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.
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.

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
ASSEMBLY BILL

No. 1250

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

February 17, 2017

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 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.


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

SECTION 1. Section 31000.10 is added to the Government Code, to read:

(a) If otherwise permitted by law, a county or county agency may contract for personal services currently or customarily
performed by county’s employees when all the following conditions are met:

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

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

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

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

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

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

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

(5) The contract does not adversely affect any of the county’s nondiscrimination, affirmative action efforts.
The savings shall be large enough to ensure that they will not be eliminated by private sector and county cost fluctuations that could normally be expected during the contracting period. The amount of savings clearly justifies the size and duration of the contracting agreement.

The contract is awarded through a publicized, competitive bidding process. The county shall reserve the right to reject any and all bids or proposals. The contract includes specific provisions pertaining to the qualifications of the staff that will perform the work under the contract, as well as assurance that the contractor’s hiring practices meet any applicable nondiscrimination, affirmative action standards.

The potential for future economic risk to the county from potential contractor rate increases is minimal. The contract is with a firm. “Firm” means 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 shall provide that it may be terminated at any time by the county without penalty if there is a material breach of the contract and notice is provided at least 30 days before termination. If the contract is for personal services in excess of one hundred thousand dollars ($100,000) annually, all of the following shall occur:

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

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

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

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

(iv) A description of any debarments of the contractor by any public agency or licensing body at any time.
(v) The total compensation, including salaries and benefits, the contractor provides to workers performing work similar to that to be provided under the contract.

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

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

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

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

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

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

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

1. The contract is for a new county function and the Legislature has specifically mandated or authorized the performance of the work by independent contractors.
2. The contract is between the county and another government entity for services to be performed by employees of the other government entity.
3. The services contracted cannot be performed satisfactorily by county employees, or are of such a highly specialized or technical nature that the necessary expert knowledge, experience, and ability are not available among county employees.
4. The services are incidental to a contract for the purchase or lease of real or personal property. Contracts under this criterion, known as “service agreements,” shall include, but not be limited to, agreements to service or maintain office equipment or computers that are leased or rented.
5. The legislative, administrative, or legal goals and purposes cannot be accomplished through the utilization of county employees. Contracts are permissible under this criterion to protect against a conflict of interest or to ensure independent and unbiased findings in cases where there is a clear need for a different, outside perspective. These contracts shall include, but not be limited to, obtaining expert witnesses in litigation.
6. The nature of the work is such that the standards of this part for emergency appointments apply. These contracts shall conform with Section 31000.4.
7. Public entities or officials need private counsel because a conflict of interest on the part of the county counsel’s office prevents it from representing the public entity or official without compromising its position. These contracts shall require the written consent of the county counsel.
8. The contractor will provide legal services to the county solely on a contingency fee basis.
(9) The contractor will provide equipment, materials, facilities, or support services that could not feasibly be provided by the county in the location where the services are to be performed.

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

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

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

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

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

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

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

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

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

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

(4) A contract for street sweeping services.

(5) A contract for solid waste handling services authorized by or made pursuant to Section 40059 of the Public Resources Code. As used in this paragraph, “solid waste handling services” means the collection, transportation, storage, transfer, conversion, processing, recycling, composting, or disposal of solid wastes.
(f) This section shall not be construed to authorize or otherwise permit the contracting out of fire protection services, other than the contracts between public agencies that are explicitly authorized by Chapter 4 (commencing with Section 55600) of Part 2 of Division 2 of Title 5 of this code or by Article 4 (commencing with Section 4141) of Chapter 1 of Part 2 of Division 4 of the Public Resources Code.

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

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

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

(a) If otherwise permitted by law, a city or city agency may contract for personal services currently or customarily performed by city’s employees when all the following conditions are met:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(12) The potential economic advantage of contracting is not outweighed by the public’s interest in having a particular function performed directly by city government.
(13) The contract shall provide that it may be terminated at any
time by the city without penalty if there is a material breach of the
contract and notice is provided at least 30 days before termination.

(14) If the contract is for personal services in excess of one
hundred thousand dollars ($100,000) annually, all of the following
shall occur:
(A) The city shall require the contractor to disclose all of the
following information as part of its bid, application, or answer to
a request for proposal:
(i) A description of all charges, claims, or complaints filed
against the contractor with any federal, state, or local administrative
agency during the prior 10 years.
(ii) A description of all civil complaints filed against the
contractor in any state or federal court during the prior 10 years.
(iii) A description of all state or federal criminal complaints or
indictments filed against the contractor, or any of its officers,
directors, or managers, at any time.
(iv) A description of any debarments of the contractor by any
public agency or licensing body at any time.
(v) The total compensation, including salaries and benefits, the
contractor provides to workers performing work similar to that to
be provided under the contract.
(vi) The total compensation, including salaries, benefits, options,
and any other form of compensation, provided to the five highest
compensated officers, directors, executives, or employees of the
contractor.
(vii) Any other information the city deems necessary to ensure
compliance with this section.
(B) The contract shall provide that the city is entitled to receive
a copy of any records related to the contractor’s or any
subcontractor’s performance of the contract, and that, in addition
to records specifically requested by the city, every month the
contractor shall furnish the county with: (i) the names of any
subcontractors providing services under the contract; (ii) the names
of the employees of the contractor and any subcontractors
providing services pursuant to the contract and their hourly rates;
and (iii) the names of any workers providing services pursuant to
the contract as independent contractors and the compensation rates
for those workers. The contract shall provide that all records
provided to the city by the contractor shall be subject to the
California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1). In furtherance of this subdivision, contractors and any subcontractors shall maintain records related to performance of the contract that ordinarily would be maintained by the city in performing the same functions.

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

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

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

Contractors shall be prohibited from factoring the costs of the audit into their contract costs with the city.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) This section does not apply to any contract that is subject to Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.
(3) This section does not apply to a contract for public transit services, including paratransit services, if the county’s transit services are fully funded by Federal Transit Administration assistance and the county is thereby subject to the guidelines established in FTA Circular 4220.1F or any subsequent guidelines or revisions issued by the Federal Transit Administration.

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

1. A contract for services described in Section 4525 or 4529.10.
2. A contract that is subject to Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.
3. A contract for public transit services, including paratransit services, if the city’s transit services are fully funded by Federal Transit Administration assistance and the city is thereby subject to the guidelines established in FTA Circular 4220.1F or any subsequent guidelines or revisions issued by the Federal Transit Administration.
4. A contract for street sweeping services.
5. A contract for solid waste handling services authorized by or made pursuant to Section 40059 of the Public Resources Code. As used in this paragraph, “solid waste handling services” means the collection, transportation, storage, transfer, conversion, processing, recycling, composting, or disposal of solid wastes.

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

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

SEC. 3. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.
SEC. 4. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.
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.
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.


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

1 SECTION 1. The Legislature finds and declares all of the following:
2 (a) Over the next 10 years, the state faces a $59 billion shortfall to adequately maintain the existing state highway system in order to keep it in a basic state of good repair.
Similarly, cities and counties face a $78 billion shortfall over the next decade to adequately maintain the existing network of local streets and roads.

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

California motorists are spending $17 billion annually in extra maintenance and car repair bills, which is more than $700 per driver, due to the state’s poorly maintained roads.

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

A funding program will help address a portion of the maintenance backlog on the state’s road system and will stop the growth of the problem.

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

Improving the condition of the state’s road system will have a positive impact on the economy as it lowers the transportation costs of doing business, reduces congestion impacts for employees, and protects property values in the state.

The federal government estimates that increased spending on infrastructure creates more than 13,000 jobs per $1 billion spent.

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

Well-maintained roads additionally provide significant health benefits and prevent injuries and death due to crashes caused by poorly maintained infrastructure.

A comprehensive, reasonable transportation funding package will do all of the following:

(1) Ensure these transportation needs are addressed.

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

(3) Restore the gas tax rate previously reduced by the State Board of Equalization pursuant to the gas tax swap.
(4) Direct increased revenue to the state’s highest transportation needs.

SEC. 2. Section 13975 of the Government Code is amended to read:  
13975. There is in the state government the Transportation Agency. The agency consists of the Department of the California Highway Patrol, the California Transportation Commission, the Department of Motor Vehicles, the Department of Transportation, the High-Speed Rail Authority, and the Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun.

SEC. 3. Section 14033 is added to the Government Code, to read:
14033. On or before July 1, 2017, the department shall update the Highway Design Manual to incorporate the “complete streets” design concept.

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

PART 5.1. OFFICE OF THE TRANSPORTATION INSPECTOR GENERAL

14460. (a) There is hereby created in state government the independent Office of the Transportation Inspector General, which shall not be a subdivision of any other governmental entity, to ensure that the Department of Transportation, the High-Speed Rail Authority, the Department of the California Highway Patrol, the Department of Motor Vehicles, the State Air Resources Board, and all other state agencies expending state transportation funds are operating efficiently, effectively, and in compliance with applicable federal and state laws.
(b) The Governor shall appoint, subject to confirmation by the Senate, the Transportation Inspector General to a six-year term. The Transportation Inspector General may not be removed from office during that term, except for good cause. A finding of good cause may include substantial neglect of duty, gross misconduct, or conviction of a crime. The reasons for removal of the Transportation Inspector General shall be stated in writing and shall include the basis for removal. The writing shall be sent to the Secretary of the Senate and the Chief Clerk of the Assembly.
at the time of the removal and shall be deemed to be a public
document.

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

(a) To examine the operating practices of all state agencies
expending state transportation funds to identify fraud and waste,
opportunities for efficiencies, and opportunities to improve the
data used to determine appropriate project resource allocations.
(b) To identify best practices in the delivery of transportation
projects and develop policies or recommend proposed legislation
enabling state agencies to adopt these practices when practicable.
(c) To provide objective analysis of and, when possible, offer
solutions to concerns raised by the public or generated within
agencies involving the state’s transportation infrastructure and
project delivery methods.
(d) To conduct, supervise, and coordinate audits and
investigations relating to the programs and operations of all state
transportation agencies with state-funded transportation projects.
(e) To recommend policies promoting economy and efficiency
in the administration of programs and operations of all state
agencies with state-funded transportation projects.
(f) To ensure that the Secretary of Transportation and the
Legislature are fully and currently informed concerning fraud or
other serious abuses or deficiencies relating to the expenditure of
funds or administration of programs and operations.

14462. The Transportation Inspector General shall report at
least annually to the Governor and Legislature with a summary of
his or her findings, investigations, and audits. The summary shall
be posted on the Transportation Inspector General’s Internet Web
site and shall otherwise be made available to the public upon its
release to the Governor and Legislature. The summary shall
include, but need not be limited to, significant problems discovered
by the Transportation Inspector General and whether
recommendations of the Transportation Inspector General relative
to investigations and audits have been implemented by the affected
agencies. The report shall be submitted to the Legislature in compliance with Section 9795.

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

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

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

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

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

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

(A) Project approval and environmental documents.

(B) Plans, specifications, and estimates.

(C) Rights-of-way.

(D) Construction.

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

(A) Environmental document completion.

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

(C) Right-of-way certification.

(D) Start of construction.

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

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

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

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

(h) Following adoption of the state highway operation and protection program by the commission, any change to a programmed project shall be submitted as an amendment by the department to the commission for its approval before the change may be implemented.
SEC. 7. Section 14526.7 is added to the Government Code, to read:

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

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

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

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

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

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

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

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

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

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

(1) Fifty percent to cities and counties pursuant to clauses (i) and (ii) of subparagraph (C) of paragraph (3) of subdivision (a) of Section 2103 of the Streets and Highways Code.
(2) Fifty percent to the department for maintenance of the state highway system and for purposes of the state highway operation and protection program.

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

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

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

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

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

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

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

(3) (A) The Transportation Bond Direct Payment Account is hereby created in the State Treasury, as a subaccount within the Transportation Debt Service Fund, for the purpose of directly paying the debt service, as defined in paragraph (4), of designated bonds of Proposition 1B, as defined in subdivision (c) of Section 16773. Notwithstanding Section 13340, moneys in the Transportation Bond Direct Payment Account are continuously
appropriated for payment of debt service with respect to designated bonds as provided in subdivision (c) of Section 16773. So long as any designated bonds remain outstanding, the moneys in the Transportation Bond Direct Payment Account may not be used for any other purpose, and may not be borrowed by or available for transfer to the General Fund pursuant to Section 16310 or any similar law, or to the General Cash Revolving Fund pursuant to Section 16381 or any similar law.

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

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

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

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

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

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

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

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

(b) From the moneys transferred to the fund pursuant to paragraph (2) or (3) of subdivision (c) of Section 9400.4 of the Vehicle Code, there shall first be deposited into the Transportation
Bond Direct Payment Account in each month sufficient funds to equal the amount designated in a certificate submitted by the Treasurer to the Controller and the Director of Finance at the start of each fiscal year, and as may be modified by the Treasurer thereafter upon issuance of any new issue of designated bonds or upon change in circumstances that requires such a modification. This certificate shall be calculated by the Treasurer to identify, for each month, the amount necessary to fund all of the debt service with respect to all designated bonds. This calculation shall be done in a manner provided in the resolution, indenture, or other documents governing the designated bonds. In the event that transfers to the Transportation Bond Direct Payment Account in any month are less than the amounts required in the Treasurer’s certificate, the shortfall shall carry over to be part of the required payment in the succeeding month or months.

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

(d) Once the required monthly deposit, including makeup of any shortfalls from any prior month, has been made pursuant to subdivision (b), from moneys transferred to the fund pursuant to paragraph (2) or (3) of subdivision (c) of Section 9400.4 of the Vehicle Code, or pursuant to Section 16965.1 or 63048.67, the Controller shall transfer as an expenditure reduction to the General
Fund any amount necessary to offset the cost of current year debt service payments made from the General Fund with respect to any bonds issued pursuant to Proposition 192 (1996) and three-quarters of the amount of current year debt service payments made from the General Fund with respect to any nondesignated bonds, as defined in subdivision (c) of Section 16773, issued pursuant to Proposition 1B (2006). In the alternative, these funds may also be used to redeem or retire the applicable bonds, pursuant to Section 16774, maturing in a subsequent fiscal year as directed by the Director of Finance.

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

(f) Once the required monthly deposit, including makeup of any shortfalls from any prior month, has been made pursuant to subdivision (b), from moneys transferred to the fund pursuant to paragraph (2) or (3) of subdivision (c) of Section 9400.4 of the Vehicle Code, or pursuant to Section 16965.1 or 63048.67, the Controller shall transfer as an expenditure reduction to the General Fund any amount necessary to offset the eligible cost of current year debt service payments made from the General Fund with respect to any bonds issued pursuant to Proposition 108 (1990) and Proposition 1A (2008), and one-quarter of the amount of current year debt service payments made from the General Fund with respect to any nondesignated bonds, as defined in subdivision (c) of Section 16773, issued pursuant to Proposition 1B (2006). The Department of Finance shall notify the Controller by July 30 of every year of the percentage of debt service that is expected to be paid in that fiscal year with respect to bond-funded projects that qualify as eligible guideway projects consistent with the requirements applicable to the expenditure of revenues under Article XIX of the California Constitution, and the Controller shall make payments only for those eligible projects. In the alternative,
these funds may also be used to redeem or retire the applicable
bonds, pursuant to Section 16774, maturing in a subsequent fiscal
year as directed by the Director of Finance.

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

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

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

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

1. Beginning in the 2015–16 2017–18 fiscal year, and
notwithstanding Section 13340 of the Government Code, 50
percent of annual proceeds are continuously appropriated, without
regard to fiscal years, for transit, affordable housing, and
sustainable communities programs as follows:

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

(B) Five percent of the annual proceeds of the fund is hereby
continuously appropriated to the Low Carbon Transit Operations
Program created by Part 3 (commencing with Section 75230) of
Division 44 of the Public Resources Code. Funds shall be
allocated by the Controller, according to requirements of the
program, and pursuant to the distribution formula in subdivision
(b) or (c) of Section 99312 of, and Sections 99313 and 99314 of, the Public Utilities Code.

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

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

(A) Acquisition and construction costs of the project.
(B) Environmental review and design costs of the project.
(C) Other capital costs of the project.
(D) Repayment of any loans made to the authority to fund the project.

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

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

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

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

(2) (1) (A) The project does not cross a waterway.
(B) For purposes of this paragraph, “waterway” means a bay, estuary, lake, pond, river, slough, or a perennial, intermittent, or ephemeral stream, lake, or estuarine-marine shoreline.

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

(4) The roadway is not a state roadway.

(5)

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

(B) For the purposes of this paragraph:

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

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

(iii) “Wetlands” has the same meaning as in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).
(iv) “Wildlife habitat” means the ecological communities upon which wild animals, birds, plants, fish, amphibians, and invertebrates depend for their conservation and protection.

(6) The project does not impact cultural resources.

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

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

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

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

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

(d) Whenever

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

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

(e) This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.
DIVISION 13.6. ADVANCE MITIGATION PROGRAM ACT

CHAPTER 1. GENERAL

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

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

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

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

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

(b) The cost of critical transportation projects often escalates because of permitting delays that occur when appropriate
conservation and mitigation measures cannot easily be identified and because the cost of these measures often increases between the time a project is planned and funded and the time mitigation is implemented.

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

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

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

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

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

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

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

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

(a) Facilitate delivery of transportation projects while ensuring more effective natural resource conservation.
(b) Develop effective strategies to improve the state’s ability to meet mounting demands for transportation improvements and to maximize conservation and other public benefits.

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

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

Chapter 2. Definitions

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

(a) “Advance mitigation” means mitigation implemented before, and in anticipation of, environmental effects of planned transportation projects.

