

SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



ITEM  
2.3  
(ID # 4596)

**MEETING DATE:**

Tuesday, June 20, 2017

**FROM :** EXECUTIVE OFFICE:

**SUBJECT:** EXECUTIVE OFFICE: Legislative Update: June 20, All Districts. [\$0]

**RECOMMENDED MOTION:** That the Board of Supervisors:

1. Receive and File the June 20 Legislative Update.

**ACTION:** Consent

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**MINUTES OF THE BOARD OF SUPERVISORS**

On motion of Supervisor Ashley, seconded by Supervisor Jeffries and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Tavaglione, Washington, Perez and Ashley  
Nays: None  
Absent: None  
Date: June 20, 2017  
xc: EO

Kecia Harper-Ihem  
Clerk of the Board  
By: *Kecia Harper-Ihem*  
Deputy

**SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,  
STATE OF CALIFORNIA**

<b>FINANCIAL DATA</b>	<b>Current Fiscal Year:</b>	<b>Next Fiscal Year:</b>	<b>Total Cost:</b>	<b>Ongoing Cost</b>
<b>COST</b>	\$ 0	\$ 0	\$ 0	\$ 0
<b>NET COUNTY COST</b>	\$ 0	\$ 0	\$ 0	\$ 0
<b>SOURCE OF FUNDS: N/A</b>			<b>Budget Adjustment: N/A</b>	
			<b>For Fiscal Year: N/A</b>	

**C.E.O. RECOMMENDATION:** APPROVE

**BACKGROUND:**

**Summary**

As per Board Policy A-27, the purpose of Riverside County's Legislative Program is to secure legislation that benefits the county and its residents, and to oppose/amend legislation that might adversely affect the county. Recognizing the need for consistency in conveying official positions on legislative matters, the county has instituted a coordinated process involving interaction between the Board of Supervisors, the County Executive Office, county agencies/departments, and the county's legislative advocates in Sacramento and Washington, D.C.

**Letters of Support/Opposition**

Since the last meeting of the Riverside County Board of Supervisors, the following letters were delivered to our legislative delegation and all pertinent parties in order to voice Riverside County's Support/Opposition.

**Legislation/Policy:** AB 1250 (Jones-Sawyer): Counties and Cities: Contracts for Personal Services

**Position:** OPPOSE – Per Legislative Platform

**Recipient:** Senator Mike McGuire, Chair of the Senate Governance and Finance Committee

**Summary:** AB 1250 would severely impact the County's ability to provide much-needed community services – health, mental health, and rehabilitative services to those in a number of different populations. Specifically AB 1250 would establish specific standards for the use of personal service contracts by counties and cities. Beginning January 1, 2018, the bill would allow a county or county agency, or a city or city agency, to contract for personal services currently or customarily performed by employees, as applicable, when specified conditions are met. Among other things, the bill would require the county or city to clearly demonstrate that the proposed contract will result in actual overall costs savings to the county or city and also to show that the contract does not cause the displacement of county or city workers.

**Legislative Status Update**

As per Board Policy A-27, amended on March 7, 2017: The Board shall receive a regular written report on the status of legislation that the Board has officially endorsed or opposed, to be included as part of the consent calendar.

**State Issues**

On June 15, 2017, the 2017-18 State Budget was adopted. The County will continue monitoring the situation with our State Delegation and Lobbyists for any chance to provide additional input to the state.

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Some highlights of the budget agreement include:

- **Repairing Infrastructure:** The budget accelerates \$2.8 billion toward improving commutes, fixing roads, strengthening overpasses and bridges and building mass transit.
- **Medi-Cal Funding:** California will continue its large investments in the Medi-Cal program – including new revenue from Proposition 56 – to serve millions of people who rely on this program for health care.

### **County Priorities - Budget Trailer Bills**

#### **In-Home Supportive Services Trailer Bill Language**

Some highlights of the IHSS trailer bill (SB 90/AB 106) include:

- **General Fund Offsets.** The bill appropriates \$400 million from the General Fund (GF) in 2017-18, \$330 million GF in 2018-19, \$200 million in 2019-20 and \$150 million in 2020-21 and annually thereafter to offset the \$592 million in additional IHSS costs being shifted to counties.
- **Re-opener language:**
  - 1) Requires as part of development of 2019-20 state budget that DOF, CSAC and stakeholders reexamine the 1991 Realignment funding structure.
  - 2) DOF shall report findings and recommendations related to the County IHSS MOE and impacts on other 1991 realignment programs.
  - 3) Specifically this includes: a) extent to which revenues available for 1991 Realignment are sufficient to meet program costs that were realigned, b) whether IHSS program and administrative costs are growing at a rate that is higher, lower or approximately the same as the MOE, c) the fiscal and programmatic impacts of the IHSS County MOE on the funding available for Health, Mental Health, CMSP and other social services programs included in 1991 Realignment, and d) the status of collective bargaining for the IHSS program in each county.

#### **Jail Visitation**

Excerpt of relevant provisions to public safety trailer bill, AB 103 - As amended June 8, 2017

- **New Government Code Section 15820.948**

This is the “grandfathering” section. In-person visitation requirements apply only to projects built with state funding (AB 900, SB 1022, or SB 863) that have **not yet received** a conditional award. Riverside County is deep into the construction phase, so neither (a) nor (b) of the new section – which would require in-person visitation – apply. This section would capture any future facility construction if awards from the earlier rounds of funding were relinquished and subsequently made available to new applicant counties. (Note that SB 844 jail construction grants were required – as part of the authorizing legislation – to make use of in-person visitation.)

#### **Transportation Projects**

Expedited Project Delivery for SB 132 Projects – Sections 5-8 and Section 26 of the transportation trailer bill, AB 115 (2017) - As amended June 8, 2017

- **Section 5.** Authorizes the County of Riverside and the Riverside County Transportation Commission (RCTC) to use the Construction Manager/General Contractor method for SB 132 projects.

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- **Section 6.** Finds and declares that the County of Riverside should be considered a transportation planning agency for the purposes of this chapter in order to effectuate the construction of the railroad grade separations and bridge rehabilitations and replacements.
- **Section 7.** Authorizes the County of Riverside to utilize the A+B bidding methodology (cost plus time).
- **Section 8.** Authorizes the use of design-build for SB 132 projects.
- **Section 26.** Authorizes the use of special delivery methods for purposes of SB 132 projects.

### **Federal Issues**

#### **Healthcare**

This week, President Trump called the House's ObamaCare repeal bill "mean" and said it should be more generous during a meeting with Republican senators. The comments, which were first reported by the AP, were striking given that President Trump has previously praised the House bill and celebrated its passage at the White House.

According to an analysis from the Trump administration, 13 million people could become uninsured under the House Republican healthcare plan by 2026. The analysis, completed by the chief actuary at the Department of Health and Human Services, differs substantially from an analysis of the same bill released last month by the Congressional Budget Office which estimated that at least 23 million people could become uninsured under the American Health Care Act (AHCA) over a decade.

The Senate continues its work to finalize its bill and is awaiting CBO scoring on a preliminary bill. Majority Leader McConnell has stated his intention to consider an Obamacare repeal bill prior to the July 4 recess.

#### **Tax Reform**

Tax reform continues to be the subject of much speculation and discussion, but both the Administration and Congressional leadership have indicated healthcare reform will have to move prior to starting work in earnest on tax reform. Several rumors and reports leak every day relating to the ongoing, behind-the-scenes work on tax reform. One of the key revenue proposals is the border-adjustment tax. According to published reports:

House Ways and Means Committee Chairman Kevin Brady (R-Texas) said that the GOP border-adjustment proposal could be phased in over five years, as concerns about the tax plan have mounted from lawmakers and business groups.

The border-adjustment proposal was a key part of the tax plan House Republicans released last year. Under the proposal, imports would be subject to U.S. taxes and exports would be exempt.

The proposal is championed by House Speaker Paul Ryan who claims it is the best way to prevent companies from moving their jobs and headquarters overseas. Retailers, Trump administration officials, conservative groups and many GOP lawmakers have worried that it would amount to a tax increase for consumers.

The conservative-leaning Tax Foundation said that phasing in the border-adjustment tax would reduce the amount of revenue the proposal would raise. The group estimated that the original border adjustment

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proposal would raise about \$1.2 trillion over a decade and that a phased in proposal would raise about \$1 trillion.

### **Infrastructure**

Last week, President Trump held several events to highlight his infrastructure agenda. On Monday, he held a press conference with Congressional leaders to sign a memo reaffirming his support for Air Traffic Control (ATC) privatization. On Wednesday, President Trump gave a speech in Cincinnati on the need for infrastructure improvements to inland waterways. On Thursday, Vice President Pence hosted an infrastructure summit for governors and mayors, during which he reaffirmed the administration's commitment to reduced regulations, Buy and Hire American policies, and a top-down review of the federal permitting process.

While there have been few details on the actual legislative plan, the White House did release a brief fact sheet on the infrastructure proposal that could be released in some legislative form later this summer.

Highlights from the fact sheet are as follows:

- \$200 billion – infrastructure funding
- \$15 billion – for transformative projects
- \$100 billion – for local prioritization of infrastructure needs
- \$25 billion – for rural infrastructure
- 8 Year Reduction in permit process time
- 1 million apprenticeships in 2 years

It is unclear whether the \$100 billion for the local prioritization of infrastructure needs is an overall number, including the \$25 billion for rural infrastructure and \$15 billion for transformative projects, or not. It is also unclear what the administration will consider "local prioritization of needs".

The Administration has said they plan to release a more detailed proposal sometime later this year.

The House Transportation & Infrastructure Committee has scheduled a markup of the FAA reauthorization bill for June 27.

### **Budget Reconciliation**

So far this year, the Congressional budget reconciliation process has been tied very closely with the health care repeal/replace efforts. Recall, House leadership opted to use the unfinished FY17 reconciliation bill to pass the ACHA in an effort to prevent the legislation from being filibustered in the Senate. The Senate bill is currently being developed and, as discussed above, is awaiting a CBO score.

The FY18 budget reconciliation process has not started and the outlook for passing one is tied almost solely to the effort to address tax reform, also discussed above.

### **Debt Ceiling**

Congress will need to pass an increase in federal borrowing authority sometime this year. Technically, the federal government has already reached the existing borrowing cap, but incoming tax receipts coupled with "extraordinary measures" the Treasury Department is able to employ, are taking the pressure of a need for an immediate increase.

The Administration is reportedly seeking an increase of \$2 trillion and the conservative Freedoms Caucus

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has signaled support for an increase of \$1.5 trillion which would finance government spending until right after the 2018 mid-term elections. Secretary Mnuchin indicated recently that an increase would be needed in early September and is hopeful Congress can act before leaving for the August recess.

Significantly, Treasury has been taking the lead on the debt ceiling as opposed to OMB which could suggest the Administration's support for a "clean" debt limit increase. A clean increase, though, would be a marked departure from the recent past where debt-ceiling negotiations have been used to set discretionary spending levels, to change mandatory programs like Medicaid, and enact mandatory cuts through sequestration

**Appropriations**

This week, House and Senate leadership instructed appropriators to begin FY18 markups using the FY17 numbers as a baseline. This is a reflection on the lack of progress on the overall budget talks and the need to get the FY18 process moving. Both the House and Senate have said the MilCon-VA bills will be the first to move in both chambers – it is a relatively non-controversial bill that has been used in the past as the vehicles for continuing resolutions. Agreement must be reached on the budget caps between the House and Senate to avoid \$3 billion in cuts to defense and \$2 billion in domestic programs resulting from sequestration. Agreement may not be reached until late into FY17 and could result in the House and Senate simply "deeming" the ultimate numbers in the appropriations bills as the caps rather than adopting a budget agreement. This an ongoing process and will be the subject of negotiations and debate throughout the year.

**County Legislative Positions**

**County Sponsored Legislation**

- SB 438 - Successor Guardians (Roth)
  - 6/1/17 Referred to Coms. on HUM. S. and JUD.
- SB 729 - Local Emergencies: Applications for State Assistance (Stone)
  - 4/28/17 Failed Deadline pursuant to Rule 61(a)(2). (Last location was G.O. on 4/5/2017)(May be acted upon Jan 2018)
- SB 804 - Public records (Morrell)
  - 5/12/17 Failed Deadline pursuant to Rule 61(a)(3). (Last location was RLS. on 2/17/2017)(May be acted upon Jan 2018)

**County Opposed Legislation**

- SB 249 - Off-Highway Motor Vehicle Recreation (Allen)
  - 6/1/17 Read third time. Passed. (Ayes 22. Noes 15.) Ordered to the Assembly. In Assembly. Read first time. Held at Desk.
- SB 649 - Wireless telecommunications facilities
  - 6/1/17 In Assembly. Read first time. Held at Desk.
- SCA 12 - Counties: Governing Body: County Executive (Mendoza)
  - 5/10/17 Referred to Coms. on GOV. & F., E. & C.A., and APPR.
- 340B Drug Pricing
  - The Administration is proposing statutory changes to end the use of contract pharmacies in the 340B program in Medi-Cal. Both houses rejected the Administration's proposal, so it is not in the budget.

**County Supported Legislation**

- AB 1 - Transportation Funding (Frazier)
  - 1/19/17 Referred to Coms. on TRANS. and NAT. RES.
- AB 205 - Medi-Cal: Medi-Cal managed care plans (Wood)
  - 6/8/17 Referred to Com. on HEALTH.
- AB 227 - CalWORKs: Educational Opportunity & Attainment Program (Mayes)

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- 6/1/17 In Senate. Read first time. To Com. on RLS. for assignment.
- AB 414 - Suspension and Allocation of Vacant Judgeships (Medina)
- 5/10/17 Referred to Com. on JUD.
- AB 1164 - Foster Care Placement: Funding (Thurmond)
- 6/1/17 In Senate. Read first time. To Com. on RLS. for assignment.
- AB 1200 - Aging and Disabilities Resource Connection program
- 6/1/17 In Senate. Read first time. To Com. on RLS. for assignment.
- AB 1401 - Juveniles: protective custody warrant
- 6/1/17 Referred to Coms. on HUMAN S. and JUD.
- SB 1 - Transportation Funding (Beall)
- 4/28/17 Approved by the Governor. Chaptered by Secretary of State. Chapter 5, Statutes of 2017.
- SB 37 - Local Government Finance: Property Tax Revenue Allocations: Vehicle License Fee Adjustments (Roth)
- 5/26/17 Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. SUSPENSE FILE on 5/25/2017)(May be acted upon Jan 2018)
- SB 39 - Suspension and Allocation of Judgeships (Roth)
- 5/26/17 Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. SUSPENSE FILE on 5/25/2017)(May be acted upon Jan 2018)
- SB 130 - Local Government Finance: Property Tax Revenue Allocations: Vehicle License Fee adjustments (Committee on Budget and Fiscal Review)
- 5/12/17 Chaptered by Secretary of State- Chapter 9, Statues of 2017
- SB 132 - Budget Act of 2016 (Committee on Budget and Fiscal Review )
- 4/28/17 Approved by the Governor. Chaptered by Secretary of State. Chapter 7, Statutes of 2017.
- SB 171 - Medi-Cal: Medi-Cal managed care plans
- 6/8/17 Referred to Com. on HEALTH.
- SB 362 - Department of Motor Vehicles: Records: Confidentiality (Galgiani)
- 5/26/17 Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. SUSPENSE FILE on 5/25/2017)(May be acted upon Jan 2018)
- SB 508 - Medi-Cal Dental Health (Roth)
- 4/28/17 Failed Deadline pursuant to Rule 61(a)(2). (Last location was HEALTH on 3/29/2017)(May be acted upon Jan 2018)
- Budget Item 0250 –Trial Court Judgeship Reallocation
- Language is included in the public safety trailer bill to transfer two vacant judgeships from Santa Clara County to Riverside County.
- Coordinated Care Initiative/In-Home Supportive Services Maintenance of Effort Unwind
- Under current law, about \$600 million in In-Home Supportive Services (IHSS) costs would have been borne by county realignment funds next year. The May Revision substantially mitigated these increased costs and preserves counties' ability to provide key safety net programs. The increased cost to the County is estimated to be \$2 million for FY 17/18.

**Impact on Residents and Businesses**

The action presented should not affect residents or businesses within Riverside County.

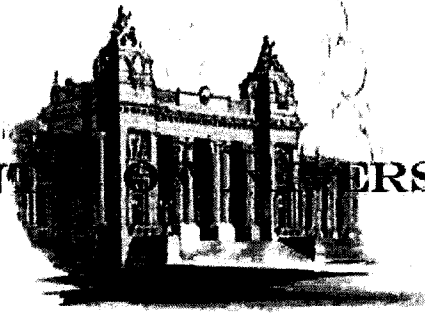
**ATTACHMENT A.** Letters & Legislation – June 20

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- ATTACHMENT B.** SB 90 -Public social services 1991 Realignment Legislation and IHSS  
Maintenance of Effort and collective bargaining – Trailer Bill
- ATTACHMENT C.** AB 103 - Public Safety Omnibus –Trailer Bill
- ATTACHMENT D.** AB115 - Transportation –Trailer bill



# COUNTY OF RIVERSIDE



## Board of Supervisors

District 1	Kevin Jeffries 951-955-1010
District 2 Chairman	John F. Tavaglione 951-955-1020
District 3	Chuck Washington 951-955-1030
District 4	V. Manuel Perez 951-955-1040
District 5	Marion Ashley 951-955-1050

June 12, 2017

The Honorable Mike McGuire, Chair  
Senate Governance and Finance Committee  
State Capitol, Room 5061  
Sacramento, CA 95814

**Re: AB 1250 (Jones-Sawyer): Counties and Cities: Contracts for Personal Services  
As proposed to be amended – Senate Governance and Finance Committee  
County of Riverside: OPPOSE – Per Legislative Platform**

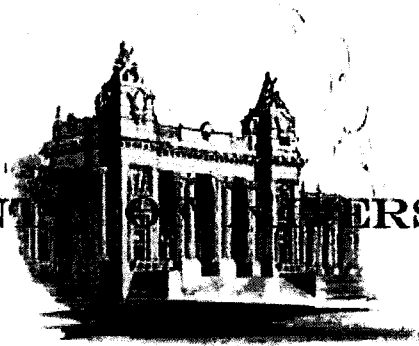
Dear Senator McGuire:

On behalf of the Riverside County Board of Supervisors, I write to express our opposition to AB 1250, by Assembly Member Reggie Jones-Sawyer, which would impose onerous standards for the use of personal services contracts by counties. AB 1250 would severely impact the County's ability to provide much-needed community services – health, mental health, and rehabilitative services to those in the court-involved population, to name a few – at a time when demand for such services is significant.

As just one example of the real-world impact of AB 1250, Riverside County is the recent recipient of a Proposition 47 recidivism reduction grant administered by the Board of State and Community Corrections (BSCC). The County, as an applicant entity, is required to pass through at least half of their grant amount to community-based service providers; additional preference points were given if the 50% threshold were exceeded. On June 8, the BSCC approved grant awards, including \$6 million for Riverside University Health System and Behavioral Health (RUHS-BH). RUHS-BH proposed two Integrated Care Behavioral Health Full Services Partnership (FSP) programs that will provide integrated mental health, substance use and primary care services in the Coachella Valley (Desert Region) and in the area of Perris/Moreno Valley in order to serve Western/Mid-County residents. The County's implementation efforts would be significantly delayed and constrained by the requirements in AB 1250.

Regrettably, there are numerous vague and burdensome provisions in AB 1250 that would hinder the County's ability to attract high quality contractors with the expertise necessary to provide specialized services that our communities expect and deserve. This aspect of the measure, coupled with the potential financial impact of AB 1250, has the potential to actually reduce county services, a consequence that the author and sponsors could not possibly intend.

# COUNTY OF RIVERSIDE



## Board of Supervisors

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District 4	V. Manuel Perez 951-955-1040
District 5	Marion Ashley 951-955-1050

In summary, AB 1250 is detrimental to our considerable efforts toward improving the well-being of our communities. We value our public employees and work hard to strike a balance between contracted work and work performed in-house. AB 1250 upends that balance to the detriment of Riverside County and its residents. For these reasons, we are strongly opposed. Should you have any questions about our position, please do not hesitate to contact Deputy County Executive Officer Brian Nestande at (951) 955-1110 or [bnestande@rceo.org](mailto:bnestande@rceo.org).

Sincerely,

John F. Tavaglione  
Chairman, Riverside County Board of Supervisors

Cc: The Honorable Reggie Jones-Sawyer, California State Assembly  
Members and Consultants, Senate Governance and Finance Committee  
County of Riverside Delegation

AMENDED IN ASSEMBLY MAY 30, 2017

AMENDED IN ASSEMBLY MAY 30, 2017

AMENDED IN ASSEMBLY APRIL 25, 2017

AMENDED IN ASSEMBLY APRIL 17, 2017

AMENDED IN ASSEMBLY APRIL 4, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1250**

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**Introduced by Assembly Member Jones-Sawyer  
(Coauthor: Assembly Member Gonzalez Fletcher)**

February 17, 2017

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An act to add Sections 31000.10 and 37103.1 to the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 1250, as amended, Jones-Sawyer. Counties and cities: contracts for personal services.

Existing law authorizes the board of supervisors of a county to contract for special services on behalf of various public entities with persons who are specially trained, experienced, expert, and competent to perform the special services, as prescribed. These services include financial, economic, accounting, engineering, legal, and other specified services. Existing law also authorizes legislative bodies of cities to contract with any specially trained and experienced person, firm, or corporation for special services and advice in financial, economic, accounting, engineering, legal, or administrative matters.

This bill would establish specific standards for the use of personal services contracts by counties and cities. Beginning January 1, 2018, the bill would allow a county or county agency, or a city or city agency, to contract for personal services currently or customarily performed by employees, as applicable, when specified conditions are met. Among other things, the bill would require the county or city to clearly demonstrate that the proposed contract will result in actual overall costs savings to the county or city and also to show that the contract does not cause the displacement of county or city workers. The bill would require a contract entered into under these provisions to specify that it may be terminated upon material breach, if notice is provided, as specified. Additionally, the bill would require the county or city to conduct an audit of the contract to determine whether cost savings have been realized and would require the contractor to reimburse the cost of the audit. The bill would impose additional disclosure requirements for contracts exceeding \$100,000 annually. The bill would exempt certain types of contracts from its provisions, and would exempt a ~~chapter~~ *charter* city from its provisions. By placing new duties on local government agencies, the bill would impose a state-mandated local program.

The bill also would provide that its provisions are severable.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 31000.10 is added to the Government
- 2 Code, to read:
- 3 31000.10. The purpose of this section is to establish standards
- 4 for the use of personal services contracts by counties.
- 5 (a) If otherwise permitted by law, a county or county agency
- 6 may contract for personal services currently or customarily

1 performed by ~~county~~ *that county's* employees when all the  
2 following conditions are met:

3 (1) The board of supervisors or county agency clearly  
4 demonstrates that the proposed contract will result in actual overall  
5 cost savings to the county for the duration of the entire contract  
6 as compared with the county's actual costs of providing the same  
7 services, provided that:

8 (A) In comparing costs, there shall be included the county's  
9 additional cost of providing the same service as proposed by a  
10 contractor. These additional costs shall include the salaries and  
11 benefits of additional staff that would be needed and the cost of  
12 additional space, equipment, and materials needed to perform the  
13 function.

14 (B) In comparing costs, there shall not be included the county's  
15 indirect overhead costs unless these costs can be attributed solely  
16 to the function in question and would not exist if that function was  
17 not performed in county service. Indirect overhead costs shall  
18 mean the pro rata share of existing administrative salaries and  
19 benefits, rent, equipment costs, utilities, and materials.

20 (C) In comparing costs, there shall be included in the cost of a  
21 contractor providing a service any continuing county costs that  
22 would be directly associated with the contracted function. These  
23 continuing county costs shall include, but not be limited to, those  
24 for inspection, supervision, and monitoring.

25 (2) Proposals to contract out work shall not be approved solely  
26 on the basis that savings will result from lower contractor pay rates  
27 or benefits. Proposals to contract out work shall be eligible for  
28 approval if the contractor's wages are at the industry's level and  
29 do not significantly undercut county pay rates.

30 (3) The contract does not cause the displacement of county  
31 employees. "Displacement" includes layoff, demotion, involuntary  
32 transfer to a new class, involuntary transfer to a new location  
33 requiring a change of residence, and time base reductions.  
34 "Displacement" does not include changes in shifts or days off or  
35 reassignment to other positions within the same class and general  
36 location.

37 (4) The contract does not cause vacant positions in county  
38 employment to remain unfilled.

39 (5) The contract does not adversely affect any of the county's  
40 nondiscrimination, affirmative action efforts.

