

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



ITEM
3.9
(ID # 6852)

MEETING DATE:

Tuesday, April 24, 2018

FROM : EXECUTIVE OFFICE:

SUBJECT: EXECUTIVE OFFICE: Legislative Bills to Support and Oppose, All Districts. [\$0]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Direct the Executive Office to Send letters of support and opposition to the following items that are not covered in the 2018 Legislative Platform.


ACTION: Policy


Brian Nestande 4/17/2018

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Jeffries, seconded by Supervisor Perez 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: April 24, 2018
xc: EO

Kecia Harper-Ihem
Clerk of the Board
By 
Deputy

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

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$	\$	\$	\$
NET COUNTY COST	\$	\$	\$	\$
SOURCE OF FUNDS:			Budget Adjustment:	
			For Fiscal Year:	

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.

The following bill were not covered in the County's 2017 or 2018 Platform, and requires the Board of Supervisors to take a formal position before sending any letters of support or opposition.

RECOMMENDED BILLS:

Bill: AB 2756 (Medina) Private Schools: Home Schools

Position: Support

Background: This bill would require information on the nature, or a description of the nature, of the private school to be included in the affidavit or statement, and would require this information or description to be included on the list of private schools prepared and published by the Superintendent. The bill would specify that the list of private schools prepared and published by the Superintendent is required to include every person, firm, association, partnership, or corporation that is required to file an affidavit or statement with the Superintendent.

Bill: AB 162 (Cervantes) Continuous Access Carpool Lanes in Riverside County

Position: Support

Background: AB 162 would specify that in the County of Riverside all HOV lanes – except for existing HOV toll lanes – shall be continuous access. The measure contemplates that double parallel solid lines would be removed, thereby allowing vehicles to enter and exit the

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carpool lane at any point. This policy change is supported by research that has shown that limited access HOV lanes are associated with negative safety outcomes as measured by various collision metrics. Further, a UC Riverside study showed that, given the restrictions on traffic flow, limited HOV lane access produces increased vehicle exhaust emissions as compared to continuous access HOV lanes

Bill: AB 3087 (Kalra) California Health Care Cost, Quality, and Equity Commission.

Position: Oppose

Background: The bill would permit a health care service plan or health insurer to negotiate a contracted rate that is not based on Medicare rates. The bill would exempt noncontracting physicians and other noncontracting health professionals, as defined, from the base amounts until health care service plans and health insurers provide information on average contracted amounts to the commission and the commission sets a base amount for noncontracting physicians and other noncontracting health professionals.

ATTACHMENTS:

- AB 2756 Bill
- AB 162 Bill
- AB 3087 Bill

AMENDED IN ASSEMBLY APRIL 2, 2018

CALIFORNIA LEGISLATURE—2017—18 REGULAR SESSION

ASSEMBLY BILL

No. 2756

**Introduced by Assembly Members Medina, Eggman, and
Gonzalez Fletcher
(Coauthor: Assembly Member Rodriguez)**

February 16, 2018

An act to amend Section 33190 of the Education Code, ~~and to amend Sections 13143 and 13146.3 of the Health and Safety Code~~, relating to private schools.

LEGISLATIVE COUNSEL'S DIGEST

AB 2756, as amended, Medina. Private schools: home schools: ~~filing:~~
~~fire prevention inspections:~~ *filing.*

~~(1) Existing~~

Existing law requires every person, firm, association, partnership, or corporation offering or conducting private school instruction on the elementary or high school level to annually file with the Superintendent of Public Instruction an affidavit or statement, under penalty of perjury, by the owner or other head setting forth specified information relating to the school. *Existing law requires the Superintendent to prepare and publish a list of private elementary and high schools that includes the names and addresses of the schools and the names of the school owners or administrators.*

This bill would provide that a "person, firm, association, partnership, or corporation" includes, but is not limited to, conventional or traditional private schools, private school satellite programs, private online or virtual schools, parents, guardians, or other individuals who operate a private home school, and certified ~~nonpublic~~ *nonpublic*, nonsectarian

schools. The bill would also require information on the nature, or a description of the nature, of the private school to be included in the affidavit or ~~statement~~. *statement, and would require this information or description to be included on the list of private schools prepared and published by the Superintendent. The bill would specify that the list of private schools prepared and published by the Superintendent is required to include every person, firm, association, partnership, or corporation that is required to file an affidavit or statement with the Superintendent.*

Existing law requires the Superintendent to prepare and publish a list of private elementary and high schools that includes the names and addresses of the schools and the names of the school owners or administrators:

This bill would require that list to include private schools with 6 or more pupils that includes every person, firm, association, partnership, or corporation that is required to file with the Superintendent. The bill would require the Superintendent to annually provide that list to the State Fire Marshal. The bill would require the Superintendent to prepare a list of private schools with 5 or fewer pupils and to provide the list directly to the State Fire Marshal, the chief of a city or county fire department or district providing fire protection services to the area in which the school is located, and the chief's authorized representatives to fulfill a specified annual inspection:

(2) Existing law requires the State Fire Marshal, with the advice of the State Board of Fire Services, to prepare, adopt, and submit building standards for approval, as provided, and to prepare and adopt other regulations establishing minimum requirements for the prevention of fire, and for the protection of life and property against fire and panic, in any building or structure used or intended for, among other things, a school:

This bill would also require the State Fire Marshal to prepare and adopt regulations establishing minimum requirements for any school subject to the filing requirements discussed in paragraph (1):

Existing law requires the chief of any city or county fire department or district providing fire protection services and his or her authorized representatives to inspect every building used as a public or private school within his or her jurisdiction, for the purpose of enforcing the above regulations, not less than once each year. Existing law requires the State Fire Marshal and his or her authorized representatives to make

~~these inspections not less than once each year in areas outside of corporate cities and districts providing fire protection services.~~

~~This bill would require these inspections to occur for any school subject to the filing requirements discussed in paragraph (1). To the extent this bill would expand the responsibility of a local agency, the bill would create a state-mandated local program.~~

~~(3) 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~~-no.

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

1 SECTION 1. Section 33190 of the Education Code is amended
2 to read:

3 33190. (a) A person, firm, association, partnership, or
4 corporation that offers or conducts private school instruction in
5 the state shall, between the first and 15th day of October of each
6 year, file with the Superintendent an affidavit or statement, under
7 penalty of perjury, by the owner or other head setting forth the
8 following information for the current year:

9 (1) All names, whether real or fictitious, of the person, firm,
10 association, partnership, or corporation under which it has done
11 and is doing business.

12 (2) The address, including city and street, of every place of
13 doing business of the person, firm, association, partnership, or
14 corporation within the State of California.

15 (3) The address, including city and street, of the location of the
16 records of the person, firm, association, partnership, or corporation,
17 and the name and address, including city and street, of the
18 custodian of those records.

19 (4) The names and addresses, including city and street, of the
20 directors, if any, and principal officers of the person, firm,
21 association, partnership, or corporation.

1 (5) The school enrollment, by grades, number of teachers,
2 coeducational or enrollment limited to boys or girls, and boarding
3 facilities.

4 (6) That the following records are maintained at the address
5 stated, and are true and accurate:

6 (A) The records required to be kept by Section 48222.

7 (B) The courses of study offered by the institution.

8 (C) The names and addresses, including city and street, of its
9 faculty, together with a record of the educational qualifications of
10 each.

11 (7) Criminal record summary information has been obtained
12 pursuant to Section 44237.

13 (8) The nature of the private school, as listed in subdivision (f)
14 or, if not listed, a description of the nature of the private school.

15 (b) Whenever two or more private schools are under the effective
16 control or supervision of a single administrative unit, the
17 administrative unit may comply with this section on behalf of each
18 of the schools under its control or supervision by submitting one
19 report.

20 (c) Filing pursuant to this section does not mean, and it shall be
21 unlawful for a school to expressly or impliedly represent by any
22 means whatsoever, that the State of California, the Superintendent,
23 the state board, the department, or a division or bureau of the
24 department, or any accrediting agency has made an evaluation,
25 recognition, approval, or endorsement of the school or course
26 unless this is an actual fact.

27 (d) ~~(1) The Superintendent shall prepare and publish a list of~~
28 ~~private schools with six or more pupils that includes every filer~~
29 ~~pursuant to subdivision (a), which shall include the name and~~
30 ~~address of the school and school, the name of the school owner or~~
31 ~~administrator. The Superintendent shall annually provide the list~~
32 ~~described in this paragraph to the State Fire Marshal: administrator,~~
33 ~~and the nature of the school, as described in paragraph (8) of~~
34 ~~subdivision (a).~~

35 ~~(2) The Superintendent shall prepare a list of private schools~~
36 ~~with five or fewer pupils and provide the list directly to the State~~
37 ~~Fire Marshal, the chief of a city or county fire department or district~~
38 ~~providing fire protection services to the area in which the school~~
39 ~~is located, and the chief's authorized representatives to fulfill the~~

1 annual inspection, pursuant to Section 13146.3 of the Health and
2 Safety Code.