(b) “Commission” means the California Transportation Commission.

(c) “Department” means the Department of Transportation.

(d) “Transportation project” means a transportation capital improvement project.

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

(f) “Program” means the Advance Mitigation Program implemented pursuant to this division.

(g) “Regulatory agency” means a state or federal natural resource protection agency with regulatory authority over planned transportation projects. A regulatory agency includes, but is not limited to, the Natural Resources Agency, the Department of Fish and Wildlife, California regional water quality control boards, the United States Fish and Wildlife Service, the National Marine
Fisheries Service, the United States Environmental Protection Agency, and the United States Army Corps of Engineers.

Chapter 3. Advance Mitigation Program

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

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

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

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

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

21207. The Advance Mitigation Fund is hereby created in the State Transportation Fund as a revolving fund. Notwithstanding Section 13340 of the Government Code, the fund shall be continuously appropriated without regard to fiscal years. The
moneys in the fund shall be programmed by the commission for
the planning and implementation of advance mitigation projects
consistent with the purposes of this chapter. After the transfer of
moneys to the fund for four fiscal years pursuant to subdivision
(c) of Section 2032 of the Streets and Highways Code, commencing
in the 2017–18 fiscal year, the program is intended to be
self-sustaining. Advance expenditures from the fund shall later be
reimbursed from project funding available at the time a planned
transportation project is constructed. A maximum of 5 percent of
available funds may be used for administrative purposes.

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

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

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

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

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

(b) For purposes of this chapter, the revenues allocated pursuant
to this section shall be subject to the same requirements as revenues
allocated pursuant to subdivisions (b) and (c), as applicable, of
Section 99312.
(c) The revenues transferred to the Public Transportation Account that are attributable to the increase in the sales and use tax on diesel fuel pursuant to subdivision (b) of Section 6051.8 of the Revenue and Taxation Code, as adjusted pursuant to subdivision (c) of that section, and subdivision (b) of Section 6201.8 of the Revenue and Taxation Code, as adjusted pursuant to subdivision (c) of that section, upon allocation pursuant to Sections 99313 and 99314, shall only be expended on the following:

1. Transit capital projects or services to maintain or repair a transit operator’s existing transit vehicle fleet or existing transit facilities, including rehabilitation or modernization of existing vehicles or facilities.
2. The design, acquisition, and construction of new vehicles or facilities that improve existing transit services.
3. Transit services that complement local efforts for repair and improvement of local transportation infrastructure.

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

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

(e) For each fiscal year, each recipient transit agency receiving an apportionment of funds pursuant to subdivision (c) shall, upon expending those funds, submit documentation to the department that includes a description and location of each completed project, the amount of funds expended on the project, the completion date, and the estimated useful life of the improvement.
(f) The audit of transit operator finances required pursuant to Section 99245 shall verify that the revenues identified in subdivision (c) have been expended in conformance with these specific requirements and all other generally applicable requirements.

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

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

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

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

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

(b) Notwithstanding subdivision (a), for

(c) Beginning July 1, 2019, and every third year thereafter, the State Board of Equalization shall recompute the rate referenced in subdivision (a) rates of the taxes imposed by this section. That computation shall be made as follows:
Notwithstanding subdivision (a),

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

(d) Notwithstanding subdivision (a), for

(2) The State Board of Equalization shall do all of the following:
   (A) Compute an inflation adjustment factor by adding 100 percent to the percentage change figure that is furnished pursuant to paragraph (1) and dividing the result by 100.
   (B) Multiply the preceding tax rate per gallon by the inflation adjustment factor determined in subparagraph (A) and round off the resulting product to the nearest tenth of a cent.
   (C) Make its determination of the 2013–14 fiscal year only, new rate no later than March 1 of the same year as the effective date of the new rate.

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

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

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

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

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

(c) Beginning July 1, 2019, and every third year thereafter, the State Board of Equalization shall recomput[e the rate referenced in subdivision (a) rates of the taxes imposed by this section. That computation shall be 1.87 percent, made as follows:

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

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

(e) Notwithstanding subdivision (b) of Section 7102, all of the revenues, less refunds, collected pursuant to this section shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, and transferred quarterly to the Public Transportation Account in the State Transportation Fund
for allocation pursuant to Section 99312.1 of the Public Utilities
Code.
(f) Subdivisions (a) to (e), inclusive, shall become operative on
July 1, 2011.
SEC. 18. Section 7360 of the Revenue and Taxation Code is
amended to read:
7360. (a) (1) (A) A tax of eighteen cents ($0.18) is hereby
imposed upon each gallon of fuel subject to the tax in Sections
7362, 7363, and 7364.
(B) In addition to the tax imposed pursuant to subparagraph
(A), on and after the first day of the first calendar quarter that
occurs 90 days after the effective date of the act adding this
subparagraph, a tax of twelve cents ($0.12) is hereby imposed
upon each gallon of fuel, other than aviation gasoline, subject to
the tax in Sections 7362, 7363, and 7364.
(2) If the federal fuel tax is reduced below the rate of nine cents
($0.09) per gallon and federal financial allocations to this state for
highway and exclusive public mass transit guideway purposes are
reduced or eliminated correspondingly, the tax rate imposed by
subparagraph (A) of paragraph (1), on and after the date of the
reduction, shall be recalculated by an amount so that the combined
state rate under subparagraph (A) of paragraph (1) and the federal
tax rate per gallon equal twenty-seven cents ($0.27).
(3) If any person or entity is exempt or partially exempt from
the federal fuel tax at the time of a reduction, the person or entity
shall continue to be so exempt under this section.
(b) (1) On and after July 1, 2010, in addition to the tax imposed
by subdivision (a), a tax is hereby imposed upon each gallon of
motor vehicle fuel, other than aviation gasoline, subject to the tax
in Sections 7362, 7363, and 7364 in an amount equal to seventeen
and three-tenths cents ($0.173) per gallon.
(2) For the 2011–12 fiscal year
(c) Beginning July 1, 2019, and each fiscal every third year
thereafter, the board shall, on or before March 1 State Board of
the fiscal year immediately preceding the applicable fiscal year,
adjust the rate in paragraph (1) in that manner as to generate an
amount Equalization shall recompute the rates of revenue that
will equal the amount of revenue loss attributable to the exemption
provided taxes imposed by Section 6357.7, based on estimates
made by the board, and that rate this section. That computation
shall be effective during the state’s next fiscal year. made as follows:

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

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

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

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

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

(4) The intent

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

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

8352.4. (a) Subject to Sections 8352 and 8352.1, and except as otherwise provided in subdivision (b), there shall be transferred from the money deposited to the credit of the Motor Vehicle Fuel Account to the Harbors and Watercraft Revolving Fund, for expenditure in accordance with Division 1 (commencing with Section 30) of the Harbors and Navigation Code, the sum of six million six hundred thousand dollars ($6,600,000) per annum, representing the amount of money in the Motor Vehicle Fuel Account attributable to taxes imposed on distributions of motor vehicle fuel used or usable in propelling vessels. The actual amount
shall be calculated using the annual reports of registered boats prepared by the Department of Motor Vehicles for the United States Coast Guard and the formula and method of the December 1972 report prepared for this purpose and submitted to the Legislature on December 26, 1972, by the Director of Transportation. If the amount transferred during each fiscal year is in excess of the calculated amount, the excess shall be retransferred from the Harbors and Watercraft Revolving Fund to the Motor Vehicle Fuel Account. If the amount transferred is less than the amount calculated, the difference shall be transferred from the Motor Vehicle Fuel Account to the Harbors and Watercraft Revolving Fund. No adjustment shall be made if the computed difference is less than fifty thousand dollars ($50,000), and the amount shall be adjusted to reflect any temporary or permanent increase or decrease that may be made in the rate under the Motor Vehicle Fuel Tax Law. Payments pursuant to this section shall be made prior to payments pursuant to Section 8352.2.

(b) Commencing July 1, 2012, the revenues attributable to the taxes imposed pursuant to subdivision (b) of Section 7360 and Section 7361.1 and otherwise to be deposited in the Harbors and Watercraft Revolving Fund pursuant to subdivision (a) shall instead be transferred to the General Fund. The revenues attributable to the taxes imposed Highway Users Tax Account for distribution pursuant to subdivision (b) of Section 7360 and Section 7361.1 that were deposited in 2103.1 of the Harbors Streets and Watercraft Revolving Fund in the 2010–11 and 2011–12 fiscal years shall be transferred to the General Fund. Highways Code.

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

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

(2) The amounts are not subject to Section 6357 with respect to the collection of sales and use taxes thereon, and represent the portion of receipts in the Motor Vehicle Fuel Account during a calendar year that were attributable to agricultural off-highway
use of motor vehicle fuel which is subject to refund pursuant to Section 8101, less gross refunds allowed by the Controller during the fiscal year ending June 30th following the calendar year to persons entitled to refunds for agricultural off-highway use pursuant to Section 8101. Payments pursuant to this section shall be made prior to payments pursuant to Section 8352.2.

(b) Commencing July 1, 2012, and 2017, the revenues attributable to the taxes imposed pursuant to subdivision (b) of Section 7360 and Section 7361.1 and otherwise to be deposited in the Department of Food and Agriculture Fund pursuant to subdivision (a) shall instead be transferred to the General Fund. The revenues attributable to the taxes imposed on distributions of motor vehicle fuel used in the operation of motor vehicles off highway and for which a refund has not been claimed. Transfers made pursuant to this section shall be made prior to transfers pursuant to Section 8352.2.

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

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

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

(2) Commencing July 1, 2012, and 2017, the revenues attributable to the taxes imposed pursuant to subdivision (b) of Section 7360
and Section 7361.1 and otherwise to be deposited in the Off-Highway Vehicle Trust Fund pursuant to paragraph (1) shall instead be transferred to the General Fund. The revenues attributable to the taxes imposed Highway Users Tax Account for distribution pursuant to subdivision (b) of Section 7360 and Section 7361.1 that were deposited in 2103.1 of the Off-Highway Vehicle Trust Fund in the 2010–11 Streets and 2011–12 fiscal years shall be transferred to the General Fund. Highways Code.

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

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

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

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

(3) Attendance at the state vehicular recreation areas.

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

(c) It is the intent of the Legislature that transfers from the Motor Vehicle Fuel Account to the Off-Highway Vehicle Trust Fund should reflect the full range of motorized vehicle use off highway for both motorized recreation and motorized off-road access to other recreation opportunities. Therefore, the Legislature finds that the fuel tax baseline established in subdivision (b), attributable to off-highway estimates of use as of the 2006–07 fiscal year,
accounts for the three categories of vehicles that have been found
over the years to be users of fuel for off-highway motorized
recreation or motorized access to nonmotorized recreational
pursuits. These three categories are registered off-highway
motorized vehicles, registered street-legal motorized vehicles used
off highway, and unregistered off-highway motorized vehicles.
(d) It is the intent of the Legislature that the off-highway motor
vehicle recreational use to be determined by the Department of
Transportation pursuant to paragraph (2) of subdivision (b) be that
usage by vehicles subject to registration under Division 3
(commencing with Section 4000) of the Vehicle Code, for
recreation or the pursuit of recreation on surfaces where the use
of vehicles registered under Division 16.5 (commencing with
Section 38000) of the Vehicle Code may occur.
(e) In the 2014–15 fiscal year, the Department of Transportation,
in consultation with the Department of Parks and Recreation and
the Department of Motor Vehicles, shall undertake a study to
determine the appropriate adjustment to the amount transferred
pursuant to subdivision (b) and to update the estimate of the amount
attributable to taxes imposed upon distributions of motor vehicle
fuel used in the operation of motor vehicles off highway and for
which a refund has not been claimed. The department shall provide
a copy of this study to the Legislature no later than January 1,
2016.
SEC. 22. Section 60050 of the Revenue and Taxation Code is
amended to read:
60050. (a) (1) A tax of eighteen thirteen cents ($0.18) ($0.13)
is hereby imposed upon each gallon of diesel fuel subject to the
tax in Sections 60051, 60052, and 60058.
(2) If the federal fuel tax is reduced below the rate of fifteen
cents ($0.15) per gallon and federal financial allocations to this
state for highway and exclusive public mass transit guideway
purposes are reduced or eliminated correspondingly, the tax rate
imposed by paragraph (1), including any reduction or adjustment
pursuant to subdivision (b), on and after the date of the reduction,
(1) shall be increased by an amount so that the combined state rate
under paragraph (1) and the federal tax rate per gallon equal what
it would have been in the absence of the federal reduction.
(3) If any person or entity is exempt or partially exempt from the federal fuel tax at the time of a reduction, the person or entity shall continue to be exempt under this section.

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

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

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

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

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

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

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

(2) The State Board of Equalization shall do all of the following:
(A) Compute an inflation adjustment factor by adding 100 
percent to the percentage change figure that is furnished pursuant 
to paragraph (1) and dividing the result by 100.
(B) Multiply the preceding tax rate per gallon by the inflation 
adjustment factor determined in subparagraph (A) and round off 
the resulting product to the nearest tenth of a cent.
(C) Make its determination of the new rate no later than March 
1 of the same year as the effective date of the new rate.

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

183.1. (a) Notwithstanding subdivision (a) of Section 182 or any 
other provision of law, the Government Code, money deposited into the account 
that is not subject to Article XIX of the California Constitution, 
including, but not limited to, money that is derived from the sale 
of documents, charges for miscellaneous services to the public, 
condemnation deposits fund investments, rental of state property, 
or any other miscellaneous uses of property or money, may be 
used for any transportation purpose authorized by statute, upon 
appropriation by deposited in the Legislature or, after transfer Road 
Maintenance and Rehabilitation Account created pursuant to another fund, upon appropriation by the Legislature from that fund. 

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

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

820.1. (a) The State of California consents to the jurisdiction 
of the federal courts with regard to the compliance, discharge, or 
enforcement of the responsibilities assumed by the department
pursuant to Sections 326 and 327(a) of Title 23 of the United States Code.

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

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

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

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

**Chapter 2. Road Maintenance and Rehabilitation Program**

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

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

(A) Road maintenance and rehabilitation.

(B) Safety projects.

(C) Railroad grade separations.

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

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

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

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

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

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

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

(e) Any other revenues designated for the program.

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

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

(2) Notwithstanding Section 13340 of the Government Code, the funds available under this subdivision in each fiscal year are hereby continuously appropriated for allocation to each eligible
county and each city in the county for road maintenance and rehabilitation purposes pursuant to Section 2033.

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

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

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

(d) After deducting the amounts appropriated in the annual Budget Act pursuant to Section 2031.5, the amount allocated in subdivision (a), and the amounts transferred in paragraph (1) of subdivision (b) and in subdivision (c), beginning in the 2017–18 fiscal year and each fiscal year thereafter, and notwithstanding Section 13340 of the Government Code, there is hereby continuously appropriated to the California State University the sum of two million dollars ($2,000,000) from the remaining revenues for the purpose of conducting transportation research and transportation-related workforce education, training, and development, and to the institutes for transportation studies at the University of California the sum of three million dollars.
($3,000,000). Prior to the start of each fiscal year, the chairs of the Assembly Committee on Transportation and the Senate Committee on Transportation and Housing shall confer and set out a recommended priority list of research components to be addressed in the upcoming fiscal year.

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

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

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

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

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

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

2034. (a) (1) Prior to receiving an apportionment of funds under the program pursuant to paragraph (2) of subdivision (e) of Section 2032 from the Controller in a fiscal year, an eligible city or county shall submit to the commission a list of projects proposed to be funded with these funds pursuant to an adopted city or county budget. All projects proposed to receive funding shall be included in a city or county budget that is adopted by the applicable city council or county board of supervisors at a regular public meeting. The list of projects proposed to be funded with these funds shall include a description and the location of each proposed project, a proposed schedule for the project’s completion, and the estimated useful life of the improvement. The project list shall not limit the flexibility of an eligible city or county to fund projects in
accordance with local needs and priorities so long as the projects
are consistent with subdivision (b) of Section 2030.
(2) The commission shall report to the Controller the cities and
counties that have submitted a list of projects as described in this
subdivision and that are therefore eligible to receive an
apportionment of funds under the program for the applicable fiscal
year. The Controller, upon receipt of the report, shall apportion
funds to eligible cities and counties.
(b) For each fiscal year, each city or county receiving an
apportionment of funds shall, upon expending program funds,
submit documentation to the commission that includes a description
and location of each completed project, the amount of funds
expended on the project, the completion date, and the estimated
useful life of the improvement.
2036. (a) Cities and counties shall maintain their existing
commitment of local funds for street, road, and highway purposes
in order to remain eligible for an allocation or apportionment of
funds pursuant to Section 2032.
(b) In order to receive an allocation or apportionment pursuant
to Section 2032, the city or county shall annually expend from its
general fund for street, road, and highway purposes an amount not
less than the annual average of its expenditures from its general
fund during the 2009–10, 2010–11, and 2011–12 fiscal years, as
reported to the Controller pursuant to Section 2151. For purposes
of this subdivision, in calculating a city’s or county’s annual
general fund expenditures and its average general fund expenditures
for the 2009–10, 2010–11, and 2011–12 fiscal years, any
unrestricted funds that the city or county may expend at its
discretion, including vehicle in-lieu tax revenues and revenues
from fines and forfeitures, expended for street, road, and highway
purposes shall be considered expenditures from the general fund.
One-time allocations that have been expended for street and
highway purposes, but which may not be available on an ongoing
basis, including revenue provided under the Teeter Plan Bond Law
of 1994 (Chapter 6.6 (commencing with Section 54773) of Part 1
of Division 2 of Title 5 of the Government Code), may not be
considered when calculating a city’s or county’s annual general
fund expenditures.
(c) For any city incorporated after July 1, 2009, the Controller
shall calculate an annual average expenditure for the period
between July 1, 2009, and December 31, 2015, inclusive, that the
city was incorporated.