- 1 (6) The savings shall be large enough to ensure that they will  
2 not be eliminated by private sector and county cost fluctuations  
3 that could normally be expected during the contracting period.
- 4 (7) The amount of savings clearly justifies the size and duration  
5 of the contracting agreement.
- 6 (8) The contract is awarded through a publicized, competitive  
7 bidding process. The county shall reserve the right to reject any  
8 and all bids or proposals.
- 9 (9) The contract includes specific provisions pertaining to the  
10 qualifications of the staff that will perform the work under the  
11 contract, as well as assurance that the contractor's hiring practices  
12 meet any applicable nondiscrimination, affirmative action  
13 standards.
- 14 (10) The potential for future economic risk to the county from  
15 potential contractor rate increases is minimal.
- 16 (11) The contract is with a firm. "Firm" means a corporation,  
17 partnership, nonprofit organization, or sole proprietorship.
- 18 (12) The potential economic advantage of contracting is not  
19 outweighed by the public's interest in having a particular function  
20 performed directly by county government.
- 21 (13) The contract shall provide that it may be terminated at any  
22 time by the county without penalty if there is a material breach of  
23 the contract and notice is provided at least 30 days before  
24 termination.
- 25 (14) If the contract is for personal services in excess of one  
26 hundred thousand dollars (\$100,000) annually, all of the following  
27 shall occur:
- 28 (A) The county shall require the contractor to disclose all of the  
29 following information as part of its bid, application, or answer to  
30 a request for proposal:
- 31 (i) A description of all charges, claims, or complaints filed  
32 against the contractor with any federal, state, or local administrative  
33 agency during the prior 10 years.
- 34 (ii) A description of all civil complaints filed against the  
35 contractor in any state or federal court during the prior 10 years.
- 36 (iii) A description of all state or federal criminal complaints or  
37 indictments filed against the contractor, or any of its officers,  
38 directors, or managers, at any time.
- 39 (iv) A description of any debarments of the contractor by any  
40 public agency or licensing body at any time.

1 (v) The total compensation, including salaries and benefits, the  
2 contractor provides to workers performing work similar to that to  
3 be provided under the contract.

4 (vi) The total compensation, including salaries, benefits, options,  
5 and any other form of compensation, provided to the five highest  
6 compensated officers, directors, executives, or employees of the  
7 contractor.

8 (vii) Any other information the county deems necessary to  
9 ensure compliance with this section.

10 (B) The contract shall provide that the county is entitled to  
11 receive a copy of any records related to the contractor's or any  
12 subcontractor's performance of the contract, and that, in addition  
13 to records specifically requested by the county, every month the  
14 contractor shall furnish the county with: (i) the names of any  
15 subcontractors providing services under the contract; (ii) the names  
16 of the employees of the contractor and any subcontractors  
17 providing services pursuant to the contract and their hourly rates;  
18 and (iii) the names of any workers providing services pursuant to  
19 the contract as independent contractors and the compensation rates  
20 for those workers. The contract shall provide that all records  
21 provided to the county by the contractor shall be subject to the  
22 California Public Records Act (Chapter 3.5 (commencing with  
23 Section 6250) of Division 7 of Title 1). In furtherance of this  
24 subdivision, contractors and any subcontractors shall maintain  
25 records related to performance of the contract that ordinarily would  
26 be maintained by the county in performing the same functions.

27 (C) The county shall include in the contract specific, measurable  
28 performance standards and provisions for a performance audit by  
29 the county, or an independent auditor approved by the county, to  
30 determine whether the performance standards are being met and  
31 whether the contractor is in compliance with applicable laws and  
32 regulations. The county shall not renew or extend the contract prior  
33 to receiving and considering the audit report.

34 (D) The contract shall include provisions for an audit by the  
35 county, or an independent auditor approved by the county, to  
36 determine whether and to what extent the anticipated cost savings  
37 have actually been realized. The county shall not renew or extend  
38 the contract before receiving and considering the audit report. The  
39 contractor shall reimburse the county for the cost of the audit.

1 Contractors shall be prohibited from factoring the costs of the audit  
2 into the contract costs with the county.

3 (b) This section does not preclude a county from adopting more  
4 restrictive rules regarding the contracting of public services.

5 (c) When otherwise permitted by law, the absence of any  
6 requirement of subdivision (a) shall not prevent personal services  
7 contracting when any of the following conditions are met:

8 (1) The contract is for a new county function and the Legislature  
9 has specifically mandated or authorized the performance of the  
10 work by independent contractors.

11 (2) The contract is between the county and another government  
12 entity for services to be performed by employees of the other  
13 government entity.

14 (3) The services contracted cannot be performed satisfactorily  
15 by county employees, or are of such a highly specialized or  
16 technical nature that the necessary expert knowledge, experience,  
17 and ability are not available among county employees.

18 (4) The services are incidental to a contract for the purchase or  
19 lease of real or personal property. Contracts under this criterion,  
20 known as "service agreements," shall include, but not be limited  
21 to, agreements to service or maintain office equipment or  
22 computers that are leased or rented.

23 (5) The legislative, administrative, or legal goals and purposes  
24 cannot be accomplished through the utilization of county  
25 employees. Contracts are permissible under this criterion to protect  
26 against a conflict of interest or to ensure independent and unbiased  
27 findings in cases where there is a clear need for a different, outside  
28 perspective. These contracts shall include, but not be limited to,  
29 obtaining expert witnesses in litigation.

30 (6) The nature of the work is such that the standards of this part  
31 for emergency appointments apply. These contracts shall conform  
32 with Section 31000.4.

33 (7) Public entities or officials need private counsel because a  
34 conflict of interest on the part of the county counsel's office  
35 prevents it from representing the public entity or official without  
36 compromising its position. These contracts shall require the written  
37 consent of the county counsel.

38 (8) The contractor will provide legal services to the county  
39 solely on a contingency fee basis.



1 (9) The contractor will provide equipment, materials, facilities,  
2 or support services that could not feasibly be provided by the  
3 county in the location where the services are to be performed.

4 (10) The contractor will conduct training courses for which  
5 appropriately qualified county employee instructors are not  
6 available, provided that permanent instructor positions in academies  
7 or similar settings shall be filled by county employees.

8 (11) The services are of such an urgent, temporary, or occasional  
9 nature that the delay incumbent in their implementation by county  
10 employees would frustrate their very purpose.

11 (d) This section shall apply to all counties, including counties  
12 that have adopted a merit or civil service system.

13 ~~(e) (1) This section does not apply to any contract for services  
14 described in Section 4525 or 4529.10.~~

15 ~~(2) This section does not apply to any contract that is subject  
16 to Chapter 1 (commencing with Section 1720) of Part 7 of Division  
17 2 of the Labor Code.~~

18 ~~(3) This section does not apply to a contract for public transit  
19 services, including paratransit services, if the county's transit  
20 services are fully funded by Federal Transit Administration  
21 assistance and the county is thereby subject to the guidelines  
22 established in FTA Circular 4220.1F or any subsequent guidelines  
23 or revisions issued by the Federal Transit Administration.~~

24 *(e) This section does not apply to any of the following contracts:*

25 *(1) A contract for services described in Section 4525 or 4529.10.*

26 *(2) A contract that is subject to Chapter 1 (commencing with  
27 Section 1720) of Part 7 of Division 2 of the Labor Code.*

28 *(3) A contract for public transit services, including paratransit  
29 services, if the county's transit services are fully funded by Federal  
30 Transit Administration assistance and the county is thereby subject  
31 to the guidelines established in FTA Circular 4220.1F or any  
32 subsequent guidelines or revisions issued by the Federal Transit  
33 Administration.*

34 *(4) A contract for street sweeping services.*

35 *(5) A contract for solid waste handling services authorized by  
36 or made pursuant to Section 40059 of the Public Resources Code.  
37 As used in this paragraph, "solid waste handling services" means  
38 the collection, transportation, storage, transfer, conversion,  
39 processing, recycling, composting, or disposal of solid wastes.*

1 (f) This section shall not be construed to authorize or otherwise  
2 permit the contracting out of fire protection services, other than  
3 the contracts between public agencies that are explicitly authorized  
4 by Chapter 4 (commencing with Section 55600) of Part 2 of  
5 Division 2 of Title 5 of this code or by Article 4 (commencing  
6 with Section 4141) of Chapter 1 of Part 2 of Division 4 of the  
7 Public Resources Code.

8 (g) This section shall apply to contracts for personal services  
9 currently or customarily performed by ~~county employees~~ *the*  
10 *employees of a county* entered into, renewed, or extended on or  
11 after January 1, 2018.

12 SEC. 2. Section 37103.1 is added to the Government Code, to  
13 read:

14 37103.1. The purpose of this section is to establish standards  
15 for the use of personal services contracts by cities.

16 (a) If otherwise permitted by law, a city or city agency may  
17 contract for personal services currently or customarily performed  
18 by ~~city~~ *that city's* employees when all the following conditions  
19 are met:

20 (1) The city council or city agency clearly demonstrates that  
21 the proposed contract will result in actual overall cost savings to  
22 the city for the duration of the entire contract as compared with  
23 the city's actual costs of providing the same services, provided  
24 that:

25 (A) In comparing costs, there shall be included the city's  
26 additional cost of providing the same service as proposed by a  
27 contractor. These additional costs shall include the salaries and  
28 benefits of additional staff that would be needed and the cost of  
29 additional space, equipment, and materials needed to perform the  
30 function.

31 (B) In comparing costs, there shall not be included the city's  
32 indirect overhead costs unless these costs can be attributed solely  
33 to the function in question and would not exist if that function was  
34 not performed in city service. Indirect overhead costs shall mean  
35 the pro rata share of existing administrative salaries and benefits,  
36 rent, equipment costs, utilities, and materials.

37 (C) In comparing costs, there shall be included in the cost of a  
38 contractor providing a service any continuing city costs that would  
39 be directly associated with the contracted function. These

1 continuing city costs shall include, but not be limited to, those for  
2 inspection, supervision, and monitoring.

3 (2) Proposals to contract out work shall not be approved solely  
4 on the basis that savings will result from lower contractor pay rates  
5 or benefits. Proposals to contract out work shall be eligible for  
6 approval if the contractor's wages are at the industry's level and  
7 do not significantly undercut city pay rates.

8 (3) The contract does not cause the displacement of city  
9 employees. "Displacement" includes layoff, demotion, involuntary  
10 transfer to a new class, involuntary transfer to a new location  
11 requiring a change of residence, and time base reductions.  
12 "Displacement" does not include changes in shifts or days off or  
13 reassignment to other positions within the same class and general  
14 location.

15 (4) The contract does not cause vacant positions in city  
16 employment to remain unfilled.

17 (5) The contract does not adversely affect any of the city's  
18 nondiscrimination, affirmative action efforts.

19 (6) The savings shall be large enough to ensure that they will  
20 not be eliminated by private sector and city cost fluctuations that  
21 could normally be expected during the contracting period.

22 (7) The amount of savings clearly justifies the size and duration  
23 of the contracting agreement.

24 (8) The contract is awarded through a publicized, competitive  
25 bidding process. The city shall reserve the right to reject any and  
26 all bids or proposals.

27 (9) The contract includes specific provisions pertaining to the  
28 qualifications of the staff that will perform the work under the  
29 contract, as well as assurance that the contractor's hiring practices  
30 meet any applicable nondiscrimination, affirmative action  
31 standards.

32 (10) The potential for future economic risk to the city from  
33 potential contractor rate increases is minimal.

34 (11) The contract is with a firm. "Firm" means a corporation,  
35 partnership, nonprofit organization, or sole proprietorship.

36 (12) The potential economic advantage of contracting is not  
37 outweighed by the public's interest in having a particular function  
38 performed directly by city government.

1 (13) The contract shall provide that it may be terminated at any  
2 time by the city without penalty if there is a material breach of the  
3 contract and notice is provided at least 30 days before termination.

4 (14) If the contract is for personal services in excess of one  
5 hundred thousand dollars (\$100,000) annually, all of the following  
6 shall occur:

7 (A) The city shall require the contractor to disclose all of the  
8 following information as part of its bid, application, or answer to  
9 a request for proposal:

10 (i) A description of all charges, claims, or complaints filed  
11 against the contractor with any federal, state, or local administrative  
12 agency during the prior 10 years.

13 (ii) A description of all civil complaints filed against the  
14 contractor in any state or federal court during the prior 10 years.

15 (iii) A description of all state or federal criminal complaints or  
16 indictments filed against the contractor, or any of its officers,  
17 directors, or managers, at any time.

18 (iv) A description of any debarments of the contractor by any  
19 public agency or licensing body at any time.

20 (v) The total compensation, including salaries and benefits, the  
21 contractor provides to workers performing work similar to that to  
22 be provided under the contract.

23 (vi) The total compensation, including salaries, benefits, options,  
24 and any other form of compensation, provided to the five highest  
25 compensated officers, directors, executives, or employees of the  
26 contractor.

27 (vii) Any other information the city deems necessary to ensure  
28 compliance with this section.

29 (B) The contract shall provide that the city is entitled to receive  
30 a copy of any records related to the contractor's or any  
31 subcontractor's performance of the contract, and that, in addition  
32 to records specifically requested by the city, every month the  
33 contractor shall furnish the county with: (i) the names of any  
34 subcontractors providing services under the contract; (ii) the names  
35 of the employees of the contractor and any subcontractors  
36 providing services pursuant to the contract and their hourly rates;  
37 and (iii) the names of any workers providing services pursuant to  
38 the contract as independent contractors and the compensation rates  
39 for those workers. The contract shall provide that all records  
40 provided to the city by the contractor shall be subject to the

1 California Public Records Act (Chapter 3.5 (commencing with  
2 Section 6250) of Division 7 of Title 1). In furtherance of this  
3 subdivision, contractors and any subcontractors shall maintain  
4 records related to performance of the contract that ordinarily would  
5 be maintained by the city in performing the same functions.

6 (C) (1) The city shall include in the contract specific,  
7 measurable performance standards and provisions for a  
8 performance audit by the city, or an independent auditor approved  
9 by the city, to determine whether the performance standards are  
10 being met and whether the contractor is in compliance with  
11 applicable laws and regulations. The legislative body shall not  
12 renew or extend the contract prior to receiving and considering  
13 the audit report.

14 (2) The contractor shall reimburse the city for the cost of the  
15 audit.

16 (D) The contract shall include provisions for an audit by the  
17 city, or an independent auditor approved by the city, to determine  
18 whether and to what extent the anticipated cost savings have  
19 actually been realized. The city shall not renew or extend the  
20 contract before receiving and considering the audit report. The  
21 contractor shall reimburse the city for the cost of the audit.  
22 Contractors shall be prohibited from factoring the costs of the audit  
23 into their contract costs with the city.

24 (b) This section does not preclude a city from adopting more  
25 restrictive rules regarding the contracting of public services.

26 (c) When otherwise permitted by law, the absence of any  
27 requirement of subdivision (a) shall not prevent personal services  
28 contracting when any of the following conditions are met:

29 (1) The contract is for a new city function and the Legislature  
30 has specifically mandated or authorized the performance of the  
31 work by independent contractors.

32 (2) The contract is between a city and other government entity  
33 for services to be performed by employees of the other government  
34 entity.

35 (3) The services contracted cannot be performed satisfactorily  
36 by city employees, or are of such a highly specialized or technical  
37 nature that the necessary expert knowledge, experience, and ability  
38 are not available among city employees.

39 (4) The services are incidental to a contract for the purchase or  
40 lease of real or personal property. Contracts under this criterion,

1 known as "service agreements," shall include, but not be limited  
2 to, agreements to service or maintain office equipment or  
3 computers that are leased or rented.

4 (5) The legislative, administrative, or legal goals and purposes  
5 cannot be accomplished through the utilization of city employees.  
6 Contracts are permissible under this criterion to protect against a  
7 conflict of interest or to ensure independent and unbiased findings  
8 in cases where there is a clear need for a different, outside  
9 perspective. These contracts shall include, but not be limited to,  
10 obtaining expert witnesses in litigation.

11 (6) The nature of the work is such that the standards of this title  
12 for emergency appointments apply. These contracts shall conform  
13 with Section 45080.

14 (7) Public entities or officials need private counsel because a  
15 conflict of interest on the part of the city attorney's office prevents  
16 it from representing the public entity or official without  
17 compromising its position. These contracts shall require the written  
18 consent of the city attorney.

19 (8) The contract will provide legal services to the city solely on  
20 a contingency fee basis.

21 (9) The contractor will provide equipment, materials, facilities,  
22 or support services that could not feasibly be provided by the city  
23 in the location where the services are to be performed.

24 (10) The contractor will conduct training courses for which  
25 appropriately qualified city employee instructors are not available,  
26 provided that permanent instructor positions in academies or similar  
27 settings shall be filled by city employees.

28 (11) The services are of such an urgent, temporary, or occasional  
29 nature that the delay incumbent in their implementation by city  
30 employees would frustrate their very purpose.

31 (d) (1) Except as provided in paragraph (2), this section shall  
32 apply to all cities, including cities that have adopted a merit or  
33 civil service system.

34 (2) This section does not apply to a charter city formed pursuant  
35 to Section 3 of Article XI of the California Constitution.

36 ~~(e) (1) This section does not apply to any contract for services~~  
37 ~~described in Section 4525 or 4529.10.~~

38 ~~(2) This section does not apply to any contract that is subject~~  
39 ~~to Chapter 1 (commencing with Section 1720) of Part 7 of Division~~  
40 ~~2 of the Labor Code.~~

1 ~~(3) This section does not apply to a contract for public transit~~  
2 ~~services, including paratransit services, if the county's transit~~  
3 ~~services are fully funded by Federal Transit Administration~~  
4 ~~assistance and the county is thereby subject to the guidelines~~  
5 ~~established in FTA Circular 4220.1F or any subsequent guidelines~~  
6 ~~or revisions issued by the Federal Transit Administration.~~

7 *(e) This section does not apply to any of the following contracts:*

8 *(1) A contract for services described in Section 4525 or 4529.10.*

9 *(2) A contract that is subject to Chapter 1 (commencing with*  
10 *Section 1720) of Part 7 of Division 2 of the Labor Code.*

11 *(3) A contract for public transit services, including paratransit*  
12 *services, if the city's transit services are fully funded by Federal*  
13 *Transit Administration assistance and the city is thereby subject*  
14 *to the guidelines established in FTA Circular 4220.1F or any*  
15 *subsequent guidelines or revisions issued by the Federal Transit*  
16 *Administration.*

17 *(4) A contract for street sweeping services.*

18 *(5) A contract for solid waste handling services authorized by*  
19 *or made pursuant to Section 40059 of the Public Resources Code.*  
20 *As used in this paragraph, "solid waste handling services" means*  
21 *the collection, transportation, storage, transfer, conversion,*  
22 *processing, recycling, composting, or disposal of solid wastes.*

23 *(f) This section shall not be construed to authorize or otherwise*  
24 *permit the contracting out of fire protection services other than the*  
25 *contracts between public agencies that are explicitly authorized*  
26 *by Chapter 4 (commencing with Section 55600) of Part 2 of*  
27 *Division 2 of Title 5 of this code or by Article 4 (commencing*  
28 *with Section 4141) of Chapter 1 of Part 2 of Division 4 of the*  
29 *Public Resources Code.*

30 ~~(g) This section shall apply to contracts for personal services~~  
31 ~~currently or customarily performed by city employees entered into,~~  
32 ~~renewed, or extended on or after January 1, 2018. not apply to the~~  
33 ~~renewal of existing contracts or awards of contracts to perform~~  
34 ~~the same services as other contractors, if those contracts cause~~  
35 ~~neither the displacement of city employees nor the reduction of~~  
36 ~~city employee positions.~~

37 SEC. 3. The provisions of this act are severable. If any  
38 provision of this act or its application is held invalid, that invalidity  
39 shall not affect other provisions or applications that can be given  
40 effect without the invalid provision or application.

1     SEC. 4. If the Commission on State Mandates determines that  
2 this act contains costs mandated by the state, reimbursement to  
3 local agencies and school districts for those costs shall be made  
4 pursuant to Part 7 (commencing with Section 17500) of Division  
5 4 of Title 2 of the Government Code.

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## Riverside County Legislative Update – June 12, 2017

### BILLS

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#### **AB 1250 (Jones-Sawyer) – Contracts for personal services**

AB 1250 (as proposed to be amended) would provide for specific standards for use of personal services contracts by California counties. (Cities will be amended out of the bill once the measure can be amended in the Senate.) Personal services contracts are contracts where a service is provided by a person (as opposed to purchase of goods). AFSCME and SEIU are co-sponsors of the measure.

As proposed to be amended, AB 1250 would mean that a county could only enter into a personal services contract under the following conditions:

- The contract will result in actual cost savings.
- Savings may not result from lower contractor pay or benefits.
- The contract does not cause displacement of county employees.
- The contract does not cause vacant positions in the county to remain unfilled.
- The contract must be awarded in a publicized, competitive bid process, including that the contractor abides by nondiscrimination and affirmative action standards.
- The potential for future economic risk is minimal in relation to rate increases by the potential contractor, and that the contract is with a firm. "Firm" is defined as a corporation, partnership, nonprofit organization, or sole proprietorship.
- The potential economic advantage of contracting is not outweighed by the public's interest in having a particular function performed directly by county government.
- The contract must include provisions for termination at any time by the county without penalty if there is a material breach, and that notice is provided at least 30 days prior to termination.
- The contract must provide that the county is entitled to receive records related to the performance of the contractor or subcontractor, and that in addition to other records requested by the county, the contractor must furnish each month, the following information for those providing services under the contract: (i) the names of subcontractors, (ii) the names of employees of the contractor and subcontractor and their hourly rates of pay, and (iii) the names of any workers who are independent contractors and the compensation rates for those workers.
- Specifies that the contract must provide that all records provided to the county by the contractor are subject to the California Public Records Act, and that contractors must maintain records related to performance of the contract that ordinarily would be maintained by the county or city performing the same functions.
- The county must include in the contract specific and measurable performance standards, and provisions for audit for purposes of ensuring that performance standards are met, and compliance with applicable laws and regulations.

- Prohibits counties from renewing or extending the contract prior to receiving and considering the audit report, and permits them to adopt more restrictive rules related to contracting of public services.
- Provides that the costs of the audit are to be reimbursed to the county by the contractor, and prohibits the contractor from factoring the costs of the audit into its contract costs.

Government-to-government contracts are exempted, as are the contracts for the following services:

- Public transit services, if they are funded by the Federal Transit Administration and the county is subject to FTA guidelines.
- Private architects, engineering, land surveying, construction management firms, and public works projects.
- Street sweeping services, or authorized solid waste handling services provided by means of nonexclusive franchise, partially exclusive or wholly exclusive franchise, contract, license, permit, or other, including with or without competitive bid.

The provisions of AB 1250 are not to be construed to authorize or permit the contracting out of fire protection services, other than contracts between public agencies that are explicitly authorized.

CSAC is refining a of contracted services that may be impacted by AB 1250, but – at a minimum – contracted services in the health, mental health, and rehabilitative services for the offender population would be subject to these provisions.

The sponsors argue that the state is already subject to similar contracting requirements and that counties, as political subdivisions of the state, should follow suit.

**Support:** SEIU and AFSCME (co-sponsors), along with a number of other employee organizations

**Opposition:** CSAC; Urban Counties of California; Rural Counties Representatives of California; American Planning Association, California Chapter; California Business Properties Association; California Chamber of Commerce; and a number of individual counties (Presumably the significant city opposition in the Assembly will be addressed by the expected amendments to exempt cities from the bill's provisions.)

**County Position:** A draft opposition letter is currently under consideration.

**Status:** AB 1250 passed the Assembly on 6/1/2017; it is now in the Senate awaiting referral to a policy committee.

**ASSEMBLY BILL**

**No. 1**

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**Introduced by Assembly Member Frazier  
(Coauthors: Assembly Members Low, Mullin, and Santiago)**

December 5, 2016

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An act to amend Sections 13975, 14500, 14526.5, and 16965 of, to add Sections 14033, 14526.7, and 16321 to, to add Part 5.1 (commencing with Section 14460) to Division 3 of Title 2 of, and to repeal Section 14534.1 of, the Government Code, to amend Section 39719 of the Health and Safety Code, to amend Section 21080.37 of, and to add Division 13.6 (commencing with Section 21200) to, the Public Resources Code, to amend Section 99312.1 of, and to add Section 99314.9 to, the Public Utilities Code, to amend Sections 6051.8, 6201.8, 7360, 8352.4, 8352.5, 8352.6, and 60050 of the Revenue and Taxation Code, to amend Sections 183.1, 2192, 2192.1, and 2192.2 of, to add Sections 820.1, 2103.1, and 2192.4 to, and to add Chapter 2 (commencing with Section 2030) to Division 3 of, the Streets and Highways Code, and to add Sections 9250.3, 9250.6, and 9400.5 to the Vehicle Code, relating to transportation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1, as introduced, Frazier. Transportation funding.