3 (e) For purposes of this section, the following definitions apply:

4 (1) "Private school" means a person, firm, association,
5 partnership, or corporation that provides private school instruction
6 in the state.

7 (2) "Private school instruction" means instruction and the
8 provision of full-time day school at the elementary or high school
9 level for one or more pupils who are ~~six~~ 6 to 18 years of age,
10 inclusive.

11 (f) For purposes of this section, a "person, firm, association,
12 partnership, or corporation" includes, but is not limited to,
13 conventional or traditional private schools, private school satellite
14 programs, private online or virtual schools, parents, guardians, or
15 other individuals who operate a private home school, and certified
16 ~~nonpublic~~ *nonpublic*, nonsectarian schools.

17 ~~SEC. 2. Section 13143 of the Health and Safety Code is~~
18 ~~amended to read:~~

19 13143. (a) (1) ~~Except as provided in Section 18930, the State~~
20 ~~Fire Marshal, with the advice of the State Board of Fire Services,~~
21 ~~shall prepare, adopt, and submit building standards for approval~~
22 ~~pursuant to Chapter 4 (commencing with Section 18935) of Part~~
23 ~~2.5 of Division 13 and shall prepare and adopt other regulations~~
24 ~~establishing minimum requirements for the prevention of fire, and~~
25 ~~for the protection of life and property against fire and panic, in~~
26 ~~any building or structure used or intended for use as an asylum,~~
27 ~~jail, mental hospital, hospital, home for the elderly, children's~~
28 ~~nursery, children's home or institution not otherwise excluded~~
29 ~~from the coverage of this subdivision, school, including any school~~
30 ~~subject to the filing requirement of subdivision (a) of Section 33190~~
31 ~~of the Education Code, or any similar occupancy of any capacity,~~
32 ~~and in any assembly occupancy where 50 or more persons may~~
33 ~~gather together in a building, room, or structure for the purpose of~~
34 ~~amusement, entertainment, instruction, deliberation, worship,~~
35 ~~drinking or dining, awaiting transportation, or education, and for~~
36 ~~any laboratory or research and development facility that stores,~~
37 ~~handles, or uses regulated hazardous materials. The State Fire~~
38 ~~Marshal shall adopt and submit building standards for approval~~
39 ~~pursuant to Chapter 4 (commencing with Section 18935) of Part~~
40 ~~2.5 of Division 13 for the purposes described in this section.~~

1 Regulations adopted pursuant to this subdivision and building
2 standards relating to fire and panic safety published in the
3 California Building Standards Code shall establish minimum
4 requirements relating to the means of egress and the adequacy of
5 exits from, the installation and maintenance of fire extinguishing
6 and fire alarm systems in, the storage and handling of combustible
7 or explosive materials or substances, and the installation and
8 maintenance of appliances, equipment, decorations, security bars,
9 grills, grates, and furnishings that present a fire, explosion, or panic
10 hazard, and the minimum requirements shall be predicated on the
11 height and fire-resistive qualities of the building or structure and
12 the type of occupancy for which it is to be used. The building
13 standards and other regulations shall apply to auxiliary or accessory
14 buildings used or intended for use with any of the occupancies
15 mentioned in this subdivision. Violation of any building standard
16 or other regulation shall be a violation of this chapter.

17 (2) In preparing and adopting building standards for approval
18 pursuant to Chapter 4 (commencing with Section 18935) of Part
19 2.5 of Division 13, and in preparing and adopting other regulations
20 affecting public schools, the State Fire Marshal shall also secure
21 the advice of the State Department of Education. A regulation
22 adopted by the State Fire Marshal shall not conflict with any rule,
23 regulation, or building standard lawfully adopted or enforced by
24 the Department of General Services pursuant to Article 7
25 (commencing with Section 81130) of Chapter 1 of Part 49 of
26 Division 7 of Title 3 of the Education Code.

27 (3) In addition to any other requirements for location of exit
28 signs or devices in any building or structure used or intended for
29 use as an asylum, jail, mental hospital, hospital, home for the
30 elderly, children's nursery, children's home or institution not
31 otherwise excluded from the coverage of this subdivision, school,
32 including any school subject to the filing requirement of
33 subdivision (a) of Section 33190 of the Education Code, or any
34 similar occupancy of any capacity, and in any assembly occupancy
35 where 50 or more persons may gather together in a building, room,
36 or structure for the purpose of amusement, entertainment,
37 instruction, deliberation, worship, drinking or dining, awaiting
38 transportation, or education, the State Fire Marshal shall adopt
39 building standards pursuant to this section establishing minimum
40 requirements for the placement of distinctive devices, signs, or

1 other means that identify exits and can be felt or seen near the
2 floor. Exit sign technologies permitted by the model building code
3 upon which the California Building Standards Code is based, shall
4 be permitted. These building standards shall be adopted before
5 July 1, 1998, and shall apply to all newly constructed buildings or
6 structures subject to this subdivision for which a building permit
7 is issued, or construction commenced, if no building permit is
8 issued, on or after January 1, 1989.

9 (b) (1) Notwithstanding subdivision (a) and Section 13143.6,
10 facilities licensed pursuant to Chapter 3 (commencing with Section
11 1500) of Division 2 that provide nonmedical board, room, and care
12 for six or fewer ambulatory children placed with the licensee for
13 care or foster family homes and family day care homes for children,
14 with a capacity of six or fewer and providing care and supervision
15 for ambulatory children or children two years of age or younger,
16 or both, shall not be subject to Article 1 (commencing with Section
17 13100) or Article 2 (commencing with Section 13140) of this
18 chapter or regulations adopted pursuant thereto. A city, county, or
19 public district shall not adopt or enforce any requirement for the
20 prevention of fire, or for the protection of life and property against
21 fire and panic, with respect to structures used as facilities specified
22 in this subdivision, unless the requirement would be applicable to
23 a structure regardless of the special occupancy. Nothing in this
24 subdivision shall restrict the application of state or local housing
25 standards to those facilities, if the standards are applicable to
26 residential occupancies and are not based upon the use of the
27 structure as a facility specified in this subdivision.

28 (2) "Ambulatory children," as used in this subdivision, does not
29 include nonambulatory persons, as defined in Section 13131, and
30 relatives of the licensee or the licensee's spouse.

31 (c) The State Fire Marshal shall adopt building standards
32 establishing regulations providing that all school classrooms
33 constructed after January 1, 1990, not equipped with automatic
34 sprinkler systems, which have metal grills or bars on all their
35 windows and do not have at least two exit doors within three feet
36 of each end of the classroom opening to the exterior of the building
37 or to a common hallway used for evacuation purposes, shall have
38 an inside release for the grills or bars on at least one window
39 farthest from the exit doors. The window or windows with the

1 inside release shall be clearly marked as an emergency exit, in
2 accordance with regulations adopted by the State Fire Marshal.

3 ~~SEC. 3. Section 13146.3 of the Health and Safety Code is~~
4 ~~amended to read:~~

5 ~~13146.3. The chief of a city or county fire department or district~~
6 ~~providing fire protection services and his or her authorized~~
7 ~~representatives shall inspect every building used as a public or~~
8 ~~private school, including any school subject to the filing~~
9 ~~requirement of subdivision (a) of Section 33190 of the Education~~
10 ~~Code, within his or her jurisdiction, for the purpose of enforcing~~
11 ~~regulations promulgated pursuant to Section 13143, not less than~~
12 ~~once each year. The State Fire Marshal and his or her authorized~~
13 ~~representatives shall make these inspections not less than once~~
14 ~~each year in areas outside of corporate cities and districts providing~~
15 ~~fire protection services.~~

16 ~~SEC. 4. If the Commission on State Mandates determines that~~
17 ~~this act contains costs mandated by the state, reimbursement to~~
18 ~~local agencies and school districts for those costs shall be made~~
19 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
20 ~~4 of Title 2 of the Government Code.~~

AMENDED IN ASSEMBLY APRIL 17, 2018

AMENDED IN ASSEMBLY APRIL 9, 2018

AMENDED IN ASSEMBLY MARCH 23, 2018

CALIFORNIA LEGISLATURE—2017—18 REGULAR SESSION

ASSEMBLY BILL

No. 3087

**Introduced by Assembly Member Kalra
(Coauthor: Assembly Member Mark Stone)**

February 16, 2018

An act to add Title 23 (commencing with Section 100600) to the Government Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 3087, as amended, Kalra. California Health Care Cost, Quality, and Equity Commission.