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

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

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

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

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

(b) The department and local agencies, as a condition of
receiving funds from the program, shall ensure the involvement
of the California Conservation Corps and certified community
conservation corps in the delivery of projects and services funded
in whole or in part by funds made available by the program.
SEC. 26. Section 2103.1 is added to the Streets and Highways Code, to read:
2103.1. (a) Notwithstanding Section 2103, the revenues transferred to the Highway Users Tax Account pursuant to Sections 8352.4, 8352.5, and 8352.6 of the Revenue and Taxation Code shall be distributed pursuant to the formula in paragraph (3) of subdivision (a) of Section 2103.
(b) Notwithstanding subdivision (b) of Section 2103, the portion of revenues in the Highway Users Tax Account attributable to the increase in the motor vehicle fuel excise tax pursuant to subparagraph (B) of paragraph (1) of subdivision (a) of Section 7360 of the Revenue and Taxation Code, as adjusted pursuant to subdivision (c) of that section, shall be transferred to the Road Maintenance and Rehabilitation Account pursuant to Section 2031.
(c) Notwithstanding subdivision (b) of Section 2103, the portion of revenues in the Highway Users Tax Account attributable to the increase in the diesel fuel excise tax pursuant to subdivision (b) of Section 60050 of the Revenue and Taxation Code, as adjusted pursuant to subdivision (c) of that section, shall be transferred to the Trade Corridors Improvement Fund pursuant to Section 2192.4.
SEC. 27. Section 2192 of the Streets and Highways Code is amended to read:
2192. (a) (1) The Trade Corridors Improvement Fund, created pursuant to subdivision (c) of Section 8879.23 of the Government Code, is hereby continued in existence to receive revenues from state sources other than the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006. This chapter shall govern expenditure of those other revenues.
(2) Revenues apportioned to the state under Section 167 of Title 23 of the United States Code from the national highway freight program, pursuant to the federal Fixing America’s Surface Transportation Act (“FAST Act,” Public Law 114-94) shall be allocated for projects approved pursuant to this chapter.
(b) This chapter shall govern the expenditure of those state and federal revenues described in subdivision (a).
(c) The moneys funding described in the fund from those other sources subdivision (a) shall be available upon appropriation for allocation by the California Transportation Commission for infrastructure improvements in this state on federally designated
Trade Corridors of National and Regional Significance, on the Primary Freight Network, and along other corridors that have a high volume of freight movement, as determined by the commission. In determining the projects eligible for funding, the commission shall consult the Transportation Agency’s state freight plan as described in Section 13978.8 of the Government Code, the State Air Resources Board’s Sustainable Freight Strategy adopted by Resolution 14-2, Code and the trade infrastructure and goods movement plan submitted to the commission by the Secretary of Transportation and the Secretary for Environmental Protection. California Sustainable Freight Action Plan released in July 2016 pursuant to Executive Order B-32-15. The commission shall also consult trade infrastructure and goods movement plans adopted by regional transportation planning agencies, adopted regional transportation plans required by state and federal law, and the statewide applicable port master plan prepared by the California Marine and Intermodal Transportation System Advisory Council (Cal-MITSAC) pursuant to Section 1730 of the Harbors and Navigation Code, when determining eligible projects for funding. Eligible projects for these funds funding described in subdivision (a) shall further the state’s economic, environmental, and public health objectives and goals for freight policy, as articulated in the plans to be consulted pursuant to this subdivision, and may include, but are not limited to, all of the following:

1. Highway capacity improvements, rail landside access improvements, landside freight access improvements to airports, and operational improvements to more efficiently accommodate the movement of freight, particularly for ingress and egress to and from the state’s land ports of entry, rail terminals, and seaports, including navigable inland waterways used to transport freight between seaports, land ports of entry, and airports, and to relieve traffic congestion along major trade or goods movement corridors.

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

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

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

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

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

(2) In adopting amended guidelines, and developing and adopting the program of projects, the commission shall do all of the following:
(A) Accept nominations for projects to be included in the program of projects from regional and local transportation agencies and the Department of Transportation.

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

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

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

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

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

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

(D) “Congestion reduction,” which means the reduction in recurrent daily hours of delay to be achieved.

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

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

(1) Projects shall further the regulatory purposes of the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code), including reducing emissions from greenhouse gases in the state, directing public and private investment toward disadvantaged communities, increasing the diversity of energy sources, or creating opportunities for businesses, public agencies, nonprofits, and other
community institutions to participate in and benefit from statewide efforts to reduce emissions of greenhouse gases.

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

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

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

(c) For purposes of this section, “disadvantaged community” means a community with any of the following characteristics:

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

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

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

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

2192.2. The commission shall allocate funds made available by this chapter to projects that have identified and committed supplemental funding from appropriate local, federal, or private sources. The commission shall determine the appropriate amount of supplemental funding each project should have to be eligible for moneys from the fund based on a project-by-project review and an assessment of the project’s benefit to the state and the program. Except for border access Funded improvements described in paragraph (5) of subdivision (b) of Section 2192, improvements funded with moneys from the fund shall have supplemental funding that is at least equal to the amount of the contribution from the fund. under this chapter. The commission may give priority for
funding to projects with higher levels of committed supplemental
funding.
SEC. 30. Section 2192.4 is added to the Streets and Highways
Code, to read:

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

SEC. 31. Section 9250.3 is added to the Vehicle Code, to read:
9250.3. (a) In addition to any other fees specified in this code
or the Revenue and Taxation Code, commencing July 1, 2017, a
registration fee of thirty-eight dollars ($38) shall be paid to the
department for registration or renewal of registration of every
vehicle subject to registration under this code, except those vehicles
that are expressly exempted under this code from payment of
registration fees.
(b) Beginning July 1, 2019, and every third year thereafter, the
Department of Motor Vehicles shall adjust the fee imposed under
this section for inflation in an amount equal to the change in the
California Consumer Price Index for the prior three-year period,
as calculated by the Department of Finance, with amounts equal
to or greater than fifty cents ($0.50) rounded to the next highest
whole dollar.
(c) Revenues from the fee, after the deduction of the
department’s administrative costs related to this section, shall be
deposited in the Road Maintenance and Rehabilitation Account
created pursuant to Section 2031 of the Streets and Highways
Code.

SEC. 32. Section 9250.6 is added to the Vehicle Code, to read:
9250.6. (a) In addition to any other fees specified in this code,
or the Revenue and Taxation Code, commencing July 1, 2017, a
registration fee of one hundred and sixty-five dollars ($165) shall
be paid to the department for registration or renewal of registration
of every zero-emission motor vehicle subject to registration under
this code, except those motor vehicles that are expressly exempted
under this code from payment of registration fees.
(b) Beginning July 1, 2019, and every third year thereafter, the
Department of Motor Vehicles shall adjust the fee imposed under
this section for inflation in an amount equal to the change in the California Consumer Price Index for the prior three-year period, as calculated by the Department of Finance, with amounts equal to or greater than fifty cents ($0.50) rounded to the next highest whole dollar.

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

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

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

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

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

9400.5. (a) Notwithstanding Sections 9400.1, 9400.4, and 42205 of this code, Sections 16773 and 16965 of the Government Code, Section 2103 of the Streets and Highways Code, or any other law, weight fee revenues shall only be transferred consistent with the schedule provided in subdivision (b) 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 and shall not be loaned to the General Fund.

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

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

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

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

(D) Six hundred million dollars ($600,000,000) in the 2020–21 fiscal year.
(E) Five hundred million dollars ($500,000,000) in the 2021-22 fiscal year and in every fiscal year thereafter.

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

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

(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 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 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.


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

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

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

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

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

97
good cause for filing the request beyond the 90-day period. The
director may determine whether good cause exists.
(b) (1) Notwithstanding subdivision (a), a person may request
a hearing pursuant to this chapter involving a Medi-Cal managed
care plan within 120 calendar days after the order or action
complained of.
(2) Notwithstanding paragraph (1), a person shall be entitled to
a hearing pursuant to this chapter if he or she files the request more
than 120 calendar days after the order or action complained of and
there is good cause for filing the request beyond the 120-calendar
day period. The director may determine whether good cause exists.
(c) For purposes of this section, “good cause” means a
substantial and compelling reason beyond the party’s control,
considering the length of the delay, the diligence of the party
making the request, and the potential prejudice to the other party.
The inability of a person to understand an adequate and
language-compliant notice, in and of itself, shall not constitute
good cause. The department shall not grant a request for a hearing
for good cause if the request is filed more than 180 days after the
order or action complained of.
(d) This section shall not preclude the application of the
principles of equity jurisdiction as otherwise provided by law.
(e) Notwithstanding the Administrative Procedure Act (Chapter
3.5 (commencing with Section 11340) of Part 1 of Division 3 of
Title 2 of the Government Code), the department shall implement
this section through an all-county information notice. The
department may also provide further instructions through training
notes.
SEC. 3. Article 6.3 (commencing with Section 14197) is added
to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions
Code, to read:

Article 6.3. Medi-Cal Managed Care Plans

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

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

(A) Primary care, adult and pediatric.

(B) Obstetrics and gynecology.

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

(D) Specialist, adult and pediatric.

(E) Hospital.

(F) Pharmacy.

(G) Pediatric dental.

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

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

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

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

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

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

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

(2) Meet or exceed the appointment time standards developed pursuant to Section 1367.03 of the Health and Safety Code and the standards set forth in contracts entered into between the department and Medi-Cal managed care plans.
(d) In developing the time and distance standards, if the department elects a county standard for time and distance, the department shall categorize counties into at least five or more county categories, one of which is a rural county category.

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

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

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

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

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

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

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

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

(C) Article 2.81 (commencing with Section 14087.96).
(D) Article 2.9 (commencing with Section 14088).
(E) Article 2.91 (commencing with Section 14089).
(F) Chapter 8 (commencing with Section 14200), including dental managed care plans.
(G) Chapter 8.9 (commencing with Section 14700).
(H) A county Drug Medi-Cal organized delivery system authorized under the California Medi-Cal 2020 Demonstration, Number 11-W-00193/9, as approved by the federal Centers for Medicare and Medicaid Services and described in the Special Terms and Conditions. For purposes of this subdivision, “Special Terms and Conditions” shall have the same meaning as set forth in subdivision (o) of Section 14184.10.

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

14197.1. (a) This section implements the state option in subdivision (j) of Section 438.8 of Title 42 of the Code of Federal Regulations.
(b) A Medi-Cal managed care plan shall comply with a minimum 85 percent medical loss ratio (MLR) consistent with Section 438.8 of Title 42 of the Code of Federal Regulations. The ratio shall be calculated and reported for each MLR reporting year by the Medi-Cal managed care plan consistent with Section 438.8 of Title 42 of the Code of Federal Regulations.
(c) A Medi-Cal managed care plan shall provide a remittance for an MLR reporting year if the ratio for that MLR reporting year does not meet the minimum MLR standard of 85 percent.
(d) For purposes of this section, the following definitions apply:
“Medical loss ratio (MLR) reporting year” shall have the same meaning as that term is defined in Section 438.8 of Title 42 of the Code of Federal Regulations.

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

(i) Article 2.7 (commencing with Section 14087.3).
(ii) Article 2.8 (commencing with Section 14087.5).
(iii) Article 2.81 (commencing with Section 14087.96).
(iv) Article 2.9 (commencing with Section 14088).
(v) Article 2.91 (commencing with Section 14089).
(vi) Article 1 (commencing with Section 14200) of Chapter 8.
(vii) Article 7 (commencing with Section 14490) of Chapter 8.

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

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

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

(1) Designated public hospitals systems play an essential role in the Medi-Cal program, providing high-quality care to a disproportionate number of low-income Medi-Cal and uninsured populations in the state. Because Medi-Cal covers approximately one-third of the state’s population, the strength of these essential public health care systems is of critical importance to the health and welfare of the people of California.
Designated public hospital systems provide comprehensive health care services to low-income patients and life-saving trauma, burn, and disaster-response services for entire communities, and train the next generation of doctors and other health care professionals, such as nurses and paramedical professionals, who are critical to new team-based care models that achieve more efficient and patient-centered care.

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

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

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

The applicable percentage for purposes of the directed payments shall be uniformly applied across all of the following classes of designated public hospital systems:

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

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

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

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

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

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

(A) A Medi-Cal managed care plan and the designated public
hospital systems shall determine the manner, timing, and amount
of payment for contracted contract services, including through
fee-for-service, capitation, or other permissible manner. The rates
of payment for contracted contract services agreed upon by the
Medi-Cal managed care plan and the designated public hospital
system shall be established and documented without regard to the
directed payments and quality incentive payments required by this
section.

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

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

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

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

(5) Each year, a Medi-Cal managed care plan shall provide to
the department, at the times and in the form and manner specified
by the department, an accounting of amounts paid or payable to
the designated public hospital systems it contracts with, including
both contracted contract rates and the directed payments, to
demonstrate compliance with this subdivision. To the extent the
department determines, in its sole discretion, that a Medi-Cal
managed care plan is not in compliance with the requirements of
this subdivision, or is otherwise circumventing the purposes
thereof, to the material detriment of an applicable designated public
hospital system, and, independent of any remedy available to the
designated public hospital system, the department may reduce the
default assignment into the Medi-Cal managed care plan with
respect to all Medi-Cal managed care beneficiaries by up to 25
percent, so long as the other Medi-Cal managed care plan or
Medi-Cal managed care plans in the applicable county have the
capacity to receive the additional default membership. The
department’s determination, whether to exercise discretion under
this paragraph, shall not be subject to judicial review. Nothing in
this paragraph shall be construed to preclude or otherwise limit
the right of any designated public hospital system to pursue a
breach of contract action in connection with the requirements of
this subdivision.

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

(c) Commencing with the 2017–18 state fiscal year, and for
each state fiscal year thereafter, the department, in consultation
with the designated public hospital systems and each Medi-Cal
managed care plan, shall establish a program under which a
designated public hospital system may earn performance-based
quality incentive payments from the Medi-Cal managed care plan
they contract with in accordance with this subdivision.
(1) Payments shall be earned by each designated public hospital system based on its performance in achieving identified targets for quality of care.

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

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

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

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

(A) This amount shall be paid to the designated public hospital system by each of its contracted Medi-Cal managed care plans. If a designated public hospital system contracts with multiple Medi-Cal managed care plans, the department shall identify each Medi-Cal managed care plan’s proportionate amount of the designated public hospital system’s payment. The timing and amount of the distributions and any related reporting requirements for interim payments shall be established and agreed to by the designated public hospital system and each of the applicable Medi-Cal managed care plans.

(B) A Medi-Cal managed care plan shall not terminate a contract with a designated public hospital system for the purpose of circumventing the payment obligations under this subdivision.
(C) Each Medi-Cal managed care plan shall be responsible for payment of the quality incentive payments described in this subdivision.

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

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

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

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

(f) (1) The nonfederal share of the portion of the capitation rates specifically associated with directed payments to designated public hospital systems required under subdivision (b) and for the quality incentive payments established pursuant to subdivision (c)
may consist of voluntary intergovernmental transfers of funds
provided by designated public hospitals and their affiliated
governmental entities, or other public entities, pursuant to Section
14164. Upon providing any intergovernmental transfer of funds,
each transferring entity shall certify that the transferred funds
qualify for federal financial participation pursuant to applicable
federal Medicaid laws, and in the form and manner specified by
the department. Any intergovernmental transfer of funds made
pursuant to this section shall be considered voluntary for purposes
of all federal laws. Notwithstanding any other law, the department
shall not assess the fee described in subdivision (d) of Section
14301.4 or any other similar fee.

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

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

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

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

(2) The department shall consult with the designated public
hospital systems with regard to the development and
implementation of the directed payment levels and the quality
incentive payments established pursuant to this section.

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

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

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

(1) “Contract services payments” means the amount paid or
payable to a designated public hospital system, including amounts
paid or payable under fee-for-service, capitation, prior to any
adjustments for service payment withholds or deductions, or other
basis, under a contract with a Medi-Cal managed care plan for
services, drugs, supplies or other items provided to a Medi-Cal
beneficiary enrolled in the Medi-Cal managed care plan. Contract
services includes all services, drugs, supplies, or other items the
designated public hospital system provides, or is responsible for
providing, or arranging or paying for, pursuant to a contract entered
into with a Medi-Cal managed care plan. In the event a Medi-Cal
managed care plan subcontracts or otherwise delegates
responsibility to a separate entity for either or both the arrangement
or payment of services, “contracted “contract services payments”
also include amounts paid or payable for the services provided by,
or otherwise the responsibility of, the designated public hospital
system that are within the scope of services of the subcontracted or delegated arrangement so long as the designated public hospital system holds a contract with the primary Medi-Cal managed care plan.

(2) “Designated public hospital” shall have the same meaning as set forth in subdivision (f) of Section 14184.10.

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

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

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

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

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

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

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

(B) “Medi-Cal managed care plan” does not include any of the following:

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

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

(iii) A Program of All-Inclusive Care for the Elderly organization operating pursuant to Chapter 8.75 (commencing with Section 14591).
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
ensuring the uniform statewide application of the schedule governing the payment of CalWORKs benefits.

Existing law establishes the Cal-Learn Program, under which a recipient of CalWORKs aid who is under 19 years of age and who does not have a high school diploma or its equivalent is required to participate in the program as a student attending school on a full-time basis. Existing law provides for a supplement to, or a reduction in, a Cal-Learn participant’s aid grant based on his or her performance in school.