(1) Existing law provides various sources of funding for transportation purposes, including funding for the state highway system and the local street and road system. These funding sources include, among others, fuel excise taxes, commercial vehicle weight fees, local transactions and use taxes, and federal funds. Existing law imposes certain registration fees on vehicles, with revenues from these fees deposited

in the Motor Vehicle Account and used to fund the Department of Motor Vehicles and the Department of the California Highway Patrol. Existing law provides for the monthly transfer of excess balances in the Motor Vehicle Account to the State Highway Account.

This bill would create the Road Maintenance and Rehabilitation Program to address deferred maintenance on the state highway system and the local street and road system. The bill would require the California Transportation Commission to adopt performance criteria, consistent with a specified asset management plan, to ensure efficient use of certain funds available for the program. The bill would provide for the deposit of various funds for the program in the Road Maintenance and Rehabilitation Account, which the bill would create in the State Transportation Fund, including revenues attributable to a \$0.012 per gallon increase in the motor vehicle fuel (gasoline) tax imposed by the bill with an inflation adjustment, as provided, an increase of \$38 in the annual vehicle registration fee with an inflation adjustment, as provided, a new \$165 annual vehicle registration fee with an inflation adjustment, as provided, applicable to zero-emission motor vehicles, as defined, and certain miscellaneous revenues described in (7) below that are not restricted as to expenditure by Article XIX of the California Constitution.

This bill would annually set aside \$200,000,000 of the funds available for the program to fund road maintenance and rehabilitation purposes in counties that have sought and received voter approval of taxes or that have imposed fees, including uniform developer fees, as defined, which taxes or fees are dedicated solely to transportation improvements. These funds would be continuously appropriated for allocation pursuant to guidelines to be developed by the California Transportation Commission in consultation with local agencies. The bill would require \$80,000,000 of the funds available for the program to be annually transferred to the State Highway Account for expenditure on the Active Transportation Program. The bill would require \$30,000,000 of the funds available for the program in each of 4 fiscal years beginning in 2017–18 to be transferred to the Advance Mitigation Fund created by the bill pursuant to (12) below. The bill would continuously appropriate \$2,000,000 annually of the funds available for the program to the California State University for the purpose of conducting transportation research and transportation-related workforce education, training, and development, and \$3,000,000 annually to the institutes for transportation studies at the University of California. The bill would require the

remaining funds available for the program to be allocated 50% for maintenance of the state highway system or to the state highway operation and protection program and 50% to cities and counties pursuant to a specified formula. The bill would impose various requirements on the department and agencies receiving these funds. The bill would authorize a city or county to spend its apportionment of funds under the program on transportation priorities other than those allowable pursuant to the program if the city's or county's average Pavement Condition Index meets or exceeds 80.

The bill would also require the department to annually identify savings achieved through efficiencies implemented at the department and to propose, from the identified savings, an appropriation to be included in the annual Budget Act of up to \$70,000,000 from the State Highway Account for expenditure on the Active Transportation Program.

(2) Existing law establishes in state government the Transportation Agency, which includes various departments and state entities, including the California Transportation Commission. Existing law vests the California Transportation Commission with specified powers, duties, and functions relative to transportation matters. Existing law requires the commission to retain independent authority to perform the duties and functions prescribed to it under any provision of law.

This bill would exclude the California Transportation Commission from the Transportation Agency, establish it as an entity in state government, and require it to act in an independent oversight role. The bill would also make conforming changes.

(3) Existing law creates various state agencies, including the Department of Transportation, the High-Speed Rail Authority, the Department of the California Highway Patrol, the Department of Motor Vehicles, and the State Air Resources Board, with specified powers and duties. Existing law provides for the allocation of state transportation funds to various transportation purposes.

This bill would create the Office of the Transportation Inspector General in state government, as an independent office that would not be a subdivision of any other government entity, to ensure that all of the above-referenced state agencies and all other state agencies expending state transportation funds are operating efficiently, effectively, and in compliance with federal and state laws. The bill would provide for the Governor to appoint the Transportation Inspector General for a 6-year term, subject to confirmation by the Senate, and would provide that the Transportation Inspector General may not be

removed from office during the term except for good cause. The bill would specify the duties and responsibilities of the Transportation Inspector General and would require an annual report to the Legislature and Governor.

This bill would require the department to update the Highway Design Manual to incorporate the “complete streets” design concept by July 1, 2017.

(4) Existing law provides for loans of revenues from various transportation funds and accounts to the General Fund, with various repayment dates specified.

This bill would require the Department of Finance, on or before January 1, 2017, to compute the amount of outstanding loans made from specified transportation funds. The bill would require the Department of Transportation to prepare a loan repayment schedule and would require the outstanding loans to be repaid pursuant to that schedule, as prescribed. The bill would appropriate funds for that purpose from the Budget Stabilization Account. The bill would require the repaid funds to be transferred, pursuant to a specified formula, to cities and counties and to the department for maintenance of the state highway system and for purposes of the state highway operation and protection program.

(5) The Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Proposition 1B) created the Trade Corridors Improvement Fund and provided for allocation by the California Transportation Commission of \$2 billion in bond funds for infrastructure improvements on highway and rail corridors that have a high volume of freight movement and for specified categories of projects eligible to receive these funds. Existing law continues the Trade Corridors Improvement Fund in existence in order to receive revenues from sources other than the bond act for these purposes.

This bill would deposit the revenues attributable to a \$0.20 per gallon increase in the diesel fuel excise tax imposed by the bill into the Trade Corridors Improvement Fund. The bill would require revenues apportioned to the state from the national highway freight program established by the federal Fixing America’s Surface Transportation Act to be allocated for trade corridor improvement projects approved pursuant to these provisions.

Existing law requires the commission, in determining projects eligible for funding, to consult various state freight and regional infrastructure and goods movement plans and the statewide port master plan.

This bill would revise the list of plans to be consulted by the commission when determining eligible projects for funding. The bill would also expand eligible projects to include, among others, rail landside access improvements, landside freight access improvements to airports, and certain capital and operational improvements.

(6) Existing law requires all moneys, except for fines and penalties, collected by the State Air Resources Board from the auction or sale of allowances as part of a market-based compliance mechanism relative to reduction of greenhouse gas emissions to be deposited in the Greenhouse Gas Reduction Fund. Existing law continuously appropriates 10% of the annual proceeds of the fund to the Transit and Intercity Rail Capital Program and 5% of the annual proceeds of the fund to the Low Carbon Transit Operations Program.

This bill would, beginning in the 2017–18 fiscal year, instead continuously appropriate 20% of those annual proceeds to the Transit and Intercity Rail Capital Program and 10% of those annual proceeds to the Low Carbon Transit Operations Program, thereby making an appropriation.

(7) Article XIX of the California Constitution restricts the expenditure of revenues from taxes imposed by the state on fuels used in motor vehicles upon public streets and highways to street and highway and certain mass transit purposes. Existing law requires certain miscellaneous revenues deposited in the State Highway Account that are not restricted as to expenditure by Article XIX of the California Constitution to be transferred to the Transportation Debt Service Fund in the State Transportation Fund, as specified, and requires the Controller to transfer from the fund to the General Fund an amount of those revenues necessary to offset the current year debt service made from the General Fund on general obligation transportation bonds issued pursuant to Proposition 116 of 1990.

This bill would delete the transfer of these miscellaneous revenues to the Transportation Debt Service Fund, thereby eliminating the offsetting transfer to the General Fund for debt service on general obligation transportation bonds issued pursuant to Proposition 116 of 1990. The bill, subject to a specified exception, would instead require the miscellaneous revenues to be retained in the State Highway Account and to be deposited in the Road Maintenance and Rehabilitation Account.

(8) Article XIX of the California Constitution requires gasoline excise tax revenues from motor vehicles traveling upon public streets and

highways to be deposited in the Highway Users Tax Account, for allocation to city, county, and state transportation purposes. Existing law generally provides for statutory allocation of gasoline excise tax revenues attributable to other modes of transportation, including aviation, boats, agricultural vehicles, and off-highway vehicles, to particular accounts and funds for expenditure on purposes associated with those other modes, except that a specified portion of these gasoline excise tax revenues is deposited in the General Fund. Expenditure of the gasoline excise tax revenues attributable to those other modes is not restricted by Article XIX of the California Constitution.

This bill, commencing July 1, 2017, would instead transfer to the Highway Users Tax Account for allocation to state and local transportation purposes under a specified formula the portion of gasoline excise tax revenues currently being deposited in the General Fund that are attributable to boats, agricultural vehicles, and off-highway vehicles. Because that account is continuously appropriated, the bill would make an appropriation.

(9) Existing law, as of July 1, 2011, increases the sales and use tax on diesel and decreases the excise tax, as provided. Existing law requires the State Board of Equalization to annually modify both the gasoline and diesel excise tax rates on a going-forward basis so that the various changes in the taxes imposed on gasoline and diesel are revenue neutral.

This bill would eliminate the annual rate adjustment to maintain revenue neutrality for the gasoline and diesel excise tax rates and would reimpose the higher gasoline excise tax rate that was in effect on July 1, 2010, in addition to the increase in the rate described in (1) above.

Existing law, beyond the sales and use tax rate generally applicable, imposes an additional sales and use tax on diesel fuel at the rate of 1.75%, subject to certain exemptions, and provides for the net revenues collected from the additional tax to be transferred to the Public Transportation Account. Existing law continuously appropriates these revenues to the Controller for allocation by formula to transportation agencies for public transit purposes under the State Transit Assistance Program.

This bill would increase the additional sales and use tax on diesel fuel by an additional 3.5%. By increasing the revenues deposited in the Public Transportation Account that are continuously appropriated, the bill would thereby make an appropriation. The bill would restrict expenditures of revenues from this increase in the sales and use tax on diesel fuel to transit capital purposes and certain transit services and



would require a recipient transit agency to comply with certain requirements, including submitting a list of proposed projects to the Department of Transportation, as a condition of receiving a portion of these funds. The bill would require the Controller to compute and publish quarterly proposed allocations for each eligible recipient agency under the State Transit Assistance Program. The bill would require an existing required audit of transit operator finances to verify that these new revenues have been expended in conformance with these specific restrictions and all other generally applicable requirements.

This bill would, beginning July 1, 2019, and every 3rd year thereafter, require the State Board of Equalization to recompute the gasoline and diesel excise tax rates and the additional sales and use tax rate on diesel fuel based upon the percentage change in the California Consumer Price Index transmitted to the board by the Department of Finance, as prescribed.

(10) Existing law requires the Department of Transportation to prepare a state highway operation and protection program every other year for the expenditure of transportation capital improvement funds for projects that are necessary to preserve and protect the state highway system, excluding projects that add new traffic lanes. The program is required to be based on an asset management plan, as specified. Existing law requires the department to specify, for each project in the program the capital and support budget and projected delivery date for various components of the project. Existing law provides for the California Transportation Commission to review and adopt the program, and authorizes the commission to decline and adopt the program if it determines that the program is not sufficiently consistent with the asset management plan.

The bill would require the commission, as part of its review of the program, to hold at least one hearing in northern California and one hearing in southern California regarding the proposed program. The bill would require the department to submit any change to a programmed project as an amendment to the commission for its approval.

This bill, on and after August 1, 2017, would also require the commission to make an allocation of all capital and support costs for each project in the program, and would require the department to submit a supplemental project allocation request to the commission for each project that experiences cost increases above the amounts in its allocation. The bill would require the commission to establish guidelines to provide exceptions to the requirement for a supplemental project

allocation requirement that the commission determines are necessary to ensure that projects are not unnecessarily delayed.

(11) Existing law imposes weight fees on the registration of commercial motor vehicles and provides for the deposit of net weight fee revenues into the State Highway Account. Existing law provides for the transfer of certain weight fee revenues from the State Highway Account to the Transportation Debt Service Fund to reimburse the General Fund for payment of debt service on general obligation bonds issued for transportation purposes. Existing law also provides for the transfer of certain weight fee revenues to the Transportation Bond Direct Payment Account for direct payment of debt service on designated bonds, which are defined to be certain transportation general obligation bonds issued pursuant to Proposition 1B of 2006. Existing law also provides for loans of weight fee revenues to the General Fund to the extent the revenues are not needed for bond debt service purposes, with the loans to be repaid when the revenues are later needed for those purposes, as specified.

This bill, notwithstanding these provisions or any other law, would only authorize specified amounts of weight fee revenues to be transferred from the State Highway Account to the Transportation Debt Service Fund, the Transportation Bond Direct Payment Account, or any other fund or account for the purpose of payment of the debt service on transportation general obligation bonds in accordance with a prescribed schedule, with no more than \$500,000,000 to be transferred in the 2021–22 and subsequent fiscal years. The bill would also prohibit loans of weight fee revenues to the General Fund.

(12) The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment.

CEQA, until January 1, 2020, exempts a project or an activity to repair, maintain, or make minor alterations to an existing roadway, as defined, other than a state roadway, if the project or activity is carried

out by a city or county with a population of less than 100,000 persons to improve public safety and meets other specified requirements.

This bill would extend the above-referenced exemption indefinitely and delete the limitation of the exemption to projects or activities in cities and counties with a population of less than 100,000 persons. The bill would also expand the exemption to include state roadways.

This bill would also establish the Advance Mitigation Program in the Department of Transportation. The bill would authorize the department to undertake mitigation measures in advance of construction of a planned transportation project. The bill would require the department to establish a steering committee to advise the department on advance mitigation measures and related matters. The bill would create the Advance Mitigation Fund as a continuously appropriated revolving fund, to be funded initially from the Road Maintenance and Rehabilitation Program pursuant to (1) above. The bill would provide for reimbursement of the revolving fund at the time a planned transportation project benefiting from advance mitigation is constructed.

(13) Existing federal law requires the United States Secretary of Transportation to carry out a surface transportation project delivery program, under which the participating states assume certain responsibilities for environmental review and clearance of transportation projects that would otherwise be the responsibility of the federal government. Existing law, until January 1, 2017, when these provisions are repealed, provides that the State of California consents to the jurisdiction of the federal courts with regard to the compliance, discharge, or enforcement of the responsibilities the Department of Transportation assumed as a participant in this program.

This bill would reenact these provisions.

(14) This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Over the next 10 years, the state faces a \$59 billion shortfall
- 4 to adequately maintain the existing state highway system in order
- 5 to keep it in a basic state of good repair.

1 (b) Similarly, cities and counties face a \$78 billion shortfall  
2 over the next decade to adequately maintain the existing network  
3 of local streets and roads.

4 (c) Statewide taxes and fees dedicated to the maintenance of  
5 the system have not been increased in more than 20 years, with  
6 those revenues losing more than 55 percent of their purchasing  
7 power, while costs to maintain the system have steadily increased  
8 and much of the underlying infrastructure has aged past its expected  
9 useful life.

10 (d) California motorists are spending \$17 billion annually in  
11 extra maintenance and car repair bills, which is more than \$700  
12 per driver, due to the state's poorly maintained roads.

13 (e) Failing to act now to address this growing problem means  
14 that more drastic measures will be required to maintain our system  
15 in the future, essentially passing the burden on to future generations  
16 instead of doing our job today.

17 (f) A funding program will help address a portion of the  
18 maintenance backlog on the state's road system and will stop the  
19 growth of the problem.

20 (g) Modestly increasing various fees can spread the cost of road  
21 repairs broadly to all users and beneficiaries of the road network  
22 without overburdening any one group.

23 (h) Improving the condition of the state's road system will have  
24 a positive impact on the economy as it lowers the transportation  
25 costs of doing business, reduces congestion impacts for employees,  
26 and protects property values in the state.

27 (i) The federal government estimates that increased spending  
28 on infrastructure creates more than 13,000 jobs per \$1 billion spent.

29 (j) Well-maintained roads benefit all users, not just drivers, as  
30 roads are used for all modes of transport, whether motor vehicles,  
31 transit, bicycles, or pedestrians.

32 (k) Well-maintained roads additionally provide significant health  
33 benefits and prevent injuries and death due to crashes caused by  
34 poorly maintained infrastructure.

35 (l) A comprehensive, reasonable transportation funding package  
36 will do all of the following:

37 (1) Ensure these transportation needs are addressed.

38 (2) Fairly distribute the economic impact of increased funding.

39 (3) Restore the gas tax rate previously reduced by the State  
40 Board of Equalization pursuant to the gas tax swap.

1 (4) Direct increased revenue to the state's highest transportation  
2 needs.

3 SEC. 2. Section 13975 of the Government Code is amended  
4 to read:

5 13975. There is in the state government the Transportation  
6 Agency. The agency consists of the Department of the California  
7 Highway Patrol, the ~~California Transportation Commission~~, the  
8 Department of Motor Vehicles, the Department of Transportation,  
9 the High-Speed Rail Authority, and the Board of Pilot  
10 Commissioners for the Bays of San Francisco, San Pablo, and  
11 Suisun.

12 SEC. 3. Section 14033 is added to the Government Code, to  
13 read:

14 14033. On or before July 1, 2017, the department shall update  
15 the Highway Design Manual to incorporate the "complete streets"  
16 design concept.

17 SEC. 4. Part 5.1 (commencing with Section 14460) is added  
18 to Division 3 of Title 2 of the Government Code, to read:

19

20 PART 5.1. OFFICE OF THE TRANSPORTATION INSPECTOR  
21 GENERAL  
22

23 14460. (a) There is hereby created in state government the  
24 independent Office of the Transportation Inspector General, which  
25 shall not be a subdivision of any other governmental entity, to  
26 ensure that the Department of Transportation, the High-Speed Rail  
27 Authority, the Department of the California Highway Patrol, the  
28 Department of Motor Vehicles, the State Air Resources Board,  
29 and all other state agencies expending state transportation funds  
30 are operating efficiently, effectively, and in compliance with  
31 applicable federal and state laws.

32 (b) The Governor shall appoint, subject to confirmation by the  
33 Senate, the Transportation Inspector General to a six-year term.  
34 The Transportation Inspector General may not be removed from  
35 office during that term, except for good cause. A finding of good  
36 cause may include substantial neglect of duty, gross misconduct,  
37 or conviction of a crime. The reasons for removal of the  
38 Transportation Inspector General shall be stated in writing and  
39 shall include the basis for removal. The writing shall be sent to  
40 the Secretary of the Senate and the Chief Clerk of the Assembly

1 at the time of the removal and shall be deemed to be a public  
2 document.

3 14461. The Transportation Inspector General shall review  
4 policies, practices, and procedures and conduct audits and  
5 investigations of activities involving state transportation funds in  
6 consultation with all affected state agencies. Specifically, the  
7 Transportation Inspector General's duties and responsibilities shall  
8 include, but not be limited to, all of the following:

9 (a) To examine the operating practices of all state agencies  
10 expending state transportation funds to identify fraud and waste,  
11 opportunities for efficiencies, and opportunities to improve the  
12 data used to determine appropriate project resource allocations.

13 (b) To identify best practices in the delivery of transportation  
14 projects and develop policies or recommend proposed legislation  
15 enabling state agencies to adopt these practices when practicable.

16 (c) To provide objective analysis of and, when possible, offer  
17 solutions to concerns raised by the public or generated within  
18 agencies involving the state's transportation infrastructure and  
19 project delivery methods.

20 (d) To conduct, supervise, and coordinate audits and  
21 investigations relating to the programs and operations of all state  
22 transportation agencies with state-funded transportation projects.

23 (e) To recommend policies promoting economy and efficiency  
24 in the administration of programs and operations of all state  
25 agencies with state-funded transportation projects.

26 (f) To ensure that the Secretary of Transportation and the  
27 Legislature are fully and currently informed concerning fraud or  
28 other serious abuses or deficiencies relating to the expenditure of  
29 funds or administration of programs and operations.

30 14462. The Transportation Inspector General shall report at  
31 least annually to the Governor and Legislature with a summary of  
32 his or her findings, investigations, and audits. The summary shall  
33 be posted on the Transportation Inspector General's Internet Web  
34 site and shall otherwise be made available to the public upon its  
35 release to the Governor and Legislature. The summary shall  
36 include, but need not be limited to, significant problems discovered  
37 by the Transportation Inspector General and whether  
38 recommendations of the Transportation Inspector General relative  
39 to investigations and audits have been implemented by the affected

1 agencies. The report shall be submitted to the Legislature in  
2 compliance with Section 9795.

3 SEC. 5. Section 14500 of the Government Code is amended  
4 to read:

5 14500. There is in ~~the Transportation Agency~~ *state government*  
6 a California Transportation Commission. *The commission shall*  
7 *act in an independent oversight role.*

8 SEC. 6. Section 14526.5 of the Government Code is amended  
9 to read:

10 14526.5. (a) Based on the asset management plan prepared  
11 and approved pursuant to Section 14526.4, the department shall  
12 prepare a state highway operation and protection program for the  
13 expenditure of transportation funds for major capital improvements  
14 that are necessary to preserve and protect the state highway system.  
15 Projects included in the program shall be limited to ~~capital~~  
16 ~~improvements relative to the maintenance, safety, operation, and~~  
17 ~~rehabilitation~~ *rehabilitation, and operation* of state highways and  
18 bridges that do not add a new traffic lane to the system.

19 (b) The program shall include projects that are expected to be  
20 advertised prior to July 1 of the year following submission of the  
21 program, but which have not yet been funded. The program shall  
22 include those projects for which construction is to begin within  
23 four fiscal years, starting July 1 of the year following the year the  
24 program is submitted.

25 (c) (1) The department, at a minimum, shall specify, for each  
26 project in the state highway operation and protection program, the  
27 capital and support ~~budget, as well as a projected delivery date,~~  
28 *budget* for each of the following project components:

29 ~~(1) Completion of project~~

30 ~~(A) Project approval and environmental documents.~~

31 ~~(2) Preparation of plans,~~

32 ~~(B) Plans, specifications, and estimates.~~

33 ~~(3) Acquisition of rights-of-way, including, but not limited to,~~  
34 ~~support activities.~~

35 ~~(C) Rights-of-way.~~

36 ~~(D) Construction.~~

37 (2) *The department shall specify, for each project in the state*  
38 *highway operation and protection program, a project delivery*  
39 *date for each of the following components:*

40 (A) *Environmental document completion.*

1 (B) *Plans, specifications, and estimate completion.*

2 (C) *Right-of-way certification.*

3 ~~(4)~~

4 (D) *Start of construction.*

5 (d) ~~The program department shall be submitted~~ *submit its*  
6 *proposed program* to the commission not later than January 31 of  
7 each even-numbered year. ~~Prior to submitting the plan,~~ *its proposed*  
8 *program*, the department shall make a draft of its proposed program  
9 available to transportation planning agencies for review and  
10 comment and shall include the comments in its submittal to the  
11 commission. *The department shall provide the commission with*  
12 *detailed information for all programmed projects, including, but*  
13 *not limited to, cost, scope, schedule, and performance metrics as*  
14 *determined by the commission.*

15 (e) The commission ~~may~~ *shall* review the *proposed* program  
16 relative to its overall adequacy, consistency with the asset  
17 management plan prepared and approved pursuant to Section  
18 14526.4 and funding priorities established in Section 167 of the  
19 Streets and Highways Code, the level of annual funding needed  
20 to implement the program, and the impact of those expenditures  
21 on the state transportation improvement program. The commission  
22 shall adopt the program and submit it to the Legislature and the  
23 Governor not later than April 1 of each even-numbered year. The  
24 commission may decline to adopt the program if the commission  
25 determines that the program is not sufficiently consistent with the  
26 asset management plan prepared and approved pursuant to Section  
27 14526.4.

28 (f) *As part of the commission's review of the program required*  
29 *pursuant to subdivision (a), the commission shall hold at least one*  
30 *hearing in northern California and one hearing in southern*  
31 *California regarding the proposed program.*

32 ~~(f)~~

33 (g) Expenditures for these projects shall not be subject to  
34 Sections 188 and 188.8 of the Streets and Highways Code.

35 (h) *Following adoption of the state highway operation and*  
36 *protection program by the commission, any change to a*  
37 *programmed project shall be submitted as an amendment by the*  
38 *department to the commission for its approval before the change*  
39 *may be implemented.*



1 SEC. 7. Section 14526.7 is added to the Government Code, to  
2 read:

3 14526.7. (a) On and after August 1, 2017, an allocation by the  
4 commission of all capital and support costs for each project in the  
5 state highway operation and protection program shall be required.

6 (b) For a project that experiences increases in capital or support  
7 costs above the amounts in the commission's allocation pursuant  
8 to subdivision (a), a supplemental project allocation request shall  
9 be submitted by the department to the commission for approval.

10 (c) The commission shall establish guidelines to provide  
11 exceptions to the requirement of subdivision (b) that the  
12 commission determines are necessary to ensure that projects are  
13 not unnecessarily delayed.

