 without substantive change.

34 See Sections 68050 (“department” defined), 68065 (“federal act” defined), 68080 (“operation
35 and maintenance” defined), 68145 (“responsible party” defined), 68155 (“site” defined), 68165
36 (“state account” defined).

37 **§ 68240. Reserve account for emergencies**

38 68240. (a) There is hereby continuously appropriated from the state account to
39 the department the sum of one million dollars (\$1,000,000) for each fiscal year as
40 a reserve account for emergencies, notwithstanding Section 13340 of the
41 Government Code. The department shall expend moneys available in the reserve
42 account only for the purpose of taking immediate corrective action necessary to

1 remedy or prevent an emergency resulting from a fire or an explosion of, or
2 human exposure to, hazardous substances caused by the release or threatened
3 release of a hazardous substance.

4 (b)(1) Notwithstanding any other provision of law, the department may enter
5 into written contracts for corrective action taken or to be taken pursuant to
6 subdivision (a).

7 (2) Notwithstanding any other provision of law, the department may enter into
8 oral contracts, not to exceed ten thousand dollars (\$10,000) in obligation, when, in
9 the judgment of the department, immediate corrective action is necessary to
10 remedy or prevent an emergency specified in subdivision (a).

11 (3) The contracts made pursuant to this subdivision, whether written or oral,
12 may include provisions for the rental of tools or equipment, either with or without
13 operators furnished, and for the furnishing of labor and materials necessary to
14 accomplish the work.

15 (4) If the department finds that the corrective action includes the relocation of
16 individuals, the department may contract with those individuals for out-of-pocket
17 expenses incurred in moving for an amount of not more than one thousand dollars
18 (\$1,000).

19 (c) Once the appropriation made pursuant to subdivision (a) is fully expended,
20 the director may file a report with the Legislature if it is in session or, if it is not in
21 session, with the Committee on Rules of the Assembly and the Senate as to the
22 moneys expended pursuant to this section. The Legislature may appropriate
23 moneys from the state account, in addition to those moneys appropriated pursuant
24 to subdivision (a), to the department for the purpose of taking corrective action
25 pursuant to subdivision (a).

26 (d) Except as provided in subdivision (c), the amount deposited in the reserve
27 account and appropriated pursuant to this section shall not exceed one million
28 dollars (\$1,000,000) in any fiscal year. On June 30 of each year, the
29 unencumbered balance of the reserve account shall revert to and be deposited in
30 the state account.

31 **Comment.** Section 68240 continues former Section 25354, with the exception of the first
32 sentence of subdivision (c), without substantive change. The first sentence of subdivision (c) of
33 former Section 25354 is continued without substantive change in Section [6XXXX].

34 See Sections 68050 (“department” defined), 68055 (“director” defined), 68075 (“hazardous
35 substance” defined), 68105 (“release” defined), 68125 (“remedy” defined), 68165 (“state
36 account” defined).

37 Article 4. Site Remediation Account

38 § 68260. Site Remediation Account

39 68260. (a) There is in the General Fund the Site Remediation Account, which
40 shall be administered by the director. The account shall be funded by money
41 transferred from the state account, upon appropriation by the Legislature.
42 Consistent with the requirements of Section 114(c) of the federal act (42 U.S.C.

1 Sec. 9614(c)), the moneys in the account may be expended by the department,
2 upon appropriation by the Legislature, for direct site remediation costs.

3 (b)(1) For purposes of this section, “direct site remediation costs” means
4 payments to contractors for investigations, characterizations, removal,
5 remediation, or long-term operation and maintenance at sites contaminated or
6 suspected of contamination by hazardous materials, where those actions are
7 authorized pursuant to this part.

8 (2) “Direct site remediation costs” also means the state-mandated share pursuant
9 to Section 104(c)(3) of the federal act (42 U.S.C. Sec. 9604(c)(3)).

10 (3) “Direct site remediation costs” does not include the department’s
11 administrative expenses or the department’s expenses for staff to perform
12 oversight of investigations, characterizations, removals, remediations, or long-
13 term operation and maintenance.