Existing federal law, the federal Patient Protection and Affordable Care Act (PPACA), enacted various health care coverage market reforms that took effect January 1, 2014. PPACA required each state, by January 1, 2014, to establish an American Health Benefit Exchange to facilitate the purchase of qualified health benefit plans by qualified individuals and qualified small employers. PPACA defines a "qualified health plan" as a plan that, among other requirements, provides an essential health benefits package. Existing state law creates the California Health Benefit Exchange, also known as Covered California, to facilitate the purchase of qualified health plans by qualified individuals and qualified small employers.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975 (Knox-Keene), provides for the licensure and regulation of health care service plans by the Department of Managed Health Care. Existing law

provides for the regulation of health insurers by the Department of Insurance. Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions.

This bill would create the California Health Care Cost, Quality, and Equity Commission, an independent state agency, to control in-state health care costs and set the amounts accepted as payment by health plans, hospitals, physicians, physician groups, and other health care providers, among other things. The bill would provide that funding for the commission would be provided from ~~specified funds, including the~~ Managed Care Fund and the Insurance Fund, subject to appropriation by the Legislature. The bill would provide that the commission would have ~~9~~ *11* paid members, including the Secretary of California Health and Human Services or his or her designee, a CalPERS representative, and ~~7~~ *9* members with specified experience appointed to staggered 6-year terms by the Governor, Senate Committee on Rules, and Speaker of the Assembly, as specified. The bill would require the commission to convene an advisory committee to meet at least quarterly with 15 volunteer members, including, but not limited to, a representative of a licensed health facility and a representative of CalPERS.

This bill would provide the powers of the commission, including authorization to adopt regulations and employ necessary staff, and would require the commission to meet at least quarterly and prepare a written report annually, as specified. The bill would require the commission, beginning July 1, 2019, to annually determine the base amounts that health care entities, as defined, are required to accept as full payment for health care services, and would specify that the base amount for a health care provider shall be a percentage of Medicare rates not lower than 100% of Medicare rates. *The bill would permit a health care service plan or health insurer to negotiate a contracted rate that is not based on Medicare rates. The bill would exempt noncontracting physicians and other noncontracting health professionals, as defined, from the base amounts until health care service plans and health insurers provide information on average contracted amounts to the commission and the commission sets a base amount for noncontracting physicians and other noncontracting health professionals.* The bill would require the commission, on or before July 1, 2019, to establish an appeal process to consider adjustments to the

base amounts to be paid to health care providers, and would require the commission to consider specified factors during an appeal. The bill would require the commission to adopt regulations to establish the Purchaser Participation Program on or before July 1, 2019, to allow the commission's executive director to award reasonable fees to a person or organization that represents purchasers' interests and made a substantial contribution to a regulation, order, or decision, as specified. The bill would require the commission to obtain the information necessary to determine total health care expenditures and to set a global *growth cap* for total health care expenditures, as specified.

This bill would require the commission to estimate the cost savings to the General Fund from lower health care costs paid by public employers because of this bill, and require the Department of Finance to estimate the cost to increase reimbursement rates, as specified, and estimate how much of those costs could be paid using the estimated cost savings to the General Fund. The bill would express the intent of the Legislature to transfer that cost savings, upon appropriation, to programs that recruit and retain health professionals in underserved areas, as specified.

This bill would exempt a Medi-Cal managed health care plan or individuals receiving coverage through Medicare or another federal health program from the bill's provisions. The bill would prohibit a health care provider from billing or collecting an amount other than the applicable cost sharing from an individual, and would provide that an individual would not owe a health care provider an amount other than that applicable cost sharing.

This bill would require all information to be submitted electronically to the commission to facilitate public disclosure, but would provide that specified information be kept confidential.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

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

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

1 SECTION 1. Title 23 (commencing with Section 100600) is
2 added to the Government Code, to read:

3
4 TITLE 23. CALIFORNIA HEALTH CARE COST, QUALITY,
5 AND EQUITY COMMISSION

6
7 CHAPTER 1. THE COMMISSION

8
9 100600. The Legislature finds and declares the following:

10 (a) Overall health care spending in the United States far outpaces
11 the rest of the developed world. According to the federal Centers
12 for Medicare and Medicaid Services, health care spending in the
13 United States was 18 percent of the gross domestic product in
14 2016. In countries that belong to the Organization for Economic
15 Cooperation and Development (OECD), average health care
16 spending was 9 percent of those countries' gross domestic product
17 last year. Spending on public programs in other OECD countries
18 is roughly comparable to the United States' spending, but spending
19 on private health care coverage is much higher in the United States
20 than in other OECD countries.

21 (b) The use of health care services and the quality of health care
22 services, as well as life expectancy itself, are lower in the United
23 States than in other developed countries. We pay more for less.

24 (c) The chief cause of high health care spending in the United
25 States is high prices. According to the Health Care Cost Institute's
26 2016 Health Care Cost and Utilization Report, the utilization of
27 health care services has declined ~~since 2012~~ in the United States;
28 *States since 2012*, but prices for all services have increased. In
29 California, premiums for employer-sponsored health insurance ~~in~~
30 ~~California~~ increased 234 percent from 2002 to 2016, and new data
31 disclosed by health insurance companies to state agencies pursuant
32 Section 1385.045 of the Health and Safety Code and Section
33 10181.4 of the Insurance Code demonstrate that 83 percent of
34 premium increases in the large group market in 2018 were due to
35 price inflation.

36 (d) Health care spending in the United States varies significantly.
37 According to a recent study of 2.7 billion commercial hospital
38 claims, using data that covers 30 percent of all Americans with

1 employer-sponsored insurance, overall health care spending varies
2 by a factor of three across all markets in the United States, while
3 hospital prices within individual markets for the same procedures
4 can vary by a factor of two. Higher health care spending is not
5 associated with greater quality of health care. Higher hospital
6 prices are positively associated with indicators of market power;
7 hospital prices in monopoly markets are 15.3 percent higher than
8 those in markets with four or more hospitals.

9 (e) It is the intent of the Legislature to establish an independent
10 agency to regulate the cost of health care by regulating health care
11 prices for health plans, hospitals, physicians, physician groups,
12 and other health care cost drivers, while ensuring fair
13 reimbursement rates for plans and providers, improving the quality
14 of care received by Californians, and reducing health disparities
15 among Californians.

16 (f) It is the intent of the Legislature to control unreasonable
17 health care costs so that California is able to achieve a sustainable
18 health care system with more equitable access to quality health
19 care.

20 (g) It is the intent of the Legislature to ensure relief to individual
21 health care consumers from the rising ~~cost~~ costs of premiums and
22 out-of-pocket costs. It is also the intent of the Legislature to provide
23 relief from rising health coverage costs to employers, including
24 government agencies purchasing coverage on behalf of their
25 employees.

26 (h) California has a substantial public interest in the price and
27 cost of health care services and coverage in the commercial market.
28 California is a major purchaser of employer coverage through the
29 California Public Employees' Retirement System (CalPERS), the
30 State Department of Health Care Services, the Department of
31 General Services, the Department of Corrections and
32 Rehabilitation, and other entities acting on behalf of a state
33 purchaser. As of January 2018, the unmet liability for retiree health
34 benefits exceeded the liability for retirement benefits for state
35 employees. California also provides major tax expenditures through
36 the tax exclusion of ~~employer-sponsored~~ employer-sponsored
37 coverage, tax deductibility of coverage purchased by individuals,
38 tax deductibility of excess health care costs for individuals and
39 families, and the tax exclusion of the income earned by certain
40 qualifying health care plans and providers.

1 100601. (a) There is in state government the California Health
2 Care Cost, Quality, and Equity Commission, a state agency that
3 shall be an independent public entity that is not affiliated with an
4 agency or department. The commission shall consist of ~~nine~~ 11
5 members who are residents of California. Of the members of the
6 commission, three shall be appointed by the Governor, ~~two~~ three
7 shall be appointed by the Senate Committee on Rules, and ~~two~~
8 three shall be appointed by the Speaker of the Assembly. The
9 Secretary of California Health and Human Services or his or her
10 designee shall serve as a voting, ex officio member of the
11 commission. A CalPERS representative shall be designated by the
12 CalPERS Board of Administration to serve at the pleasure of
13 CalPERS Board of Administration as a voting, ex officio member
14 of the commission.

15 (b) (1) A member of the commission, other than an ex officio
16 member, shall be appointed for a term of six years. Appointments
17 made by the Governor shall be subject to confirmation by the
18 Senate. A member of the commission may continue to serve until
19 the appointment and qualification of his or her successor. Vacancies
20 shall be filled by appointment for the unexpired term. The
21 commission shall elect a chairperson on an annual basis.