This bill would, contingent upon the appropriation in the Budget Act of an amount sufficient to carry out the purposes of the bill, as determined by the department, create the CalWORKs Educational Opportunity and Attainment Program. The bill would provide CalWORKs recipients with a monthly education incentive grant of $100 for attainment of a high school diploma or its equivalent, $200 for attainment of an associate’s degree or career technical education program, or $300 for attainment of a bachelor’s degree, if the educational program was completed while the recipient was receiving CalWORKs assistance. The bill would require the education incentive grant to be provided on an ongoing basis equivalent as an ongoing adjustment to the recipient’s monthly cash grant, if the recipient meets certain eligibility criteria. The bill would authorize a CalWORKs recipient to apply to receive education stipends totaling no more than $2,400 per year for enrollment in an education or training program leading to an associate’s degree, career technical education program certificate, or bachelor’s degree. The bill would require a recipient, when applying for an education bonus, incentive grant or stipend, to submit evidence of completion of the high school educational program, or enrollment in an education or training program, as applicable, to the county. The bill would require the county, upon verification of completion of the educational program, verification, as specified, to certify that the recipient is eligible for an education incentive grant and the grant or stipend and to ensure that the recipient’s monthly cash grant is increased, increased, or that the recipient receives the stipend, as applicable. By imposing additional administrative duties on counties, this bill would impose a state-mandated local program.

Existing law establishes the CalWORKs Recipients Education Program in the California Community Colleges. Existing law requires, to the extent that funding is provided in the annual Budget Act, a community college district to receive funding for purposes of providing
special services for CalWORKs recipients, including job placement and workstudy.

This bill would appropriate $20,000,000 in the annual Budget Act for this purpose, allocate $20,000,000 from the General Fund to the Board of Governors of the California Community Colleges to fund services provided under that program. The bill would require that $10,000,000 of this amount be used specifically to support CalWORKs recipients in working toward completion of their high school diploma or its equivalent. The bill would require the board to submit a report to the Legislature, on or before March 31, 2019, regarding the additional services provided as a result of the appropriation, as specified.

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.

Existing law continuously appropriates moneys from the General Fund to defray a portion of county costs under the CalWORKs program.

This bill would instead provide that the continuous appropriation would not be made for purposes of implementing the bill.


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

SECTION 1. The Legislature finds and declares all of the following:

(a) In California’s high-skill economy, it is very difficult to get a good, middle-class job without vocational education or a college degree, let alone a high school diploma.

(b) This is a significant barrier to socioeconomic mobility for California’s highly vulnerable CalWORKs recipients, because as many as 65 percent of CalWORKs recipients do not have a high school education.

(c) Research has consistently shown that postsecondary education boosts social mobility, particularly for those at the bottom of the income distribution scale, and that a parent’s level
of education has positive effects on his or her child’s level of
success into middle adulthood.
(d) California has the seventh largest federal Temporary
Assistance for Needy Families cash grant in the nation, and the
second largest among the 10 largest states.
(e) Poverty remains a persistent problem.
(f) This act is intended to provide incentives for CalWORKs
recipients to pursue education, thereby improving the opportunities
and outcomes for adults and children in the CalWORKs program.
SEC. 2. Article 3.7 (commencing with Section 11340) is added
to Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions
Code, to read:

Article 3.7. CalWORKs Educational Opportunity and
Attainment Program

11340. This article shall be known, and may be cited, as the
CalWORKs Educational Opportunity and Attainment Program.
11341. (a) A CalWORKs recipient may apply to receive an
education incentive grant in the following amounts:
(1) One hundred dollars ($100) per month for completion of a
high school diploma or its equivalent.
(2) Two hundred dollars ($200) per month for completion of
an associate’s degree or career technical education program.
(3) Three hundred dollars ($300) per month for completion of
a bachelor’s degree.
(b) The amounts listed in subdivision (a) are not cumulative. A
recipient shall receive, on an ongoing basis, the highest monthly
bonus to which he or she is entitled.
(c) The amounts listed in subdivision (a) constitute ongoing
adjustments to the recipient’s monthly cash grant.

11341. (a) A CalWORKs recipient may apply to receive an
education incentive grant in the amount of one hundred dollars
($100) per month for completion of a high school diploma or its
equivalent, as an ongoing adjustment to the recipient’s monthly
cash grant.
(b) (1) A CalWORKs recipient may apply to receive education
stipends totaling no more than two thousand four hundred dollars
($2,400) per year for enrollment in an education or training
program leading to a career technical education program certificate, an associate’s degree, or a bachelor’s degree.

(2) The stipend described in paragraph (1) shall be paid to a CalWORKs recipient at the outset of each term for which he or she is registered and shall be prorated according to the number of units or courses he or she is enrolled in as a percentage of full-time enrollment, as defined by the school or program in which he or she is enrolled. The department shall develop regulations establishing a schedule of payments by various term lengths and percentage of full-time enrollment wherein full-time enrollment for the year in any eligible program yields annual stipends totaling two thousand four hundred dollars ($2,400).

11342. (a) When applying—(1) A CalWORKs recipient who applies for an education incentive grant pursuant to subdivision (a) of Section 11341 shall submit evidence of completion of the high school educational program to the county. A recipient is not eligible unless all of the following criteria are satisfied:

(A) The recipient completed an educational program included in the recipient’s welfare-to-work plan approved by the county.

(B) The recipient completed an educational program offered by an accredited educational institution.

(C) The recipient completed the high school educational program while receiving CalWORKs assistance.

(b) (1) A CalWORKs recipient who applies for an education stipend described in subdivision (b) of Section 11341 shall submit evidence of enrollment to the county. A recipient is not eligible unless all of the following criteria are satisfied:
(A) The recipient is enrolled in an education or training program that is included in the recipient’s welfare-to-work plan approved by the county.

(B) The recipient is enrolled in an education or training program that is offered by an accredited educational institution.

(C) The recipient is enrolled in an education or training program described in subdivision (b) of Section 11341 while receiving CalWORKs assistance.

(2) Within 10 business days of verifying that a recipient is enrolled in an education or training program as described in paragraph (1), the county shall certify that the recipient is eligible for an education stipend and shall ensure that the recipient receives the stipend as prescribed in subdivision (b) of Section 11341.

11343. (a) A CalWORKs recipient who is receiving an education incentive grant and then ceases to receive CalWORKs assistance shall not be eligible for the same education incentive grant if he or she begins receiving CalWORKs assistance in the future. The recipient is eligible, however, to receive a different education incentive grant if he or she attains a higher level of education while receiving CalWORKs assistance.

(b) If a CalWORKs recipient who receives an education stipend is unable to satisfactorily complete, as defined by the school or program of enrollment, a portion or all of the coursework for which he or she received a stipend, the subsequent stipend received by the recipient shall be reduced by the prorated amount of the previous stipend attributable to the portion of the coursework that was not satisfactorily completed. This subdivision shall not be construed to reduce a recipient’s CalWORKs cash aid.

(c) A CalWORKs recipient is permanently ineligible for an education incentive grant or education stipend under either of the following circumstances:

(1) The recipient has exhausted his or her CalWORKs benefits.

(2) The recipient has committed public assistance fraud, as described in Article 7 (commencing with Section 11475.2): 11476.6).

(d) A CalWORKs recipient shall not receive an education incentive grant or education stipend in any month during which he or she is sanctioned.
This article shall be operative only upon the appropriation in the annual Budget Act of an amount sufficient to carry out the purposes of this article, as determined annually by the State Department of Social Services.

SEC. 3. The (a) (1) Contingent upon an appropriation in the annual Budget Act for the purposes of this section, as described in subdivision (c), the sum of twenty million dollars ($20,000,000) is hereby appropriated from the General Fund allocated to the Board of Governors of the California Community Colleges to fund services provided under the CalWORKs Recipients Education Program (Article 5 (commencing with Section 79200) of Chapter 9 of Part 48 of Division 7 of Title 3 of the Education Code), including, but not limited to, education and career counseling services, employment development services, including job development staff positions, and workstudy positions.

(2) Ten million dollars ($10,000,000) of the amount described in paragraph (1) shall be used solely to support CalWORKs recipients in working toward completion of their high school diploma or its equivalent.

(b) On or before March 31, 2019, the Board of Governors of the California Community Colleges shall submit a report, in accordance with Section 9795 of the Government Code, to the Legislature containing information on the number and description of additional services provided and number of CalWORKs recipients served as a result of the appropriation described in subdivision (a), including data and information regarding the use of the sum described in paragraph (2) of subdivision (a), to serve CalWORKs recipients pursuing a high school diploma or its equivalent, and the number of recipients completing their high school diploma or equivalent during the 2018 calendar year.

(c) This section shall become operative only upon the appropriation of $20,000,000 in the annual Budget Act for the purposes of this section.

SEC. 4. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.
SEC. 5. No appropriation pursuant to Section 15200 of the Welfare and Institutions Code shall be made for purposes of implementing this act.
An act to add Section 69614.6 to the Government Code, relating to judgeships.

LEGISLATIVE COUNSEL’S DIGEST

AB 414, as amended, Medina. Suspension and allocation of vacant judgeships.

Existing law specifies the number of judges for the superior court of each county. Existing law allocates additional judgeships to the various counties in accordance with uniform standards for factually determining additional judicial need in each county, as updated and approved by the Judicial Council, pursuant to the Update of Judicial Needs Study, based on specified criteria, including, among others, workload standards that represent the average amount of time of bench and nonbench work required to resolve each case type.

This bill would require the suspension of 5 vacant judgeships, as defined, from superior courts with more authorized judgeships than their assessed judicial need and would require the allocation of 4 judgeships to superior courts with fewer authorized judgeships than their assessed judicial need. The bill would require the suspension to be in accordance with a methodology approved by the Judicial Council, as specified, and would require the determination of a superior court’s assessed judicial need to be in accordance with the above uniform...
standards and be based on the criteria described above, and allocation of judgeships to be based on a superior court’s assessed judicial need in accordance with the uniform standards described above. The bill would require the Judicial Council, if a vacant judgeship is eligible for suspension, to promptly notify the applicable courts; court with the vacant judgeship, the Legislature, and the Governor that the judgeship will be suspended. is subject to suspension, provide an adequate opportunity for public comment, and, after consideration of any comments received, determine if the vacant judgeship should be suspended. The bill would require the Judicial Council to promptly notify the court with the vacant judgeship, the Legislature, and the Governor of its decision regarding suspension of the judgeship. The bill would provide that a court in which a vacant judgeship is suspended will not have its funding allocation reduced or any of its funding shifted or transferred as a result of, or in connection with, the suspension of a vacant judgeship.

This bill would also make a statement of legislative intent regarding the authority of the Legislature, the Governor, and the Chief Justice of California.


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

SECTION 1. It is the intent of the Legislature that this act shall not be construed to limit any of the following:

(a) The authority of the Legislature to create and fund new judgeships pursuant to Section 4 of Article VI of the California Constitution.

(b) The authority of the Governor to appoint a person to fill a vacancy pursuant to subdivision (c) of Section 16 of Article VI of the California Constitution.

(c) The authority of the Chief Justice of California to assign judges pursuant to subdivision (e) of Section 6 of Article VI of the California Constitution.

SEC. 2. Section 69614.6 is added to the Government Code, to read:

69614.6. (a) To provide for a more equitable distribution of judgeships and upon notice to the applicable courts, five pursuant to the process set forth in subdivision (b), four vacant judgeships
shall be suspended in superior courts with more authorized judgeships than their assessed judicial need and—five four judgeships shall be allocated to superior courts with fewer authorized judgeships than their assessed judicial need.

(b) (1) The suspension of vacant judgeships and the allocation of judgeships pursuant to subdivision (a) shall be in accordance with a methodology approved by the Judicial Council after solicitation of public comments. The determination of based on a superior court’s assessed judicial need shall be in accordance with the uniform standards for factually determining additional judicial need in each county, as updated and approved by the Judicial Council, pursuant to the Update of Judicial Needs Study, based on the criteria set forth in subdivision (b) of Section 69614.

(c) (1) If a judgeship in a superior court becomes vacant, the Judicial Council shall determine whether the judgeship is eligible for suspension under the methodology, standards, and criteria described in subdivision (b), paragraph (1). If the judgeship is eligible for suspension, the Judicial Council shall promptly notify the applicable courts, court with the vacant judgeship, the Legislature, and the Governor that the vacant judgeship shall be suspended. is subject to suspension, provide an adequate opportunity for public comment, and, after consideration of any comments received, determine if the vacant judgeship should be suspended. The Judicial Council shall promptly notify the court with the vacant judgeship, the Legislature, and the Governor of its decision regarding suspension of the judgeship.

(d) (c) (1) For purposes of this section only, a judgeship shall become “vacant” when an incumbent judge relinquishes the office through resignation, retirement, death, removal, or confirmation to an appellate court judgeship during either of the following:

(A) At any time before the deadline to file a declaration of intention to become a candidate for a judicial office pursuant to Section 8023 of the Elections Code.

(B) After the deadline to file a declaration of intention to become a candidate for a judicial office pursuant to Section 8023 of the Elections Code if no candidate submits qualifying nomination papers by the deadline pursuant to Section 8020 of the Elections Code.
(2) For purposes of this section, a judgeship shall not become "vacant" when an incumbent judge relinquishes the office as a result of being defeated in an election for that office.

(d) For purposes of this section only, the "suspension" of a vacant judgeship means that the vacant judgeship may not be filled by appointment or election, notwithstanding any other law, unless an appropriation by the Legislature is made for the judgeship.

(e) A court in which a vacant judgeship is suspended shall not have its funding allocation reduced or any funding shifted or transferred as a result of, or in connection with, the suspension of a vacant judgeship pursuant to this section.
ASSEMBLY BILL

No. 1164

Introduced by Assembly Member Thurmond

February 17, 2017

An act to amend Section 8212 of the Education Code, and to amend Section 11460 of, and to add Section 11461.6 to, the Welfare and Institutions Code, relating to foster care.

LEGISLATIVE COUNSEL’S DIGEST

AB 1164, as amended, Thurmond. Foster care placement: funding.

Existing law, the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program, requires foster care providers to be paid a per-child per-month rate, established by the State Department of Social Services, for the care and supervision of the child placed with the provider. Existing law defines “care and supervision” to include, among others, food, clothing, shelter, and daily supervision.

This bill would establish the Emergency Child Care Bridge Program for Foster Children (bridge program). The bill would authorize, contingent upon an appropriation of $11,000,000 in the 2017–18 fiscal year and $22,000,000 annually thereafter, in the annual Budget Act for these purposes, county welfare departments to administer the bridge program and distribute vouchers, or payment, for child care and development services for an eligible child who is placed with an approved resource family, a licensed or certified foster family, or an approved relative or nonrelative extended family member, or who is
the child of a young parent involved in the child welfare system. The bill would require, for counties that choose to participate, that county welfare departments determine eligibility for the bridge program and provide monthly payment either directly to the family or to the child care provider or provide a monthly voucher for child care, in an amount that is commensurate with the regional market rate, for up to 6 months following the child’s initial placement, placement or for up to 6 months for a child whose parent is in foster care, unless the child and family are able to access long-term, subsidized child care prior to the end of the 6-month period. The bill would allow eligibility for a child care payment or voucher to be extended for 6 months, at the discretion of the county welfare department, if the child and family have been unable to access long-term, subsidized child care during the initial 6-month period. The bill would require that each child receiving a monthly child care payment or voucher be provided with a child care navigator, as specified, and would authorize the county to establish local priorities in the implementation of the bridge program.

Existing law establishes the California Child Care Initiative Project for certain purposes, including increasing the availability of qualified child care programs in the state and establishing child care resource and referral programs to serve a defined geographic area.

This bill would require, contingent upon an appropriation—of $2,500,000 in the 2017–18 fiscal year and $5,000,000 annually thereafter, in the annual Budget Act for these purposes, each child care resource and referral program to provide a child care navigator to support children in foster care, children previously in foster care upon return to their home of origin, and children of parents involved in the child welfare system. The bill would also require, contingent upon an appropriation of $2,000,000 in the 2017–18 fiscal year and $4,000,000 annually thereafter, in the annual Budget Act, the child care resource and referral program to provide trauma-informed training and coaching to child care providers working with children and the children of parenting youth in the foster care system.


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

1. SECTION 1. Section 8212 of the Education Code is amended to read:
For purposes of this article, child care resource and referral programs, established to serve a defined geographic area, shall provide the following services:

1. Identification of the full range of existing child care services through information provided by all relevant public and private agencies in the areas of service, and the development of a resource file of those services which shall be maintained and updated at least quarterly. These services shall include, but not be limited to, family day care homes, public and private day care programs, full-time and part-time programs, and infant, preschool, and extended care programs.

The resource file shall include, but not be limited to, the following information:

(A) Type of program.
(B) Hours of service.
(C) Ages of children served.
(D) Fees and eligibility for services.
(E) Significant program information.

2. Establishment of a referral process which responds to parental need for information and which is provided with full recognition of the confidentiality rights of parents. Resource and referral programs shall make referrals to licensed child day care facilities. Referrals shall be made to unlicensed care facilities only if there is no requirement that the facility be licensed. The referral process shall afford parents maximum access to all referral information. This access shall include, but is not limited to, telephone referrals to be made available for at least 30 hours per week as part of a full week of operation. Every effort shall be made to reach all parents within the defined geographic area, including, but not limited to, any of the following:

(i) Toll-free telephone lines.
(ii) Office space convenient to parents and providers.
(iii) Referrals in languages which are spoken in the community.

Each child care resource and referral program shall publicize its services through all available media sources, agencies, and other appropriate methods.