14 **Comment.** Section 68260 continues former Section 25337 without substantive change.

15 See Sections 68050 (“department” defined), 68055 (“director” defined), 68065 (“federal act”
16 defined), 68080 (“operation and maintenance” defined), 68135 (“remove” defined), 68155 (“site”
17 defined), 68165 (“state account” defined).

18 **Staff Note.** Subdivision (a) of Section 25337 requires that the expenditure of moneys in the Site
19 Remediation Account for direct site remediation costs be “[c]onsistent with the requirements of
20 Section 114(c) of the federal act.”

21 It is unclear which requirements in Section 114(c) of the federal act would govern the state’s
22 expenditure of funds for direct site remediation costs. The provision seems to apply to the
23 recovery of expended funds from a service station dealer. **The staff welcomes comment on
24 whether this cross-reference needs to be revised.**

25 **§ 68265. Encumbrance and disbursement of funds**

26 68265. Funds in the Site Remediation Account appropriated for removal or
27 remedial action pursuant to this part are available for encumbrance for three fiscal
28 years subsequent to the fiscal year in which the funds are appropriated and are
29 available for disbursement in liquidation of encumbrances pursuant to Section
30 16304.1 of the Government Code.

31 **Comment.** Section 68265 continues former Section 25330.2 without substantive change.

32 See Section 68125 (“remedy” defined), 68135 (“remove” defined).

33 **Article 5. Hazardous Substance Cleanup Bond Act of 1984**

34 **§ 68280. Short title**

35 68280. This article shall be known and may be cited as the Johnston-Filante
36 Hazardous Substance Cleanup Bond Act of 1984.

37 **Comment.** Section 68280 continues former Section 25385 without substantive change.

38 **§ 68285. Definitions**

39 68285. For purposes of this article, and for purposes of Section 16722 of the
40 Government Code as applied to this article, the following definitions apply:

- 1 (a) “Board” means the department.
- 2 (b) “Committee” means the Hazardous Substance Cleanup Committee created
- 3 pursuant to Section 68295.
- 4 (c) “Director” means the director.
- 5 (d) “Fund” means the state account.
- 6 (e) “Orphan site” means a site with a release or threatened release of a hazardous
- 7 substance with no reasonably identifiable responsible parties.
- 8 (f) “Orphan share” means those costs of removal or remedial action at sites with
- 9 a release or threatened release of hazardous substances, which costs are in excess
- 10 of amounts included in a cleanup agreement.
- 11 (g) “Responsible party” means a person who is, or may be, responsible or liable
- 12 for carrying out, or paying for the costs of, a removal or remedial action.

13 **Comment.** Section 68285 continues former Section 25385.1 without substantive change.
14 See Sections 68075 (“hazardous substance” defined), 68085 (“person” defined), 68105
15 (“release” defined), 68125 (“remedy” defined), 68135 (“remove” defined), 68145 (“responsible
16 party” defined), 68155 (“site” defined), 68165 (“state account” defined).

17 **Staff Notes. (1)** Proposed Section 68285 would revise Section 25385.1 to use the defined terms,
18 “department” and “director,” in subdivisions (a) and (c). The relevant subdivisions of Section
19 25385.1 are reproduced below:

20 “25385.1 For purposes of this article, and for purposes of Section 16722 of the
21 Government Code as applied to this article, the following definitions apply:
22 (a) ‘Board’ means the Department of Toxic Substances Control.
23 ...
24 (c) ‘Director’ means the Director of Toxic Substances Control.
25 ...”

26 Although the definition for “director” in proposed subdivision (c) may appear to be redundant,
27 the definition in this section applies for the purposes of Government Code Section 16722, as well
28 as this article. Given the broader application of the definitions in this section, the staff concluded
29 that definition for “director” in subdivision (c) should be continued.