22 (2) Initial appointments shall be for staggered terms. The
23 Governor shall appoint one member for two years, one member
24 for four years, and one member for six years. The Senate
25 Committee on Rules and the Speaker of the Assembly shall each
26 appoint one member for one year and one member for three years.

27 (c) (1) Appointments to the commission shall be made as
28 follows:

29 (A) One individual with demonstrated expertise in health care
30 policy.

31 (B) One individual with demonstrated expertise in health care
32 delivery.

33 (C) One health economist.

34 (D) One consumer advocate.

35 (E) One individual with demonstrated expertise in health care
36 financing, including alternative payment methodologies.

37 (F) One representative of a labor union organization who serves
38 as a trustee of a trust fund organized under state or federal law.

39 (G) One representative of an organization of employers with
40 demonstrated expertise in health care purchasing.

1 (H) *One physician.*

2 (I) *One individual with experience in hospital administration.*

3 (2) An individual appointed to the commission may have more
4 than one of the qualifications in paragraph (1). Each of the
5 qualifications in paragraph (1) shall be represented by the members
6 of the commission.

7 (d) Each member of the commission shall have the responsibility
8 and duty to meet the requirements of this title and all applicable
9 state and federal laws and regulations to serve the public interest
10 of the public and private purchasers, payers, and providers of health
11 care, and to protect the personal health information of health care
12 consumers.

13 (e) The appointing authorities shall consider the expertise of
14 the current members of the commission and make appointments
15 to complement those members' expertise. The appointing
16 authorities shall take into consideration the racial, ethnic, gender,
17 and geographical diversity of the state so that the commission's
18 composition reflects the communities of California.

19 (f) (1) A member of the commission or of the staff of the
20 commission shall not be employed by, a consultant to, a member
21 of the board of directors of, affiliated with, or otherwise a
22 representative ~~of~~, of a carrier or other insurer, an agent or broker,
23 a pharmaceutical manufacturer, a health care provider, a health
24 care facility, or a health clinic while serving on the commission
25 or on the staff of the commission. A member of the commission
26 or of the staff of the commission shall not be a member, a board
27 member, or an employee of a trade association of carriers,
28 pharmaceutical manufacturers, health care facilities, health clinics,
29 or health care providers while serving on the commission or on
30 the staff of the commission. A member of the commission or of
31 the staff of the commission shall not be a health care provider
32 unless he or she does not receive compensation for rendering
33 services as a health care provider and does not have an ownership
34 interest in a professional health care practice.

35 (2) A member of the commission shall not engage in ex parte
36 communications with ~~any~~ an individual or organization that may
37 appeal to the commission.

38 (3) A member of the commission shall ~~not~~ receive *adequate*
39 compensation for his or her service on the commission. A member
40 of the commission may receive a per diem and reimbursement for

1 travel and other necessary expenses while engaged in the
2 performance of official duties of the commission, as provided in
3 Section 103 of the Business and Professions Code.

4 (4) Notwithstanding Section 100607, for purposes of this
5 subdivision, "health care provider" means a person licensed or
6 certified pursuant to Division 2 (commencing with Section 500)
7 of the Business and Professions Code, or licensed pursuant to the
8 Osteopathic Act or the Chiropractic Act.

9 (g) A member of the commission shall not make, participate in
10 making, or attempt to use his or her official position to influence
11 the making of a decision that he or she knows or has reason to
12 know will have a reasonably foreseeable material financial effect,
13 distinguishable from its effect on the public generally, on him or
14 her, on a member of his or her immediate family, or on either of
15 the following:

16 (1) A source of income, other than gifts and other than loans by
17 a commercial lending institution in the regular course of business
18 on terms available to the public without regard to official ~~status~~
19 *status*, aggregating two hundred fifty dollars (\$250) or more in
20 value provided to, received by, or promised to the member within
21 12 months before the decision is made.

22 (2) A business entity in which the member is a director, officer,
23 partner, trustee, or employee, or holds a position of management.

24 (h) The commission, a member of the commission, or an officer
25 or employee of the commission shall not be liable in a private
26 capacity ~~for for~~, or on account ~~of of~~, an act performed or obligation
27 entered into in an official capacity, when done in good faith,
28 without intent to defraud, and in connection with the
29 administration, management, or conduct of this title or affairs
30 related to this title.

31 (i) The commission shall hire an executive director to organize,
32 administer, and manage the operations of the commission. The
33 executive director shall be exempt from civil service and shall
34 serve at the pleasure of the commission.

35 (j) The commission shall be subject to the Bagley-Keene Open
36 Meeting Act (Article 9 (commencing with Section 11120) of
37 Chapter 1 of Part 1 of Division 3 of Title 2), ~~except that~~ the
38 commission may hold closed sessions when considering matters
39 related to litigation, personnel, and contracting.

40 100603. (a) The purpose of the commission is to:

1 (1) Set the amounts accepted as payment by health plans,
2 hospitals, physicians, physician groups, and other health care
3 providers.

4 (2) Determine methods for state government to reduce the cost
5 of prescription drugs and medical devices paid for by private
6 purchasers in the commercial market.

7 (3) Control in-state health care costs in a manner intended to
8 improve health care quality, improve health outcomes, and reduce
9 health disparities for all Californians.

10 (4) Reduce price discrimination by health care providers among
11 health care purchasers and the variation in prices paid to providers
12 by private purchasers in the commercial market.

13 (5) Ensure payments to health care providers will permit them
14 to provide medically necessary, effective, and efficient health care
15 services in a manner that improves health outcomes, reduces health
16 disparities, ~~ensures~~ ensure there are an adequate number of
17 providers to provide timely access to health care services for all
18 Californians with commercial health coverage, and ~~ensures~~ ensure
19 a fair and reasonable return on investment to providers.

20 (6) Measure and reduce total health care expenditures per capita
21 in the state.

22 (b) It is not the purpose of the commission to determine rates
23 with respect to the Medi-Cal program or any other public health
24 program.

25 100605. (a) The commission shall convene an advisory
26 committee composed of a diverse set of health care stakeholders
27 with demonstrated expertise in private, commercial, or Medicare
28 health care payments and financing, health care delivery, health
29 care quality, health care workforce, population health, health
30 equity, or a combination of these. Appointments shall be for a term
31 of at least one year. The membership shall be as follows:

32 (1) A representative of a health care service plan licensed under
33 Chapter 2.2 (commencing with Section 1340) of Division 2 of the
34 Health and Safety Code, an insurer offering a policy of health
35 insurance as defined in subdivision (b) of Section 106 of the
36 Insurance Code, or an association representing health care service
37 plans.

38 (2) A representative of a licensed health facility as defined in
39 Section 1250 of the Health and Safety Code.

- 1 (3) A representative of a clinic as defined in Section 1200 of
2 the Health and Safety Code.
- 3 (4) A representative of an ambulatory surgery or other outpatient
4 setting, as described in subdivision (a), (d), (e), (g), or (h) of
5 Section 1248.1 of the Health and Safety Code or regulated by the
6 Medical Board of California pursuant to Article 11.5 (commencing
7 with Section 2215) of Chapter 5 of Division 2 of the Business and
8 Professions Code.
- 9 (5) A representative of a laboratory, radiology, or imaging
10 center.
- 11 (6) A physician and surgeon who is licensed in California to
12 deliver or furnish health care services.
- 13 (7) A representative of a physician organization or medical
14 group.
- 15 (8) A representative of an organization of the employees of
16 hospital or medical group providers licensed or certified to deliver
17 health care services.
- 18 (9) An expert in health information technology.
- 19 (10) Any other provider of a health care service that is licensed,
20 certified, or otherwise regulated by the state.
- 21 (11) A representative of a self-insured or self-funded employer
22 group health plan, multiemployer plan, or self-insured or
23 self-funded joint labor-management trust that pays for health care
24 services provided to beneficiaries.
- 25 (12) A representative of CalPERS.
- 26 (13) A representative of a large public sector purchaser of health
27 care services.
- 28 (14) A representative of a large private sector purchaser of health
29 care services.
- 30 (15) A representative of an organization representing health
31 care consumers.
- 32 (b) The purpose and duties of the advisory committee shall be
33 to advise the commission as follows:
- 34 (1) Provide recommendations to the commission regarding the
35 establishment, implementation, and ongoing administration and
36 evaluation of the commission.
- 37 (2) Advise the commission on topics requested by the
38 commission.
- 39 (3) Suggest questions and agenda items to the commission for
40 advisory committee consideration.

1 (c) (1) The advisory committee shall hold public meetings at
2 least once every quarter, and shall solicit input on agendas and
3 topics set by the commission. Meetings of the advisory committee
4 are subject to the Bagley-Keene Open Meeting Act (Article 9
5 (commencing with Section 11120) of Chapter 1 of Part 1 of
6 Division 3 of Title 2).