(B) Provision of information to any person who requests a child care referral of his or her right to view the licensing information of a licensed child day care facility required to be maintained at the facility pursuant to Section 1596.859 of the
Health and Safety Code and to access any public files pertaining
to the facility that are maintained by the State Department of Social
Services Community Care Licensing Division.
(ii) A written or oral advisement in substantially the following
form will comply with the requirements of clause (i):
“State law requires licensed child day care facilities to make
accessible to the public a copy of any licensing report pertaining
to the facility that documents a facility visit or a substantiated
complaint investigation. In addition, a more complete file regarding
a child care licensee may be available at an office of the State
Department of Social Services Community Care Licensing
Division. You have the right to access any public information in
these files.”
(3) Maintenance of ongoing documentation of requests for
service tabulated through the internal referral process. The
following documentation of requests for service shall be maintained
by all child care resource and referral programs:
(A) Number of calls and contacts to the child care information
and referral program or component.
(B) Ages of children served.
(C) Time category of child care request for each child.
(D) Special time category, such as nights, weekends, and swing
shift.
(E) Reason that the child care is needed.
This information shall be maintained in a manner that is easily
accessible for dissemination purposes.
(4) Provision of technical assistance to existing and potential
providers of all types of child care services. This assistance shall
include, but not be limited to:
(A) Information on all aspects of initiating new child care
services including, but not limited to, licensing, zoning, program
and budget development, and assistance in finding this information
from other sources.
(B) Information and resources that help existing child care
services providers to maximize their ability to serve the children
and parents of their community.
(C) Dissemination of information on current public issues
affecting the local and state delivery of child care services.
(D) Facilitation of communication between existing child care
and child-related services providers in the community served.
Services prescribed by this section shall be provided in order to maximize parental choice in the selection of child care to facilitate the maintenance and development of child care services and resources.

(5) (A) (i) Contingent upon an appropriation of two million five hundred thousand dollars ($2,500,000) in the 2017–18 fiscal year and five million dollars ($5,000,000) annually thereafter in the annual Budget Act for purposes of this subparagraph, provision of a child care navigator to support children in foster care, children previously in foster care upon return to their home of origin, and children of parents involved in the child welfare system, including the children of nonminor dependents. The navigator shall work with the child’s resource family, licensed or certified foster family, or family with whom he or she is placed in an emergency or for a compelling reason, as described in Section 16519.5 of the Welfare and Institutions Code, and as described in paragraph (2) of subdivision (e) of Section 11461.6 of the Welfare and Institutions Code, the child’s social worker and worker, and the child and family team to assess child care opportunities appropriate to the child’s age and needs, assist the family in identifying potential opportunities for an ongoing child care subsidy, assist the caregiver in completing appropriate child care program applications, and develop an overall, long-term child care plan for the child.

(ii) As a condition of receiving funds pursuant to this subparagraph, each resource and referral program shall develop and enter into a memorandum of understanding, contract, or other formal agreement with the county child welfare agency in order to facilitate interagency communication and, to the maximum extent possible, to leverage federal funding, including administrative funding, available pursuant to Title IV-E of the Social Security Act, to enhance the navigation support authorized under this subparagraph, or the resource and referral program shall explain, in writing, annually, why entering into a memorandum of understanding, contract, or other formal agreement with the county child welfare agency is not practical or feasible. Navigator services provided pursuant to this subparagraph shall be made available to any child in foster care, any child previously in foster care who has returned to his or her home of origin, and any child of parents involved in the child welfare system, including any child who meets the eligibility criteria for the Emergency Child Care
Bridge Program for Foster Children established pursuant to Section 11461.6 of the Welfare and Institutions Code. Eligibility for navigator services shall not be contingent on a child’s receipt of a child care payment or voucher.

(B) (i) Contingent upon an appropriation of two million dollars ($2,000,000) in the 2017–18 fiscal year and four millions dollars ($4,000,000) annually thereafter in the annual Budget Act for purposes of this subparagraph, provision of trauma-informed training and coaching to child care providers working with children and the children of parenting youth in the foster care system. Training shall include, but not be limited to, infant and toddler development and research-based, trauma-informed best care practices. Child care providers shall be provided with coaching to assist them in applying training techniques and strategies for working with children and the children of parenting youth in foster care.

(ii) As a condition of receiving funds pursuant to this subparagraph, each resource and referral program, in coordination with the California Child Care Resource and Referral Network, shall develop and enter into a memorandum of understanding, contract, or other formal agreement with the county child welfare agency in order to, to the maximum extent possible, leverage federal funding, including training funds, available pursuant to Title IV-E of the Social Security Act, to enhance the training support authorized under this subparagraph, or the resource and referral agency shall explain, in writing, annually, why entering into a memorandum of understanding, contract, or other formal agreement with the county child welfare agency is not practical or feasible.

(b) (1) A program operating pursuant to this article shall, within two business days of receiving notice, remove a licensed child day care facility with a revocation or a temporary suspension order, or that is on probation from the program’s referral list.

(2) A program operating pursuant to this article shall, within two business days of receiving notice, notify all entities, operating a program under Article 3 (commencing with Section 8220) and Article 15.5 (commencing with Section 8350) in the program’s jurisdiction, of a licensed child day care facility with a revocation or a temporary suspension order, or that is on probation.
SEC. 2. Section 11460 of the Welfare and Institutions Code is amended to read:

11460. (a) (1) Foster care providers shall be paid a per child per month rate in return for the care and supervision of the AFDC-FC child placed with them. The department is designated the single organizational unit whose duty it shall be to administer a state system for establishing rates in the AFDC-FC program. State functions shall be performed by the department or by delegation of the department to county welfare departments or Indian tribes, consortia of tribes, or tribal organizations that have entered into an agreement pursuant to Section 10553.1.

(2) (A) Foster care providers that care for a child in a home-based setting described in paragraph (1) of subdivision (g) of Section 11461, or in a certified home or an approved resource family of a foster family agency, shall be paid the per child per month rate as set forth in subdivision (g) of Section 11461.

(B) The basic rate paid to either a certified family home or an approved resource family of a foster family agency shall be paid by the agency to the certified family home or approved resource family from the rate that is paid to the agency pursuant to Section 11463.

(b) “Care and supervision” includes food, clothing, shelter, daily supervision, school supplies, a child’s personal incidentals, liability insurance with respect to a child, reasonable travel to the child’s home for visitation, and reasonable travel for the child to remain in the school in which he or she is enrolled at the time of placement. Reimbursement for the costs of educational travel, as provided for in this subdivision, shall be made pursuant to procedures determined by the department, in consultation with representatives of county welfare and probation directors, and additional stakeholders, as appropriate.

(1) A child who meets the eligibility criteria of the Emergency Child Care Bridge Program for Foster Children, as established by Section 11461.6, may be provided with a voucher for child care services for the child for up to six months immediately following the child’s placement or for up to six months for a child whose parent is in foster care as well as a child care navigator to assist the child and resource family, licensed or certified foster family, or family with whom the child is placed in an emergency or for a compelling reason, as described in Section 16519.5; the family, as
described in paragraph (2) of subdivision (e) of Section 11461.6 of the Welfare and Institutions Code, in accessing long-term subsidized child care.

(2) For a child or youth placed in a short-term residential therapeutic program or a group home, care and supervision shall also include reasonable administration and operational activities necessary to provide the items listed in this subdivision.

(3) For a child or youth placed in a short-term residential therapeutic program or a group home, care and supervision may also include reasonable activities performed by social workers employed by the program provider that are not otherwise considered daily supervision or administration activities.

(4) The department, in consultation with the California State Foster Parent Association, and other interested stakeholders, shall provide information to the Legislature, no later than January 1, 2017, regarding the availability and cost for liability and property insurance covering acts committed by children in care, and shall make recommendations for any needed program development in this area.

(c) It is the intent of the Legislature to establish the maximum level of financial participation in out-of-state foster care group home program rates for placements in facilities described in subdivision (h) of Section 11402.

(1) The department shall develop regulations that establish the method for determining the level of financial participation in the rate paid for out-of-state placements in facilities described in subdivision (h) of Section 11402. The department shall consider all of the following methods:

(A) Until December 31, 2016, a standardized system based on the rate classification level of care and services per child per month.

(B) The rate developed for a short-term residential therapeutic program pursuant to Section 11462.

(C) A system that considers the actual allowable and reasonable costs of care and supervision incurred by the out-of-state program.

(D) A system that considers the rate established by the host state.

(E) Any other appropriate methods as determined by the department.

(2) Reimbursement for the Aid to Families with Dependent Children-Foster Care rate to be paid to an out-of-state program
described in subdivision (h) of Section 11402 shall only be paid to programs that have done all of the following:

(A) Submitted a rate application to the department, which shall include, but not be limited to, both of the following:

(i) Commencing January 1, 2017, unless granted an extension from the department pursuant to subdivision (d) of Section 11462.04, the equivalent of the mental health program approval required in Section 4096.5.

(ii) Commencing January 1, 2017, unless granted an extension from the department pursuant to subdivision (d) of Section 11462.04, the national accreditation required in paragraph (6) of subdivision (b) of Section 11462.

(B) Maintained a level of financial participation that shall not exceed any of the following:

(i) The current fiscal year’s standard rate for rate classification level 14 for a group home.

(ii) Commencing January 1, 2017, the current fiscal year’s rate for a short-term residential therapeutic program.

(iii) The rate determined by the ratesetting authority of the state in which the facility is located.

(C) Agreed to comply with information requests, and program and fiscal audits as determined necessary by the department.

(3) Except as specifically provided for in statute, reimbursement for an AFDC-FC rate shall only be paid to a group home or short-term residential therapeutic program organized and operated on a nonprofit basis.

(d) A foster care provider that accepts payments, following the effective date of this section, based on a rate established under this section, shall not receive rate increases or retroactive payments as the result of litigation challenging rates established prior to the effective date of this section. This shall apply regardless of whether a provider is a party to the litigation or a member of a class covered by the litigation.

(e) Nothing shall preclude a county from using a portion of its county funds to increase rates paid to family homes, foster family agencies, group homes, and short-term residential therapeutic programs within that county, and to make payments for specialized care increments, clothing allowances, or infant supplements to homes within that county, solely at that county’s expense.
(f) Nothing shall preclude a county from providing a supplemental rate to serve commercially sexually exploited foster children to provide for the additional care and supervision needs of these children. To the extent that federal financial participation is available, it is the intent of the Legislature that the federal funding shall be utilized.

SEC. 3. Section 11461.6 is added to the Welfare and Institutions Code, to read:

11461.6. (a) The Legislature finds and declares the following:

(1) When a child is first placed in foster care he or she is in crisis and in immediate need of a stable placement with a loving resource family.

(2) Chapter 773 of the Statutes of 2015 and Chapter 612 of the Statutes of 2016, commonly known as Continuum of Care Reform, reinforces California’s need for foster care placements and demands that we address the major barriers to parent recruitment.

(3) A major barrier to finding resource families for children, especially young children, is the difficulty they experience in accessing subsidized child care for the foster child. Accessing subsidized child care can also be a barrier for parenting youth in foster care who are attempting to work or attend school.

(4) The difficulty accessing subsidized child care, including at the time of placement, in addition to being a barrier to stability, can also lead to delayed placement, subsequent placement changes, or sibling separation, all of which retraumatize foster children.

(b) The Emergency Child Care Bridge Program for Foster Children is hereby established, to be implemented at the discretion of each county, for the purpose of stabilizing foster children with families at the time of initial placement by providing a payment or voucher for child care and development services for up to six months immediately following the child’s placement or for up to six months for a child whose parent is in foster care and by providing the family with a child care navigator to assist the family in accessing long-term subsidized child care.

(c) Contingent upon appropriation of eleven million dollars ($11,000,000) in the 2017–18 fiscal year and twenty-two million dollars ($22,000,000) annually thereafter in the annual Budget Act for the purposes of this section, the Emergency Child Care Bridge Program for Foster Children shall be administered by county welfare departments that choose to participate in the program.
(d) (1) As determined by the county welfare department, and consistent with guidance issued jointly by the State Department of Social Services and the State Department of Education, counties may establish local priorities and may either provide payment directly to the family or child care provider, or contract with a local alternative payment program to distribute vouchers for child care.

(2) Counties that elect to provide payment directly to a family or child care provider shall pay commensurate with the regional market rates, as described in Section 8357 of the Education Code.

(3) For counties that elect to contract with a local alternative payment agency, as described in Section 8220 of the Education Code, to distribute child care vouchers, the vouchers shall be in an amount commensurate with the regional market rates, as described in Section 8357 of the Education Code and the contract shall not displace, or result in the reduction of, an existing contract with a current local alternative payment program.

(e) (1) Participating county welfare departments shall determine eligibility of a child for the Emergency Child Care Bridge Program for Foster Children using the criteria outlined in paragraphs (2) and (3).

(2) Family placements eligible to receive payment or a voucher for child care and developmental services include all of the following:

(A) Approved resource families and families that have a child placed with them in an emergency or for a compelling reason, as described in Section 16519.5.

(B) Currently licensed or certified foster care providers, as defined in Sections 1502 and 1506.5 of the Health and Safety Code.

(C) Currently approved relatives or nonrelative extended family members as described in Sections 309, 361.4, and 362.7.

(D) Parents under the jurisdiction of the juvenile court, including, but not limited to, nonminor dependent parents.

(3) A participating county welfare department may provide a payment or voucher if work or school responsibilities preclude resource families from being at home when the child for whom they have care and responsibility is not in school or for periods when the resource family, licensed or certified foster family, or family with whom the child is placed in an emergency or for a
compelling reason, as described in Section 16519.5 family, as
described in paragraph (2), is required to participate, without the
child, in activities associated with parenting a child in foster care
that are beyond the scope of ordinary parental duties, including,
but not limited to, attendance at administrative or judicial reviews,
case conferences, and family training.
(f) Each child receiving a monthly child care payment or voucher
shall be provided with a child care navigator, pursuant to paragraph
(5) of subdivision (a) of Section 8212 of the Education Code, who
shall work directly with the child’s family, social worker, and the
child and family team to assist in accessing child care at the time
of placement as well as long-term, subsidized child care for the
child, as necessary.
(g) Each child receiving a monthly child care payment or
voucher shall be eligible to receive the payment or voucher for up
to six months. If the child and family access long-term, subsidized
child care prior to the end of the six-month period covered by the
payment or voucher, eligibility for the monthly payment or voucher
shall terminate upon enrollment in long-term, subsidized child
care.
(h) Eligibility for the monthly payment or voucher may be
extended beyond the initial six-month period for an additional
six-month period, not to exceed 12 months in total, at the discretion
of the county welfare department, if the child and family have been
unable to access long-term, subsidized child care during the initial
six-month period.
(i) The department shall seek all federal approvals necessary to
claim federal reimbursement under Title IV-E of the Social
Security Act in order to maximize state and local funding for child
care.
(j) This section shall not be interpreted to create an entitlement
to child care payment or voucher.
(k) The program established pursuant to this section is intended
to complement county child welfare agency efforts to recruit,
retain, and support resource families as described in Section
16003.5, and any funding provided to counties pursuant to this
section shall supplement those county activities to support the
An act to add Article 4 (commencing with Section 9120) to Chapter 2 of Division 8.5 of the Welfare and Institutions Code, relating to aging.

LEGISLATIVE COUNSEL'S DIGEST

AB 1200, as amended, Cervantes. Aging and Disabilities Resource Connection program.

Existing law, the Mello-Granlund Older Californians Act, establishes the California Department of Aging, and states that the mission of the department is to provide leadership to the area agencies on aging in developing systems of home- and community-based services that maintain individuals in their own homes or least restrictive homelike environments.

Existing law vests in the Department of Rehabilitation the responsibility and authority for the encouragement of the planning, development, and funding of independent living centers, which are private, nonprofit organizations that provide specified services to individuals with disabilities, in order to assist those individuals in their attempts to live fuller and freer lives outside institutions.

Existing law establishes the Medi-Cal program, 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. Existing law provides that Medi-Cal long-term services and supports, including In-Home Supportive Services (IHSS),
Community-Based Adult Services (CBAS), Multipurpose Senior Services Program (MSSP) services, and certain skilled nursing facility and subacute care services, shall be covered services by a specified date under managed care health plan contracts for beneficiaries residing in counties participating in the Coordinated Care Initiative.

This bill would establish the Aging and Disability Resource Connection (ADRC) program, to be administered by the California Department of Aging, to provide information to consumers and their families on available long-term services and supports (LTSS) programs and to assist older adults, caregivers, and persons with disabilities in accessing LTSS programs at the local level. The bill would require the department to establish the Aging and Disability Resource Connection Advisory Committee as the primary adviser in the ongoing development and implementation of the ADRC program. The bill would require the department, in consultation with the advisory committee, to formulate criteria for designation and approval of local ADRC program sites, and would specify the services offered by, and responsibilities of, a program site. The bill would require the department and the State Department of Health Care Services to enter into a memorandum of understanding with the federal Centers for Medicare and Medicaid Services to authorize local government agencies to claim federal Medicaid to explore reimbursement for qualified administrative activities performed pursuant to these provisions.