30 The changes reflected in proposed Section 68285 are intended to be nonsubstantive. **The staff
31 welcomes any comment on these changes.**

32 **(2)** This section defines two terms that are not used in this article: “orphan site” and “orphan
33 share.” These terms are also not used in Government Code Section 16722, nor the State General
34 Obligation Bond Law that contains that section. It is unclear whether these definitions have any
35 ongoing utility. Would it be appropriate to exclude these definitions from the recodified law? **The
36 staff welcomes comment on this issue.**

37 **(3)** Subdivision (g) of proposed Section 68285 defines “responsible party.” In proposed Section
38 68145, this term is already defined for the part as a whole. These definitions of “responsible
39 party” are drafted significantly differently. **The staff requests comment on whether this issue
40 has caused problems in practice.**

41 **§ 68290. Application of State General Obligation Bond Law**

42 68290. The State General Obligation Bond Law (Chapter 4 (commencing with
43 Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code) is
44 adopted for the purpose of the issuance, sale, and repayment of, and otherwise
45 providing with respect to, the bonds authorized to be issued pursuant to this

1 article, and the provisions of that law are included in this article as though set out
2 in full in this article, except that, notwithstanding anything in the State General
3 Obligation Bond Law, the maximum maturity of bonds shall not exceed 30 years
4 from the date of the bonds, or from the date of each respective series. The maturity
5 of each respective series shall be calculated from the date of the series.

6 **Comment.** Section 68290 continues former Section 25385.2 without substantive change.

7 **Staff Note.** The staff is unsure of the intended effect of this provision. In particular, the staff is
8 unsure of the effect of language providing that the State General Obligation Bond Law is
9 “adopted” for this article and the “provisions of that law are included in this article as though set
10 out in full in this article.” In its research, the staff found that this language is very similar to
11 language included in other bond legislation from the same year. Thus, this may be standard
12 language for incorporating the State General Obligation Bond Law. **The staff welcomes
13 comment on whether the language of this provision causes any problems in practice and
14 should be restated.**

15 **§ 68295. Creation of Hazardous Substance Cleanup Committee**

16 68295. The Hazardous Substance Cleanup Committee, which is hereby created,
17 shall consist of the Governor, the Director of Finance, the Treasurer, the
18 Controller, and the secretary.

19 **Comment.** Section 68295 continues former Section 25385.4 without substantive change.
20 See Section 68150 (“secretary” defined).

21 **Staff Note.** Section 25384.4 refers to the “Secretary for Environmental Protection.” Proposed
22 Section 68295 replaces that reference with the defined term, “secretary.” See proposed Section
23 68150.

24 **§ 68300. Authority of committee to create debt; purposes**

25 68300. The committee may create debts or liabilities of the State of California,
26 in the aggregate of one hundred million dollars (\$100,000,000), in the manner
27 provided in this article. The debts or liabilities shall be created for the purpose of
28 providing moneys, for deposit in the fund, for the purposes specified in Section
29 68305.

30 **Comment.** Section 68300 restates former Section 25385.5 without substantive change.
31 See Section 68285 (“committee” and “fund” defined).

32 **Staff Note.** Proposed Section 68300 restates Section 25385.5 to eliminate uses of the singular and
33 plural form of the same word and to make necessary revisions to implement this change. Section
34 25385.5 reads as follows (with emphasis added):

35 “25385.5. The committee may create a **debt or debts, liability or liabilities**, of the State
36 of California, in the aggregate of one hundred million dollars (\$100,000,000), in the manner
37 provided in this article. The **debt or debts, liability or liabilities**, shall be created for the purpose
38 of providing moneys, for deposit in the fund, for the purposes specified in Section 25385.6.”

39 Section 13 provides “[t]he singular number includes the plural, and the plural the singular.” For
40 this reason, it does not appear to be necessary to use both the singular and plural forms of the
41 words. While the singular form is typically preferred for legislative drafting, proposed Section
42 68300 was simplified to use only the plural form to minimize the need for additional, conforming
43 changes.

1 The changes reflected in proposed Section 68300 are intended to be nonsubstantive. **The staff**
2 **welcomes any comment on the proposed restatement.**

3 **§ 68305. Authorized uses of funds from bond proceeds**

4 68305. (a) The moneys in the state account that are the proceeds of bonds issued
5 and sold pursuant to this article may be used, upon appropriation by the
6 Legislature, for the purposes specified in this section.