7 (2) A member of the advisory committee shall recuse himself
8 or herself from any matter directly affecting his or her interests or
9 the interests of the entity or organization represented by the
10 member.

11 (d) Notwithstanding any other law, a member of the advisory
12 committee shall not receive per diem, travel expense
13 reimbursement, or other expense reimbursement related to his or
14 her service on the advisory committee.

15 100607. For purposes of this title:

16 (a) "Adjusted amount" means the maximum amount of payment
17 approved by the commission after the final decision on an appeal
18 pursuant to this title that a health care entity may require from a
19 purchaser as payment in full for health care services, in addition
20 to applicable cost sharing.

21 (b) "Applicable cost sharing" means copayments, deductibles,
22 coinsurance, and any other share of cost for services that is
23 permitted consistent with state law and regulations or federal law,
24 rules, and guidance. "*Applicable cost sharing*" does not include
25 *premiums or share of premiums*.

26 (c) "Base amount" means the amount of payment for health
27 care services as a percentage of Medicare rates that a health care
28 entity may require from a purchaser as payment in full for health
29 care services, in addition to any applicable cost sharing.

30 (d) "Commercial health coverage" means coverage that is paid
31 for by individual consumers for their own benefit, employers for
32 the benefit of employees and dependents, employee benefit plans
33 for the benefit of plan participants and their dependents, or another
34 individual or group health plan. "Commercial health coverage" is
35 not Medicare, Medi-Cal, the Indian Health Service, the Federal
36 Employees Health Benefit Program, or ~~TRI-CARE~~. *TRICARE*.

37 (e) "Commission" means the California Health Care Cost,
38 Quality, and Equity Commission as established in this title.

39 (f) "Health care entity" means the following:

- 1 (1) A health care service plan licensed under Chapter 2.2
2 (commencing with Section 1340) of Division 2 of the Health and
3 Safety Code or an insurer offering a policy of health insurance as
4 defined in subdivision (b) of Section 106 of the Insurance Code.
- 5 (2) A licensed health facility as defined in Section 1250 of the
6 Health and Safety ~~Code~~ Code.
- 7 (3) A clinic as defined in Section 1200 of the Health and Safety
8 Code.
- 9 (4) An ambulatory surgery or other outpatient setting, as
10 described in subdivision (a), (d), (e), (g), or (h) of Section 1248.1
11 of the Health and Safety Code or regulated by the Medical Board
12 of California pursuant to Article 11.5 (commencing with Section
13 2215) of Chapter 5 of Division 2 of the Business and Professions
14 Code.
- 15 (5) A laboratory, radiology, or imaging center that is required
16 to be licensed or certified by the state.
- 17 (6) A physician and surgeon or other professional who is
18 licensed in California to deliver or furnish health care services and
19 who is a member of a health profession in which some
20 professionals bill independently for their services.
- 21 (7) A physician organization or medical group.
- 22 (8) Any other provider of a health care service that is licensed,
23 certified, or otherwise regulated by the state and that bills
24 separately or independently for that service.
- 25 (g) "Health care provider" means a health care entity as defined
26 in paragraphs (2) to (8), inclusive, of subdivision (f).
- 27 (h) "Health care services" means covered benefits, including
28 essential health benefits consistent with Section 1367.005 of the
29 Health and Safety Code and any other covered benefits as provided
30 in the evidence of coverage or plan documents provided by a health
31 care service plan, health insurer, or self-insured plan.
- 32 (i) "Noncontracting physician" or "other noncontracting health
33 professional" means a physician or health professional who is not
34 contracted with a state-licensed health care service plan or a
35 health insurer licensed by the state.
- 36 (†)
- 37 (j) "Purchasers" means consumers who purchase health coverage
38 as individuals and employers, plans, and trust funds that purchase
39 health coverage or pay for health care benefits on the behalf of
40 their employees, dependents, or plan members.

- 1 100608. (a) The commission shall do all of the following:
- 2 (1) Convene at least quarterly. The commission may meet more
- 3 frequently as required to fulfill its purpose under this title.
- 4 (2) Annually prepare a written report on the implementation
- 5 and performance of the commission during the preceding fiscal
- 6 year, including, at a minimum, how funds were expended and the
- 7 progress toward, and the achievement of, the requirements of this
- 8 title.
- 9 (A) The report shall be publicly posted on the commission's
- 10 Internet Web site.
- 11 (B) The report shall be annually transmitted to the Legislature
- 12 and the Governor in compliance with Section 9795.
- 13 (3) Respond to requests for additional information from the
- 14 Legislature, including providing testimony and commenting on
- 15 proposed state legislation or policy issues.
- 16 (4) Maintain expenditures consistent with revenues.
- 17 (5) Exercise all powers reasonably necessary to carry out and
- 18 comply with the duties, responsibilities, and requirements of this
- 19 title.
- 20 (6) Consult with the advisory committee stakeholders relevant
- 21 to carrying out the activities of this title.
- 22 (b) The commission may do the following:
- 23 (1) Enter into contracts.
- 24 (2) Sue and be sued.
- 25 (3) Receive and accept gifts, grants, or donations of moneys
- 26 from an agency of the United States, an agency of the state, and a
- 27 municipality, county, or other political subdivision of the state.
- 28 (4) Receive and accept gifts, grants, or donations from
- 29 individuals, associations, private foundations, and corporations,
- 30 in compliance with the conflict of interest provisions to be adopted
- 31 by the commission at a public meeting.
- 32 (5) Adopt rules and regulations, as necessary. Until January 1,
- 33 2022, necessary rules and regulations may be adopted as emergency
- 34 regulations in accordance with the Administrative Procedure Act
- 35 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
- 36 Division 3 of Title 2). The adoption of these regulations shall be
- 37 deemed to be an emergency and necessary for the immediate
- 38 preservation of the public peace, health and safety, or general
- 39 welfare.

1 (6) Share information with relevant state departments necessary
2 for the administration of the commission.

3 (7) Employ necessary staff.

4 (A) The commission shall hire a chief fiscal officer, a chief
5 operations officer, a chief technology and information officer, a
6 general counsel, and other key executive positions, as determined
7 by the commission, who shall be exempt from civil service.

8 (B) The commission shall set the salaries for the exempt
9 positions described in paragraph (1) and in subdivision (i) of
10 Section 100601 in amounts that are reasonably necessary to attract
11 and retain individuals of superior qualifications. The salaries shall
12 be published by the commission in the commission's annual
13 budget. The commission's annual budget shall be posted on the
14 Internet Web site of the commission. To determine the
15 compensation for these positions, the commission shall cause to
16 be conducted, through the use of independent outside advisors,
17 salary surveys of both of the following:

18 (i) Other state and federal health care commissions that are most
19 comparable to the commission.

20 (ii) Other relevant labor pools.

21 (C) The salaries established by the commission under
22 subparagraph (B) shall not exceed the highest comparable salary
23 for a position of that type, as determined by the surveys conducted
24 pursuant to subparagraph (B).

25 (D) The Department of Human Resources shall review the
26 methodology used in the surveys conducted pursuant to
27 subparagraph (A).

28 (E) The positions described in paragraph (1) and subdivision
29 (i) of Section 100601 shall not be subject to otherwise applicable
30 provisions of the Government Code or the Public Contract Code
31 and, solely for the purpose of determining the salaries for those
32 positions, the commission shall not be considered a state agency
33 or public entity.

34 (c) Notwithstanding any other law, the commission shall not be
35 subject to licensure or regulation by the Department of Insurance
36 or the Department of Managed Health Care.

37 100609. (a) This title shall not apply to a Medi-Cal managed
38 health care service plan or an entity that enters into a contract with
39 the State Department of Health Care Services pursuant to Chapter
40 7 (commencing with Section 14000), Chapter 8 (commencing with

1 Section 14200), or Chapter 8.75 (commencing with Section 14591)
2 of Part 3 of Division 9 of the Welfare and Institutions Code.

3 (b) This title shall not apply to individuals receiving coverage
4 through the Medicare program or any other federal program,
5 including the Indian Health Service, ~~TRI-CARE~~, *TRICARE*, the
6 Federal Employees Health Benefit Program, or any other federal
7 program providing health care services.

8 (c) Notwithstanding any other law, the amounts paid for services
9 under this title shall not constitute a health care provider's uniform,
10 published, prevailing, or customary charges and shall not be used
11 for purposes of a payment limit under the federal Medicare
12 Program, the Medi-Cal program, or any other federal or
13 state-financed health care program.