14 SEC. 8. Section 14534.1 of the Government Code is repealed.

15 ~~14534.1. Notwithstanding Section 12850.6 or subdivision (b)~~  
16 ~~of Section 12800, as added to this code by the Governor's~~  
17 ~~Reorganization Plan No. 2 of 2012 during the 2011-12 Regular~~  
18 ~~Session, the commission shall retain independent authority to~~  
19 ~~perform those duties and functions prescribed to it under any~~  
20 ~~provision of law.~~

21 SEC. 9. Section 16321 is added to the Government Code, to  
22 read:

23 16321. (a) Notwithstanding any other law, on or before January  
24 1, 2017, the Department of Finance shall compute the amount of  
25 outstanding loans made from the State Highway Account, the  
26 Motor Vehicle Fuel Account, the Highway Users Tax Account,  
27 and the Motor Vehicle Account to the General Fund. The  
28 department shall prepare a loan repayment schedule, pursuant to  
29 which the outstanding loans shall be repaid, as follows:

30 (1) On or before June 30, 2017, 50 percent of the outstanding  
31 loan amounts.

32 (2) On or before June 30, 2018, the remainder of the outstanding  
33 loan amounts.

34 (b) Notwithstanding any other law, as the loans are repaid  
35 pursuant to this section, the repaid funds shall be transferred in the  
36 following manner:

37 (1) Fifty percent to cities and counties pursuant to clauses (i)  
38 and (ii) of subparagraph (C) of paragraph (3) of subdivision (a) of  
39 Section 2103 of the Streets and Highways Code.

1 (2) Fifty percent to the department for maintenance of the state  
2 highway system and for purposes of the state highway operation  
3 and protection program.

4 (c) Funds for loan repayments pursuant to this section are hereby  
5 appropriated from the Budget Stabilization Account pursuant to  
6 subclause (II) of clause (ii) of subparagraph (B) of paragraph (1)  
7 of subdivision (c) of Section 20 of Article XVI of the California  
8 Constitution.

9 SEC. 10. Section 16965 of the Government Code is amended  
10 to read:

11 16965. (a) (1) The Transportation Debt Service Fund is hereby  
12 created in the State Treasury. Moneys in the fund shall be dedicated  
13 to all of the following purposes:

14 (A) Payment of debt service with respect to designated bonds,  
15 as defined in subdivision (c) of Section 16773, and as further  
16 provided in paragraph (3) and subdivision (b).

17 (B) To reimburse the General Fund for debt service with respect  
18 to bonds.

19 (C) To redeem or retire bonds, pursuant to Section 16774,  
20 maturing in a subsequent fiscal year.

21 (2) The bonds eligible under subparagraph (B) or (C) of  
22 paragraph (1) include bonds issued pursuant to the ~~Clean Air and~~  
23 ~~Transportation Improvement Act of 1990 (Part 11.5 (commencing~~  
24 ~~with Section 99600) of Division 10 of the Public Utilities Code),~~  
25 ~~the Passenger Rail and Clean Air Bond Act of 1990 (Chapter 17~~  
26 ~~(commencing with Section 2701) of Division 3 of the Streets and~~  
27 ~~Highways Code), the Seismic Retrofit Bond Act of 1996 (Chapter~~  
28 ~~12.48 (commencing with Section 8879) of Division 1 of Title 2),~~  
29 ~~and the Safe, Reliable High-Speed Passenger Train Bond Act for~~  
30 ~~the 21st Century (Chapter 20 (commencing with Section 2704) of~~  
31 ~~Division 3 of the Streets and Highways Code), and nondesignated~~  
32 ~~bonds under Proposition 1B, as defined in subdivision (c) of~~  
33 ~~Section 16773.~~

34 (3) (A) The Transportation Bond Direct Payment Account is  
35 hereby created in the State Treasury, as a subaccount within the  
36 Transportation Debt Service Fund, for the purpose of directly  
37 paying the debt service, as defined in paragraph (4), of designated  
38 bonds of Proposition 1B, as defined in subdivision (c) of Section  
39 16773. Notwithstanding Section 13340, moneys in the  
40 Transportation Bond Direct Payment Account are continuously

1 appropriated for payment of debt service with respect to designated  
2 bonds as provided in subdivision (c) of Section 16773. So long as  
3 any designated bonds remain outstanding, the moneys in the  
4 Transportation Bond Direct Payment Account may not be used  
5 for any other purpose, and may not be borrowed by or available  
6 for transfer to the General Fund pursuant to Section 16310 or any  
7 similar law, or to the General Cash Revolving Fund pursuant to  
8 Section 16381 or any similar law.

9 (B) Once the Treasurer makes a certification that payment of  
10 debt service with respect to all designated bonds has been paid or  
11 provided for, any remaining moneys in the Transportation Bond  
12 Direct Payment Account shall be transferred back to the  
13 Transportation Debt Service Fund.

14 (C) The moneys in the Transportation Bond Direct Payment  
15 Account shall be invested in the Surplus Money Investment Fund,  
16 and all investment earnings shall accrue to the account.

17 (D) The Controller may establish subaccounts within the  
18 Transportation Bond Direct Payment Account as may be required  
19 by the resolution, indenture, or other documents governing any  
20 designated bonds.

21 (4) For purposes of this subdivision and subdivision (b), and  
22 subdivision (c) of Section 16773, "debt service" means payment  
23 of all of the following costs and expenses with respect to any  
24 designated bond:

25 (A) The principal of and interest on the bonds.

26 (B) Amounts payable as the result of tender on any bonds, as  
27 described in clause (iv) of subparagraph (B) of paragraph (1) of  
28 subdivision (d) of Section 16731.

29 (C) Amounts payable under any contractual obligation of the  
30 state to repay advances and pay interest thereon under a credit  
31 enhancement or liquidity agreement as described in clause (iv) of  
32 subparagraph (B) of paragraph (1) of subdivision (d) of Section  
33 16731.

34 (D) Any amount owed by the state to a counterparty after any  
35 offset for payments owed to the state on any hedging contract as  
36 described in subparagraph (A) of paragraph (2) of subdivision (d)  
37 of Section 16731.

38 (b) From the moneys transferred to the fund pursuant to  
39 paragraph (2) or (3) of subdivision (c) of Section 9400.4 of the  
40 Vehicle Code, there shall first be deposited into the Transportation

1 Bond Direct Payment Account in each month sufficient funds to  
2 equal the amount designated in a certificate submitted by the  
3 Treasurer to the Controller and the Director of Finance at the start  
4 of each fiscal year, and as may be modified by the Treasurer  
5 thereafter upon issuance of any new issue of designated bonds or  
6 upon change in circumstances that requires such a modification.  
7 This certificate shall be calculated by the Treasurer to identify, for  
8 each month, the amount necessary to fund all of the debt service  
9 with respect to all designated bonds. This calculation shall be done  
10 in a manner provided in the resolution, indenture, or other  
11 documents governing the designated bonds. In the event that  
12 transfers to the Transportation Bond Direct Payment Account in  
13 any month are less than the amounts required in the Treasurer's  
14 certificate, the shortfall shall carry over to be part of the required  
15 payment in the succeeding month or months.

16 (c) The state hereby covenants with the holders from time to  
17 time of any designated bonds that it will not alter, amend, or restrict  
18 the provisions of subdivision (c) of Section 16773 of the  
19 Government Code, or Sections 9400, 9400.1, 9400.4, and 42205  
20 of the Vehicle Code, which provide directly or indirectly for the  
21 transfer of weight fees to the Transportation Debt Service Fund  
22 or the Transportation Bond Direct Payment Account, or  
23 subdivisions (a) and (b) of this section, or reduce the rate of  
24 imposition of vehicle weight fees under Sections 9400 and 9400.1  
25 of the Vehicle Code as they existed on the date of the first issuance  
26 of any designated bonds, if that alteration, amendment, restriction,  
27 or reduction would result in projected weight fees for the next  
28 fiscal year determined by the Director of Finance being less than  
29 two times the maximum annual debt service with respect to all  
30 outstanding designated bonds, as such calculation is determined  
31 pursuant to the resolution, indenture, or other documents governing  
32 the designated bonds. The state may include this covenant in the  
33 resolution, indenture, or other documents governing the designated  
34 bonds.

35 (d) Once the required monthly deposit, including makeup of  
36 any shortfalls from any prior month, has been made pursuant to  
37 subdivision (b), from moneys transferred to the fund pursuant to  
38 paragraph (2) or (3) of subdivision (c) of Section 9400.4 of the  
39 Vehicle Code, or pursuant to Section 16965.1 or 63048.67, the  
40 Controller shall transfer as an expenditure reduction to the General

1 Fund any amount necessary to offset the cost of current year debt  
2 service payments made from the General Fund with respect to any  
3 bonds issued pursuant to Proposition 192 (1996) and three-quarters  
4 of the amount of current year debt service payments made from  
5 the General Fund with respect to any nondesignated bonds, as  
6 defined in subdivision (c) of Section 16773, issued pursuant to  
7 Proposition 1B (2006). In the alternative, these funds may also be  
8 used to redeem or retire the applicable bonds, pursuant to Section  
9 16774, maturing in a subsequent fiscal year as directed by the  
10 Director of Finance.

11 ~~(e) From moneys transferred to the fund pursuant to Section~~  
12 ~~183.1 of the Streets and Highways Code, the Controller shall~~  
13 ~~transfer as an expenditure reduction to the General Fund any~~  
14 ~~amount necessary to offset the cost of current year debt service~~  
15 ~~payments made from the General Fund with respect to any bonds~~  
16 ~~issued pursuant to Proposition 116 (1990). In the alternative, these~~  
17 ~~funds may also be used to redeem or retire the applicable bonds,~~  
18 ~~pursuant to Section 16774, maturing in a subsequent fiscal year~~  
19 ~~as directed by the Director of Finance.~~

20 (f)  
21 (e) Once the required monthly deposit, including makeup of  
22 any shortfalls from any prior month, has been made pursuant to  
23 subdivision (b), from moneys transferred to the fund pursuant to  
24 paragraph (2) or (3) of subdivision (c) of Section 9400.4 of the  
25 Vehicle Code, or pursuant to Section 16965.1 or 63048.67, the  
26 Controller shall transfer as an expenditure reduction to the General  
27 Fund any amount necessary to offset the eligible cost of current  
28 year debt service payments made from the General Fund with  
29 respect to any bonds issued pursuant to Proposition 108 (1990)  
30 and Proposition 1A (2008), and one-quarter of the amount of  
31 current year debt service payments made from the General Fund  
32 with respect to any nondesignated bonds, as defined in subdivision  
33 (c) of Section 16773, issued pursuant to Proposition 1B (2006).  
34 The Department of Finance shall notify the Controller by July 30  
35 of every year of the percentage of debt service that is expected to  
36 be paid in that fiscal year with respect to bond-funded projects that  
37 qualify as eligible guideway projects consistent with the  
38 requirements applicable to the expenditure of revenues under  
39 Article XIX of the California Constitution, and the Controller shall  
40 make payments only for those eligible projects. In the alternative,

1 these funds may also be used to redeem or retire the applicable  
2 bonds, pursuant to Section 16774, maturing in a subsequent fiscal  
3 year as directed by the Director of Finance.

4 ~~(g)~~

5 (f) On or before the second business day following the date on  
6 which transfers are made to the Transportation Debt Service Fund,  
7 and after the required monthly deposits for that month, including  
8 makeup of any shortfalls from any prior month, have been made  
9 to the Transportation Bond Direct Payment Account, the Controller  
10 shall transfer the funds designated for reimbursement of bond debt  
11 service with respect to nondesignated bonds, as defined in  
12 subdivision (c) of Section 16773, and other bonds identified in  
13 subdivisions ~~(d), (e), (d)~~ and ~~(f)(e)~~ in that month from the fund to  
14 the General Fund pursuant to this section.

15 SEC. 11. Section 39719 of the Health and Safety Code is  
16 amended to read:

17 39719. (a) The Legislature shall appropriate the annual  
18 proceeds of the fund for the purpose of reducing greenhouse gas  
19 emissions in this state in accordance with the requirements of  
20 Section 39712.

21 (b) To carry out a portion of the requirements of subdivision  
22 (a), annual proceeds are continuously appropriated for the  
23 following:

24 (1) Beginning in the ~~2015-16~~ 2017-18 fiscal year, and  
25 notwithstanding Section 13340 of the Government Code, ~~35~~ 50  
26 percent of annual proceeds are continuously appropriated, without  
27 regard to fiscal years, for transit, affordable housing, and  
28 sustainable communities programs as ~~following:~~ follows:

29 (A) ~~Ten~~ Twenty percent of the annual proceeds of the fund is  
30 hereby continuously appropriated to the Transportation Agency  
31 for the Transit and Intercity Rail Capital Program created by Part  
32 2 (commencing with Section 75220) of Division 44 of the Public  
33 Resources Code.

34 (B) ~~Five~~ Ten percent of the annual proceeds of the fund is hereby  
35 continuously appropriated to the Low Carbon Transit Operations  
36 Program created by Part 3 (commencing with Section 75230) of  
37 Division 44 of the Public Resources Code. Funds Moneys shall be  
38 allocated by the Controller, according to requirements of the  
39 program, and pursuant to the distribution formula in subdivision

1 (b) or (c) of Section 99312 of, and Sections 99313 and 99314 of,  
2 the Public Utilities Code.

3 (C) Twenty percent of the annual proceeds of the fund is hereby  
4 continuously appropriated to the Strategic Growth Council for the  
5 Affordable Housing and Sustainable Communities Program created  
6 by Part 1 (commencing with Section 75200) of Division 44 of the  
7 Public Resources Code. Of the amount appropriated in this  
8 subparagraph, no less than 10 percent of the annual ~~proceeds~~,  
9 *proceeds* shall be expended for affordable housing, consistent with  
10 the provisions of that program.

11 (2) Beginning in the 2015–16 fiscal year, notwithstanding  
12 Section 13340 of the Government Code, 25 percent of the annual  
13 proceeds of the fund is hereby continuously appropriated to the  
14 High-Speed Rail Authority for the following components of the  
15 initial operating segment and Phase I Blended System as described  
16 in the 2012 business plan adopted pursuant to Section 185033 of  
17 the Public Utilities Code:

18 (A) Acquisition and construction costs of the project.

19 (B) Environmental review and design costs of the project.

20 (C) Other capital costs of the project.

21 (D) Repayment of any loans made to the authority to fund the  
22 project.

23 (c) In determining the amount of annual proceeds of the fund  
24 for purposes of the calculation in subdivision (b), the funds subject  
25 to Section 39719.1 shall not be included.

26 SEC. 12. Section 21080.37 of the Public Resources Code is  
27 amended to read:

28 21080.37. (a) This division does not apply to a project or an  
29 activity to repair, maintain, or make minor alterations to an existing  
30 roadway if all of the following conditions are met:

31 ~~(1) The project is carried out by a city or county with a~~  
32 ~~population of less than 100,000 persons to improve public safety.~~

33 ~~(2)~~

34 (1) (A) The project does not cross a waterway.

35 (B) For purposes of this paragraph, “waterway” means a bay,  
36 estuary, lake, pond, river, slough, or a perennial, intermittent, or  
37 ephemeral stream, lake, or estuarine-marine shoreline.

38 ~~(3)~~

1 (2) The project involves negligible or no expansion of an  
2 existing use beyond that existing at the time of the lead agency's  
3 determination.

4 ~~(4) The roadway is not a state roadway.~~

5 ~~(5)~~

6 (3) (A) The site of the project does not contain wetlands or  
7 riparian areas and does not have significant value as a wildlife  
8 habitat, and the project does not harm any species protected by the  
9 federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et  
10 seq.), the Native Plant Protection Act (Chapter 10 (commencing  
11 with Section 1900) of Division 2 of the Fish and Game Code), or  
12 the California Endangered Species Act (Chapter 1.5 (commencing  
13 with Section 2050) of Division 3 of the Fish and Game Code), and  
14 the project does not cause the destruction or removal of any species  
15 protected by a local ordinance.

16 (B) For the purposes of this paragraph:

17 (i) "Riparian areas" mean those areas transitional between  
18 terrestrial and aquatic ecosystems and that are distinguished by  
19 gradients in biophysical conditions, ecological processes, and biota.  
20 A riparian area is an area through which surface and subsurface  
21 hydrology connect waterbodies with their adjacent uplands. A  
22 riparian area includes those portions of terrestrial ecosystems that  
23 significantly influence exchanges of energy and matter with aquatic  
24 ecosystems. A riparian area is adjacent to perennial, intermittent,  
25 and ephemeral streams, lakes, and estuarine-marine shorelines.

26 (ii) "Significant value as a wildlife habitat" includes wildlife  
27 habitat of national, statewide, regional, or local importance; habitat  
28 for species protected by the federal Endangered Species Act of  
29 1973 (16 U.S.C. Sec. ~~1531~~, 1531 et seq.), the California  
30 Endangered Species Act (Chapter 1.5 (commencing with Section  
31 2050) of Division 3 of the Fish and Game Code), or the Native  
32 Plant Protection Act (Chapter 10 (commencing with Section 1900)  
33 of Division 2 of the Fish and Game Code); habitat identified as  
34 candidate, fully protected, sensitive, or species of special status  
35 by local, state, or federal agencies; or habitat essential to the  
36 movement of resident or migratory wildlife.

37 (iii) "Wetlands" has the same meaning as in the United States  
38 Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).



1 (iv) "Wildlife habitat" means the ecological communities upon  
2 which wild animals, birds, plants, fish, amphibians, and  
3 invertebrates depend for their conservation and protection.

4 ~~(6)~~

5 (4) The project does not impact cultural resources.

6 ~~(7)~~

7 (5) The roadway does not affect scenic resources, as provided  
8 pursuant to subdivision (c) of Section 21084.

9 (b) Prior to determining that a project is exempt pursuant to this  
10 section, the lead agency shall do both of the following:

11 (1) Include measures in the project to mitigate potential  
12 vehicular traffic and safety impacts and bicycle and pedestrian  
13 safety impacts.

14 (2) Hold a noticed public hearing on the project to hear and  
15 respond to public comments. The hearing on the project may be  
16 conducted with another noticed lead agency public hearing.  
17 Publication of the notice shall be no fewer times than required by  
18 Section 6061 of the Government Code, by the public agency in a  
19 newspaper of general circulation in the area.

20 (c) For purposes of this section, "roadway" means a roadway  
21 as defined pursuant to Section 530 of the Vehicle Code and the  
22 previously graded and maintained shoulder that is within a roadway  
23 right-of-way of no more than five feet from the edge of the  
24 roadway.

25 ~~(d) Whenever~~

26 (d) (1) *If a state agency determines that a project is not subject*  
27 *to this division pursuant to this section and it approves or*  
28 *determines to carry out that project, it shall file a notice with the*  
29 *Office of Planning and Research in the manner specified in*  
30 *subdivisions (b) and (c) of Section 21108.*

31 (2) *If a local agency determines that a project is not subject to*  
32 *this division pursuant to this section, section and it approves or*  
33 *determines to carry out that project, the local agency it shall file*  
34 *a notice with the Office of Planning and Research, and with the*  
35 *county clerk in the county in which the project will be located in*  
36 *the manner specified in subdivisions (b) and (c) of Section 21152.*

37 ~~(e) This section shall remain in effect only until January 1, 2020,~~  
38 ~~and as of that date is repealed, unless a later enacted statute, that~~  
39 ~~is enacted before January 1, 2020, deletes or extends that date.~~

1 SEC. 13. Division 13.6 (commencing with Section 21200) is  
2 added to the Public Resources Code, to read:

3

4 DIVISION 13.6. ADVANCE MITIGATION PROGRAM ACT

5

6

CHAPTER 1. GENERAL

7

8 21200. This division shall be known, and may be cited, as the  
9 Advance Mitigation Program Act.

10 21201. (a) The purpose of this division is to improve the  
11 success and effectiveness of actions implemented to mitigate the  
12 natural resource impacts of future transportation projects by  
13 establishing the means to implement those actions well before the  
14 transportation projects are constructed. The advance identification  
15 and implementation of mitigation actions also will streamline the  
16 delivery of transportation projects by anticipating mitigation  
17 requirements for planned transportation projects and avoiding or  
18 reducing delays associated with environmental permitting. By  
19 identifying regional or statewide conservation priorities and by  
20 anticipating the impacts of planned transportation projects on a  
21 regional or statewide basis, mitigation actions can be designed to  
22 protect and restore California's most valuable natural resources  
23 and also facilitate environmental compliance for planned  
24 transportation projects on a regional scale.

25 (b) This division is not intended to create a new environmental  
26 permitting or regulatory program or to modify existing  
27 environmental laws or regulations, nor is it expected that all  
28 mitigation requirements will be addressed for planned  
29 transportation projects. Instead, it is intended to provide a  
30 methodology with which to anticipate and fulfill the requirements  
31 of existing state and federal environmental laws that protect fish,  
32 wildlife, plant species, and other natural resources more efficiently  
33 and effectively.

34 21202. The Legislature finds and declares all of the following:

35 (a) The minimization and mitigation of environmental impacts  
36 is ordinarily handled on a project-by-project basis, usually near  
37 the end of a project's timeline and often without guidance regarding  
38 regional or statewide conservation priorities.

39 (b) The cost of critical transportation projects often escalates  
40 because of permitting delays that occur when appropriate

1 conservation and mitigation measures cannot easily be identified  
2 and because the cost of these measures often increases between  
3 the time a project is planned and funded and the time mitigation  
4 is implemented.

5 (c) Addressing conservation and mitigation needs early in a  
6 project's timeline, during the project design and development  
7 phase, can reduce costs, allow natural resources conservation to  
8 be integrated with project siting and design, and result in the  
9 establishment of more valuable and productive habitat mitigation.

10 (d) When the Department of Transportation is able to anticipate  
11 the mitigation needs for planned transportation projects, it can  
12 meet those needs in a more timely and cost-effective way by using  
13 advance mitigation planning.

14 (e) Working with state and federal resource protection agencies,  
15 the department can identify, conserve, and, where appropriate,  
16 restore lands for mitigation of numerous projects early in the  
17 projects' timelines, thereby allowing public funds to stretch further  
18 by acquiring habitat at a lower cost and avoiding environmental  
19 permitting delays.

20 (f) Advance mitigation can provide an effective means of  
21 facilitating delivery of transportation projects while ensuring more  
22 effective natural resource conservation.

23 (g) Advance mitigation is needed to direct mitigation funding  
24 for transportation projects to agreed-upon conservation priorities  
25 and to the creation of habitat reserves and recreation areas that  
26 enhance the sustainability of human and natural systems by  
27 protecting or restoring connectivity of natural communities and  
28 the delivery of ecosystem services.

29 (h) Advance mitigation can facilitate the implementation of  
30 climate change adaptation strategies both for ecosystems and  
31 California's economy.

32 (i) Advance mitigation can enable the state to protect, restore,  
33 and recover its natural resources as it strengthens and improves  
34 its transportation systems.

35 21203. The Legislature intends to do all of the following by  
36 enacting this division:

37 (a) Facilitate delivery of transportation projects while ensuring  
38 more effective natural resource conservation.

1 (b) Develop effective strategies to improve the state's ability to  
2 meet mounting demands for transportation improvements and to  
3 maximize conservation and other public benefits.

4 (c) Achieve conservation objectives of statewide and regional  
5 importance by coordinating local, state, and federally funded  
6 natural resource conservation efforts with mitigation actions  
7 required for impacts from transportation projects.

8 (d) Create administrative, governance, and financial incentives  
9 and mechanisms necessary to ensure that measures required to  
10 minimize or mitigate impacts from transportation projects will  
11 serve to achieve regional or statewide natural resource conservation  
12 objectives.

13  
14 CHAPTER 2. DEFINITIONS  
15

16 21204. For purposes of this division, the following terms have  
17 the following meanings:

18 (a) "Advance mitigation" means mitigation implemented before,  
19 and in anticipation of, environmental effects of planned  
20 transportation projects.

21 (b) "Commission" means the California Transportation  
22 Commission.

23 (c) "Department" means the Department of Transportation.

24 (d) "Transportation project" means a transportation capital  
25 improvement project.

26 (e) "Planned transportation project" means a transportation  
27 project that a transportation agency has concluded is reasonably  
28 likely to be constructed within 20 years and that has been identified  
29 to the agency for purposes of this division. A planned transportation  
30 project may include, but is not limited to, a transportation project  
31 that has been proposed for approval or that has been approved.

32 (f) "Program" means the Advance Mitigation Program  
33 implemented pursuant to this division.

34 (g) "Regulatory agency" means a state or federal natural  
35 resource protection agency with regulatory authority over planned  
36 transportation projects. A regulatory agency includes, but is not  
37 limited to, the Natural Resources Agency, the Department of Fish  
38 and Wildlife, California regional water quality control boards, the  
39 United States Fish and Wildlife Service, the National Marine

1 Fisheries Service, the United States Environmental Protection  
2 Agency, and the United States Army Corps of Engineers.

3

4

CHAPTER 3. ADVANCE MITIGATION PROGRAM

5

6 21205. (a) The Advance Mitigation Program is hereby created  
7 in the department to accelerate project delivery and improve  
8 environmental outcomes of environmental mitigation for planned  
9 transportation projects.

10 (b) The program may utilize mitigation instruments, including,  
11 but not limited to, mitigation banks, in lieu of fee programs, and  
12 conservation easements as defined in Section 815.1 of the Civil  
13 Code.