7 (b) The board may expend moneys in the fund, that are the proceeds of bonds
8 issued and sold pursuant to this article upon the authorization of the committee, for
9 all of the following purposes:

10 (1) To provide the state share of a removal or remedial action pursuant to
11 Section 104(c)(3) of the federal act (42 U.S.C. Sec. 9604(c)(3)) if the site is the
12 subject of a final remedial action plan issued pursuant to **Section 25356.1**.

13 (2) To pay all costs of a removal or remedial action incurred by the state, or by
14 any local agency with the approval of the director, in response to a release or
15 threatened release of a hazardous substance at a site that is listed in the priority
16 ranking of sites pursuant to **Section 25356** and is the subject of a final remedial
17 action plan issued pursuant to **Section 25356.1**, to the extent that the costs are not
18 paid by responsible parties or are reimbursed by the federal act.

19 (3) To pay for site characterization of a release of hazardous substances, even if
20 a remedial action plan has not been prepared, approved, adopted, or made final for
21 that site.

22 **Comment.** Section 68305 continues former Section 25385.6 without substantive change.

23 See Sections 68055 (“director” defined), 68065 (“federal act” defined), 68075 (“hazardous
24 substance” defined), 68105 (“release” defined), 68125 (“remedy” defined), 68135 (“remove”
25 defined), 68140 (“response” defined), 68155 (“site” defined), 68165 (“state account” defined),
26 68285 (“board,” “committee,” “director,” “fund,” and “responsible party” defined).

27 **Staff Note.** Paragraph (b)(2) of proposed Section 68305 describes costs for which expenditure of
28 bond proceeds funds is authorized. The provision appears to permit expenditures of bond funds in
29 two different situations, i.e., when either “costs *are not* paid by responsible parties or *are*
30 reimbursed by the federal act” (emphasis added). Given that, the staff considered whether to
31 separate this provision into two subparagraphs. **The staff welcomes comment on whether such**
32 **a change would be helpful or problematic.**

33 **§ 68310. Bonds as general obligations of state**

34 68310. (a) All bonds authorized by this article, which are sold and delivered as
35 provided in this article, constitute valid and legally binding general obligations of
36 the State of California, and the full faith and credit of the State of California are
37 hereby pledged for the punctual payment of both the principal of and the interest
38 on the bonds.

39 (b) There shall be collected annually, in the same manner and at the same time
40 as other state revenue is collected, that sum, in addition to the ordinary revenues of
41 the state, which is required to pay the principal of, and interest on, the bonds as
42 provided in this article, and all officers charged by law with any duty in regard to

1 the collection of the revenue shall perform each and every act that is necessary to
2 collect this additional sum.

3 **Comment.** Section 68310 restates former Section 25385.7 without substantive change.

4 **Staff Note.** The final words of Section 25385.7(a) state “both the principal and interest thereon.”
5 Proposed section 68310 replaces that phrase with “both the principal of and the interest on the
6 bonds.” This stylistic change and a replacement of “which” with “that” in subdivision (b) are the
7 only changes made to the existing language of Section 25385.7.

8 **§ 68315. Transfers to General Fund**

9 68315. Notwithstanding Section 68345, the money deposited in the fund is
10 available for transfer to the General Fund if money was deposited in the fund
11 pursuant to any provision of law requiring repayments to the state for assistance
12 financed by the proceeds of the bonds issued pursuant to this article. When
13 transferred to the General Fund, that money shall be applied as a reimbursement to
14 the General Fund for the principal and interest payments on the bonds that have
15 been paid from the General Fund.

16 **Comment.** Section 68315 continues former Section 25386 without substantive change.
17 See Section 68285 (“fund” defined).

18 **§ 68320. Appropriation from General Fund**

19 68320. There is hereby appropriated from the General Fund in the State
20 Treasury, for the purpose of this article, an amount equal to the sum of all of the
21 following:

22 (a) The sum, annually, that will be necessary to pay the principal of, and the
23 interest on, the bonds issued and sold pursuant to this article, as the principal and
24 interest become due and payable.