14 (d) This title is not intended to act upon, govern, impose
15 obligations upon, or otherwise regulate employee welfare benefit
16 plans regulated by the Employee Retirement Income Security Act
17 of 1974. This title does not prohibit those plans from accessing
18 the rates set by the commission for regulated health care entities.

19 100610. (a) On or before July 1, 2019, the commission shall
20 adopt regulations to establish the Purchaser Participation Program,
21 which shall allow for the executive director to award reasonable
22 advocacy and witness fees to a person or organization that
23 demonstrates that the person or organization represents the interests
24 of purchasers and has made a substantial contribution on behalf
25 of purchasers to the adoption of a regulation or to an order or
26 decision made by the director if the order or decision has the
27 potential to impact a significant number of consumers.

28 (b) The regulations adopted by the commission shall include
29 specifications for eligibility of participation, rates of compensation,
30 and procedures for seeking compensation. The regulations shall
31 require that the person or organization demonstrate a record of
32 advocacy on behalf of health care consumers in administrative or
33 legislative proceedings in order to determine whether the person
34 or organization represents the interests of purchasers.

35 (c) This section shall apply to all proceedings of the commission,
36 including individual rate cases.

37 (d) The fees awarded pursuant to this section shall be considered
38 costs and expenses pursuant to Section 100612 and shall be paid
39 from the assessments made under that section.

1 (e) (1) The commission shall report the following information
2 on or before March 1, 2020, and annually thereafter:

3 (A) The amount of reasonable advocacy and witness fees
4 awarded each fiscal year.

5 (B) The individuals or organizations to whom advocacy and
6 witness fees were awarded pursuant to this section.

7 (C) The orders, decisions, and regulations pursuant to which
8 the advocacy and witness fees were awarded.

9 (2) The report shall be publicly posted on the commission's
10 Internet Web site.

11 (3) The report shall be annually transmitted to the appropriate
12 policy and fiscal committees of the Legislature in compliance with
13 Section 9795.

14 100612. (a) Funding for the actual and necessary expenses of
15 the commission in implementing this title shall be provided, subject
16 to appropriation by the Legislature, from transfers of moneys from
17 the following funds:

18 (1) The Managed Care Fund.

19 (2) The Insurance Fund.

20 ~~(3) The Health Facilities License Fee Account.~~

21 ~~(4) Funds that receive revenues from the licensing of health
22 professionals that bill separately, including, but not limited to, the
23 Contingent Fund of the Medical Board of California, the
24 Osteopathic Medical Board of California Contingent Fund, the
25 Psychology Fund, and the Mental Health Practitioner Education
26 Fund.~~

27 (b) The share of funding from the Managed Care Fund shall be
28 based on the number of covered lives in the state that are covered
29 under plans regulated by the Department of Managed Health Care,
30 including covered lives under Medi-Cal managed care, as
31 determined by the Department of Managed Health Care, in
32 proportion to the total number of covered lives in the state.

33 (c) The share of funding from the Insurance Fund shall be based
34 on the number of covered lives in the state that are covered under
35 health insurance policies and benefit plans regulated by the
36 Department of Insurance, including covered lives under Medicare
37 supplement plans, as determined by the Department of Insurance,
38 in proportion to the total number of covered lives in the state.

1 ~~(d) The share of funding from the funds described in paragraphs~~
2 ~~(3) and (4) of subdivision (a) shall be based on the number of~~
3 ~~individuals with commercial health coverage.~~

4 ~~(e)~~

5 (d) The allocation of the share of funding from the funds
6 described in subdivision (a) shall be determined annually during
7 the budget process.

8
9 CHAPTER 2. POWERS OF THE COMMISSION

10
11 100620. (a) (1) Beginning July 1, 2019, and annually
12 thereafter, the commission shall establish base amounts that health
13 care entities shall accept as payment in full for health care services,
14 in addition to applicable cost sharing. The base amount shall apply
15 to a contract with a health care entity that was issued, amended,
16 or renewed on or after the effective date of the base amount. The
17 commission shall determine the effective date or dates of base
18 amounts, which shall be no earlier than July 1, 2019.

19 (2) On or before July 1, 2019, the commission shall adopt
20 regulations governing the annual determination of base amounts.
21 In its determination of the base amounts, the commission shall
22 allow the submission of written comments and testimony by health
23 care entities and purchasers.

24 (3) The annual determination of base amounts shall be exempt
25 from the Administrative Procedure Act (Chapter 3.5 (commencing
26 with Section 11340) of Part 1 of Division 3 of Title 2).

27 (b) The commission shall annually determine the percentage of
28 Medicare rates used to determine the base amount. For health care
29 providers, the percentage determined by the commission shall not
30 be lower than 100 percent of Medicare ~~rates. rates, and may exceed~~
31 *Medicare rates.*

32 (1) For health care providers, base amounts shall be a percentage
33 of the rate that Medicare reimburses for the same or similar services
34 in the general geographic region in which the services were
35 rendered, unless those services are provided on a contractual basis
36 to a health *care service* plan or health insurer licensed by the state.

37 (2) For a health care service plan contract or a policy of health
38 insurance, the base amount shall be a ~~multiplier~~ *percentage* of the
39 capitated rate a health plan receives for Medicare Advantage for

- 1 the county where an enrollee or insured resides, adjusted for all
2 of the following:
- 3 (A) Age.
 - 4 (B) Risk mix.
 - 5 (C) Differences in cost sharing between the Medicare Advantage
6 plan and the coverage offered by the health care service plan or
7 health insurer.
 - 8 (D) Other actuarial factors permissible under state and federal
9 law.
- 10 (3) In determining the base amounts, the commission shall take
11 into account all of the following:
- 12 (A) Evidence of the financial status of hospitals, other health
13 care providers, and Medicare Advantage plans, as well as the
14 compensation of physicians and other health professionals in
15 California. As part of that determination, the commission shall
16 consider whether or not the health care entity is receiving a fair
17 return on investment and avoidance of confiscatory results.
 - 18 (B) Changes in state or federal laws that result in a change in
19 costs.
 - 20 (C) Reasonable increases in labor costs, including salaries and
21 benefits, and changes in collective bargaining agreements or
22 prevailing wage.
 - 23 (D) Reasonable increases in capital investments, including those
24 associated with compliance with state or federal law.
 - 25 (E) Changes in the delivery of care that require adjustments in
26 rates, such as the development of new modalities of care or new
27 systems of care.
- 28 (4) The commission may allow different percentages of
29 Medicare rates to be used for different health care entities,
30 including different percentages for Medicare Advantage than for
31 the amounts paid to health care providers.
- 32 (5) *A health care service plan or health insurer may negotiate*
33 *contracted rates with contracting health providers that are not*
34 *based on the Medicare rates as provided in this section.*
- 35 (c) (1) The commission shall establish a process for developing
36 base amounts for health care services not currently reimbursed by
37 Medicare or Medicare Advantage.
- 38 (2) The commission shall establish a process for determining
39 reimbursement rates for health care services infrequently

1 reimbursed by Medicare or Medicare Advantage. This shall
2 include, at a minimum, pediatrics, obstetrics, and gynecology.

3 (d) The commission shall determine whether or not to include
4 or alter Medicare rating factors, such as Medicare disproportionate
5 share hospital rates, graduate medical education, readmission
6 penalties, and other added rates as Medicare may allow. Until the
7 commission makes that determination, the base amount shall not
8 include those factors.

9 (e) The commission shall review and adjust overall rates or
10 specific rates to maintain the workforce necessary to deliver
11 quality, equitable health care throughout the state, and may make
12 adjustments to ensure access to underserved populations throughout
13 the state.

14 (f) The commission shall review the base amounts annually to
15 ensure that the amounts are sufficient to ensure all of the following:

16 (1) The financial solvency requirements under state law for each
17 of the following:

18 (A) Health care service plans licensed under Chapter 2.2
19 (commencing with Section 1340) of Division 2 of the Health and
20 Safety Code.

21 (B) Insurers offering policies of health insurance as defined in
22 subdivision (b) of Section 106 of the Insurance Code.

23 (C) Risk-bearing organizations as defined in Section 1375.4 of
24 the Health and Safety Code.

25 (2) A fair return on investment for the health care entity.

26 (3) Avoidance of confiscatory results.

27 (4) Improvements in health outcomes.

28 (5) Improvements in health disparities and reductions in health
29 system costs consistent with this title.

30 (6) Availability and accessibility of health care services,
31 including compliance with state requirements regarding network
32 adequacy, timely access, and language access.

33 (g) The commission shall separately consider the impact of the
34 base amounts in underserved areas, including rural areas
35 determined to be underserved in accordance with state and federal
36 requirements. To mitigate the impact of the base amounts on the
37 availability and accessibility of health care services in underserved
38 areas, the commission may adjust the base amounts for services
39 provided in those areas.