14 (c) The department shall track all implemented advance  
15 mitigation projects to use as credits for environmental mitigation  
16 for state-sponsored transportation projects.

17 (d) The department may use advance mitigation credits to fulfill  
18 mitigation requirements of any environmental law for a  
19 transportation project eligible for the State Transportation  
20 Improvement Program or the State Highway Operation and  
21 Protection Program.

22 21206. No later than August 1, 2017, the department shall  
23 establish an interagency transportation advance mitigation steering  
24 committee consisting of the department and appropriate state and  
25 federal regulatory agencies to support the program so that advance  
26 mitigation can be used as required mitigation for planned  
27 transportation projects and can provide improved environmental  
28 outcomes. The committee shall advise the department of  
29 opportunities to carry out advance mitigation projects, provide the  
30 best available science, and actively participate in mitigation  
31 instrument reviews and approvals. The committee shall seek to  
32 develop streamlining opportunities, including those related to  
33 landscape scale mitigation planning and alignment of federal and  
34 state regulations and procedures related to mitigation requirements  
35 and implementation. The committee shall also provide input on  
36 crediting, using, and tracking of advance mitigation investments.

37 21207. The Advance Mitigation Fund is hereby created in the  
38 State Transportation Fund as a revolving fund. Notwithstanding  
39 Section 13340 of the Government Code, the fund shall be  
40 continuously appropriated without regard to fiscal years. The

1 moneys in the fund shall be programmed by the commission for  
2 the planning and implementation of advance mitigation projects  
3 consistent with the purposes of this chapter. After the transfer of  
4 moneys to the fund for four fiscal years pursuant to subdivision  
5 (c) of Section 2032 of the Streets and Highways Code, commencing  
6 in the 2017–18 fiscal year, the program is intended to be  
7 self-sustaining. Advance expenditures from the fund shall later be  
8 reimbursed from project funding available at the time a planned  
9 transportation project is constructed. A maximum of 5 percent of  
10 available funds may be used for administrative purposes.

11 21208. The program is intended to improve the efficiency and  
12 efficacy of mitigation only and is not intended to supplant the  
13 requirements of the California Environmental Quality Act (Division  
14 13 (commencing with Section 21000) or any other environmental  
15 law. The identification of planned transportation projects and of  
16 mitigation projects or measures for planned transportation projects  
17 under this division does not imply or require approval of those  
18 projects for purposes of the California Environmental Quality Act  
19 (Division 13 (commencing with Section 21000) or any other  
20 environmental law.

21 SEC. 14. Section 99312.1 of the Public Utilities Code is  
22 amended to read:

23 99312.1. (a) Revenues transferred to the Public Transportation  
24 Account pursuant to Sections 6051.8 and 6201.8 of the Revenue  
25 and Taxation Code are hereby continuously appropriated to the  
26 Controller for allocation as follows:

27 (a)

28 (1) Fifty percent for allocation to transportation planning  
29 agencies, county transportation commissions, and the San Diego  
30 Metropolitan Transit Development Board pursuant to Section  
31 99314.

32 (b)

33 (2) Fifty percent for allocation to transportation agencies, county  
34 transportation commissions, and the San Diego Metropolitan  
35 Transit Development Board for purposes of Section 99313.

36 (b) For purposes of this chapter, the revenues allocated pursuant  
37 to this section shall be subject to the same requirements as revenues  
38 allocated pursuant to subdivisions (b) and (c), as applicable, of  
39 Section 99312.

1     (c) *The revenues transferred to the Public Transportation*  
2 *Account that are attributable to the increase in the sales and use*  
3 *tax on diesel fuel pursuant to subdivision (b) of Section 6051.8 of*  
4 *the Revenue and Taxation Code, as adjusted pursuant to*  
5 *subdivision (c) of that section, and subdivision (b) of Section 6201.8*  
6 *of the Revenue and Taxation Code, as adjusted pursuant to*  
7 *subdivision (c) of that section, upon allocation pursuant to Sections*  
8 *99313 and 99314, shall only be expended on the following:*

9     (1) *Transit capital projects or services to maintain or repair a*  
10 *transit operator's existing transit vehicle fleet or existing transit*  
11 *facilities, including rehabilitation or modernization of existing*  
12 *vehicles or facilities.*

13     (2) *The design, acquisition, and construction of new vehicles*  
14 *or facilities that improve existing transit services.*

15     (3) *Transit services that complement local efforts for repair and*  
16 *improvement of local transportation infrastructure.*

17     (d) (1) *Prior to receiving an apportionment of funds pursuant*  
18 *to subdivision (c) from the Controller in a fiscal year, a recipient*  
19 *transit agency shall submit to the Department of Transportation*  
20 *a list of projects proposed to be funded with these funds. The list*  
21 *of projects proposed to be funded with these funds shall include*  
22 *a description and location of each proposed project, a proposed*  
23 *schedule for the project's completion, and the estimated useful life*  
24 *of the improvement. The project list shall not limit the flexibility*  
25 *of a recipient transit agency to fund projects in accordance with*  
26 *local needs and priorities so long as the projects are consistent*  
27 *with subdivision (c).*

28     (2) *The department shall report to the Controller the recipient*  
29 *transit agencies that have submitted a list of projects as described*  
30 *in this subdivision and that are therefore eligible to receive an*  
31 *apportionment of funds for the applicable fiscal year. The*  
32 *Controller, upon receipt of the report, shall apportion funds*  
33 *pursuant to Sections 99313 and 99314.*

34     (e) *For each fiscal year, each recipient transit agency receiving*  
35 *an apportionment of funds pursuant to subdivision (c) shall, upon*  
36 *expending those funds, submit documentation to the department*  
37 *that includes a description and location of each completed project,*  
38 *the amount of funds expended on the project, the completion date,*  
39 *and the estimated useful life of the improvement.*

1 (f) *The audit of transit operator finances required pursuant to*  
2 *Section 99245 shall verify that the revenues identified in*  
3 *subdivision (c) have been expended in conformance with these*  
4 *specific requirements and all other generally applicable*  
5 *requirements.*

6 SEC. 15. Section 99314.9 is added to the Public Utilities Code,  
7 to read:

8 99314.9. The Controller shall compute quarterly proposed  
9 allocations for State Transit Assistance funds available for  
10 allocation pursuant to Sections 99313 and 99314. The Controller  
11 shall publish the allocations for each eligible recipient agency,  
12 including one list applicable to revenues allocated pursuant to  
13 subdivision (c) of Section 99312.1 and another list for revenues  
14 allocated from all other revenues in the Public Transportation  
15 Account that are designated for the State Transit Assistance  
16 Program.

17 SEC. 16. Section 6051.8 of the Revenue and Taxation Code  
18 is amended to read:

19 6051.8. (a) Except as provided by Section 6357.3, in addition  
20 to the taxes imposed by this part, for the privilege of selling  
21 tangible personal property at retail a tax is hereby imposed upon  
22 all retailers at the rate of 1.75 percent of the gross receipts of any  
23 retailer from the sale of all diesel fuel, as defined in Section 60022,  
24 sold at retail in this state on and after the operative date of this  
25 subdivision. ~~fuel.~~

26 (b) *Except as provided by Section 6357.3, in addition to the*  
27 *taxes imposed by this part and by subdivision (a), for the privilege*  
28 *of selling tangible personal property at retail a tax is hereby*  
29 *imposed upon all retailers at the rate of 3.5 percent of the gross*  
30 *receipts of any retailer from the sale of all diesel fuel, as defined*  
31 *in Section 60022, sold at retail in this state. The tax imposed under*  
32 *this subdivision shall be imposed on and after the first day of the*  
33 *first calendar quarter that occurs 120 days after the effective date*  
34 *of the act adding this subdivision.*

35 ~~(b) Notwithstanding subdivision (a), for~~

36 (c) *Beginning July 1, 2019, and every third year thereafter, the*  
37 *2011-12 fiscal year only, State Board of Equalization shall*  
38 *recompute the rate referenced in subdivision (a) rates of the taxes*  
39 *imposed by this section. That computation shall be 1.87 percent.*  
40 *made as follows:*



1 ~~(e) Notwithstanding subdivision (a),~~  
2 (1) *The Department of Finance shall transmit to the State Board*  
3 *of Equalization the percentage change in the California Consumer*  
4 *Price Index for all items from November of three calendar years*  
5 *prior to November of the ~~2012-13 fiscal year only, the rate~~*  
6 *referenced in subdivision (a) shall be 2.17 percent. prior calendar*  
7 *year, no later than January 31, 2019, and January 31 of every*  
8 *third year thereafter.*

9 ~~(d) Notwithstanding subdivision (a), for~~  
10 (2) *The State Board of Equalization shall do all of the following:*  
11 (A) *Compute an inflation adjustment factor by adding 100*  
12 *percent to the percentage change figure that is furnished pursuant*  
13 *to paragraph (1) and dividing the result by 100.*  
14 (B) *Multiply the preceding tax rate per gallon by the inflation*  
15 *adjustment factor determined in subparagraph (A) and round off*  
16 *the resulting product to the nearest tenth of a cent.*  
17 (C) *Make its determination of the ~~2013-14 fiscal year only, new~~*  
18 *rate no later than March 1 of the rate referenced in subdivision*  
19 *(a) shall be 1.94 percent. same year as the effective date of the new*  
20 *rate.*

21 ~~(e)~~  
22 (d) *Notwithstanding subdivision (b) of Section 7102, all of the*  
23 *revenues, less refunds, collected pursuant to this section shall be*  
24 *estimated by the State Board of Equalization, with the concurrence*  
25 *of the Department of Finance, and transferred quarterly to the*  
26 *Public Transportation Account in the State Transportation Fund*  
27 *for allocation pursuant to Section 99312.1 of the Public Utilities*  
28 *Code.*

29 ~~(f) Subdivisions (a) to (e), inclusive, shall become operative on~~  
30 ~~July 1, 2011.~~

31 SEC. 17. Section 6201.8 of the Revenue and Taxation Code  
32 is amended to read:

33 6201.8. (a) Except as provided by Section 6357.3, in addition  
34 to the taxes imposed by this part, an excise tax is hereby imposed  
35 on the storage, use, or other consumption in this state of diesel  
36 fuel, as defined in Section 60022, at the rate of 1.75 percent of the  
37 sales price of the diesel fuel on and after the operative date of this  
38 subdivision. *fuel.*

39 ~~(b) Notwithstanding subdivision (a), for~~

1 (b) Except as provided by Section 6357.3, in addition to the  
2 taxes imposed by this part and by subdivision (a), an excise tax is  
3 hereby imposed on the storage, use, or other consumption in this  
4 state of diesel fuel, as defined in Section 60022, at the rate of 3.5  
5 percent of the sales price of the diesel fuel. The tax imposed under  
6 this subdivision shall be imposed on and after the first day of the  
7 first calendar quarter that occurs 120 days after the effective date  
8 of the act adding this subdivision.

9 (c) Beginning July 1, 2019, and every third year thereafter, the  
10 ~~2011-12 fiscal year only~~, State Board of Equalization shall  
11 recompute the ~~rate referenced in subdivision (a)~~ rates of the taxes  
12 imposed by this section. That computation shall be ~~1.87 percent~~.  
13 made as follows:

14 ~~(c) Notwithstanding subdivision (a),~~

15 (1) The Department of Finance shall transmit to the State Board  
16 of Equalization the percentage change in the California Consumer  
17 Price Index for all items from November of three calendar years  
18 prior to November of the ~~2012-13 fiscal year only~~, the rate  
19 ~~referenced in subdivision (a) shall be 2.17 percent~~. prior calendar  
20 year, no later than January 31, 2019, and January 31 of every  
21 third year thereafter.

22 ~~(d) Notwithstanding subdivision (a), for~~

23 (2) The State Board of Equalization shall do all of the following:  
24 (A) Compute an inflation adjustment factor by adding 100  
25 percent to the percentage change figure that is furnished pursuant  
26 to paragraph (1) and dividing the result by 100.

27 (B) Multiply the preceding tax rate per gallon by the inflation  
28 adjustment factor determined in subparagraph (A) and round off  
29 the resulting product to the nearest tenth of a cent.

30 (C) Make its determination of the ~~2013-14 fiscal year only~~, new  
31 rate no later than March 1 of the ~~rate referenced in subdivision~~  
32 ~~(a) shall be 1.94 percent~~. same year as the effective date of the new  
33 rate.

34 ~~(e)~~

35 (d) Notwithstanding subdivision (b) of Section 7102, all of the  
36 revenues, less refunds, collected pursuant to this section shall be  
37 estimated by the State Board of Equalization, with the concurrence  
38 of the Department of Finance, and transferred quarterly to the  
39 Public Transportation Account in the State Transportation Fund

1 for allocation pursuant to Section 99312.1 of the Public Utilities  
2 Code.

3 ~~(f) Subdivisions (a) to (e), inclusive, shall become operative on~~  
4 ~~July 1, 2011.~~

5 SEC. 18. Section 7360 of the Revenue and Taxation Code is  
6 amended to read:

7 7360. (a) (1) (A) A tax of eighteen cents (\$0.18) is hereby  
8 imposed upon each gallon of fuel subject to the tax in Sections  
9 7362, 7363, and 7364.

10 (B) *In addition to the tax imposed pursuant to subparagraph*  
11 *(A), on and after the first day of the first calendar quarter that*  
12 *occurs 90 days after the effective date of the act adding this*  
13 *subparagraph, a tax of twelve cents (\$0.12) is hereby imposed*  
14 *upon each gallon of fuel, other than aviation gasoline, subject to*  
15 *the tax in Sections 7362, 7363, and 7364.*

16 (2) If the federal fuel tax is reduced below the rate of nine cents  
17 (\$0.09) per gallon and federal financial allocations to this state for  
18 highway and exclusive public mass transit guideway purposes are  
19 reduced or eliminated correspondingly, the tax rate imposed by  
20 *subparagraph (A) of paragraph (1)*, on and after the date of the  
21 reduction, shall be recalculated by an amount so that the combined  
22 state rate under *subparagraph (A) of paragraph (1)* and the federal  
23 tax rate per gallon equal twenty-seven cents (\$0.27).

24 (3) If any person or entity is exempt or partially exempt from  
25 the federal fuel tax at the time of a reduction, the person or entity  
26 shall continue to be so exempt under this section.

27 (b) ~~(1)~~ On and after July 1, 2010, in addition to the tax imposed  
28 by subdivision (a), a tax is hereby imposed upon each gallon of  
29 motor vehicle fuel, other than aviation gasoline, subject to the tax  
30 in Sections 7362, 7363, and 7364 in an amount equal to seventeen  
31 and three-tenths cents (\$0.173) per gallon.

32 ~~(2) For the 2011-12 fiscal year~~

33 (c) *Beginning July 1, 2019, and each fiscal every third year*  
34 *thereafter, the board shall, on or before March 1 State Board of*  
35 *the fiscal year immediately preceding the applicable fiscal year,*  
36 *adjust the rate in paragraph (1) in that manner as to generate an*  
37 *amount Equalization shall recompute the rates of revenue that*  
38 *will equal the amount of revenue loss attributable to the exemption*  
39 *provided taxes imposed by Section 6357.7, based on estimates*  
40 *made by the board, and that rate this section. That computation*

1 shall be ~~effective during the state's next fiscal year.~~ *made as*  
2 *follows:*

3 ~~(3) In order to maintain revenue neutrality for each year,~~  
4 ~~beginning with~~

5 *(1) The Department of Finance shall transmit to the State Board*  
6 *of Equalization the percentage change in the California Consumer*  
7 *Price Index for all items from November of three calendar years*  
8 *prior to November of the prior calendar year, no later than January*  
9 *31, 2019, and January 31 of every third year thereafter.*

10 *(2) The State Board of Equalization shall do all of the following:*

11 *(A) Compute an inflation adjustment factor by adding 100*  
12 *percent to the percentage change figure that is furnished pursuant*  
13 *to paragraph (1) and dividing the result by 100.*

14 ~~*(B) Multiply the preceding tax rate adjustment on or before*~~  
15 ~~*March 1, 2012, the adjustment under paragraph (2) shall also take*~~  
16 ~~*into account the extent to which the actual amount of revenues*~~  
17 ~~*derived pursuant to this subdivision and, as applicable, Section*~~  
18 ~~*7361.1, the revenue loss attributable to the exemption provided*~~  
19 ~~*per gallon by Section 6357.7 resulted the inflation adjustment*~~  
20 ~~*factor determined in a net revenue gain or loss for subparagraph*~~  
21 ~~*(A) and round off the fiscal year ending prior resulting product to*~~  
22 ~~*the rate adjustment date on or before March 1, nearest tenth of a*~~  
23 ~~*cent.*~~

24 ~~*(4) The intent*~~

25 ~~*(C) Make its determination of paragraphs (2) and (3) is to ensure*~~  
26 ~~*that the act adding this subdivision and Section 6357.7 does not*~~  
27 ~~*produce a net revenue gain in state taxes. new rate no later than*~~  
28 ~~*March 1 of the same year as the effective date of the new rate.*~~

29 SEC. 19. Section 8352.4 of the Revenue and Taxation Code  
30 is amended to read:

31 8352.4. (a) Subject to Sections 8352 and 8352.1, and except  
32 as otherwise provided in subdivision (b), there shall be transferred  
33 from the money deposited to the credit of the Motor Vehicle Fuel  
34 Account to the Harbors and Watercraft Revolving Fund, for  
35 expenditure in accordance with Division 1 (commencing with  
36 Section 30) of the Harbors and Navigation Code, the sum of six  
37 million six hundred thousand dollars (\$6,600,000) per annum,  
38 representing the amount of money in the Motor Vehicle Fuel  
39 Account attributable to taxes imposed on distributions of motor  
40 vehicle fuel used or usable in propelling vessels. The actual amount

1 shall be calculated using the annual reports of registered boats  
2 prepared by the Department of Motor Vehicles for the United  
3 States Coast Guard and the formula and method of the December  
4 1972 report prepared for this purpose and submitted to the  
5 Legislature on December 26, 1972, by the Director of  
6 Transportation. If the amount transferred during each fiscal year  
7 is in excess of the calculated amount, the excess shall be  
8 retransferred from the Harbors and Watercraft Revolving Fund to  
9 the Motor Vehicle Fuel Account. If the amount transferred is less  
10 than the amount calculated, the difference shall be transferred from  
11 the Motor Vehicle Fuel Account to the Harbors and Watercraft  
12 Revolving Fund. No adjustment shall be made if the computed  
13 difference is less than fifty thousand dollars (\$50,000), and the  
14 amount shall be adjusted to reflect any temporary or permanent  
15 increase or decrease that may be made in the rate under the Motor  
16 Vehicle Fuel Tax Law. Payments pursuant to this section shall be  
17 made prior to payments pursuant to Section 8352.2.

18 (b) Commencing July 1, ~~2012~~, 2017, the revenues attributable  
19 to the taxes imposed pursuant to subdivision (b) of Section 7360  
20 and Section 7361.1 and otherwise to be deposited in the Harbors  
21 and Watercraft Revolving Fund pursuant to subdivision (a) shall  
22 instead be transferred to the ~~General Fund~~. ~~The revenues~~  
23 ~~attributable to the taxes imposed~~ *Highway Users Tax Account for*  
24 *distribution* pursuant to subdivision (b) of Section 7360 and Section  
25 7361.1 that were deposited in 2103.1 of the Harbors Streets and  
26 Watercraft Revolving Fund in the 2010-11 and 2011-12 fiscal  
27 years shall be transferred to the ~~General Fund~~. *Highways Code*.

28 SEC. 20. Section 8352.5 of the Revenue and Taxation Code  
29 is amended to read:

30 8352.5. (a) (1) Subject to Sections 8352 and 8352.1, and  
31 except as otherwise provided in subdivision (b), there shall be  
32 transferred from the money deposited to the credit of the Motor  
33 Vehicle Fuel Account to the Department of Food and Agriculture  
34 Fund, during the second quarter of each fiscal year, an amount  
35 equal to the estimate contained in the most recent report prepared  
36 pursuant to this section.

37 (2) The amounts are not subject to Section 6357 with respect  
38 to the collection of sales and use taxes thereon, and represent the  
39 portion of receipts in the Motor Vehicle Fuel Account during a  
40 calendar year that were attributable to agricultural off-highway

1 use of motor vehicle fuel which is subject to refund pursuant to  
2 Section 8101, less gross refunds allowed by the Controller during  
3 the fiscal year ending June ~~30th~~ 30 following the calendar year to  
4 persons entitled to refunds for agricultural off-highway use  
5 pursuant to Section 8101. Payments pursuant to this section shall  
6 be made prior to payments pursuant to Section 8352.2.

7 (b) Commencing July 1, ~~2012~~, 2017, the revenues attributable  
8 to the taxes imposed pursuant to subdivision (b) of Section 7360  
9 and Section 7361.1 and otherwise to be deposited in the  
10 Department of Food and Agriculture Fund pursuant to subdivision  
11 (a) shall instead be transferred to the General Fund. The revenues  
12 attributable to the taxes imposed *Highway Users Tax Account for*  
13 *distribution* pursuant to subdivision (b) of Section 7360 and Section  
14 7361.1 that were deposited in the Department 2103.1 of Food and  
15 Agriculture Fund in the 2010-11 *Streets* and 2011-12 fiscal years  
16 shall be transferred to the General Fund. *Highways Code*.

17 (c) On or before September 30, 2012, and on or before  
18 September 30 of each even-numbered year thereafter, the Director  
19 of Transportation and the Director of Food and Agriculture shall  
20 jointly prepare, or cause to be prepared, a report setting forth the  
21 current estimate of the amount of money in the Motor Vehicle  
22 Fuel Account attributable to agricultural off-highway use of motor  
23 vehicle fuel, which is subject to refund pursuant to Section 8101  
24 less gross refunds allowed by the Controller to persons entitled to  
25 refunds for agricultural off-highway use pursuant to Section 8101;  
26 and they shall submit a copy of the report to the Legislature.

27 SEC. 21. Section 8352.6 of the Revenue and Taxation Code  
28 is amended to read:

29 8352.6. (a) (1) Subject to Section 8352.1, and except as  
30 otherwise provided in paragraphs (2) and (3), on the first day of  
31 every month, there shall be transferred from moneys deposited to  
32 the credit of the Motor Vehicle Fuel Account to the Off-Highway  
33 Vehicle Trust Fund created by Section 38225 of the Vehicle Code  
34 an amount attributable to taxes imposed upon distributions of motor  
35 vehicle fuel used in the operation of motor vehicles off highway  
36 and for which a refund has not been claimed. Transfers made  
37 pursuant to this section shall be made prior to transfers pursuant  
38 to Section 8352.2.

39 (2) Commencing July 1, ~~2012~~, 2017, the revenues attributable  
40 to the taxes imposed pursuant to subdivision (b) of Section 7360

1 and Section 7361.1 and otherwise to be deposited in the  
2 Off-Highway Vehicle Trust Fund pursuant to paragraph (1) shall  
3 instead be transferred to the ~~General Fund~~. The revenues  
4 ~~attributable to the taxes imposed~~ *Highway Users Tax Account for*  
5 *distribution* pursuant to ~~subdivision (b) of Section 7360 and Section~~  
6 ~~7361.1 that were deposited in 2103.1 of the Off-Highway Vehicle~~  
7 ~~Trust Fund in the 2010–11 Streets and 2011–12 fiscal years shall~~  
8 ~~be transferred to the General Fund.~~ *Highways Code.*

9 (3) The Controller shall withhold eight hundred thirty-three  
10 thousand dollars (\$833,000) from the monthly transfer to the  
11 Off-Highway Vehicle Trust Fund pursuant to paragraph (1), and  
12 transfer that amount to the General Fund.

13 (b) The amount transferred to the Off-Highway Vehicle Trust  
14 Fund pursuant to paragraph (1) of subdivision (a), as a percentage  
15 of the Motor Vehicle Fuel Account, shall be equal to the percentage  
16 transferred in the 2006–07 fiscal year. Every five years, starting  
17 in the 2013–14 fiscal year, the percentage transferred may be  
18 adjusted by the Department of Transportation in cooperation with  
19 the Department of Parks and Recreation and the Department of  
20 Motor Vehicles. Adjustments shall be based on, but not limited  
21 to, the changes in the following factors since the 2006–07 fiscal  
22 year or the last adjustment, whichever is more recent:

23 (1) The number of vehicles registered as off-highway motor  
24 vehicles as required by Division 16.5 (commencing with Section  
25 38000) of the Vehicle Code.

26 (2) The number of registered street-legal vehicles that are  
27 anticipated to be used off highway, including four-wheel drive  
28 vehicles, all-wheel drive vehicles, and dual-sport motorcycles.

29 (3) Attendance at the state vehicular recreation areas.

30 (4) Off-highway recreation use on federal lands as indicated by  
31 the United States Forest Service's National Visitor Use Monitoring  
32 and the United States Bureau of Land Management's Recreation  
33 Management Information System.