25 (b) The sum that is necessary to carry out Section 68325, which sum is
26 appropriated without regard to fiscal years, notwithstanding Section 13340 of the
27 Government Code.

28 **Comment.** Section 68320 continues former Section 25386.1 without substantive change.

29 **§ 68325. Withdrawals from General Fund**

30 68325. (a) For the purpose of carrying out this article, the Director of Finance
31 may, by executive order, authorize the withdrawal from the General Fund of
32 amounts not to exceed the amount of the unsold bonds that the committee has, by
33 resolution, authorized to be sold for the purpose of carrying out this article.

34 (b) Any amounts withdrawn shall be deposited in the fund and shall be
35 disbursed by the board in accordance with this article.

36 (c) Any moneys made available pursuant to this section shall be returned to the
37 General Fund from moneys received from the sale of bonds sold for the purpose of
38 carrying out this article.

39 **Comment.** Section 68325 continues former Section 25386.2 without substantive change.
40 Subdivision designators have been added.

41 See Section 68285 (“board,” “committee,” and “fund” defined).

1 **§ 68330. Tax-exempt funds**

2 68330. Notwithstanding any other provision of this bond act, or of the State
3 General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of
4 Part 3 of Division 4 of Title 2 of the Government Code), if the Treasurer sells
5 bonds pursuant to this bond act that include a bond counsel opinion to the effect
6 that the interest on the bonds is excluded from gross income for federal tax
7 purposes under designated conditions, the Treasurer may maintain separate
8 accounts for the bond proceeds invested and the investment earnings on those
9 proceeds, and may use or direct the use of those proceeds or earnings to pay any
10 rebate, penalty, or other payment required under federal law, or take any other
11 action with respect to the investment and use of those bond proceeds, as may be
12 required or desirable under federal law in order to maintain the tax-exempt status
13 of those bonds and to obtain any other advantage under federal law on behalf of
14 the funds of this state.

15 **Comment.** Section 68330 continues former Section 25386.25 without substantive change.

16 **§ 68335. Determination on issuance of bonds**

17 68335. Upon the request of the board, and supported by a statement of the
18 proposed actions to be taken pursuant to Section 68305, the committee shall
19 determine whether it is necessary or desirable to issue any bonds authorized
20 pursuant to this article in order to take these actions, and if so, the amount of
21 bonds that should be issued and sold. Successive issues of bonds may be
22 authorized and sold to take these actions progressively, and it is not necessary that
23 all of the bonds authorized by this article to be issued are sold at any one time.

24 **Comment.** Section 68335 continues former Section 25386.3 without substantive change.

25 See Section 68285 (“board” and “committee” defined).

26 **§ 68340. Authority to sell bonds**

27 68340. The committee may authorize the Treasurer to sell all, or any part of, the
28 bonds authorized under this article at the time or times as may be fixed by the
29 Treasurer.

30 **Comment.** Section 68340 continues former Section 25386.4 without substantive change.

31 See Section 68285 (“committee” defined).

32 **§ 68345. Uses of bond proceeds**

33 68345. Except as provided in Section 68315, all proceeds from the sale of
34 bonds, except those derived from premiums and accrued interest, are available for
35 the purposes specified in Section 68305, but are not available for transfer to the
36 General Fund to pay the principal of, and interest on, the bonds.

37 **Comment.** Section 68345 continues former Section 25386.5 without substantive change. An
38 obsolete reference to “subdivision (c) of Section 25385.3,” which was repealed, has been deleted.

1 **Staff Note.** Proposed Section 68345 deletes a seemingly obsolete cross-reference contained in
2 Section 25386.5. The language of Section 25386.5, with the relevant cross-reference in bold, is
3 set out below:

4 “25386.5. Except as provided in **subdivision (c) of Section 25385.3** and Section 25386,
5 all proceeds from the sale of bonds, except those derived from premiums and accrued interest, are
6 available for the purposes specified in Section 25385.6, but are not available for transfer to the
7 General Fund to pay the principal of, and interest on, the bonds.”