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

SECTION 1. The Legislature finds and declares all of the following:
(a) California’s long-term services and supports (LTSS) system is plagued by fragmentation of programs at the state, regional, and local levels. In many communities, multiple agencies administer LTSS and have complex, fragmented, and often duplicative intake, assessment, and eligibility functions. This fragmentation results in a lack of access to coordinated services. As a result, consumers and their families struggle to identify and access necessary home- and community-based services, resulting in increased likelihood of hospitalization and institutional placements.
(b) In 2003, the federal Administration for Community Living and the federal Centers for Medicare and Medicaid Services established a joint funding opportunity through the Aging and Disability Resource Center (ADRC) initiative, which was designed to provide visible and trusted sources of information, one-on-one counseling, and streamlined access to LTSS.

c) ADRCs build on the strength of existing community agencies, including area agencies on aging and independent living centers, to provide a more coordinated system of information and access for all persons seeking LTSS to minimize confusion, enhance individual choice, and support informed decisionmaking.

d) In California, ADRC partnerships exist in eight areas of the state that facilitate access to LTSS based on individuals' needs, preferences, and goals.

e) California's ADRC Advisory Committee engages stakeholders in identifying and implementing strategies to strengthen, sustain, and expand ADRC services throughout the state.

SEC. 2. Article 4 (commencing with Section 9120) is added to Chapter 2 of Division 8.5 of the Welfare and Institutions Code, to read:

Article 4. Aging and Disability Resource Connection Program

9120. (a) There is hereby established an Aging and Disability Resource Connection (ADRC) program to provide information to consumers and their families on available long-term services and supports (LTSS) programs and to assist older adults, caregivers, and persons with disabilities in accessing LTSS programs at the local level.

(b) This article shall be administered by the California Department of Aging. The department shall enter into interagency agreements with the Department of Rehabilitation and the State Department of Health Care Services for purposes of implementing this article.

9121. (a) The department shall establish the Aging and Disability Resource Connection Advisory Committee as the primary adviser to the department, the Department of Rehabilitation, and the State Department of Health Care Services
in the ongoing development and implementation of the ADRC program.

(b) The advisory committee shall do all of the following:

1. Consider high-level aspects of the ADRC program operations and related systemwide issues.
2. Provide input and recommendations to the departments in developing ADRC program policies and procedures.
3. Serve as the forum for ADRC stakeholders to discuss evolving federal guidance, funding opportunities, and best practices.

9122. (a) The department, in consultation with the advisory committee, shall formulate criteria for designation and approval of local ADRC program sites.
(b) Area agencies on aging and independent living centers shall be the core local partners in developing ADRC program sites, but the department may work with other local partners in developing ADRC program sites.
(c) An ADRC program site shall provide all of the following:
1. Enhanced information and referral services and other assistance at hours that are convenient for the public.
2. Options counseling concerning available LTSS programs and public and private benefits programs.
3. Short-term service coordination.
4. Transition services from hospitals to home and from skilled nursing facilities to the community.
(d) An ADRC program site shall do all of the following:
1. Provide services within the geographic area served.
2. Provide information to the public about the services provided by the site.
3. Submit to the department all reports and data required or requested by the department.
(e) The department, in consultation with the advisory committee, shall consider establishing ADRC program sites to cover all geographic regions of the state in order to provide services to the maximum number of consumers and families in the state.
(e) The department shall consult with the advisory committee when exploring steps to establish ADRC program sites statewide.

9123. The department and the State Department of Health Care Services shall enter into a memorandum of understanding with the federal Centers for Medicare and Medicaid Services to authorize
local government agencies to claim federal Medicaid reimbursement to explore reimbursement for qualified administrative activities performed pursuant to this article, consistent with Section 14132.47.
An act to amend Section 340 of the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST


Existing law establishes the jurisdiction of the juvenile court, which is permitted to adjudge certain children to be dependents of the court under certain circumstances, including when the child is abused, a parent or guardian fails to adequately supervise or protect the child, as specified, or a parent or guardian fails to provide the child with adequate food, clothing, shelter, or medical treatment. Existing law requires a proceeding in the juvenile court to declare a child to be a dependent child of the court to be commenced by the filing with the court, by the social worker, of a petition in conformity with specified requirements. Existing law authorizes the court to issue a protective custody warrant for a minor under certain circumstances, including when a petition has been filed in the juvenile court alleging that the minor comes within the jurisdiction of the juvenile court as a dependent or when a dependent minor has run away from his or her court-ordered placement.

This bill would authorize the court to issue a protective custody warrant, without filing a petition in the juvenile court alleging that the minor comes within the jurisdiction of the juvenile court as a dependent, if there is probable cause to believe the minor comes within the
jurisdiction of the juvenile court as a dependent, there is a substantial
danger to the physical or emotional health, or both; safety or physical
health of the child, and there are no reasonable means to protect the
child’s safety or physical health without removal. The bill would
require any child taken into protective custody under these provisions
to immediately be delivered to the social worker who shall investigate
the facts and circumstances of the child and the facts surrounding the
child being taken into custody and attempt to maintain the child with
the child’s family through the provision of services. By imposing
additional duties on county social workers, this bill would impose a
state-mandated local program.

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 no reimbursement is required by this act
for a specified reason.


State-mandated local program: no-yes.

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

1 SECTION 1. Section 340 of the Welfare and Institutions Code
2 is amended to read:
3 340. (a) Whenever a petition has been filed in the juvenile
court alleging that a minor comes within Section 300 and praying
for a hearing on that petition, or whenever any subsequent petition
has been filed praying for a hearing in the matter of the minor and
it appears to the court that the circumstances of his or her home
environment may endanger the health, person, or welfare of the
minor, or whenever a dependent minor has run away from his or
her court-ordered placement, a protective custody warrant may be
issued immediately for the minor.

(b) A protective custody warrant may be issued without filing
a petition under Section 300 if the court finds probable cause to
support all of the following:

(1) The child is a person described in Section 300.

(2) There is a substantial danger to the physical or emotional
health, or both; safety or physical health of the child.
(3) There are no reasonable means to protect the child’s safety or physical health without removal.

(c) Any child taken into protective custody pursuant to this section shall immediately be delivered to the social worker who shall investigate, pursuant to Section 309, the facts and circumstances of the child and the facts surrounding the child being taken into custody and attempt to maintain the child with the child’s family through the provision of services.

(d) Nothing in this section is intended to limit any other circumstance permitting a magistrate to issue a warrant for a person.

SEC. 2. To the extent that this act has an overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation within the meaning of Section 36 of Article XIII of the California Constitution, it shall apply to local agencies only to the extent that the state provides annual funding for the cost increase. Any new program or higher level of service provided by a local agency pursuant to this act above the level for which funding has been provided shall not require a subvention of funds by the state or otherwise be subject to Section 6 of Article XIII B of the California Constitution.
Senate Bill No. 1

CHAPTER 5

An act to amend Section 14526.5 of, to add Sections 14033, 14110, 14526.7, 14556.41, and 16321 to, to add Chapter 5 (commencing with Section 14460) to Part 5 of Division 3 of Title 2 of, to repeal Sections 63048.66, 63048.67, 63048.7, 63048.75, 63048.8, and 63048.85 of, and to repeal and add Section 63048.65 of, the Government Code, to add Section 43021 to the Health and Safety Code, to amend Section 99312.1 of, and to add Sections 99312.3, 99312.4, and 99314.9 to, the Public Utilities Code, to amend Sections 6051.8, 6201.8, 7360, 8352.4, 8352.5, 8352.6, and 60050 of, to add Sections 7361.2, 7653.2, 60050.2, and 60201.4 to, and to add Chapter 6 (commencing with Section 11050) to Part 5 of Division 2 of, the Revenue and Taxation Code, to amend Sections 2104, 2105, 2106, and 2107 of, to add Sections 2103.1 and 2192.4 to, to add Article 2.5 (commencing with Section 800) to Chapter 4 of Division 1 of, and to add Chapter 2 (commencing with Section 2030) and Chapter 8.5 (commencing with Section 2390) to Division 3 of, the Streets and Highways Code, and to amend Section 4156 of, and to add Sections 4000.15 and 9250.6 to, the Vehicle Code, relating to transportation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 28, 2017. Filed with Secretary of State April 28, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1, Beall. 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 $0.12 per gallon increase in the motor vehicle fuel (gasoline) tax imposed by the bill with an inflation adjustment, as provided, 50% of a $0.20 per gallon increase in the diesel excise tax, with an inflation adjustment, as provided, a portion of a new transportation improvement fee imposed under the Vehicle License Fee Law with a varying fee between $25 and $175 based on vehicle value and with an inflation adjustment, as provided, and a new $100 annual vehicle registration fee applicable only to zero-emission vehicles model year 2020 and later, with an inflation adjustment, as provided. The bill would provide that the fuel excise tax increases take effect on November 1, 2017, the transportation improvement fee takes effect on January 1, 2018, and the zero-emission vehicle registration fee takes effect on July 1, 2020.

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 $100,000,000 of the funds available for the program to be available annually for expenditure, upon appropriation by the Legislature, on the Active Transportation Program. The bill would require $400,000,000 of the funds available for the program to be available annually for expenditure, upon appropriation by the Legislature, on state highway bridge and culvert maintenance and rehabilitation. The bill would require $5,000,000 of the funds available for the program that are not restricted by Article XIX of the California Constitution to be appropriated each fiscal year to the California Workforce Development Board to assist local agencies to implement policies to promote preapprenticeship training programs to carry out specified projects funded by the account. The bill would require $25,000,000 of the funds available for the program to be annually transferred to the State Highway Account for expenditure on the freeway service patrol program. The bill would require $25,000,000 of the funds available for the program to be available annually for expenditure, upon appropriation by the Legislature, on local planning grants. The bill would authorize annual appropriations of $5,000,000 and $2,000,000 of the funds available for the program to the University of California and the California State University, respectively, for the purpose of conducting transportation research and transportation-related workforce education, training, and development, as specified. 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.

(2) Existing law creates the Department of Transportation within the Transportation Agency.

This bill would create the Independent Office of Audits and Investigations within the department, with specified powers and duties. The bill would provide for the Governor to appoint the director of the office for a 6-year term, subject to confirmation by the Senate, and would provide that the director, who would be known as the 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 Inspector General with respect to the department and local agencies receiving state and federal transportation funds through the department, 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 January 1, 2018. The bill would require the department to develop a plan by January 1, 2020, to increase by up to 100% the dollar value of contracts awarded to small businesses, disadvantaged business enterprises, and disabled veteran business enterprises, as specified.

(3) 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 identify the amount of outstanding loans from certain transportation funds as $706,000,000. The bill would require the Department of Finance 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 various state and local transportation purposes.

(4) 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.

This bill would deposit the revenues attributable to 50% of the $0.20 per gallon increase in the diesel fuel excise tax imposed by the bill into the Trade Corridor Enhancement Account, to be expended on corridor-based freight projects nominated by local agencies and the state.

(5) 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 November 1, 2017, would transfer the gasoline excise tax revenues attributable to boats and off-highway vehicles from the new $0.12 per gallon increase, and future inflation adjustments from that increase, to the State Parks and Recreation Fund, to be used for state parks, off-highway vehicle programs, or boating programs. The bill would allocate revenues from future inflation adjustments of the existing gasoline excise tax rate attributable to the nonhighway modes pursuant to existing law.

(6) 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, effective July 1, 2019, the annual rate adjustment to maintain revenue neutrality for the gasoline and diesel excise tax rates and would reimpose on that date 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 that becomes effective on November 1, 2017.

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 and other revenues in the account to the Controller for allocation by formula to transportation agencies for public transit purposes under the State Transit Assistance Program. Existing law provides for appropriation of other revenues in the account to the Department of Transportation for various other transportation purposes, including intercity rail purposes.

This bill would increase the additional sales and use tax rate on diesel fuel by an additional 4%. The bill would continuously appropriate revenues attributable to the 3.5% rate increase to the Controller for allocation to transportation agencies for public transit purposes under the State Transit Assistance Program. The bill would require the revenues attributable to the remaining 0.5% rate increase to be continuously appropriated to the Transportation Agency for intercity rail and commuter rail purposes.

The bill would also allocate portions of the revenue from the new transportation improvement fee to the State Transit Assistance Program and to the Transit and Intercity Rail Capital Program. The bill would restrict expenditures of the fee revenues made available to the State Transit Assistance Program to transit capital purposes and certain transit services, and would require a recipient transit agency to comply with various requirements, as specified.

(7) Existing law provides for the state to receive certain compact assets, as defined, from designated tribal compacts relative to Indian gaming, and
authorized the compact assets to be sold by the Infrastructure and Economic Development Bank to a special purpose trust in order to generate state revenues. Existing law designated certain of these revenues to be used to repay certain loans of transportation funds that were made to the General Fund.

This bill would delete the references to the special purpose trust and revise payments to various transportation accounts to be made from compact assets. The bill would repeal various other related provisions.

(8) Existing law creates the Traffic Congestion Relief Program and identifies various specific projects eligible to receive funding.

This bill would deem the Traffic Congestion Relief Program to be complete and final as of June 30, 2017, and would provide that projects without approved applications are no longer eligible for funding.

(9) 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.

This 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 July 1, 2017, would also require the commission to make an allocation of capital outlay support resources by project phase 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.

(10) Existing law generally provides for transportation capital improvement projects to be nominated and programmed through the state highway operation and protection program, relative to state highway rehabilitation and similar projects, or through the state transportation improvement program, relative to capacity enhancements and other capital projects.

This bill would create the Solutions for Congested Corridors Program, with funding appropriated for the program from a portion of the new
transportation improvement fee to be allocated by the California Transportation Commission to projects designed to achieve a balanced set of transportation, environmental, and community access improvements within highly congested travel corridors throughout the state and that are part of a comprehensive corridor plan. The bill would provide for regional transportation agencies and the Department of Transportation to nominate projects, with preference to be given to projects that demonstrate collaboration between the regional agencies and the department.

(11) 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.

This bill would establish the Advance Mitigation Program in the Department of Transportation to enhance communications between the department and stakeholders to, among other things, protect natural resources and accelerate project delivery. The bill would require the department to set aside not less than $30,000,000 annually for 4 years for the program from capital outlay revenues.

(12) Existing law imposes various limitations on emissions of air contaminants for the control of air pollution from vehicular and nonvehicular sources. Existing law generally designates the State Air Resources Board as the state agency with the primary responsibility for the control of vehicular air pollution.

This bill would prohibit, except as specified, the requiring of the retirement, replacement, retrofit, or repower of a self-propelled commercial motor vehicle during a specified period. The bill would require the state board to, by January 1, 2025, evaluate the impact of these provisions on state and local clean air efforts to meet state and local clean air goals, as provided.

(13) Existing law prohibits a person from driving, moving, or leaving standing upon a highway any motor vehicle, as defined, that has been registered in violation of provisions regulating vehicle emissions.

This bill, effective January 1, 2020, would require the Department of Motor Vehicles to confirm, prior to the initial registration or the transfer of ownership and registration of a diesel-fueled vehicle with a gross vehicle weight rating of more than 14,000 pounds, that the vehicle is compliant with, or exempt from, applicable air pollution control technology requirements, pursuant to specified provisions. The bill would require the department to refuse registration, or renewal or transfer of registration, for certain diesel-fueled vehicles, based on weight and model year, that are subject to specified provisions relating to the reduction of emissions of
diesel particulate matter, oxides of nitrogen, and other criteria pollutants from in-use diesel-fueled vehicles. The bill would authorize the department to allow registration, or renewal or transfer of registration, for any diesel-fueled vehicle that has been reported to the State Air Resources Board, and is using an approved exemption, or is compliant with applicable air pollution control technology requirements, pursuant to specified provisions.

Existing law authorizes the department, in its discretion, to issue a temporary permit to operate a vehicle when a payment of fees has been accepted in an amount to be determined by the department and paid to the department by the owner or other person in lawful possession of the vehicle.

This bill would additionally authorize the department to issue a temporary permit to operate a vehicle for which registration is otherwise required to be refused under the provisions of the bill, as prescribed.

(14) The bill would enact other related provisions.

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

Appropriation: yes.

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Over the next 10 years, the state faces a $59 billion shortfall to adequately maintain the existing state highway system in order to keep it in a basic state of good repair.

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

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

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

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

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

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

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

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

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

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

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

(1) Ensure these transportation needs are addressed.

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

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

(4) Direct increased revenue to the state’s highest transportation needs.

(m) This act presents a balance of new revenues and reasonable reforms to ensure efficiency, accountability, and performance from each dollar invested to improve California’s transportation system. The revenues designated in this act are intended to address both state and local transportation infrastructure needs as follows:

(1) The revenues estimated to be available for allocation under the act to local agencies are estimated over the next 10 years to be as follows:

(A) Fifteen billion dollars ($15,000,000,000) to local street and road maintenance.

(B) Seven billion five hundred million dollars ($7,500,000,000) for transit operations and capital.

(C) Two billion dollars ($2,000,000,000) for the local partnership program.

(D) One billion dollars ($1,000,000,000) for the Active Transportation Program.

(E) Eight hundred twenty-five million dollars ($825,000,000) for the regional share of the State Transportation Improvement Program.

(F) Two hundred fifty million dollars ($250,000,000) for local planning grants.

(2) The revenues estimated to be available for allocation under the act to the state are estimated over the next 10 years to be as follows:

(A) Fifteen billion dollars ($15,000,000,000) for state highway maintenance and rehabilitation.

(B) Four billion dollars ($4,000,000,000) for highway bridge and culvert maintenance and rehabilitation.

(C) Three billion dollars ($3,000,000,000) for high priority freight corridors.

(D) Two billion five hundred million dollars ($2,500,000,000) for congested corridor relief.
(E) Eight hundred million dollars ($800,000,000) for parks programs, off-highway vehicle programs, boating programs, and agricultural programs.

(F) Two hundred seventy-five million dollars ($275,000,000) for the interregional share of the State Transportation Improvement Program.

(G) Two hundred fifty million dollars ($250,000,000) for freeway service patrols.

(H) Seventy million dollars ($70,000,000) for transportation research at the University of California and the California State University.