34 (c) It is the intent of the Legislature that transfers from the Motor  
35 Vehicle Fuel Account to the Off-Highway Vehicle Trust Fund  
36 should reflect the full range of motorized vehicle use off highway  
37 for both motorized recreation and motorized off-road access to  
38 other recreation opportunities. Therefore, the Legislature finds that  
39 the fuel tax baseline established in subdivision (b), attributable to  
40 off-highway estimates of use as of the 2006–07 fiscal year,

1 accounts for the three categories of vehicles that have been found  
2 over the years to be users of fuel for off-highway motorized  
3 recreation or motorized access to nonmotorized recreational  
4 pursuits. These three categories are registered off-highway  
5 motorized vehicles, registered street-legal motorized vehicles used  
6 off highway, and unregistered off-highway motorized vehicles.

7 (d) It is the intent of the Legislature that the off-highway motor  
8 vehicle recreational use to be determined by the Department of  
9 Transportation pursuant to paragraph (2) of subdivision (b) be that  
10 usage by vehicles subject to registration under Division 3  
11 (commencing with Section 4000) of the Vehicle Code, for  
12 recreation or the pursuit of recreation on surfaces where the use  
13 of vehicles registered under Division 16.5 (commencing with  
14 Section 38000) of the Vehicle Code may occur.

15 (e) In the 2014–15 fiscal year, the Department of Transportation,  
16 in consultation with the Department of Parks and Recreation and  
17 the Department of Motor Vehicles, shall undertake a study to  
18 determine the appropriate adjustment to the amount transferred  
19 pursuant to subdivision (b) and to update the estimate of the amount  
20 attributable to taxes imposed upon distributions of motor vehicle  
21 fuel used in the operation of motor vehicles off highway and for  
22 which a refund has not been claimed. The department shall provide  
23 a copy of this study to the Legislature no later than January 1,  
24 2016.

25 SEC. 22. Section 60050 of the Revenue and Taxation Code is  
26 amended to read:

27 60050. (a) (1) A tax of ~~eighteen~~ *thirteen* cents (~~\$0.18~~) (*\$0.13*)  
28 is hereby imposed upon each gallon of diesel fuel subject to the  
29 tax in Sections 60051, 60052, and 60058.

30 (2) If the federal fuel tax is reduced below the rate of fifteen  
31 cents (\$0.15) per gallon and federal financial allocations to this  
32 state for highway and exclusive public mass transit guideway  
33 purposes are reduced or eliminated correspondingly, the tax rate  
34 imposed by paragraph (1), ~~including any reduction or adjustment~~  
35 ~~pursuant to subdivision (b), on and after the date of the reduction,~~  
36 (1) shall be increased by an amount so that the combined state rate  
37 under paragraph (1) and the federal tax rate per gallon equal what  
38 it would have been in the absence of the federal reduction.



1 (3) If any person or entity is exempt or partially exempt from  
2 the federal fuel tax at the time of a reduction, the person or entity  
3 shall continue to be exempt under this section.

4 ~~(b) (1) On July 1, 2011, the tax rate specified in paragraph (1)~~  
5 ~~of subdivision (a) shall be reduced to thirteen cents (\$0.13) and~~  
6 ~~every July 1 thereafter shall be adjusted pursuant to paragraphs~~  
7 ~~(2) and (3):~~

8 ~~(2) For the 2012–13 fiscal year and each fiscal year thereafter,~~  
9 ~~the board shall, on or before March 1 of the fiscal year immediately~~  
10 ~~preceding the applicable fiscal year, adjust the rate reduction in~~  
11 ~~paragraph (1) in that manner as to result in a revenue loss~~  
12 ~~attributable to paragraph (1) that will equal the amount of revenue~~  
13 ~~gain attributable to Sections 6051.8 and 6201.8, based on estimates~~  
14 ~~made by the board, and that rate shall be effective during the state's~~  
15 ~~next fiscal year.~~

16 ~~(3) In order to maintain revenue neutrality for each year,~~  
17 ~~beginning with the rate adjustment on or before March 1, 2013,~~  
18 ~~the adjustment under paragraph (2) shall take into account the~~  
19 ~~extent to which the actual amount of revenues derived pursuant to~~  
20 ~~Sections 6051.8 and 6201.8 and the revenue loss attributable to~~  
21 ~~this subdivision resulted in a net revenue gain or loss for the fiscal~~  
22 ~~year ending prior to the rate adjustment date on or before March~~  
23 ~~1.~~

24 ~~(4) The intent of paragraphs (2) and (3) is to ensure that the act~~  
25 ~~adding this subdivision and Sections 6051.8 and 6201.8 does not~~  
26 ~~produce a net revenue gain in state taxes.~~

27 ~~(b) In addition to the tax imposed pursuant to subdivision (a),~~  
28 ~~on and after the first day of the first calendar quarter that occurs~~  
29 ~~120 days after the effective date of the act amending this~~  
30 ~~subdivision in the 2017–18 Regular Session, an additional tax of~~  
31 ~~twenty cents (\$0.20) is hereby imposed upon each gallon of diesel~~  
32 ~~fuel subject to the tax in Sections 60051, 60052, and 60058.~~

33 ~~(c) Beginning July 1, 2019, and every third year thereafter, the~~  
34 ~~State Board of Equalization shall recompute the rates of the taxes~~  
35 ~~imposed by this section. That computation shall be made as~~  
36 ~~follows:~~

37 ~~(1) The Department of Finance shall transmit to the State Board~~  
38 ~~of Equalization the percentage change in the California Consumer~~  
39 ~~Price Index for all items from November of three calendar years~~

1 prior to November of the prior calendar year, no later than January  
2 31, 2019, and January 31 of every third year thereafter.

3 (2) The State Board of Equalization shall do all of the following:

4 (A) Compute an inflation adjustment factor by adding 100  
5 percent to the percentage change figure that is furnished pursuant  
6 to paragraph (1) and dividing the result by 100.

7 (B) Multiply the preceding tax rate per gallon by the inflation  
8 adjustment factor determined in subparagraph (A) and round off  
9 the resulting product to the nearest tenth of a cent.

10 (C) Make its determination of the new rate no later than March  
11 1 of the same year as the effective date of the new rate.

12 SEC. 23. Section 183.1 of the Streets and Highways Code is  
13 amended to read:

14 183.1. ~~(a) Notwithstanding subdivision (a) of Except as~~  
15 ~~otherwise provided in Section 182 or any other provision 54237.7~~  
16 ~~of law, the Government Code, money deposited into the account~~  
17 ~~that is not subject to Article XIX of the California Constitution,~~  
18 ~~including, but not limited to, money that is derived from the sale~~  
19 ~~of documents, charges for miscellaneous services to the public,~~  
20 ~~condemnation deposits fund investments, rental of state property,~~  
21 ~~or any other miscellaneous uses of property or money, may shall~~  
22 ~~be used for any transportation purpose authorized by statute, upon~~  
23 ~~appropriation by deposited in the Legislature or, after transfer Road~~  
24 ~~Maintenance and Rehabilitation Account created pursuant to~~  
25 ~~another fund, upon appropriation by the Legislature from that fund.~~  
26 ~~Section 2031.~~

27 ~~(b) Commencing with the 2013–14 fiscal year, and not later~~  
28 ~~than November 1 of each fiscal year thereafter, based on prior year~~  
29 ~~financial statements, the Controller shall transfer the funds~~  
30 ~~identified in subdivision (a) for the prior fiscal year from the State~~  
31 ~~Highway Account to the Transportation Debt Service Fund in the~~  
32 ~~State Transportation Fund, and those funds are continuously~~  
33 ~~appropriated for the purposes specified for the Transportation Debt~~  
34 ~~Service Fund.~~

35 SEC. 24. Section 820.1 is added to the Streets and Highways  
36 Code, to read:

37 820.1. (a) The State of California consents to the jurisdiction  
38 of the federal courts with regard to the compliance, discharge, or  
39 enforcement of the responsibilities assumed by the department

1 pursuant to Sections 326 and 327(a) of Title 23 of the United States  
2 Code.

3 (b) In any action brought pursuant to the federal laws described  
4 in subdivision (a), no immunity from suit may be asserted by the  
5 department pursuant to the Eleventh Amendment to the United  
6 States Constitution, and any immunity is hereby waived.

7 (c) The department shall not delegate any of its responsibilities  
8 assumed pursuant to the federal laws described in subdivision (a)  
9 to any political subdivision of the state or its instrumentalities.

10 (d) Nothing in this section affects the obligation of the  
11 department to comply with state and federal law.

12 SEC. 25. Chapter 2 (commencing with Section 2030) is added  
13 to Division 3 of the Streets and Highways Code, to read:

14  
15 CHAPTER 2. ROAD MAINTENANCE AND REHABILITATION  
16 PROGRAM  
17

18 2030. (a) The Road Maintenance and Rehabilitation Program  
19 is hereby created to address deferred maintenance on the state  
20 highway system and the local street and road system. Funds made  
21 available by the program shall be prioritized for expenditure on  
22 basic road maintenance and road rehabilitation projects, and on  
23 critical safety projects. For funds appropriated pursuant to  
24 paragraph (1) of subdivision (d) of Section 2032, the California  
25 Transportation Commission shall adopt performance criteria,  
26 consistent with the asset management plan required pursuant to  
27 14526.4 of the Government Code, to ensure efficient use of the  
28 funds available for these purposes in the program.

29 (b) (1) Funds made available by the program shall be used for  
30 projects that include, but are not limited to, the following:

31 (A) Road maintenance and rehabilitation.

32 (B) Safety projects.

33 (C) Railroad grade separations.

34 (D) Complete street components, including active transportation  
35 purposes, pedestrian and bicycle safety projects, transit facilities,  
36 and drainage and stormwater capture projects in conjunction with  
37 any other allowable project.

38 (E) Traffic control devices.

1 (2) Funds made available by the program may also be used to  
2 satisfy a match requirement in order to obtain state or federal funds  
3 for projects authorized by this subdivision.

4 2031. The following revenues shall be deposited in the Road  
5 Maintenance and Rehabilitation Account, which is hereby created  
6 in the State Transportation Fund:

7 (a) The portion of the revenues in the Highway Users Tax  
8 Account attributable to the increase in the motor vehicle fuel excise  
9 tax pursuant to subparagraph (B) of paragraph (1) of subdivision  
10 (a) of Section 7360 of the Revenue and Taxation Code, as adjusted  
11 pursuant to subdivision (c) of that section.

12 (b) The revenues from the increase in the vehicle registration  
13 fee pursuant to Section 9250.3 of the Vehicle Code, as adjusted  
14 pursuant to subdivision (b) of that section.

15 (c) The revenues from the increase in the vehicle registration  
16 fee pursuant to Section 9250.6 of the Vehicle Code, as adjusted  
17 pursuant to subdivision (b) of that section.

18 (d) The revenues deposited in the account pursuant to Section  
19 183.1 of the Streets and Highways Code.

20 (e) Any other revenues designated for the program.

21 2031.5. Each fiscal year the annual Budget Act shall contain  
22 an appropriation from the Road Maintenance and Rehabilitation  
23 Account to the Controller for the costs of carrying out his or her  
24 duties pursuant to this chapter and to the California Transportation  
25 Commission for the costs of carrying out its duties pursuant to this  
26 chapter and Section 14526.7 of the Government Code.

27 2032. (a) (1) After deducting the amounts appropriated in the  
28 annual Budget Act, as provided in Section 2031.5, two hundred  
29 million dollars (\$200,000,000) of the remaining revenues deposited  
30 in the Road Maintenance and Rehabilitation Account shall be set  
31 aside annually for counties that have sought and received voter  
32 approval of taxes or that have imposed fees, including uniform  
33 developer fees as defined by subdivision (b) of Section 8879.67  
34 of the Government Code, which taxes or fees are dedicated solely  
35 to transportation improvements. The Controller shall each month  
36 set aside one-twelfth of this amount, to accumulate a total of two  
37 hundred million dollars (\$200,000,000) in each fiscal year.

38 (2) Notwithstanding Section 13340 of the Government Code,  
39 the funds available under this subdivision in each fiscal year are  
40 hereby continuously appropriated for allocation to each eligible

1 county and each city in the county for road maintenance and  
2 rehabilitation purposes pursuant to Section 2033.

3 (b) (1) After deducting the amounts appropriated in the annual  
4 Budget Act pursuant to Section 2031.5 and the amount allocated  
5 in subdivision (a), beginning in the 2017–18 fiscal year, eighty  
6 million dollars (\$80,000,000) of the remaining revenues shall be  
7 transferred annually to the State Highway Account for expenditure,  
8 upon appropriation by the Legislature, on the Active Transportation  
9 Program created pursuant to Chapter 8 (commencing with Section  
10 2380) of Division 3 to be allocated by the California Transportation  
11 Commission pursuant to Section 2381.

12 (2) In addition to the funds transferred in paragraph (1), the  
13 department shall annually identify savings achieved through  
14 efficiencies implemented at the department. The department,  
15 through the annual budget process, shall propose, from the  
16 identified savings, an appropriation to be included in the annual  
17 Budget Act of up to seventy million dollars (\$70,000,000), but not  
18 to exceed the total annual identified savings, from the State  
19 Highway Account for expenditure on the Active Transportation  
20 Program.

21 (c) After deducting the amounts appropriated in the annual  
22 Budget Act pursuant to Section 2031.5, the amount allocated in  
23 subdivision (a) and the amount transferred in paragraph (1) of  
24 subdivision (b), in the 2017–18, 2018–19, 2019–20, and 2020–21  
25 fiscal years, the sum of thirty million dollars (\$30,000,000) in each  
26 fiscal year from the remaining revenues shall be transferred to the  
27 Advance Mitigation Fund in the State Transportation Fund created  
28 pursuant to Section 21207 of the Public Resources Code.

29 (d) After deducting the amounts appropriated in the annual  
30 Budget Act pursuant to Section 2031.5, the amount allocated in  
31 subdivision (a), and the amounts transferred in paragraph (1) of  
32 subdivision (b) and in subdivision (c), beginning in the 2017–18  
33 fiscal year and each fiscal year thereafter, and notwithstanding  
34 Section 13340 of the Government Code, there is hereby  
35 continuously appropriated to the California State University the  
36 sum of two million dollars (\$2,000,000) from the remaining  
37 revenues for the purpose of conducting transportation research and  
38 transportation-related workforce education, training, and  
39 development, and to the institutes for transportation studies at the  
40 University of California the sum of three million dollars

1 (\$3,000,000). Prior to the start of each fiscal year, the chairs of the  
2 Assembly Committee on Transportation and the Senate Committee  
3 on Transportation and Housing shall confer and set out a  
4 recommended priority list of research components to be addressed  
5 in the upcoming fiscal year.

6 (e) Notwithstanding Section 13340 of the Government Code,  
7 the balance of the revenues deposited in the Road Maintenance  
8 and Rehabilitation Account are hereby continuously appropriated  
9 as follows:

10 (1) Fifty percent for allocation to the department for maintenance  
11 of the state highway system or for purposes of the state highway  
12 operation and protection program.

13 (2) Fifty percent for apportionment to cities and counties by the  
14 Controller pursuant to the formula in clauses (i) and (ii) of  
15 subparagraph (C) of paragraph (3) of subdivision (a) of Section  
16 2103 for the purposes authorized by this chapter.

17 2033. (a) On or before July 1, 2017, the commission, in  
18 cooperation with the department, transportation planning agencies,  
19 county transportation commissions, and other local agencies, shall  
20 develop guidelines for the allocation of funds pursuant to  
21 subdivision (a) of Section 2032.

22 (b) The guidelines shall be the complete and full statement of  
23 the policy, standards, and criteria that the commission intends to  
24 use to determine how these funds will be allocated.

25 (c) The commission may amend the adopted guidelines after  
26 conducting at least one public hearing.

27 2034. (a) (1) Prior to receiving an apportionment of funds  
28 under the program pursuant to paragraph (2) of subdivision (e) of  
29 Section 2032 from the Controller in a fiscal year, an eligible city  
30 or county shall submit to the commission a list of projects proposed  
31 to be funded with these funds pursuant to an adopted city or county  
32 budget. All projects proposed to receive funding shall be included  
33 in a city or county budget that is adopted by the applicable city  
34 council or county board of supervisors at a regular public meeting.  
35 The list of projects proposed to be funded with these funds shall  
36 include a description and the location of each proposed project, a  
37 proposed schedule for the project's completion, and the estimated  
38 useful life of the improvement. The project list shall not limit the  
39 flexibility of an eligible city or county to fund projects in

1 accordance with local needs and priorities so long as the projects  
2 are consistent with subdivision (b) of Section 2030.

3 (2) The commission shall report to the Controller the cities and  
4 counties that have submitted a list of projects as described in this  
5 subdivision and that are therefore eligible to receive an  
6 apportionment of funds under the program for the applicable fiscal  
7 year. The Controller, upon receipt of the report, shall apportion  
8 funds to eligible cities and counties.

9 (b) For each fiscal year, each city or county receiving an  
10 apportionment of funds shall, upon expending program funds,  
11 submit documentation to the commission that includes a description  
12 and location of each completed project, the amount of funds  
13 expended on the project, the completion date, and the estimated  
14 useful life of the improvement.

15 2036. (a) Cities and counties shall maintain their existing  
16 commitment of local funds for street, road, and highway purposes  
17 in order to remain eligible for an allocation or apportionment of  
18 funds pursuant to Section 2032.

19 (b) In order to receive an allocation or apportionment pursuant  
20 to Section 2032, the city or county shall annually expend from its  
21 general fund for street, road, and highway purposes an amount not  
22 less than the annual average of its expenditures from its general  
23 fund during the 2009–10, 2010–11, and 2011–12 fiscal years, as  
24 reported to the Controller pursuant to Section 2151. For purposes  
25 of this subdivision, in calculating a city’s or county’s annual  
26 general fund expenditures and its average general fund expenditures  
27 for the 2009–10, 2010–11, and 2011–12 fiscal years, any  
28 unrestricted funds that the city or county may expend at its  
29 discretion, including vehicle in-lieu tax revenues and revenues  
30 from fines and forfeitures, expended for street, road, and highway  
31 purposes shall be considered expenditures from the general fund.  
32 One-time allocations that have been expended for street and  
33 highway purposes, but which may not be available on an ongoing  
34 basis, including revenue provided under the Teeter Plan Bond Law  
35 of 1994 (Chapter 6.6 (commencing with Section 54773) of Part 1  
36 of Division 2 of Title 5 of the Government Code), may not be  
37 considered when calculating a city’s or county’s annual general  
38 fund expenditures.

39 (c) For any city incorporated after July 1, 2009, the Controller  
40 shall calculate an annual average expenditure for the period

1 between July 1, 2009, and December 31, 2015, inclusive, that the  
2 city was incorporated.

3 (d) For purposes of subdivision (b), the Controller may request  
4 fiscal data from cities and counties in addition to data provided  
5 pursuant to Section 2151, for the 2009–10, 2010–11, and 2011–12  
6 fiscal years. Each city and county shall furnish the data to the  
7 Controller not later than 120 days after receiving the request. The  
8 Controller may withhold payment to cities and counties that do  
9 not comply with the request for information or that provide  
10 incomplete data.

11 (e) The Controller may perform audits to ensure compliance  
12 with subdivision (b) when deemed necessary. Any city or county  
13 that has not complied with subdivision (b) shall reimburse the state  
14 for the funds it received during that fiscal year. Any funds withheld  
15 or returned as a result of a failure to comply with subdivision (b)  
16 shall be reapportioned to the other cities and counties whose  
17 expenditures are in compliance.

18 (f) If a city or county fails to comply with the requirements of  
19 subdivision (b) in a particular fiscal year, the city or county may  
20 expend during that fiscal year and the following fiscal year a total  
21 amount that is not less than the total amount required to be  
22 expended for those fiscal years for purposes of complying with  
23 subdivision (b).

24 2037. A city or county may spend its apportionment of funds  
25 under the program on transportation priorities other than those  
26 allowable pursuant to this chapter if the city's or county's average  
27 Pavement Condition Index meets or exceeds 80.

28 2038. (a) The department and local agencies, as a condition  
29 of receiving funds from the program, shall adopt and implement  
30 a program designed to promote and advance construction  
31 employment and training opportunities through preapprenticeship  
32 opportunities, either by the public agency itself or through  
33 contractors engaged by the public agencies to do work funded in  
34 whole or in part by funds made available by the program.

35 (b) The department and local agencies, as a condition of  
36 receiving funds from the program, shall ensure the involvement  
37 of the California Conservation Corps and certified community  
38 conservation corps in the delivery of projects and services funded  
39 in whole or in part by funds made available by the program.



1 SEC. 26. Section 2103.1 is added to the Streets and Highways  
2 Code, to read:

3 2103.1. (a) Notwithstanding Section 2103, the revenues  
4 transferred to the Highway Users Tax Account pursuant to Sections  
5 8352.4, 8352.5, and 8352.6 of the Revenue and Taxation Code  
6 shall be distributed pursuant to the formula in paragraph (3) of  
7 subdivision (a) of Section 2103.

8 (b) Notwithstanding subdivision (b) of Section 2103, the portion  
9 of revenues in the Highway Users Tax Account attributable to the  
10 increase in the motor vehicle fuel excise tax pursuant to  
11 subparagraph (B) of paragraph (1) of subdivision (a) of Section  
12 7360 of the Revenue and Taxation Code, as adjusted pursuant to  
13 subdivision (c) of that section, shall be transferred to the Road  
14 Maintenance and Rehabilitation Account pursuant to Section 2031.

15 (c) Notwithstanding subdivision (b) of Section 2103, the portion  
16 of revenues in the Highway Users Tax Account attributable to the  
17 increase in the diesel fuel excise tax pursuant to subdivision (b)  
18 of Section 60050 of the Revenue and Taxation Code, as adjusted  
19 pursuant to subdivision (c) of that section, shall be transferred to  
20 the Trade Corridors Improvement Fund pursuant to Section 2192.4.

21 SEC. 27. Section 2192 of the Streets and Highways Code is  
22 amended to read:

23 2192. (a) (1) The Trade Corridors Improvement Fund, created  
24 pursuant to subdivision (c) of Section 8879.23 of the Government  
25 Code, is hereby continued in existence to receive revenues from  
26 state sources other than the Highway Safety, Traffic Reduction,  
27 Air Quality, and Port Security Bond Act of 2006. ~~This chapter  
28 shall govern expenditure of those other revenues.~~

29 (2) *Revenues apportioned to the state under Section 167 of Title  
30 23 of the United States Code from the national highway freight  
31 program, pursuant to the federal Fixing America's Surface  
32 Transportation Act ("FAST Act," Public Law 114-94) shall be  
33 allocated for projects approved pursuant to this chapter.*

34 (b) *This chapter shall govern the expenditure of those state and  
35 federal revenues described in subdivision (a).*

36 (b)

37 (c) ~~The moneys funding described in the fund from those other  
38 sources subdivision (a) shall be available upon appropriation for  
39 allocation by the California Transportation Commission for  
40 infrastructure improvements in this state on federally designated~~

1 Trade Corridors of National and Regional Significance, on the  
2 Primary Freight Network, and along other corridors that have a  
3 high volume of freight movement, as determined by the  
4 commission. In determining the projects eligible for funding, the  
5 commission shall consult the Transportation Agency's state freight  
6 plan as described in Section 13978.8 of the Government Code, the  
7 ~~State Air Resources Board's Sustainable Freight Strategy adopted~~  
8 ~~by Resolution 14-2, Code~~ and the trade infrastructure and goods  
9 ~~movement plan submitted to the commission by the Secretary of~~  
10 ~~Transportation and the Secretary for Environmental Protection.~~  
11 *California Sustainable Freight Action Plan released in July 2016*  
12 *pursuant to Executive Order B-32-15.* The commission shall also  
13 consult trade infrastructure and goods movement plans adopted  
14 by regional transportation planning agencies, adopted regional  
15 transportation plans required by state and federal law, and the  
16 *statewide applicable* port master plan prepared by the California  
17 ~~Marine and Intermodal Transportation System Advisory Council~~  
18 ~~(Cal-MITSAC) pursuant to Section 1730 of the Harbors and~~  
19 ~~Navigation Code;~~ when determining eligible projects for funding.  
20 Eligible projects for ~~these funds~~ *funding described in subdivision*  
21 *(a) shall further the state's economic, environmental, and public*  
22 *health objectives and goals for freight policy, as articulated in the*  
23 *plans to be consulted pursuant to this subdivision, and may include,*  
24 but are not limited to, all of the following:

25 (1) Highway capacity *improvements, rail landside access*  
26 *improvements, landside freight access improvements to airports,*  
27 and operational improvements to more efficiently accommodate  
28 the movement of freight, particularly for ingress and egress to and  
29 from the state's land ports of ~~entry~~ *entry, rail terminals,* and  
30 seaports, including navigable inland waterways used to transport  
31 freight between seaports, land ports of entry, and airports, and to  
32 relieve traffic congestion along major trade or goods movement  
33 corridors.