1 (h) In determining base amounts, the commission may take into
2 account the reliance of the category of hospital or health
3 professional ~~on-fee-for-service~~ reimbursement by the Medi-Cal
4 program, including supplemental Medi-Cal rates, such as
5 disproportionate share hospital payments, intergovernmental
6 transfers, prospective payment system rates for clinics,
7 reimbursement based on quality assurance fees, or other
8 ~~supplement~~ supplemental Medi-Cal rates that the provider receives.

9 (i) If the commission determines that the Medicare
10 reimbursement system has substantially changed and no longer
11 serves the interests of Californians, then the commission may make
12 recommendations to the Governor and the Legislature to ensure
13 that the commission continues to fulfill its purpose.

14 *100621. (a) To develop appropriate base amounts for*
15 *noncontracting physicians and other noncontracting health*
16 *professionals, health care service plans and health insurers shall*
17 *provide to the commission the average contracted amount for the*
18 *same or similar services in the general geographic regions in*
19 *which the services were rendered for the three calendar years*
20 *before the effective date of this title. For purposes of this*
21 *subdivision, "average contracted rate" means the average of the*
22 *contracted commercial rates paid by the health care service plan,*
23 *delegated health entity, or health insurer for the same or similar*
24 *services in the geographic region.*

25 (b) *Until the data submitted pursuant to subdivision (a) is*
26 *available to the commission, the commission shall not set a base*
27 *amount for noncontracting physicians and other noncontracting*
28 *health professionals.*

29 (c) *To determine the base amounts for noncontracting physicians*
30 *and other noncontracting health professionals, the commission*
31 *shall take into account the commercial contracted rates paid in*
32 *the three prior calendar years.*

33 (d) *This section shall not apply to physicians and other health*
34 *professionals contracting with health care service plans or health*
35 *insurers.*

36 (e) *Until the commission determines the base amounts for*
37 *noncontracting physicians and other noncontracting health*
38 *professionals, a physician or health professional who does not*
39 *contract with a health care service plan or health insurer shall*
40 *not be subject to the base amount.*

1 100622. (a) *It is the intent of the Legislature to better align*
2 *the financing of the Medi-Cal program, including both the*
3 *fee-for-service program and Medi-Cal managed care, with*
4 *Medicare rates.*

5 (b) *It is also the intent of the Legislature that savings to the*
6 *General Fund from lower health care costs for public employers*
7 *as a result of this title be directed, upon appropriation by the*
8 *Legislature, to the Steven M. Thompson Physician Corps Loan*
9 *Repayment Program, the Song-Brown Healthcare Workforce*
10 *Training Programs, the Health Professions Education Fund, and*
11 *other programs intended to recruit and retain health professionals*
12 *in underserved areas.*

13 (c) *Beginning October 1, 2020, and on or before October 1*
14 *annually thereafter, the commission shall estimate the savings to*
15 *the General Fund from lower health care costs paid by public*
16 *employers, including the state and local governments, as a result*
17 *of this title, and shall report the estimated savings to the*
18 *Department of Finance and the Legislature.*

19 (d) *The Department of Finance shall provide an estimate of the*
20 *cost to increase reimbursement rates for physicians and other*
21 *health care providers to be comparable to Medicare, taking into*
22 *account the differences in populations served. The Department of*
23 *Finance shall include in its estimate an analysis of how much of*
24 *the cost would be provided through federal financial participation*
25 *and how much could be paid out of the estimated savings to the*
26 *General Fund from lower health costs for public employers.*

27 100625. (a) *On or before July 1, 2019, the commission shall*
28 *establish an appeals process for the purpose of considering*
29 *adjustments to the base amounts to be paid to health care providers.*

30 (b) *The commission shall establish by regulation uniform written*
31 *procedures for notice and the submission, receipt, processing, and*
32 *consideration of appeals.*

33 (c) *The commission shall establish criteria, by regulation, for*
34 *considering and making decisions on appeals to the base amount.*

35 (d) *Decisions on appeals shall be rendered within six months*
36 *of the filing of an appeal. A filing shall not be considered complete*
37 *until the entity that is appealing has produced the documentation*
38 *reasonably required by the commission.*

39 (e) *A health care entity filing an appeal shall certify that it has*
40 *a good faith basis for pursuing the appeal and shall identify the*

1 specific factor or factors enumerated in Section 100626 on which
2 the appeal is based.

3 100626. (a) The commission shall consider an appeal of the
4 base amounts, filed by a health care entity, based on the following:

5 (1) The overall financial condition of the health care entity.
6 (2) A fair return on investment by a health care entity.
7 (3) Avoidance of confiscatory results.
8 (4) Risks to the ongoing operation of the health care entity and
9 its financial solvency, if financial solvency requirements are
10 imposed by law.
11 (5) Justifiable differences in costs among health care entities,
12 such as providing a service not available from other providers in
13 the region, or the need for health care services in rural areas with
14 a shortage of health professionals or medically underserved areas
15 and populations.
16 (6) Factors that led to increased costs for the health care entity
17 that can reasonably be considered to be unanticipated and out of
18 the control of the entity. Those factors may include, but shall not
19 be limited to:

20 (A) Natural disasters.
21 (B) Outbreaks of epidemics or infectious diseases.
22 (C) Unanticipated facility or equipment repairs purchases.
23 (D) Unanticipated increases in a share of low-income, Medi-Cal,
24 or uninsured populations.
25 (E) Significant and unanticipated increases in pharmaceutical
26 or medical device prices.
27 (7) Changes in state or federal laws that result in a change in
28 costs.
29 (8) Reasonable increases in labor costs, including salaries and
30 benefits, and changes in collective bargaining agreements,
31 prevailing wage, or local law.
32 (9) Reasonable increases in capital investments, including those
33 associated with compliance with state or federal law.
34 (10) Changes in the delivery of care that require adjustments in
35 rates, such as the development of new modalities of care or new
36 systems of care.

37 (b) (1) The base amount set by the commission to be paid to
38 the health care entity shall stay in effect during the appeal process,
39 subject to interim relief provisions.

1 (2) The commission shall have the power to grant interim relief
2 based on fairness. The commission shall develop regulations
3 governing interim relief. The commission shall establish uniform
4 written procedures for the submission, processing, and
5 consideration of an interim relief appeal by a health care entity. A
6 decision on interim relief shall be granted within one month of the
7 filing of an interim relief appeal. A health care entity shall certify
8 in its interim relief appeal that the request is made on the basis that
9 the challenged amount is arbitrary and capricious, or that the health
10 care entity has experienced a bona fide emergency based on
11 unanticipated costs or costs outside the control of the entity,
12 including those in paragraph (6) of subdivision (a).

13 (c) (1) In accordance with the Administrative Procedure Act
14 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
15 Division 3 of Title 2), the commission may delegate the conduct
16 of a hearing to an administrative law judge, who shall issue a
17 proposed decision with findings of fact and conclusions of law.

18 (2) The administrative law judge may hold evidentiary hearings
19 and shall issue a proposed decision with findings of fact and
20 conclusions of law, including a recommended adjusted amount,
21 within four months of the filing of the appeal.

22 (3) Within 30 days of receipt of the proposed decision by the
23 administrative law judge, the commission may approve, disapprove,
24 or modify the decision, and shall issue a final decision with an
25 adjusted amount for the appealing health care entity.

26 (d) A final determination by the commission shall be subject to
27 judicial review pursuant to Section 1094.5 of the Code of Civil
28 Procedure.

29 *100627. (a) The commission shall have the power to obtain*
30 *information that is necessary to its deliberations.*

31 *(b) The commission shall receive the following information from*
32 *the following entities:*

33 *(1) Information regarding facilities, workforce, and prescription*
34 *drug prices from the Office of Statewide Health Planning and*
35 *Development.*

36 *(2) Information regarding rate review and other information*
37 *relevant to timely access to care, adequacy of network, and medical*
38 *surveys from the Department of Managed Health Care and the*
39 *Department of Insurance.*

1 (3) Information regarding licensed health professionals from
2 the Department of Consumer Affairs, the Medical Board of
3 California, and other health profession licensing boards.

4 (c) The commission shall establish protocols to receive
5 information pursuant to subdivision (b).

6 (d) The commission may require a health care entity or entities
7 to provide information to allow the commission to fulfill its
8 obligations pursuant to this title.

9 ~~100627.~~

10 100628. (a) Notwithstanding Chapter 3.5 (commencing with
11 Section 6250) of Division 7 of Title 1, all information submitted
12 pursuant to this title shall be made publicly available by the
13 commission.

14 (b) Notwithstanding subdivision (a), records of the commission
15 that reveal the following shall be confidential and exempt from
16 disclosure under the California Public Records Act (Chapter 3.5
17 (commencing with Section 6250) of Division 7 of Title 1):

18 (1) The contracted rates between a health care service plan and
19 a provider.