(n) It is the intent of the Legislature that the Department of Transportation meet the following preliminary performance outcomes for additional state highway investments by the end of 2027, in accordance with applicable state and federal standards:

1. Not less than 98 percent of pavement on the state highway system in good or fair condition.
2. Not less than 90 percent level of service achieved for maintenance of potholes, spalls, and cracks.
3. Not less than 90 percent of culverts in good or fair condition.
4. Not less than 90 percent of the transportation management system units in good condition.
5. Fix not less than an additional 500 bridges.

(o) Further, it is the intent of the Legislature that the Department of Transportation leverage funding provided by this act for trade corridors and other highly congested travel corridors in order to obtain matching funds from federal and other sources to maximize improvements in the state’s high-priority freight corridors and in the most congested commute corridors.

(p) Constitutionally protecting the funds raised by this act ensures that these funds are to be used only for transportation purposes necessary to repair roads and bridges, expand the economy, and protect natural resources.

(q) This act advances greenhouse gas reduction objectives and other environmental goals by focusing on “fix-it-first” projects, investments in transit and active transportation, and supporting Senate Bill 375 (Chapter 728, Statutes of 2008) and transportation plans.

SEC. 2. This act shall be known, and may be cited as, the Road Repair and Accountability Act of 2017.

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

14033. On or before January 1, 2018, the department shall update the Highway Design Manual to incorporate the “complete streets” design concept.

SEC. 4. Section 14110 is added to the Government Code, to read:

14110. Consistent with federal and state laws and regulations, including, but not limited to, the department’s goal setting methodology as approved by the Federal Highway Administration, the department shall develop a plan by January 1, 2020, to increase by up to 100 percent the dollar value of contracts and procurements awarded to small businesses, disadvantaged business enterprises, and disabled veteran business enterprises. The plan shall include the use of targeted media, including minority and women
business enterprises, to outreach to these businesses and shall be provided
to the Legislature pursuant to Section 9795.

SEC. 5. Chapter 5 (commencing with Section 14460) is added to Part
5 of Division 3 of Title 2 of the Government Code, to read:

CHAPTER 5. DEPARTMENT OF TRANSPORTATION INDEPENDENT OFFICE
OF AUDITS AND INVESTIGATIONS

14460. (a) There is hereby created in the department the Independent
Office of Audits and Investigations to ensure all of the following:
(1) The department, and external entities that receive state and federal
transportation funds from the department, are spending those funds
efficiently, effectively, economically, and in compliance with applicable
state and federal requirements. Those external entities include, but are not
limited to, private for profit and nonprofit organizations, local transportation
agencies, and other local agencies that receive transportation funds either
through a contract with the department or through an agreement or grant
administered by the department.
(2) The department’s programs are functioning consistent with applicable
accounting standards and practices and are administered effectively,
efficiently, and economically.
(3) The department’s management is accomplishing departmental
priorities, developing an annual audit plan, administering an effective
enterprise risk management program, and is making efficient, effective, and
financially responsible transportation decisions.
(4) The Secretary of Transportation, the Legislature, the California
Transportation Commission, and the director and chief deputy director of
the department are fully informed concerning fraud, improper activities, or
other serious abuses or deficiencies relating to the expenditure of
transportation funds or administration of department programs and
operations.
(b) The Governor shall appoint the director of the Audits and
Investigations Office, who shall serve a six-year term, have the title of
Inspector General, and be subject to Senate confirmation. The Inspector
General may not be removed from office during that term, except for good
cause. The reasons for removal of the Inspector General shall be stated in
writing and shall include the basis for removal. The writing shall be sent to
the Secretary of the Senate and the Chief Clerk of the Assembly at the time
of the removal and shall be deemed to be a public document.
(c) The Inspector General is vested with the full authority to exercise all
responsibility for maintaining a full scope, independent, and objective audit
and investigation program as prescribed by Sections 1237, 13885, 13886.5,
13887.5, and 13888, including, but not limited to, those activities described
in Section 14461.
(d) Notwithstanding Section 13887, in order to achieve independence and objectivity pursuant to this section, the Independent Office of Audits and Investigation shall meet all of the following requirements:

(1) The Inspector General shall report all audit and confidential investigation findings and recommendations made under his or her jurisdiction to the Secretary of Transportation and the director and chief deputy director of the department on an ongoing and current basis.

(2) The Inspector General shall report at least annually, or upon request, to the Governor, the Legislature, and the California Transportation Commission with a summary of his or her investigation and audit findings and recommendations. The summary shall be posted on the office’s Internet Web site and shall otherwise be made available to the public upon its release to the Governor, commission, and Legislature. The summary shall include, but need not be limited to, significant problems discovered by the Inspector General and whether the Inspector General’s recommendations relative to audits and investigations have been implemented by the affected units and programs of the department or affected external entities. The report shall be submitted to the Legislature in compliance with Section 9795.

14461. The Inspector General shall review policies, practices, and procedures and conduct audits and investigations of activities involving state transportation funds administered by the department in consultation with all affected units and programs of the department and external entities.

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

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

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

(c) (1) The department, at a minimum, shall specify, for each project in the state highway operation and protection program, the capital and support budget, as applicable, for each of the following project phases:

(A) Project approval and environmental documents, support only.
(B) Plans, specifications, and estimates, support only.
(C) Rights-of-way.
(D) Construction.

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

(A) Project approval and environmental document completion.
(B) Plans, specifications, and estimates completion.
(C) Right-of-way certification.
(D) Start of construction.
(d) The department shall submit its proposed program to the commission not later than January 31 of each even-numbered year. Prior to submitting its proposed program, the department shall make a draft of its proposed program available to transportation planning agencies for review and comment and shall include the comments in its submittal to the commission. The department shall provide the commission with detailed information for all programmed projects on cost, scope, schedule, and performance metrics as determined by the commission.
(e) The commission shall review the proposed program relative to its overall adequacy, consistency with the asset management plan prepared and approved pursuant to Section 14526.4 and funding priorities established in Section 167 of the Streets and Highways Code, the level of annual funding needed to implement the program, and the impact of those expenditures on the state transportation improvement program. The commission shall adopt the program and submit it to the Legislature and the Governor not later than April 1 of each even-numbered year. The commission may decline to adopt the program if the commission determines that the program is not sufficiently consistent with the asset management plan prepared and approved pursuant to Section 14526.4.
(f) As part of the commission’s review of the program required pursuant to subdivision (a), the commission shall hold at least one hearing in northern California and one hearing in southern California regarding the proposed program.
(g) On or after July 1, 2017, to provide sufficient and transparent oversight of the department’s capital outlay support resources composed of both state staff and contractors, the commission shall be required to allocate the department’s capital outlay support resources by project phase, including preconstruction. Through this action, the commission will provide public transparency for the department’s budget estimates, increasing assurance that the annual budget forecast is reasonable. The commission shall develop guidelines, in consultation with the department, to implement this subdivision. Guidelines adopted by the commission to implement this subdivision shall be exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1).
(h) Beginning July 1, 2017, for a project that experiences increases in capital or support costs above the amounts in the commission’s allocation pursuant to subdivision (g), the commission shall establish a threshold for requiring a supplemental project allocation. The commission’s guidelines adopted pursuant to subdivision (g) shall also establish the threshold that the commission determines is necessary to ensure efficiency and may provide exceptions as necessary so that projects are not unnecessarily delayed.
(i) The department, for each project requiring a supplemental project allocation pursuant to subdivision (h), shall submit a request to the commission for its approval.
(j) Expenditures for these projects shall not be subject to Sections 188 and 188.8 of the Streets and Highways Code.

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

14526.7. (a) The department shall incorporate the performance targets in subdivision (n) of Section 1 of the act adding this section into the asset management plan adopted by the commission and targets adopted by the commission pursuant to Sections 14526.4 and 14526.5. The asset management plan shall also include targets adopted by the commission in consultation with the department for each asset class included in subdivision (n) of Section 1 of the act adding this section to measure the degree to which progress was made towards achieving the overall 2027 targets. Targets may be modified by the commission as needed to conform to federal regulation on performance measures and the completion of the department’s asset management plan. Nothing in this section precludes the commission from adopting additional targets and performance measures pursuant to paragraph (1) of subdivision (c) of Section 14526.4.

(b) As specified by guidelines adopted by the commission, the department shall report to the commission on its progress toward meeting the targets and performance measures established for state highways pursuant to subdivision (n) of Section 1 of the act adding this section and paragraph (1) of subdivision (c) of Section 14526.4.

SEC. 8. Section 14556.41 is added to the Government Code, to read:

14556.41. As of June 30, 2017, projects in Section 14556.40 for the Traffic Congestion Relief Program shall be deemed complete and final, and funding levels shall be based on actual amounts requested by the designated lead applicant pursuant to Section 14556.12. Projects without approved applications in accordance with Section 14556.12 shall no longer be eligible for program funding. Traffic Congestion Relief Program savings shall be transferred to other transportation accounts for the purposes specified in Section 16321.

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

16321. The amount of outstanding loans made pursuant to Section 14556.8 is seven hundred six million dollars ($706,000,000). This amount shall be repaid from the General Fund pursuant to subdivision (c) of Section 20 of Article XVI of the California Constitution no later than June 30, 2020, and upon repayment of this amount all loans authorized pursuant to Section 14556.8 and any associated interest shall be deemed repaid. The loans shall be repaid proportionately and in equal installments over three years. The Department of Finance shall prepare a loan repayment schedule, pursuant to which the outstanding loans shall be repaid by June 30, 2020, as follows:

(a) Two hundred fifty-six million dollars ($256,000,000) for transfer to the Public Transportation Account, to be allocated as follows:

(1) Up to twenty million dollars ($20,000,000) to local and regional agencies for climate change adaptation planning.

(2) The remainder to the Transit and Intercity Rail Capital Program as authorized in Part 2 (commencing with Section 75220) of Division 44 of the Public Resources Code.
Two hundred twenty-five million dollars ($225,000,000) for transfer to the State Highway Account, for the State Highway Operation and Protection Program.

Two hundred twenty-five million dollars ($225,000,000) is hereby continuously appropriated without regard to fiscal year to the Controller for apportionment to cities and counties for local streets and roads pursuant to the formula in paragraph (3) of subdivision (a) of Section 2103 of the Streets and Highways Code.

SEC. 10. Section 63048.65 of the Government Code is repealed.

SEC. 11. Section 63048.65 is added to the Government Code, to read:

63048.65. (a) Prior to July 1, 2015, three hundred twenty-one million dollars ($321,000,000) of the one billion two hundred million dollars ($1,200,000,000) of loans from the Traffic Congestion Relief Fund to the General Fund was repaid using tribal gaming compact revenues. In 2016, an additional one hundred seventy-three million dollars ($173,000,000) was repaid from the General Fund.

(b) The remaining seven hundred six million dollars ($706,000,000) of loans from the Traffic Congestion Relief Fund to the General Fund shall be repaid pursuant to Section 14556.8.

SEC. 12. Section 63048.66 of the Government Code is repealed.

SEC. 13. Section 63048.67 of the Government Code is repealed.

SEC. 14. Section 63048.7 of the Government Code is repealed.

SEC. 15. Section 63048.75 of the Government Code is repealed.

SEC. 16. Section 63048.8 of the Government Code is repealed.

SEC. 17. Section 63048.85 of the Government Code is repealed.

SEC. 18. Section 43021 is added to the Health and Safety Code, to read:

43021. (a) Except as provided in subdivision (b), the retirement, replacement, retrofit, or repower of a self-propelled commercial motor vehicle, as defined in Section 34601 of the Vehicle Code, shall not be required until the later of the following:

(1) Thirteen years from the model year the engine and emission control system are first certified for use in self-propelled commercial motor vehicles by the state board or other applicable state and federal agencies.

(2) When the vehicle reaches the earlier of either 800,000 vehicle miles traveled or 18 years from the model year the engine and emission control system are first certified for use in self-propelled commercial motor vehicles by the state board or other applicable state and federal agencies.

(b) This section does not apply to any of the following:

(1) Safety programs, including, but not limited to, those adopted pursuant to Section 34501 of the Vehicle Code.

(2) Voluntary incentive and grant programs, including, but not limited to, those that give preferential access to a facility to a particular vehicle or class of vehicles.

(3) Programs designed to address inspection of, tampering with, and maintenance of, emission control systems.

(4) Programs designed to address imminent health risks where evidence, unavailable at the time equipment is certified for use by the state board or
other applicable state and federal agencies, is sufficient to show that immediate corrective action is necessary to prevent injury, illness, or death.

(c) This section only applies to laws or regulations adopted or amended after January 1, 2017.

(d) It is the intent of the Legislature for this section to provide owners of self-propelled commercial motor vehicles, as defined in subdivision (a), certainty about the useful life of engines certified by the state board and other applicable agencies to meet required environmental standards for sale in the state. This section is not meant to otherwise restrict the authority of the state board or districts.

(e) (1) The state board shall, by January 1, 2025, evaluate the impact of the provisions of this section on state and local clean air efforts to meet state and local clean air goals. The evaluation shall include a review of the following:

(A) Compliance with the truck and bus rule (Section 2025 of Title 13 of the California Code of Regulations).

(B) The benefits and impacts of measures enacted to improve local air quality impacts from stationary sources.

(C) State implementation plan compliance.

(2) As part of the study, the state board shall make recommendations to the Legislature on additional or different mechanisms for achieving those goals while recognizing the financial investments made by the affected entities. In developing the study, the state board shall take into account the report required in Section 38531 of the Health and Safety Code.

(3) The state board shall hold at least one public workshop prior to the completion of the study.

SEC. 19. Section 99312.1 of the Public Utilities Code is amended to read:

99312.1. (a) Revenues transferred to the Public Transportation Account pursuant to Sections 6051.8 and 6201.8 of the Revenue and Taxation Code for the State Transit Assistance Program are hereby continuously appropriated to the Controller for allocation as follows:

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

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

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

(c) The revenues transferred to the Public Transportation Account for the State Transit Assistance Program that are attributable to subdivision (a) of Section 11053 of the Revenue and Taxation Code are hereby continuously appropriated to the Controller, and, upon allocation pursuant to Sections 99313 and 99314, shall only be expended on the following:
(1) Transit capital projects or services to maintain or repair a transit operator’s existing transit vehicle fleet or existing transit facilities, including rehabilitation or modernization of existing vehicles or facilities.

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

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

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

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

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

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

SEC. 20. Section 99312.3 is added to the Public Utilities Code, to read:

99312.3. Revenues transferred to the Public Transportation Account pursuant to paragraph (2) of subdivision (c) of Section 6051.8 and paragraph (2) of subdivision (c) of Section 6201.8 of the Revenue and Taxation Code are hereby continuously appropriated to the Transportation Agency for distribution in the following manner:

(a) (1) Fifty percent of available annual revenues under this section shall be allocated by the Transportation Agency to the public agencies, including joint powers agencies, responsible for state-supported intercity rail services. A minimum of 25 percent of the funds available under this subdivision shall be allocated to each of the state’s three intercity rail corridors that provide regularly scheduled intercity rail service.

(2) The Transportation Agency shall adopt guidelines governing the administration of the funds available under this subdivision, including provisions providing authority for loans of these funds by mutual agreement between intercity rail service corridors.
(b) (1) Fifty percent of available annual revenues under this section shall be allocated by the Transportation Agency to the public agencies, including joint powers agencies, responsible for commuter rail services. For the 2018–19 and 2019–20 fiscal years, 20 percent of the funds available under this subdivision shall be allocated to each of the state’s five commuter rail service providers that provide regularly scheduled commuter rail service. Commencing July 1, 2020, the funds available under this subdivision shall be allocated based on guidelines and a distribution formula adopted by the Transportation Agency.

(2) On or before July 1, 2019, the Transportation Agency shall prepare a draft of the proposed guidelines and distribution formula and make them available for public comment. In preparing the proposed guidelines and distribution formula, the agency shall consult with the state’s five commuter rail service providers. The final guidelines and distribution formula shall be adopted on or before January 1, 2020. The guidelines shall include, but need not be limited to, provisions providing authority for loans of these funds by mutual agreement between commuter rail service providers and providing for baseline allocations to each provider.

(c) The funds made available by this section may be used for operations and capital improvements.

SEC. 21. Section 99312.4 is added to the Public Utilities Code, to read:

99312.4. Revenues transferred to the Public Transportation Account pursuant to subdivision (a) of Section 11053 of the Revenue and Taxation Code for the Transit and Intercity Rail Capital Program (Part 2 (commencing with Section 75220) of Division 44 of the Public Resources Code) shall be available for appropriation to that program pursuant to the annual Budget Act.

SEC. 22. Section 99314.9 is added to the Public Utilities Code, to read:

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

SEC. 23. Section 6051.8 of the Revenue and Taxation Code is amended to read:

6051.8. (a) Except as provided by Section 6357.3, in addition to the taxes imposed by this part, for the privilege of selling tangible personal property at retail a tax is hereby imposed upon all retailers at the rate of 1.75 percent of the gross receipts of any retailer from the sale of all diesel fuel, as defined in Section 60022.

(b) Except as provided by Section 6357.3, in addition to the taxes imposed by this part and by subdivision (a), commencing November 1, 2017, for the privilege of selling tangible personal property at retail a tax is hereby imposed upon all retailers at the rate of 4 percent of the gross receipts of
any retailer from the sale of all diesel fuel, as defined in Section 60022, sold at retail in this state.

(c) (1) Notwithstanding subdivision (b) of Section 7102, except as otherwise provided in paragraph (2), all of the revenues, less refunds, collected pursuant to this section shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, and transferred quarterly to the Public Transportation Account in the State Transportation Fund for allocation under the State Transit Assistance Program pursuant to Section 99312.1 of the Public Utilities Code.