34 (2) Freight rail system improvements to enhance the ability to  
35 move goods from seaports, land ports of entry, and airports to  
36 warehousing and distribution centers throughout California,  
37 including projects that separate rail lines from highway or local  
38 road traffic, improve freight rail mobility through mountainous  
39 regions, relocate rail switching yards, and other projects that  
40 improve the efficiency and capacity of the rail freight system.

1 (3) Projects to enhance the capacity and efficiency of ports.

2 (4) Truck corridor *and capital and operational* improvements,  
3 including dedicated truck facilities or truck toll facilities.

4 (5) Border ~~access~~ *capital and operational* improvements that  
5 enhance goods movement between California and Mexico and that  
6 maximize the state's ability to access ~~coordinated border~~  
7 ~~infrastructure~~ funds made available to the state by federal law.

8 (6) Surface transportation and connector road improvements to  
9 effectively facilitate the movement of goods, particularly for  
10 ingress and egress to and from the state's land ports of entry,  
11 airports, and seaports, to relieve traffic congestion along major  
12 trade or goods movement corridors.

13 (e)

14 (d) (1) ~~The~~ *In selecting projects for inclusion in the program*  
15 *of projects to be funded with funds described in subdivision (a),*  
16 *the commission shall ~~allocate funds for trade infrastructure~~*  
17 *improvements from the fund evaluate the total potential costs and*  
18 *total potential economic and noneconomic benefits of the program*  
19 *to California's economy, environment, and public health. The*  
20 *commission shall consult with the State Air Resources Board in*  
21 *order to utilize the appropriate models, techniques, and methods*  
22 *to develop the parameters for evaluation of projects. The*  
23 *commission shall allocate the funding described in subdivision (a)*  
24 *for trade infrastructure improvements consistent with Section*  
25 *8879.52 of the Government Code and the Trade Corridors*  
26 *Improvement Fund (TCIF) Guidelines adopted by the commission*  
27 *on November 27, 2007, or as amended by the commission, and in*  
28 *a manner that (A) addresses the state's most urgent needs, (B)*  
29 *balances the demands of various land ports of entry, seaports, and*  
30 *airports, (C) provides reasonable geographic balance between the*  
31 *state's regions, and (D) places emphasis on projects that improve*  
32 *trade corridor mobility and safety while reducing emissions of*  
33 *diesel-particulate particulates, greenhouse gases, and other*  
34 *pollutant emissions. pollutants, and reducing other negative*  
35 *community impacts, and (E) makes a significant contribution to*  
36 *the state's economy.*

37 (2) *In adopting amended guidelines, and developing and*  
38 *adopting the program of projects, the commission shall do all of*  
39 *the following:*

1 (A) Accept nominations for projects to be included in the  
2 program of projects from regional and local transportation  
3 agencies and the Department of Transportation.

4 (B) Recognize the key role of the state in project identification  
5 and support integrating statewide goods movement priorities into  
6 the corridor approach.

7 (C) Make a finding that adoption and delivery of the program  
8 of projects is in the public interest.

9 (2)

10 (3) In addition, the commission shall also consider the following  
11 factors when allocating these funds:

12 (A) "Velocity," which means the speed by which large cargo  
13 would travel from the land port of entry or seaport through the  
14 distribution system.

15 (B) "Throughput," which means the volume of cargo that would  
16 move from the land port of entry or seaport through the distribution  
17 system.

18 (C) "Reliability," which means a reasonably consistent and  
19 predictable amount of time for cargo to travel from one point to  
20 another on any given day or at any given time in California.

21 (D) "Congestion reduction," which means the reduction in  
22 recurrent daily hours of delay to be achieved.

23 SEC. 28. Section 2192.1 of the Streets and Highways Code is  
24 amended to read:

25 2192.1. (a) To the extent moneys from the Greenhouse Gas  
26 Reduction Fund, attributable to the auction or sale of allowances  
27 as part of a market-based compliance mechanism relative to  
28 reduction of greenhouse gas emissions, are transferred to the Trade  
29 Corridors Improvement Fund, projects funded with those moneys  
30 shall be subject to all of the requirements of existing law applicable  
31 to the expenditure of moneys appropriated from the Greenhouse  
32 Gas Reduction Fund, including, but not limited to, ~~both~~ all of the  
33 following:

34 (1) Projects shall further the regulatory purposes of the  
35 California Global Warming Solutions Act of 2006 (Division 25.5  
36 (commencing with Section 38500) of the Health and Safety Code),  
37 including reducing emissions from greenhouse gases in the state,  
38 directing public and private investment toward disadvantaged  
39 communities, increasing the diversity of energy sources, or creating  
40 opportunities for businesses, public agencies, nonprofits, and other

1 community institutions to participate in and benefit from statewide  
2 efforts to reduce emissions of greenhouse gases.

3 (2) Projects shall be consistent with the guidance developed by  
4 the State Air Resources Board pursuant to Section 39715 of the  
5 Health and Safety Code.

6 (3) *Projects shall be consistent with the required benefits to*  
7 *disadvantaged communities pursuant to Section 39713 of the*  
8 *Health and Safety Code.*

9 (b) All allocations of funds made by the commission pursuant  
10 to this section shall be made in a manner consistent with the criteria  
11 expressed in Section 39712 of the Health and Safety Code and  
12 with the investment plan developed by the Department of Finance  
13 pursuant to Section 39716 of the Health and Safety Code.

14 (c) *For purposes of this section, "disadvantaged community"*  
15 *means a community with any of the following characteristics:*

16 (1) *An area with a median household income less than 80*  
17 *percent of the statewide median household income based on the*  
18 *most current census tract-level data from the American Community*  
19 *Survey.*

20 (2) *An area identified by the California Environmental*  
21 *Protection Agency pursuant to Section 39711 of the Health and*  
22 *Safety Code.*

23 (3) *An area where at least 75 percent of public school students*  
24 *are eligible to receive free or reduced-price meals under the*  
25 *National School Lunch Program.*

26 SEC. 29. Section 2192.2 of the Streets and Highways Code is  
27 amended to read:

28 2192.2. The commission shall allocate funds made available  
29 by this chapter to projects that have identified and committed  
30 supplemental funding from appropriate local, federal, or private  
31 sources. The commission shall determine the appropriate amount  
32 of supplemental funding each project should have to be eligible  
33 for moneys ~~from the fund~~ based on a project-by-project review  
34 and an assessment of the project's benefit to the state and the  
35 program. ~~Except for border access Funded improvements described~~  
36 ~~in paragraph (5) of subdivision (b) of Section 2192, improvements~~  
37 ~~funded with moneys from the fund~~ shall have supplemental funding  
38 that is at least equal to the amount of the contribution ~~from the~~  
39 ~~fund.~~ *under this chapter.* The commission may give priority for

1 funding to projects with higher levels of committed supplemental  
2 funding.

3 SEC. 30. Section 2192.4 is added to the Streets and Highways  
4 Code, to read:

5 2192.4. The portion of the revenues in the Highway Users Tax  
6 Account attributable to the increase in the diesel fuel excise tax  
7 pursuant to subdivision (b) of Section 60050 of the Revenue and  
8 Taxation Code, as adjusted pursuant to subdivision (c) of that  
9 section, shall be transferred to the Trade Corridors Improvement  
10 Fund.

11 SEC. 31. Section 9250.3 is added to the Vehicle Code, to read:

12 9250.3. (a) In addition to any other fees specified in this code  
13 or the Revenue and Taxation Code, commencing July 1, 2017, a  
14 registration fee of thirty-eight dollars (\$38) shall be paid to the  
15 department for registration or renewal of registration of every  
16 vehicle subject to registration under this code, except those vehicles  
17 that are expressly exempted under this code from payment of  
18 registration fees.

19 (b) Beginning July 1, 2019, and every third year thereafter, the  
20 Department of Motor Vehicles shall adjust the fee imposed under  
21 this section for inflation in an amount equal to the change in the  
22 California Consumer Price Index for the prior three-year period,  
23 as calculated by the Department of Finance, with amounts equal  
24 to or greater than fifty cents (\$0.50) rounded to the next highest  
25 whole dollar.

26 (c) Revenues from the fee, after the deduction of the  
27 department's administrative costs related to this section, shall be  
28 deposited in the Road Maintenance and Rehabilitation Account  
29 created pursuant to Section 2031 of the Streets and Highways  
30 Code.

31 SEC. 32. Section 9250.6 is added to the Vehicle Code, to read:

32 9250.6. (a) In addition to any other fees specified in this code,  
33 or the Revenue and Taxation Code, commencing July 1, 2017, a  
34 registration fee of one hundred and sixty-five dollars (\$165) shall  
35 be paid to the department for registration or renewal of registration  
36 of every zero-emission motor vehicle subject to registration under  
37 this code, except those motor vehicles that are expressly exempted  
38 under this code from payment of registration fees.

39 (b) Beginning July 1, 2019, and every third year thereafter, the  
40 Department of Motor Vehicles shall adjust the fee imposed under

1 this section for inflation in an amount equal to the change in the  
2 California Consumer Price Index for the prior three-year period,  
3 as calculated by the Department of Finance, with amounts equal  
4 to or greater than fifty cents (\$0.50) rounded to the next highest  
5 whole dollar.

6 (c) Revenues from the fee, after deduction of the department's  
7 administrative costs related to this section, shall be deposited in  
8 the Road Maintenance and Rehabilitation Account created pursuant  
9 to Section 2031 of the Streets and Highways Code.

10 (d) This section does not apply to a commercial motor vehicle  
11 subject to Section 9400.1 or to a low-speed vehicle, as defined in  
12 Section 385.5.

13 (e) The registration fee required pursuant to this section does  
14 not apply to the initial registration after the purchase of a new  
15 zero-emission motor vehicle.

16 (f) For purposes of this section, "zero-emission motor vehicle"  
17 means a motor vehicle as described in subdivisions (c) and (d) of  
18 Section 44258 of the Health and Safety Code.

19 SEC. 33. Section 9400.5 is added to the Vehicle Code, to read:

20 9400.5. (a) Notwithstanding Sections 9400.1, 9400.4, and  
21 42205 of this code, Sections 16773 and 16965 of the Government  
22 Code, Section 2103 of the Streets and Highways Code, or any  
23 other law, weight fee revenues shall only be transferred consistent  
24 with the schedule provided in subdivision (b) from the State  
25 Highway Account to the Transportation Debt Service Fund, the  
26 Transportation Bond Direct Payment Account, or any other fund  
27 or account for the purpose of payment of the debt service on  
28 transportation general obligation bonds and shall not be loaned to  
29 the General Fund.

30 (b) (1) The transfer of weight fee revenues, after deduction of  
31 collection costs, from the State Highway Account pursuant to  
32 subdivision (a) shall not exceed:

33 (A) Nine hundred million dollars (\$900,000,000) in the 2017–18  
34 fiscal year.

35 (B) Eight hundred million dollars (\$800,000,000) in the 2018–19  
36 fiscal year.

37 (C) Seven hundred million dollars (\$700,000,000) in the  
38 2019–20 fiscal year.

39 (D) Six hundred million dollars (\$600,000,000) in the 2020–21  
40 fiscal year.

1 (E) Five hundred million dollars (\$500,000,000) in the 2021-22  
2 fiscal year and in every fiscal year thereafter.

3 SEC. 34. This act is an urgency statute necessary for the  
4 immediate preservation of the public peace, health, or safety within  
5 the meaning of Article IV of the Constitution and shall go into  
6 immediate effect. The facts constituting the necessity are:

7 In order to provide additional funding for road maintenance and  
8 rehabilitation purposes as quickly as possible, it is necessary for  
9 this act to take effect immediately.



AMENDED IN ASSEMBLY MAY 2, 2017

AMENDED IN ASSEMBLY APRIL 19, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

**ASSEMBLY BILL**

**No. 205**

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**Introduced by Assembly Member Wood**  
(Coauthor: Senator Hernandez)

January 23, 2017

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An act to amend Section 10951 of, and to add Article 6.3 (commencing with Section 14197) to Chapter 7 of Part 3 of Division 9 of, the Welfare and Institutions Code, relating to Medi-Cal, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 205, as amended, Wood. Medi-Cal: Medi-Cal managed care plans.

(1) Existing law establishes the Medi-Cal program, administered by the State Department of Health Care Services, under which health care services are provided to qualified, low-income persons. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions. Under existing law, one of the methods by which Medi-Cal services are provided is pursuant to contracts with various types of managed care plans. Existing federal regulations, published on May 6, 2016, revise regulations governing Medicaid managed care plans to, among other things, align, where feasible, those rules with those of other major sources of coverage, including coverage through qualified health plans offered through an American Health Benefit Exchange, such as the California Health Benefit Exchange, and promote quality of care and strengthen efforts to reform delivery systems that serve

Medicaid and CHIP beneficiaries. These federal regulations, among other things, authorize an enrollee to request a state fair hearing only after receiving notice that the Medicaid managed care plan is upholding an adverse benefit determination, and requires the enrollee to request a state fair hearing no later than 120 calendar days from the date of the Medicaid managed care plans notice of resolution.

Existing state law establishes hearing procedures for an applicant for or beneficiary of Medi-Cal who is dissatisfied with certain actions regarding health care services and medical assistance to request a hearing from the State Department of Social Services under specified circumstances, and requires a request for a hearing to be filed within 90 days after the order or action complained of.

This bill would implement various provisions in regard to those federal regulations, as amended May 6, 2016, governing Medicaid managed care plans. The bill would authorize a person to request a hearing involving a Medi-Cal managed care plan within 120 calendar days after the order or action complained of, and would exclude a request from the 120-calendar day filing time if there is good cause, as defined, for filing the request beyond the 120-calendar day period.

(2) These federal regulations require a state that contracts with specified Medicaid managed care plans to develop and enforce network adequacy standards and requires each state to ensure that all services covered under the Medicaid state plan are available and accessible to enrollees of specified Medicaid managed care plans in a timely manner. These regulations also require specified Medicaid managed care plans to calculate and report a medical loss ratio (MLR) for the rating period that begins in 2017. If a state elects to mandate a minimum MLR for its Medicaid managed care plans, these regulations require that minimum MLR to be equal to or higher than 85% and authorizes the state to impose a remittance requirement consistent with the minimum standards established in these federal regulations for the failure to meet the minimum ratio standard imposed by the state.

The bill would require the State Department of Health Care Services, in consultation with the Department of Managed Health Care, to develop time and distance standards for specified provider types to ensure medically necessary covered services are accessible to enrollees of Medi-Cal managed care plans, as defined, to develop, for those Medi-Cal managed care plans that cover long-term services and supports (LTSS), time and distance standards for LTSS providers and network adequacy standards other than time and distance standards, and to develop

timeliness standards to ensure that all services are available and accessible to enrollees of Medi-Cal managed care plans in a timely manner, as specified. The bill would require these standards to meet or exceed specified existing standards for timeliness of access to care established by the Department of Managed Health Care or those set forth in existing Medi-Cal managed care plan contracts. The bill would authorize the State Department of Health Care Services, upon the request of a Medi-Cal managed care plan, to allow alternative access standards, including the use of telecommunications technology, if the applying Medi-Cal managed care plan has exhausted all other reasonable options to obtain providers to meet either the time and distance or timely access standards. The bill would require, on at least an annual basis, a Medi-Cal managed care plan, as defined, to demonstrate to the department its compliance with the standards developed under this provision.

The bill would require a Medi-Cal managed care plan, as defined, to comply with the MLR reporting requirements imposed under those federal regulations, and would require a Medi-Cal managed care plan to comply with a minimum 85% MLR and to provide a remittance to the state if the ratio does not meet the minimum ratio of 85% for that reporting year consistent with those federal regulations.

The bill would require the department to adopt regulations by July 1, 2019, and, commencing July 1, 2018, would require the department to provide a status report to the Legislature on a semiannual basis until regulations are adopted.

(3) Existing law requires specified percentages of newly eligible beneficiaries, such as childless adults under 65 years of age, to be assigned to public hospital health systems in an eligible county, if applicable, until the county public hospital health system meets its enrollment target, as defined. Existing law also requires, subject to specified criteria, Medi-Cal managed care plans serving newly eligible beneficiaries to pay county public hospital health systems for providing and making available services to newly eligible beneficiaries of the Medi-Cal managed care plan in amounts that are no less than the cost of providing those services, and requires the capitation rates paid to Medi-Cal managed care plans for newly eligible beneficiaries to be determined based on its obligations to provide supplemental payments to those county public hospital health systems providing services to newly eligible beneficiaries. Existing law requires the department to pay Medi-Cal managed care plans specified rate range increases, and requires those Medi-Cal managed care plans to pay all of the rate range

increases as additional payments to county public hospital health systems, as specified. Existing law authorizes a designated public hospital system or affiliated governmental entity to voluntarily provide intergovernmental transfers to provide support for the nonfederal share of risk-based payments to managed care health plans to enable those plans to compensate designated public hospital systems in an amount to preserve and strengthen the availability and quality of services provided by those hospitals.

These federal regulations generally prohibit states from directing managed care plans' expenditures under a managed care contract. The federal regulations authorize states to direct managed care plans' expenditures for provider payment through the managed care contracts in a manner based on the delivery of services, utilization, and the outcomes and quality of the delivered services.

This bill, commencing with the 2017–18 state fiscal year, would require the department to require each Medi-Cal managed care plan, as defined, to enhance contract services payments to designated public hospital systems, as defined, by a uniform percentage applied uniformly across specified classes of designated public hospital systems in accordance with a prescribed methodology. The bill would require a Medi-Cal managed care plan to annually provide to the department an accounting of the amount paid or payable to a designated public hospital system to demonstrate its compliance with the directed payment requirements. The bill would authorize the department to reduce the default assignment into a Medi-Cal managed care plan by up to 25%, as specified, if the Medi-Cal managed care plan is not in compliance with the directed payment requirements.

The bill, commencing with the 2017–18 state fiscal year, would require the department, in consultation with the designated public hospital systems and each Medi-cal managed care ~~plans~~, *plan*, to establish a program under which a designated public hospital system may earn performance-based quality incentive payments from Medi-Cal managed care plans, as specified, and would require payments to be earned by each designated public hospital system based on its performance in achieving identified targets for quality of care. The bill would require the department to establish uniform performance measures and parameters for the designated public hospital systems to select the applicable measures, and would require these performance measures to advance at least one goal identified in the state's Medicaid quality strategy.

The bill would authorize a designated public hospital system and their affiliated governmental entities, or other public entities, to voluntarily provide the nonfederal share of the portion of the capitation rates associated with the directed payments and for the quality incentive payments through an intergovernmental transfer. The bill would authorize the department to accept these elective funds and, in its discretion, to deposit the transfer in the Medi-Cal Inpatient Payment Adjustment Fund, a continuously appropriated fund, thereby making an appropriation.

The bill would prohibit the department from ~~making~~ *being required to make* any payment to a Medi-Cal managed care plan pursuant to the provisions described in (3) for any state fiscal year in which these provisions are implemented, as specified.

The bill would authorize the department to implement, interpret, or make specific these provisions by means of all-county letters, plan letters, provider bulletins, or other similar instructions without taking regulatory action.

The bill would require these provisions to be implemented only to the extent that any necessary federal approvals are obtained and federal financial participation is available and is not otherwise jeopardized, and would require the department to seek any necessary federal approvals.

Vote: majority. Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. It is the intent of the Legislature to implement  
2 the revisions to federal regulations governing Medicaid managed  
3 care plans at Parts 431, 433, 438, 440, 457, and 495 of Title 42 of  
4 the Code of Federal Regulations, as amended May 6, 2016, as  
5 published in the Federal Register (81 Fed. Reg. 27498).

6 SEC. 2. Section 10951 of the Welfare and Institutions Code is  
7 amended to read:

8 10951. (a) (1) A person is not entitled to a hearing pursuant  
9 to this chapter unless he or she files his or her request for the same  
10 within 90 days after the order or action complained of.

11 (2) Notwithstanding paragraph (1), a person shall be entitled to  
12 a hearing pursuant to this chapter if he or she files the request more  
13 than 90 days after the order or action complained of and there is

1 good cause for filing the request beyond the 90-day period. The  
2 director may determine whether good cause exists.

3 (b) (1) Notwithstanding subdivision (a), a person may request  
4 a hearing pursuant to this chapter involving a Medi-Cal managed  
5 care plan within 120 calendar days after the order or action  
6 complained of.

7 (2) Notwithstanding paragraph (1), a person shall be entitled to  
8 a hearing pursuant to this chapter if he or she files the request more  
9 than 120 calendar days after the order or action complained of and  
10 there is good cause for filing the request beyond the 120-calendar  
11 day period. The director may determine whether good cause exists.

12 (c) For purposes of this section, "good cause" means a  
13 substantial and compelling reason beyond the party's control,  
14 considering the length of the delay, the diligence of the party  
15 making the request, and the potential prejudice to the other party.  
16 The inability of a person to understand an adequate and  
17 language-compliant notice, in and of itself, shall not constitute  
18 good cause. The department shall not grant a request for a hearing  
19 for good cause if the request is filed more than 180 days after the  
20 order or action complained of.

21 (d) This section shall not preclude the application of the  
22 principles of equity jurisdiction as otherwise provided by law.

23 (e) Notwithstanding the Administrative Procedure Act (Chapter  
24 3.5 (commencing with Section 11340) of Part 1 of Division 3 of  
25 Title 2 of the Government Code), the department shall implement  
26 this section through an all-county information notice. The  
27 department may also provide further instructions through training  
28 notes.

29 SEC. 3. Article 6.3 (commencing with Section 14197) is added  
30 to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions  
31 Code, to read:

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#### Article 6.3. Medi-Cal Managed Care Plans

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14197. (a) It is the intent of the Legislature that the department  
implement the time and distance requirements set forth in ~~Section~~  
~~Sections~~ 438.68, 438.206, and 438.207 of Title 42 of the Code of  
Federal Regulations, to ensure that all services are available and  
accessible to enrollees of Medi-Cal managed care plans in a timely  
manner, as those standards were enacted in May 2016.

1 (b) The department, in consultation with the Department of  
2 Managed Health Care, shall develop all of the following:

3 (1) Time and distance standards for the following provider types,  
4 as specified in Section 438.68(b)(1) of Title 42 of the Code of  
5 Federal Regulations, to ensure that medically necessary covered  
6 services are accessible to enrollees of Medi-Cal managed care  
7 plans.

8 (A) Primary care, adult and pediatric.

9 (B) Obstetrics and gynecology.

10 (C) Behavioral health, including mental health and substance  
11 use disorder, adult and pediatric.

12 (D) Specialist, adult and pediatric.

13 (E) Hospital.

14 (F) Pharmacy.

15 (G) Pediatric dental.

16 (H) Additional provider types when it promotes the objectives  
17 of the Medicaid program, as determined by the federal Centers for  
18 Medicare and Medicaid Services, for the provider type to be subject  
19 to time and distance access standards.

20 (2) For those Medi-Cal managed care plans that cover long-term  
21 services and supports (LTSS), both of the following:

22 (A) Time and distance standards for LTSS provider types in  
23 which an enrollee must travel to the provider to receive services.

24 (B) Network adequacy standards other than time and distance  
25 standards for LTSS provider types that travel to the enrollee to  
26 deliver services.

27 (3) Standards to ensure that all services are available and  
28 accessible to enrollees of Medi-Cal managed care plans in a timely  
29 manner.

30 (c) The standards developed by the department pursuant to this  
31 section shall, at a minimum, do both of the following:

32 (1) Meet or exceed existing time and distance standards  
33 developed pursuant to Section 1367.03 of the Health and Safety  
34 Code and the standards set forth in Medi-Cal managed care  
35 contracts entered into with the department as of January 1, 2016.

36 (2) Meet or exceed the appointment time standards developed  
37 pursuant to Section 1367.03 of the Health and Safety Code and  
38 the standards set forth in contracts entered into between the  
39 department and Medi-Cal managed care plans.

1 (d) In developing the time and distance standards, if the  
2 department elects a county standard for time and distance, the  
3 department shall categorize counties ~~in to~~ *into* at least five or more  
4 county ~~categories~~. *categories, one of which is a rural county*  
5 *category.*

6 (e) The department may have varying standards for the same  
7 provider type based on geographic areas, subject to the  
8 requirements of this section.

9 (f) (1) The department, upon request of a Medi-Cal managed  
10 care plan, may allow alternative access standards if the requesting  
11 Medi-Cal managed care plan has exhausted all other reasonable  
12 options to obtain providers to meet either time and distance or  
13 timely access standards, and, if the Medi-Cal managed care plan  
14 is licensed as a health care service plan under the Knox-Keene  
15 Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing  
16 with Section 1340) of Division 2 of the Health and Safety Code),  
17 has obtained approval from the Department of Managed Health  
18 Care. The department shall post any approved alternative access  
19 standards on its Internet Web site.