8 This cross-reference appears to be obsolete. Section 25385.3 was repealed by its own terms on
9 January 1, 2007. See 2006 Cal. Stat. ch. 77, § 39. Prior to its repeal, subdivision (c) required that
10 the principal and interest of bonds be paid from funds according to Section 25385.9, which was
11 also repealed in the same legislation. See 2006 Cal. Stat. ch. 77, § 42. Former Section 25385.9
12 required that the bond principal and interest be paid from the “Hazardous Substance Clearing
13 Account” according to a specified priority scheme pertaining to the source of the funds.

14 According to the legislative digest for the bill resulting in the repeal of both of these
15 provisions, the legislation repealed certain accounts, including the Hazardous Substance Clearing
16 Account, and provided that the state account (i.e., the Toxic Substance Control Account) was the
17 successor fund for those accounts, taking on all the assets, liability and surplus of the repealed
18 accounts. The staff searched for, but did not find a provision that, similar to subdivision (c) of
19 former Section 25385.3, permits the use of bond proceeds in the successor state account in a
20 manner inconsistent with proposed Section 68345. Thus, the reference to “subdivision (c) of
21 Section 25385.3” appears to be obsolete.

22 **The staff welcomes comment on whether the cross-reference to “subdivision (c) of Section**
23 **25385.3” is indeed obsolete and, if so, whether the proposed deletion of the cross-reference**
24 **raises any concerns.**

25 Article 6. Revolving Loans Fund

26 § 68360. Definitions

27 68360. Unless the context otherwise requires, the following definitions govern
28 the construction of this article:

29 (a) “Brownfield site” has the same meaning as defined in Section 101 of the
30 federal act (42 U.S.C. Sec. 9601).

31 (b) “Brownfield law” means the federal Small Business Liability Relief and
32 Brownfields Revitalization Act (Public Law 107-118) as amending the federal act.

33 (c) “Federal Trust Fund” means the Federal Trust Fund established pursuant to
34 Section 16360 of the Government Code.

35 (d) “Fund” means the Revolving Loans Fund established pursuant to this article.

36 **Comment.** Section 68360 continues former Section 25395.35 without substantive change.
37 Technical changes were made to correct the federal law citations and conform to the standard
38 federal act citation format used in this part.

39 See Section 68065 (“federal act” defined).

40 **Staff Notes. (1)** Subdivision (a) of Section 25395.35 was amended to conform the federal act
41 citation to the citation form predominately used in this law. Subdivision (a) of Section 25395.35
42 provides:

43 “(a) ‘Brownfield site’ has the same meaning as defined in Section 9601 of Title 42 of the
44 United States Code.”

1 (2) Subdivision (b) of Section 25395.35 was restated to conform the federal law citation to the
2 citation practice used in California statutory drafting and to correct the name of the federal act.
3 Subdivision (b) of Section 25395.35 provides:

4 “(b) ‘Brownfield law’ means the Small Business Liability Relief and Brownfields
5 Revitalization Act of 2002 (Public Law 107-117) as amending the federal act.”

6 **§ 68365. Revolving Loans Fund**

7 68365. (a) The Revolving Loans Fund is hereby created in the State Treasury.
8 Notwithstanding Section 13340 of the Government Code, all moneys in the fund
9 shall be continuously appropriated, without regard to fiscal year, to the department
10 for expenditure in accordance with this part. The department is the state agency
11 responsible for administering the fund.

12 (b) All of the following moneys shall be deposited in the fund:

13 (1) Notwithstanding Section 25173.6, moneys received pursuant to the
14 brownfield law and transferred to the fund from the Federal Trust Fund.

15 (2) The amounts collected for loan services.

16 (3) Interest payments.

17 (4) Principal repayments.

18 (5) Notwithstanding Section 16475 of the Government Code, any interest earned
19 upon the moneys deposited in the fund.