20 (2) The contracted rates between a health care service plan and
21 a large group.

22 (3) Information provided to a large group purchaser pursuant
23 to Section 1385.10 of the Health and Safety Code.

24 (c) The contracted rates between a health care service plan and
25 a provider shall not be disclosed by a health care service plan to
26 a large group purchaser that receives information pursuant to
27 Section 1385.10 of the Health and Safety Code.

28 (d) All information submitted to the commission under this
29 chapter shall be submitted electronically to facilitate review by
30 the department and the public.

31 (e) (1) The commission shall, at a minimum, make the following
32 information readily available to the public on its Internet Web site,
33 in plain language and in a manner and format specified by the
34 commission, except as provided in subdivision (b):

35 (A) Justifications for an appeal, consistent with Section 100626,
36 including all supporting information and documentation.

37 (B) Information on pending appeals and final decisions on
38 appeals.

39 (C) A plain language summary of the reasons for the
40 determination regarding the appeal, consistent with Section 100626.

1 (D) Information on the base amounts determined by the
2 commission, including the percentages and factors taken into
3 account to determine the base amount, consistent with Section
4 100614.

5 (2) The information posted to the commission's Internet Web
6 site pursuant to paragraph (1) shall be made public for 60 days
7 before the hearing of an appeal.

8 100629. (a) An individual shall not owe a health care provider
9 an amount other than the applicable cost sharing that is otherwise
10 permitted by law.

11 (b) For a service subject to this title, a health care provider shall
12 not bill or collect an amount from an individual other than the
13 applicable cost sharing.

14 (c) If a service is not a covered benefit, the health care provider
15 may bill the individual and may collect the base amount from that
16 individual. If the commission has not determined the base amount
17 for a particular service that is not a covered benefit, then the health
18 care provider shall determine an appropriate amount for the service
19 and may bill the individual as otherwise permitted by law.

20 (d) If an individual does not have health coverage, the individual
21 shall not pay more than the base or adjusted amount determined
22 pursuant to this title.

23
24 CHAPTER 3. OVERALL COST, QUALITY, AND EQUITY GOALS
25

26 100640. (a) The commission shall obtain the information
27 necessary to determine total health care expenditures and shall set
28 a global cap ~~for~~ *on the annual growth of* total health care
29 expenditures ~~based on that does not exceed the annual growth of~~
30 *the gross state product.*

31 (b) The commission shall use existing data sources to determine
32 total health care expenditures to the extent publicly available. If
33 appropriate data sources do not exist, the commission shall require
34 sufficient data to be collected to allow it to measure the cost of
35 health care, as well as impacts on quality, equity, and workforce
36 adequacy.

37 (c) The commission shall identify the reasons why there has
38 been a failure to achieve the global *growth* cap and may order
39 corrective action in order to ~~achieve that~~ *reduce expenditures to*
40 *stay below the global growth cap.*

1 (d) The commission shall report at least annually on the total
2 health care expenditures and the global *growth* cap. The
3 commission shall vote on that report at a regularly scheduled
4 meeting of the commission.

5 (1) The report shall be publicly posted on the commission's
6 Internet Web site.

7 (2) The report shall be annually transmitted to the Legislature
8 and the Governor in compliance with Section 9795.

9 *100641. In determining the global growth cap for total health*
10 *care expenditures, the commission shall take into account the*
11 *adequacy of funding for the Medi-Cal program, including both*
12 *the fee-for-service program and the Medi-Cal managed care*
13 *program. The commission shall consider the impact on quality*
14 *and equity of the adequacy of funding the Medi-Cal program.*

15 100650. If a section, subdivision, sentence, clause, or phrase
16 of this title, or the application thereof to a person or circumstances,
17 is held invalid, the validity of the remainder of the title, or the
18 application of that provision to other persons or circumstances,
19 shall not be affected. The Legislature hereby declares that it would
20 have passed this title, and each section, subdivision, sentence,
21 clause, and phrase thereof, irrespective of the fact that one or more
22 sections, subdivisions, sentences, clauses, or phrases, or the
23 application thereof, to a person or circumstance, may be held
24 invalid.

25 SEC. 2. The Legislature finds and declares that Section 1 of
26 this act, which adds Section ~~100627~~ 100628 to the Government
27 Code, imposes a limitation on the public's right of access to the
28 meetings of public bodies or the writings of public officials and
29 agencies within the meaning of Section 3 of Article I of the
30 California Constitution. Pursuant to that constitutional provision,
31 the Legislature makes the following findings to demonstrate the
32 interest protected by this limitation and the need for protecting
33 that interest:

34 In order to protect proprietary information, it is necessary for
35 that information to remain confidential.

AMENDED IN SENATE APRIL 9, 2018
AMENDED IN SENATE JUNE 26, 2017
AMENDED IN ASSEMBLY MAY 2, 2017
AMENDED IN ASSEMBLY FEBRUARY 28, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 162

**Introduced by Assembly Members ~~Member Cervantes and~~
~~Quirk-Silva~~**

**(~~Coauthors: Assembly Members Aguiar-Curry, Bocanegra,
Cristina Garcia, Eduardo Garcia, Kalra, Limón, Low, Medina,
Reyes, Rodriguez, Salas, and Santiago~~)**

January 13, 2017

~~An act to amend Sections 17059.2 and 23689 of the Revenue and
Taxation Code, relating to taxation. An act to add Section 21655.4 to
the Vehicle Code, relating to transportation.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 162, as amended, Cervantes. ~~Income taxation: credits.~~
High-occupancy vehicle lanes: County of Riverside.

Existing law authorizes the Department of Transportation to designate certain lanes for the exclusive or preferential use of high-occupancy vehicles. When those exclusive or preferential use lanes are established and double parallel solid lines are in place to the right thereof, existing law prohibits any person driving a vehicle from crossing over those double lines to enter into or exit from the lanes, and entrance into or exit from those lanes is authorized only in areas designated for these purposes or where a single broken line is in place to the right of the

lanes, except as specified. Existing law authorizes a regional transportation agency, in cooperation with the Department of Transportation, to apply to the California Transportation Commission to develop and operate high-occupancy toll (HOT) lanes, including administration and operation of a value pricing program and exclusive or preferential lane facilities for public transit. Existing law authorizes a value pricing and transit program involving HOT lanes to be developed and operated on State Highway Route 15 in Riverside County by the Riverside County Transportation Commission.

This bill would prohibit all high-occupancy vehicle lanes in the County of Riverside, except for HOT lanes, from using double parallel solid lines to restrict the entrance into or exit from those lanes, and would require any existing double parallel solid lines to be removed from those lanes.

This bill would make legislative findings and declarations as to the necessity of a special statute for the County of Riverside.

~~Existing law allows a credit against the taxes imposed under the Corporation Tax Law and the Personal Income Tax Law for each taxable year beginning on or after January 1, 2014, and before January 1, 2025, in an amount as provided in a written agreement between the Governor's Office of Business and Economic Development and the taxpayer, agreed upon by the California Competes Tax Credit Committee, and based on specified factors, including the number of jobs the taxpayer will create or retain in the state and the amount of investment in the state by the taxpayer. Existing law provides for the allocation of credit amounts through the 2017-18 fiscal year and limits the aggregate amount of credit that may be allocated in a fiscal year. Existing law defines "small business" for these purposes as a trade or business, except as specified, that has an aggregate gross receipts, less returns and allowances reportable to the state, of less than \$2,000,000 during the previous taxable year.~~

~~This bill, to be known as the Small Business Tax Cut Act of 2017, would, for allocations for the 2018-19 fiscal year and each fiscal year thereafter, define "small business" as having 50 or fewer full-time equivalent employees, on average, in the current and 2 preceding tax years.~~

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

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

1 SECTION 1. *Section 21655.4 is added to the Vehicle Code, to*
2 *read:*

3 21655.4. *All high-occupancy vehicle lanes in the County of*
4 *Riverside, except for high-occupancy toll lanes established*
5 *pursuant to Section 149.7 or 149.8 of the Streets and Highways*
6 *Code, shall not use double parallel solid lines to restrict the*
7 *entrance into or exit from those lanes, and any existing double*
8 *parallel solid lines shall be removed from those lanes.*

9 SEC. 2. *The Legislature finds and declares that a special statute*
10 *is necessary and that a general statute cannot be made applicable*
11 *within the meaning of Section 16 of Article IV of the California*
12 *Constitution because of the unique traffic circumstances in the*
13 *County of Riverside.*

14
15
16 **All matter omitted in this version of the bill**
17 **appears in the bill as amended in the**
18 **Senate, June 26, 2018. (JR11)**
19