20 (2) The department may allow for the use of telecommunications  
21 technology as a means of alternative access to care, including  
22 telemedicine, e-visits, or other evolving and innovative  
23 technological solutions that are used to provide care from a  
24 distance.

25 (g) The department may permit standards other than time and  
26 distance if the health care provider travels to the beneficiary or to  
27 a community-based setting to deliver services.

28 (h) A Medi-Cal managed care plan shall, on at least an annual  
29 basis, demonstrate to the department its compliance with the time  
30 and distance and timeliness standards developed pursuant to this  
31 section.

32 (i) (1) For purposes of this section, "Medi-Cal managed care  
33 plan" means any individual, organization, or entity that enters into  
34 a contract with the department to provide services to enrolled  
35 Medi-Cal beneficiaries pursuant to any of the following:

36 (A) Article 2.7 (commencing with Section 14087.3), including  
37 dental managed care programs developed pursuant to Section  
38 14087.46.

39 (B) Article 2.8 (commencing with Section 14087.5).

40 (C) Article 2.81 (commencing with Section 14087.96).



1 (D) Article 2.9 (commencing with Section 14088).

2 (E) Article 2.91 (commencing with Section 14089).

3 (F) Chapter 8 (commencing with Section 14200), including  
4 dental managed care plans.

5 (G) Chapter 8.9 (commencing with Section 14700).

6 (H) *A county Drug Medi-Cal organized delivery system*  
7 *authorized under the California Medi-Cal 2020 Demonstration,*  
8 *Number 11-W-00193/9, as approved by the federal Centers for*  
9 *Medicare and Medicaid Services and described in the Special*  
10 *Terms and Conditions. For purposes of this subdivision, "Special*  
11 *Terms and Conditions" shall have the same meaning as set forth*  
12 *in subdivision (o) of Section 14184.10.*

13 (j) Notwithstanding Chapter 3.5 (commencing with Section  
14 11340) of Part 1 of Division 3 of Title 2 of the Government Code,  
15 the department, without taking any further regulatory action, shall  
16 implement, interpret, or make specific this section by means of  
17 all-county letters, plan letters, plan or provider bulletins, or similar  
18 instructions until the time regulations are adopted. The department  
19 shall adopt regulations by July 1, 2019, in accordance with the  
20 requirements of Chapter 3.5 (commencing with Section 11340) of  
21 Part 1 of Division 3 of Title 2 of the Government Code.  
22 Commencing July 1, 2018, the department shall provide a status  
23 report to the Legislature on a semiannual basis, in compliance with  
24 Section 9795 of the Government Code, until regulations are  
25 adopted.

26 14197.1. (a) This section implements the state option in  
27 subdivision (j) of Section 438.8 of Title 42 of the Code of Federal  
28 Regulations.

29 (b) A Medi-Cal managed care plan shall comply with a  
30 minimum 85 percent medical loss ratio (MLR) consistent with  
31 Section 438.8 of Title 42 of the Code of Federal Regulations. The  
32 ratio shall be calculated and reported for each MLR reporting year  
33 by the Medi-Cal managed care plan consistent with Section 438.8  
34 of Title 42 of the Code of Federal Regulations.

35 (c) A Medi-Cal managed care plan shall provide a remittance  
36 for an MLR reporting year if the ratio for that MLR reporting year  
37 does not meet the minimum MLR standard of 85 percent.

38 (d) For purposes of this section, the following definitions apply:

1 (1) "Medical loss ratio (MLR) reporting year" shall have the  
2 same meaning as that term is defined in Section 438.8 of Title 42  
3 of the Code of Federal Regulations.

4 (2) (A) "Medi-Cal managed care plan" means any individual,  
5 organization, or entity that enters into a contract with the  
6 department to provide services to enrolled Medi-Cal beneficiaries  
7 pursuant to any of the following:

8 (i) Article 2.7 (commencing with Section 14087.3).

9 (ii) Article 2.8 (commencing with Section 14087.5).

10 (iii) Article 2.81 (commencing with Section 14087.96).

11 (iv) Article 2.9 (commencing with Section 14088).

12 (v) Article 2.91 (commencing with Section 14089).

13 (vi) Article 1 (commencing with Section 14200) of Chapter 8.

14 (vii) Article 7 (commencing with Section 14490) of Chapter 8.

15 (B) "Medi-Cal managed care plan" does not include dental  
16 managed care plans that contract with the department pursuant to  
17 this chapter or Chapter 8 (commencing with Section 14200).

18 (e) Notwithstanding Chapter 3.5 (commencing with Section  
19 11340) of Part 1 of Division 3 of Title 2 of the Government Code,  
20 the department, without taking any further regulatory action, shall  
21 implement, interpret, or make specific this section by means of  
22 all-county letters, plan letters, plan or provider bulletins, or similar  
23 instructions until the time any regulations are adopted. The  
24 department shall adopt regulations by July 1, 2019, in accordance  
25 with the requirements of Chapter 3.5 (commencing with Section  
26 11340) of Part 1 of Division 3 of Title 2 of the Government Code.  
27 Commencing July 1, 2018, the department shall provide a status  
28 report to the Legislature on a semiannual basis, in compliance with  
29 Section 9795 of the Government Code, until regulations are  
30 adopted.

31 14197.2. (a) The Legislature finds and declares all of the  
32 following:

33 (1) Designated public hospitals systems play an essential role  
34 in the Medi-Cal program, providing high-quality care to a  
35 disproportionate number of low-income Medi-Cal and uninsured  
36 populations in the state. Because Medi-Cal covers approximately  
37 one-third of the state's population, the strength of these essential  
38 public health care systems is of critical importance to the health  
39 and welfare of the people of California.

1 (2) Designated public hospital systems provide comprehensive  
2 health care services to low-income patients and life-saving trauma,  
3 burn, and disaster-response services for entire communities, and  
4 train the next generation of doctors and other health care  
5 professionals, such as nurses and paramedical professionals, who  
6 are critical to new team-based care models that achieve more  
7 efficient and patient-centered care.

8 (3) The Legislature intends to continue to provide levels of  
9 support for designated public hospital systems in light of their  
10 reliance on Medi-Cal funding to provide quality care to everyone,  
11 regardless of insurance status, ability to pay, or other circumstance,  
12 the significant proportion of Medi-Cal services provided under  
13 managed care by these public hospital systems, and new federal  
14 requirements related to Medicaid managed care.

15 (4) It is the intent of the Legislature that Medi-Cal managed  
16 care plans and designated public hospital systems shall in good  
17 faith negotiate for, and implement, contract rates, the provision  
18 and arrangement of services and member assignment that are  
19 sufficient to ensure continued participation by designated public  
20 hospital systems and to maintain access to services for Medi-Cal  
21 managed care beneficiaries and other low-income patients.

22 (b) Commencing with the 2017–18 state fiscal year, and for  
23 each state fiscal year thereafter, and notwithstanding any other  
24 law, the department shall require each Medi-Cal managed care  
25 plan to enhance contract services payments to the designated public  
26 hospital systems by a uniform percentage as described in this  
27 subdivision.

28 (1) The applicable percentage for purposes of the directed  
29 payments shall be uniformly applied across all of the following  
30 classes of designated public hospital systems:

31 (A) Designated public hospital systems owned and operated by  
32 the University of California.

33 (B) Designated public hospital systems not identified in  
34 subparagraph (A) that include a designated public hospital with a  
35 level 1 or level 2 trauma designation.

36 (C) Designated public hospital systems not identified in  
37 subparagraph (A) or (B).

38 (2) The department, in consultation with the designated public  
39 hospital systems, shall annually determine the applicable uniform  
40 percentages for each class identified in paragraph (1) and the

1 classification of each designated public hospital system. Once the  
2 department determines the classification for each designated public  
3 hospital system for a particular state fiscal year, that classification  
4 shall not be eligible to change until no sooner than the subsequent  
5 state fiscal year. To the extent necessary to meet the objectives  
6 identified in subdivisions (a) and (d) or to comply with federal  
7 requirements, the department may, in consultation with the  
8 designated public hospital systems, adjust or modify the applicable  
9 percentages or the classifications. The department shall consult  
10 with the designated public hospital systems and each affected  
11 Medi-Cal managed care plan with regard to the implementation  
12 of the directed payment requirements once these payment levels  
13 have been established.

14 (3) The required directed payment amounts shall be determined  
15 by multiplying the applicable percentage developed pursuant to  
16 paragraph (2) by the total amount of contract services payments.  
17 Performance-based incentive payments, amounts earned pursuant  
18 to the quality incentive program described in subdivision (c), and  
19 amounts paid pursuant to Sections 14301.4 and 14301.5 shall not  
20 be subject to the required directed payments. Nothing in this  
21 subdivision shall prevent a Medi-Cal managed care plan from  
22 making additional payments to a designated public hospital system  
23 in amounts exceeding the directed payment amounts required under  
24 this subdivision, or, at the sole option and request of a designated  
25 public hospital system, from working with the designated public  
26 hospital system to develop risk-sharing arrangements consistent  
27 with the intent and purposes of this subdivision.

28 (4) The directed payments required under this subdivision shall  
29 be implemented and documented by each Medi-Cal managed care  
30 plan and designated public hospital system in accordance with all  
31 of the following parameters and any guidance issued by the  
32 department:

33 (A) A Medi-Cal managed care plan and the designated public  
34 hospital systems shall determine the manner, timing, and amount  
35 of payment for ~~contracted~~ *contract* services, including through  
36 fee-for-service, capitation, or other permissible manner. The rates  
37 of payment for ~~contracted~~ *contract* services agreed upon by the  
38 Medi-Cal managed care plan and the designated public hospital  
39 system shall be established and documented without regard to the

1 directed payments and quality incentive payments required by this  
2 section.

3 (B) A Medi-Cal managed care plan and a designated public  
4 hospital system shall, for the directed payment amounts determined  
5 pursuant to paragraph (3), determine the manner of their  
6 distribution, including the frequency and amount of each  
7 distribution through arrangements that may include, but are not  
8 limited to, a per-claim enhancement, per-capitation enhancement,  
9 monthly or quarterly lump-sum enhancement, or other permissible  
10 arrangement.

11 (C) The required directed payment enhancements provided  
12 pursuant to this subdivision shall not supplant amounts that would  
13 otherwise be payable by a Medi-Cal managed care plan to a  
14 designated public hospital system for an applicable state fiscal  
15 year.

16 (D) A Medi-Cal managed care plan shall not terminate a contract  
17 with a designated public hospital system for the purpose of  
18 circumventing the directed payment obligations under this  
19 subdivision.

20 (E) In the event a Medi-Cal managed care plan subcontracts or  
21 otherwise delegates responsibility to a separate entity for either or  
22 both the arrangement or payment of services, the Medi-Cal  
23 managed care plan shall ensure that the designated public hospital  
24 system receives the directed payment enhancements described in  
25 this subdivision with respect to the services it provides that are  
26 covered by that arrangement, regardless of whether the Medi-Cal  
27 managed care plan subcontracted or delegated responsibility for  
28 payment of the directed payment amounts to the subcontracted or  
29 delegated entity, and shall be liable for any unpaid amounts. A  
30 Medi-Cal managed care plan shall require reporting of amounts  
31 paid or payable pursuant to that subcontracted or delegated  
32 arrangements as necessary to calculate the amount of those directed  
33 payment enhancements.

34 (5) Each year, a Medi-Cal managed care plan shall provide to  
35 the department, at the times and in the form and manner specified  
36 by the department, an accounting of amounts paid or payable to  
37 the designated public hospital systems it contracts with, including  
38 both ~~contracted~~ *contract* rates and the directed payments, to  
39 demonstrate compliance with this subdivision. To the extent the  
40 department determines, in its sole discretion, that a Medi-Cal

1 managed care plan is not in compliance with the requirements of  
2 this subdivision, or is otherwise circumventing the purposes  
3 thereof, to the material detriment of an applicable designated public  
4 hospital system, and, independent of any remedy available to the  
5 designated public hospital system, the department may reduce the  
6 default assignment into the Medi-Cal managed care plan with  
7 respect to all Medi-Cal managed care beneficiaries by up to 25  
8 percent, so long as the other Medi-Cal managed care plan or  
9 Medi-Cal managed care plans in the applicable county have the  
10 capacity to receive the additional default membership. The  
11 department's determination, whether to exercise discretion under  
12 this paragraph, shall not be subject to judicial review. Nothing in  
13 this paragraph shall be construed to preclude or otherwise limit  
14 the right of any designated public hospital system to pursue a  
15 breach of contract action in connection with the requirements of  
16 this subdivision.

17 (6) Capitation rates paid by the department to a Medi-Cal  
18 managed care plan shall account for the Medi-Cal managed care  
19 plan's obligation to pay the directed payments to designated public  
20 hospital systems in accordance with this subdivision. The  
21 department may require Medi-Cal managed care plans and the  
22 designated public hospital systems to submit information regarding  
23 contract rates and expected utilization of services, at the times and  
24 in the form and manner specified by the department. To the extent  
25 consistent with federal law and actuarial standards of practice, the  
26 department shall utilize the most recently available data, as  
27 determined by the department, when accounting for the directed  
28 payments required under this subdivision, and may account for  
29 material adjustments, as appropriate and as determined by the  
30 department, to contracts entered into between a Medi-Cal managed  
31 care plan and a designated public hospital system.

32 (c) Commencing with the 2017–18 state fiscal year, and for  
33 each state fiscal year thereafter, the department, in consultation  
34 with the designated public hospital systems and each Medi-Cal  
35 managed care plan, shall establish a program under which a  
36 designated public hospital system may earn performance-based  
37 quality incentive payments from the Medi-Cal managed care plan  
38 they contract with in accordance with this subdivision.

1 (1) Payments shall be earned by each designated public hospital  
2 system based on its performance in achieving identified targets  
3 for quality of care.

4 (A) The department, in consultation with the designated public  
5 hospital systems and each Medi-Cal managed care plan, shall  
6 establish and provide a method for updating uniform performance  
7 measures for the performance-based quality incentive payment  
8 program and parameters for the designated public hospital systems  
9 to select the applicable measures. The performance measures shall  
10 advance at least one goal identified in the state's Medicaid quality  
11 strategy. Measures shall not duplicate measures utilized in the  
12 PRIME program established pursuant to Section 14184.50.

13 (B) Each designated public hospital system shall submit reports  
14 to the department containing information required to evaluate its  
15 performance on all applicable performance measures, at the times  
16 and in the form and manner specified by the department. A  
17 Medi-Cal managed care plan shall assist a designated public  
18 hospital system in collecting information necessary for these  
19 reports.

20 (2) The department, in consultation with each designated public  
21 hospital system, shall determine a maximum amount that each  
22 class *identified in paragraph (1) of subdivision (b)* may earn in  
23 quality incentive payments for the state fiscal year.

24 (3) The department shall calculate the amount earned by each  
25 designated public hospital system based on its performance score  
26 established pursuant to paragraph (1).

27 (A) This amount shall be paid to the designated public hospital  
28 system by each of its contracted Medi-Cal managed care ~~plan~~  
29 *plans*. If a designated public hospital system contracts with multiple  
30 Medi-Cal managed care plans, the department shall identify each  
31 Medi-Cal managed care plan's proportionate amount of the  
32 designated public hospital system's payment. The timing and  
33 amount of the distributions and any related reporting requirements  
34 for interim payments shall be established and agreed to by the  
35 designated public hospital system and each of the applicable  
36 Medi-Cal managed care plans.

37 (B) A Medi-Cal managed care plan shall not terminate a contract  
38 with a designated public hospital system for the purpose of  
39 circumventing the payment obligations under this subdivision.

1 (C) Each Medi-Cal managed care plan shall be responsible for  
2 payment of the quality incentive payments described in this  
3 subdivision.

4 (4) Nothing in this subdivision shall be construed to replace or  
5 otherwise prevent the continuation of prior quality incentive or  
6 pay-for-performance payment mechanisms or the establishment  
7 of new payment programs by any Medi-Cal managed care plan  
8 and their contracted designated public hospital systems.

9 (5) The department shall provide appropriate funding to each  
10 Medi-Cal managed care plan, to account for and to enable them  
11 to make the quality incentive payments described in this  
12 subdivision, through the incorporation into actuarially sound  
13 capitation rates or any other federally permissible method. The  
14 amounts designated by the department for the quality incentive  
15 payments made pursuant to this subdivision shall be reserved for  
16 the purposes of the performance-based quality incentive payment  
17 program.

18 (d) In determining the uniform percentages described in  
19 paragraph (2) of subdivision (b), and the aggregate size of the  
20 quality incentive payment program described in paragraph (2) of  
21 subdivision (c), the department shall consult with designated public  
22 hospital systems to establish levels for these payments that, in  
23 combination with one another, are projected to result in aggregate  
24 payments that will advance the quality and access objectives  
25 reflected in prior payment enhancement mechanisms for designated  
26 public hospital systems. To the extent necessary to meet these  
27 objectives or to comply with any federal requirements, the  
28 department may, in consultation with the designated public hospital  
29 systems, adjust or modify either or both the applicable percentages  
30 or quality incentive payment program.

31 (e) The provisions of paragraphs (3) and (4) of subdivision (a),  
32 and of subdivisions (b) and (c) shall be deemed incorporated into  
33 each contract between a designated public hospital system and a  
34 Medi-Cal managed care plan, and its subcontractor or designee,  
35 as applicable, and any claim for breach of those provisions may  
36 be brought directly in a court of competent jurisdiction.

37 (f) (1) The nonfederal share of the portion of the capitation  
38 rates specifically associated with directed payments to designated  
39 public hospital systems required under subdivision (b) and for the  
40 quality incentive payments established pursuant to subdivision (c)



1 may consist of voluntary intergovernmental transfers of funds  
2 provided by designated public hospitals and their affiliated  
3 governmental entities, or other public entities, pursuant to Section  
4 14164. Upon providing any intergovernmental transfer of funds,  
5 each transferring entity shall certify that the transferred funds  
6 qualify for federal financial participation pursuant to applicable  
7 federal Medicaid laws, and in the form and manner specified by  
8 the department. Any intergovernmental transfer of funds made  
9 pursuant to this section shall be considered voluntary for purposes  
10 of all federal laws. Notwithstanding any other law, the department  
11 shall not assess the fee described in subdivision (d) of Section  
12 14301.4 or any other similar fee.

13 (2) When applicable for voluntary intergovernmental transfers,  
14 the department, in consultation with the designated public hospital  
15 systems, shall develop and maintain a protocol to determine each  
16 public entity's intergovernmental transfer amount in an applicable  
17 state fiscal year for purposes of funding the nonfederal share  
18 associated with payments pursuant to this section. The protocol  
19 developed and maintained pursuant to this paragraph shall account  
20 for any applicable contributions made by public entities to the  
21 nonfederal share of Medi-Cal managed care expenditures,  
22 including, but not limited to, contributions previously made  
23 pursuant to Section 14182.15 or 14199.2. Nothing in this section  
24 shall be construed to limit or otherwise alter any existing authority  
25 of the department to accept intergovernmental transfers for  
26 purposes of funding the nonfederal share of Medi-Cal managed  
27 care expenditures.

28 (g) (1) This section shall be implemented only to the extent  
29 that any necessary federal approvals are obtained and federal  
30 financial participation is available and is not otherwise jeopardized.

31 (2) For any state fiscal year in which this section is implemented,  
32 in whole or in part, and notwithstanding any other law, the  
33 department shall not be required to make any payment to a  
34 Medi-Cal managed care plan pursuant to Section 14182.15,  
35 14199.2, or 14301.5.

36 (h) (1) The department shall seek any necessary federal  
37 approvals for the directed payments and the quality incentive  
38 payments set forth in this section.

39 (2) The department shall consult with the designated public  
40 hospital systems with regard to the development and

1 implementation of the directed payment levels and the quality  
2 incentive payments established pursuant to this section.

3 (3) The director, after consultation with the designated public  
4 hospital systems, may modify the requirements set forth in this  
5 section to the extent necessary to meet federal requirements or to  
6 maximize available federal financial participation. In the event  
7 federal approval is only available with significant limitations or  
8 modifications, or in the event of changes to the federal Medicaid  
9 program that result in a loss of funding currently available to the  
10 designated public hospital systems, the department shall consult  
11 with the designated public hospitals to consider alternative  
12 methodologies.

13 (i) Notwithstanding Chapter 3.5 (commencing with Section  
14 11340) of Part 1 of Division 3 of Title 2 of the Government Code,  
15 the department may implement, interpret, or make specific this  
16 section by means of all-county letters, plan letters, provider  
17 bulletins, or other similar instructions, without taking regulatory  
18 action. The department shall make use of appropriate processes to  
19 ensure that affected designated public hospital systems and  
20 Medi-Cal managed care plans are timely informed of, and have  
21 access to, applicable guidance issued pursuant to this authority,  
22 and that this guidance remains publicly available until all payments  
23 made pursuant to this section are finalized.

24 (j) For purposes of this section, the following definitions apply:

25 (1) "Contract services payments" means the amount paid or  
26 payable to a designated public hospital system, including amounts  
27 paid or payable under fee-for-service, capitation, prior to any  
28 adjustments for service payment withholds or deductions, or other  
29 basis, under a contract with a Medi-Cal managed care plan for  
30 services, drugs, supplies or other items provided to a Medi-Cal  
31 beneficiary enrolled in the Medi-Cal managed care plan. Contract  
32 services includes all services, drugs, supplies, or other items the  
33 designated public hospital system provides, or is responsible for  
34 providing, or arranging or paying for, pursuant to a contract entered  
35 into with a Medi-Cal managed care plan. In the event a Medi-Cal  
36 managed care plan subcontracts or otherwise delegates  
37 responsibility to a separate entity for either or both the arrangement  
38 or payment of services, ~~contracted~~ "contract services payments"  
39 also include amounts paid or payable for the services provided by,  
40 or otherwise the responsibility of, the designated public hospital

1 system that are within the scope of services of the subcontracted  
2 or delegated arrangement so long as the designated public hospital  
3 system holds a contract with the primary Medi-Cal managed care  
4 plan.

5 (2) "Designated public hospital" shall have the *same* meaning  
6 as set forth in subdivision (f) of Section 14184.10.

7 (3) "Designated public hospital system" means a designated  
8 public hospital and its affiliated government entity clinics,  
9 practices, and other health care providers, including the respective  
10 affiliated hospital authority and county government entities  
11 described in Chapter 5 (commencing with Section 101850) and  
12 Chapter 5.5 (commencing with Section 101852), of Part 4 of  
13 Division 101 of the Health and Safety Code.

14 (4) (A) "Medi-Cal managed care plan" means an applicable  
15 organization or entity that enters into a contract with the department  
16 pursuant to any of the following:

17 (i) Article 2.7 (commencing with Section 14087.3).

18 (ii) Article 2.8 (commencing with Section 14087.5).

19 (iii) Article 2.81 (commencing with Section 14087.96).

20 (iv) Article 2.91 (commencing with Section 14089).

21 (v) Chapter 8 (commencing with Section 14200).

22 (B) "Medi-cal managed care plan" does not include any of the  
23 following:

24 (i) A mental health plan contracting to provide mental health  
25 care for Medi-Cal beneficiaries pursuant to Chapter 8.9  
26 (commencing with Section 14700).

27 (ii) A plan not covering inpatient services, such as primary care  
28 case management plans, operating pursuant to Section 14088.85.

29 (iii) A Program of All-Inclusive Care for the Elderly  
30 organization operating pursuant to Chapter 8.75 (commencing  
31 with Section 14591).

AMENDED IN ASSEMBLY APRIL 27, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

**ASSEMBLY BILL**

**No. 227**

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**Introduced by Assembly Member Mayes  
(Principal coauthor: Assembly Member Gipson)**

(Principal coauthor: Senator Bates)

**(Coauthors: Assembly Members Acosta, Baker, Bigelow, Brough,  
Chávez, Choi, Cunningham, Flora, Gallagher, Eduardo Garcia,  
Lackey, Mathis, Obernolte, Steinorth, Waldron, and Wood)**

(Coauthors: Senators Anderson, Nguyen, and Vidak)

January 26, 2017

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An act to add Article 3.7 (commencing with Section 11340) to Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, relating to ~~CalWORKs~~, and ~~making an appropriation therefor~~. *CalWORKs*.

LEGISLATIVE COUNSEL'S DIGEST

AB 227, as amended, Mayes. CalWORKs: education incentives.

Existing law requires each county to provide cash assistance and other social services to needy families through the California Work Opportunity and Responsibility to Kids (CalWORKs) program using federal, state, and county funds. Under existing law, a recipient of CalWORKs is required to participate in welfare-to-work activities for a specified number of hours each week as a condition of eligibility for aid. Existing law authorizes certain welfare-to-work participants to engage in adult basic education in satisfaction of these work requirements. *Existing law requires the State Department of Social Services to perform various administrative duties in connection with the CalWORKs program, including establishing rules and regulations*