20 (c) The department may expend the moneys in the fund only for the purposes
21 authorized by the brownfield law, as specified in subsection (k) of Section 104 of
22 the federal act (42 U.S.C. Sec. 9604(k)), including providing financial assistance
23 for both of the following:

24 (1) Issuing loans for response actions to eligible brownfield sites.

25 (2) Making subgrants for response actions to eligible brownfield sites.

26 (d) Any repayment of fund moneys, including interest payments, and all interest
27 earned on, or accruing to, any moneys in the fund, that are deposited in the fund,
28 as provided in subdivision (b), shall be available, in perpetuity, for expenditure for
29 the purposes and uses authorized by the brownfield law.

30 **Comment.** Section 68365 continues former Section 25395.36 without substantive change.
31 Technical changes were made to conform to the standard federal act citation format used in this
32 part.

33 See Sections 68050 (“department” defined), 68140 (“response” defined), 68360 (“brownfield
34 site,” “brownfield law,” “Federal Trust Fund,” and “fund” defined).

35 **Staff Note.** Subdivision (c) of Section 25395.36 was amended to conform the federal act citation
36 to the citation form predominately used in this law. Subdivision (c) of Section 25395.35 provides,
37 in relevant part:

38 “(c) The department may expend the moneys in the fund only for the purposes authorized
39 by the brownfield law, as specified in subsection (k) of Section 9604 of Title 42 of the United
40 States Code, including providing financial assistance for both of the following.”

1

Article 7. Illegal Drug Lab Cleanup Account

2 § 68370. Illegal Drug Lab Cleanup Account

3 68370. The Illegal Drug Lab Cleanup Account is hereby created in the General
4 Fund and the department may expend any money in the account, upon
5 appropriation by the Legislature, to carry out the removal actions required by
6 [Section 25354.5] and to implement subdivision (e) [of Section 25354.5],
7 including, but not limited to, funding an interagency agreement entered into with
8 the Office of Environmental Health Hazard Assessment to provide guidance
9 services. The account shall be funded by moneys appropriated directly from the
10 General Fund.

11 **Comment.** Section 68370 continues subdivision (f) of former Section 25354.5 without
12 substantive change.

13 See Section 68050 (“department” defined), 68135 (“remove” defined).

DISPOSITION OF EXISTING LAW

Note. This table shows the proposed disposition, as reflected in this staff draft, of provisions in Chapter 6.8 of Division 20 of the Health and Safety Code (§§ 25300-25395.45), as the law existed on January 1, 2019. Unless otherwise indicated, all statutory references are to the Health and Safety Code.

Existing Provision	Corresponding New Provision
25330.2	68265
25330.4	68230
25330.5	68235
25331	68220
25337	68260
25342	68200
25353.5	68210(a)-(f)
25354(a), (b), (c) (2nd-3rd sent.), (d)	68240
25354.5(f)	68370
25357	68225
25385	68280
25385.1	68285
25385.2	68290
25385.4	68295
25385.5	68300
25385.6	68305
25385.7	68310
25386	68315
25386.1	68320
25386.2	68325
25386.25	68330
25386.3	68335
25386.4	68340
25386.5	68345
25395.35	68360
25395.36	68365

DERIVATION OF NEW LAW

Note. This table shows the derivation of each provision in the proposed Hazardous Substance Account Recodification Act of 2020, as reflected in this staff draft. Unless otherwise indicated, all statutory references are to the Health and Safety Code.

Proposed New Provision	Corresponding Existing Provision
68200	25342
68210(a)-(f)	25353.5
68210(g)	new
68220	25331
68225	25357
68230	25330.4
68235	25330.5
68240	25354(a), (b), (c) (2nd-3rd sent.), (d)
68260	25337
68265	25330.2
68280	25385
68285	25385.1
68290	25385.2
68295	25385.4
68300	25385.5
68305	25385.6
68310	25385.7
68315	25386
68320	25386.1
68325	25386.2
68330	25386.25
68335	25386.3
68340	25386.4
68345	25386.5
68360	25395.35
68365	25395.36
68370	25354.5(f)