(2) The revenues, less refunds, attributable to a rate of 0.5 percent of the 4-percent increase in the rate pursuant to subdivision (b), amounting to one-eighth of revenues from the increase in the rate under that subdivision, shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, and transferred quarterly to the Public Transportation Account in the State Transportation Fund for allocation by the Transportation Agency to intercity rail and commuter rail purposes pursuant to Section 99312.3 of the Public Utilities Code.

SEC. 24. Section 6201.8 of the Revenue and Taxation Code is amended to read:

6201.8. (a) Except as provided by Section 6357.3, in addition to the taxes imposed by this part, an excise tax is hereby imposed on the storage, use, or other consumption in this state of diesel fuel, as defined in Section 60022, at the rate of 1.75 percent of the sales price of the diesel fuel.

(b) Except as provided by Section 6357.3, in addition to the taxes imposed by this part and by subdivision (a), commencing November 1, 2017, an excise tax is hereby imposed on the storage, use, or other consumption in this state of diesel fuel, as defined in Section 60022, at the rate of 4 percent of the sales price of the diesel fuel.

(c) (1) Notwithstanding subdivision (b) of Section 7102, except as otherwise provided in paragraph (2), all of the revenues, less refunds, collected pursuant to this section shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, and transferred quarterly to the Public Transportation Account in the State Transportation Fund for allocation pursuant to Section 99312.1 of the Public Utilities Code.

(2) The revenues, less refunds, attributable to a rate of 0.5 percent of the 4-percent increase in the rate pursuant to subdivision (b), amounting to one-eighth of revenues from the increase in the rate under that subdivision, shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, and transferred quarterly to the Public Transportation Account in the State Transportation Fund for allocation by the Transportation Agency to intercity rail and commuter rail purposes pursuant to Section 99312.3 of the Public Utilities Code.

SEC. 25. Section 7360 of the Revenue and Taxation Code is amended to read:

7360. (a) (1) A tax of eighteen cents ($0.18) is hereby imposed upon each gallon of fuel subject to the tax in Sections 7362, 7363, and 7364.
(2) If the federal fuel tax is reduced below the rate of nine cents ($0.09) per gallon and federal financial allocations to this state for highway and exclusive public mass transit guideway purposes are reduced or eliminated correspondingly, the tax rate imposed by paragraph (1), on and after the date of the reduction, shall be recalculated by an amount so that the combined state rate under paragraph (1) and the federal tax rate per gallon equal twenty-seven cents ($0.27).

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

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

(2) For the 2011–12 fiscal year and each fiscal year thereafter, the board shall, on or before March 1 of the fiscal year immediately preceding the applicable fiscal year, adjust the rate in paragraph (1) in that manner as to generate an amount of revenue that will equal the amount of revenue loss attributable to the exemption provided by Section 6357.7, based on estimates made by the board, and that rate shall be effective during the state's next fiscal year.

(3) In order to maintain revenue neutrality for each year, beginning with the rate adjustment on or before March 1, 2012, the adjustment under paragraph (2) shall also take into account the extent to which the actual amount of revenues derived pursuant to this subdivision and, as applicable, Section 7361.1, the revenue loss attributable to the exemption provided by Section 6357.7 resulted in a net revenue gain or loss for the fiscal year ending prior to the rate adjustment date on or before March 1.

(4) The intent of paragraphs (2) and (3) is to ensure that the act adding this subdivision and Section 6357.7 does not produce a net revenue gain in state taxes.

(5) Commencing July 1, 2019, the adjustments in paragraphs (2) and (3) shall cease, and the rate imposed by this subdivision shall be the rate in paragraph (1).

(c) On and after November 1, 2017, in addition to the taxes imposed by subdivisions (a) and (b), a tax is hereby imposed upon each gallon of motor vehicle fuel, other than aviation gasoline, subject to the tax in Sections 7362, 7363, and 7364, in an amount equal to twelve cents ($0.12) per gallon.

(d) On July 1, 2020, and every July 1 thereafter, the board shall adjust the taxes imposed by subdivisions (a), (b), and (c), with the adjustment to apply to both to the base tax rates specified in those provisions and to any previous adjustment in rates made pursuant to this subdivision, by increasing the taxes by a percentage amount equal to the increase in the California Consumer Price Index, as calculated by the Department of Finance with the resulting taxes rounded to the nearest one-tenth of one cent ($0.01). The first adjustment pursuant to this subdivision shall be a percentage amount
equal to the increase in the California Consumer Price Index from November 1, 2017, to November 1, 2019. Subsequent annual adjustments shall cover subsequent 12 month periods. The incremental change shall be added to the associated rate for that year.

(e) Any increases to the taxes imposed under subdivisions (a), (b), and (c) that are enacted by legislation subsequent to July 1, 2017, shall be deemed to be changes to the base tax rates for purposes of the California Consumer Price Index calculation and adjustment performed pursuant to subdivision (d).

SEC. 26. Section 7361.2 is added to the Revenue and Taxation Code, to read:

7361.2. (a) For the privilege of storing, for the purpose of sale, each supplier, wholesaler, and retailer owning 1,000 or more gallons of tax-paid motor vehicle fuel on November 1, 2017, shall pay a storage tax, the rate of which shall be determined by the board pursuant to the difference in the rate of the tax on motor vehicle fuel in effect on October 31, 2017, and the rate in effect on November 1, 2017, on tax-paid motor vehicle fuel in storage according to the volumetric measure thereof.

(b) For purposes of this section:

(1) “Owning” means having title to the motor vehicle fuel.

(2) “Retailer” means any person who sells motor vehicle fuel in this state to a person who subsequently uses the motor vehicle fuel.

(3) “Storing” includes the ownership or possession of tax-paid motor vehicle fuel outside of the bulk transfer/terminal system, including the holding of tax-paid motor vehicle fuel for sale at wholesale or retail locations stored in a container of any kind, including railroad tank cars and trucks or trailer cargo tanks. “Storing” also includes tax-paid motor vehicle fuel purchased from and invoiced by the seller, and tax-paid motor vehicle fuel removed from a terminal or entered into by a supplier, prior to the date specified in subdivision (a) and in transit on that date.

(4) “Wholesaler” means any person who sells diesel fuel in this state for resale to a retailer or to a person who is not a retailer and subsequently uses the motor vehicle fuel.

SEC. 27. Section 7653.2 is added to the Revenue and Taxation Code, to read:

7653.2. On or before January 1, 2018, each person subject to the storage tax imposed under Section 7361.2 shall prepare and file with the board, in a form prescribed by the board, a return showing the total number of gallons of tax-paid motor vehicle fuel owned by the person on November 1, 2017, the amount of the storage tax, and any other information that the board deems necessary for the proper administration of this part. The return shall be accompanied by a remittance payable to the board in the amount of tax due.

SEC. 28. Section 8352.4 of the Revenue and Taxation Code is amended to read:

8352.4. (a) Subject to Sections 8352 and 8352.1, and except as otherwise provided in subdivision (b), there shall be transferred from the money
deposited to the credit of the Motor Vehicle Fuel Account to the Harbors and Watercraft Revolving Fund, for expenditure in accordance with Division 1 (commencing with Section 30) of the Harbors and Navigation Code, the sum of six million six hundred thousand dollars ($6,600,000) per annum, representing the amount of money in the Motor Vehicle Fuel Account attributable to taxes imposed on distributions of motor vehicle fuel used or usable in propelling vessels. The actual amount shall be calculated using the annual reports of registered boats prepared by the Department of Motor Vehicles for the United States Coast Guard and the formula and method of the December 1972 report prepared for this purpose and submitted to the Legislature on December 26, 1972, by the Director of Transportation. If the amount transferred during each fiscal year is in excess of the calculated amount, the excess shall be retransferred from the Harbors and Watercraft Revolving Fund to the Motor Vehicle Fuel Account. If the amount transferred is less than the amount calculated, the difference shall be transferred from the Motor Vehicle Fuel Account to the Harbors and Watercraft Revolving Fund. No adjustment shall be made if the computed difference is less than fifty thousand dollars ($50,000), and the amount shall be adjusted to reflect any temporary or permanent increase or decrease that may be made in the rate under the Motor Vehicle Fuel Tax Law. Payments pursuant to this section shall be made prior to payments pursuant to Section 8352.2.

(b) (1) Commencing July 1, 2012, the revenues attributable to the taxes imposed pursuant to subdivision (b) of Section 7360 and otherwise to be deposited in the Harbors and Watercraft Revolving Fund pursuant to subdivision (a) shall instead be transferred to the General Fund.

(2) Commencing November 1, 2017, the revenues attributable to the taxes imposed pursuant to subdivision (c) of Section 7360, any adjustment pursuant to subdivision (d) of Section 7360, and Section 7361.2, and otherwise to be deposited in the Harbors and Watercraft Revolving Fund pursuant to subdivision (a), shall instead be transferred to the State Parks and Recreation Fund to be used for state parks, off-highway vehicle programs, or boating programs.

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

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

(2) The amounts are not subject to Section 6357 with respect to the collection of sales and use taxes thereon, and represent the portion of receipts in the Motor Vehicle Fuel Account during a calendar year that were attributable to agricultural off-highway use of motor vehicle fuel which is subject to refund pursuant to Section 8101, less gross refunds allowed by the Controller during the fiscal year ending June 30 following the calendar
year to persons entitled to refunds for agricultural off-highway use pursuant to Section 8101. Payments pursuant to this section shall be made prior to payments pursuant to Section 8352.2.

(b) (1) Commencing July 1, 2012, the revenues attributable to the taxes imposed pursuant to subdivision (b) of Section 7360 and otherwise to be deposited in the Department of Food and Agriculture Fund pursuant to subdivision (a) shall instead be transferred to the General Fund.

(2) Commencing November 1, 2017, the revenues attributable to the taxes imposed pursuant to subdivision (c) of Section 7360, as adjusted pursuant to subdivision (d) of Section 7360, and Section 7361.2 shall be deposited in the Department of Food and Agriculture Fund.

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

SEC. 30. Section 8352.6 of the Revenue and Taxation Code is amended to read:

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

(2) (A) Commencing July 1, 2012, the revenues attributable to the taxes imposed pursuant to subdivision (b) of Section 7360 and otherwise to be deposited in the Off-Highway Vehicle Trust Fund pursuant to paragraph (1) shall instead be transferred to the General Fund.

(B) Commencing November 1, 2017, the revenues attributable to the taxes imposed pursuant to subdivision (c) of Section 7360, any adjustment pursuant to subdivision (d) of Section 7360, and Section 7361.2, and otherwise to be deposited in the Off-Highway Vehicle Trust Fund pursuant to subdivision (a), shall instead be transferred to the State Parks and Recreation Fund to be used for state parks, off-highway vehicle programs, or boating programs.

(3) The Controller shall withhold eight hundred thirty-three thousand dollars ($833,000) from the monthly transfer to the Off-Highway Vehicle Trust Fund pursuant to paragraph (1), and transfer that amount to the General Fund.
(b) The amount transferred to the Off-Highway Vehicle Trust Fund pursuant to paragraph (1) of subdivision (a), as a percentage of the Motor Vehicle Fuel Account, shall be equal to the percentage transferred in the 2006–07 fiscal year. Every five years, starting in the 2013–14 fiscal year, the percentage transferred may be adjusted by the Department of Transportation in cooperation with the Department of Parks and Recreation and the Department of Motor Vehicles. Adjustments shall be based on, but not limited to, the changes in the following factors since the 2006–07 fiscal year or the last adjustment, whichever is more recent:

1. The number of vehicles registered as off-highway motor vehicles as required by Division 16.5 (commencing with Section 38000) of the Vehicle Code.
2. The number of registered street-legal vehicles that are anticipated to be used off highway, including four-wheel drive vehicles, all-wheel drive vehicles, and dual-sport motorcycles.
3. Attendance at the state vehicular recreation areas.
4. Off-highway recreation use on federal lands as indicated by the United States Forest Service’s National Visitor Use Monitoring and the United States Bureau of Land Management’s Recreation Management Information System.

(c) It is the intent of the Legislature that transfers from the Motor Vehicle Fuel Account to the Off-Highway Vehicle Trust Fund should reflect the full range of motorized vehicle use off highway for both motorized recreation and motorized off-road access to other recreation opportunities. Therefore, the Legislature finds that the fuel tax baseline established in subdivision (b), attributable to off-highway estimates of use as of the 2006–07 fiscal year, accounts for the three categories of vehicles that have been found over the years to be users of fuel for off-highway motorized recreation or motorized access to nonmotorized recreational pursuits. These three categories are registered off-highway motorized vehicles, registered street-legal motorized vehicles used off highway, and unregistered off-highway motorized vehicles.

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

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

SEC. 31. Chapter 6 (commencing with Section 11050) is added to Part 5 of Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 6. TRANSPORTATION IMPROVEMENT FEE

11050. For purposes of this chapter, the following terms have the following meanings:

(a) “Transportation purposes” means both of the following:

(1) The research, planning, construction, improvement, maintenance, and operation of public streets and highways (and their related public facilities for nonmotorized traffic), including the mitigation of their environmental effects, the payment for property taken or damaged for the foregoing purposes, and the administrative costs necessarily incurred in the foregoing purposes.

(2) The research, planning, construction, improvement, maintenance, and operation of public transportation systems (and their related equipment and fixed facilities), including the mitigation of their environmental effects, the payment for property taken or damaged for the foregoing purposes, and the administrative costs necessarily incurred in the foregoing purposes.

(b) “Transportation improvement fee” means a supplemental charge added to the fee imposed pursuant to Chapter 2 (commencing with Section 10751).

(c) “Vehicle” means every vehicle that is subject to the fee in Chapter 2 (commencing with Section 10751), except the following:

(1) A commercial vehicle with an unladen weight of more than 10,000 pounds.

(2) A vehicle exempted pursuant to the Vehicle Code from the payment of registration fees.

(3) A vehicle for which a certificate of nonoperation has been filed with the Department of Motor Vehicles pursuant to Section 4604 of the Vehicle Code, during the period of time covered by the certificate.

(4) A vehicle described in Section 5004 of the Vehicle Code.

11051. (a) In addition to any other fee imposed on a vehicle by this code or the Vehicle Code, a transportation improvement fee is hereby imposed on each vehicle as defined in subdivision (b) of Section 11050 effective on January 1, 2018, or as soon after that date as the department is able to commence collection of the fee. The transportation improvement fee shall be in the amounts specified in Section 11052.

(b) The department shall collect the fee at the same time and in the same manner as the department collects the vehicle registration fee pursuant to Section 9250 of the Vehicle Code.

(c) The fee imposed pursuant to this chapter is imposed for the privilege of a resident of California to operate upon the public highways a vehicle or
trailer coach, the registrant of which is subject to the fee under Chapter 2 (commencing with Section 10751).

(d) The revenues from the transportation improvement fee imposed by this chapter shall be available for expenditure only on transportation purposes as provided in Section 11053.

11052. (a) The annual amount of the transportation improvement fee shall be based on the market value of the vehicle, as determined by the department pursuant to Sections 10753, 10753.2, and 10753.5, using the following schedule:

1. Vehicles with a vehicle market value range between zero dollars ($0) and four thousand nine hundred ninety-nine dollars ($4,999), a fee of twenty-five dollars ($25).
2. Vehicles with a vehicle market value range between five thousand dollars ($5,000) and twenty-four thousand nine hundred ninety-nine dollars ($24,999), a fee of fifty dollars ($50).
3. Vehicles with a vehicle market value range between twenty-five thousand dollars ($25,000) and thirty-four thousand nine hundred ninety-nine dollars ($34,999), a fee of one hundred dollars ($100).
4. Vehicles with a vehicle market value range between thirty-five thousand dollars ($35,000) and fifty-nine thousand nine hundred ninety-nine dollars ($59,999), a fee of one hundred fifty dollars ($150).
5. Vehicles with a vehicle market value range of sixty thousand dollars ($60,000) and higher, a fee of one hundred seventy-five dollars ($175).

(b) On January 1, 2020, and every January 1 thereafter, the department shall adjust the transportation improvement fee imposed under subdivision (a) by increasing the fee for each vehicle market range in an amount equal to the increase in the California Consumer Price Index for the prior year, except the first adjustment shall cover the prior two years, as calculated by the Department of Finance, with amounts equal to or greater than fifty cents ($0.50) rounded to the highest whole dollar. The incremental change shall be added to the associated fee rate for that year.

(c) Any changes to the transportation improvement fee imposed in subdivision (a) that are enacted by the Legislature subsequent to January 1, 2018, shall be deemed to be changes to the base fee for purposes of the California Consumer Price Index calculation and adjustment performed pursuant to subdivision (b).

11053. Revenues from the transportation improvement fee, after deduction of the department’s administrative costs related to this chapter, shall be transferred by the department to the Controller for deposit as follows:

(a) Commencing with the 2017–18 fiscal year, three hundred fifty million dollars ($350,000,000), plus an annual increase for inflation as determined in subdivision (b) of Section 11052 for this proportional share, shall annually be deposited into the Public Transportation Account. The Controller shall, each month, set aside one-twelfth of this amount, to accumulate a total of three hundred fifty million dollars ($350,000,000) in each fiscal year or the appropriate adjusted amount. For each fiscal year commencing with the 2017–18 fiscal year, the annual Budget Act shall include an appropriation
for 70 percent of these revenues to be allocated to the Transit and Intercity Rail Capital Program (Part 2 (commencing with Section 75220) of Division 44 of the Public Resources Code), pursuant to Section 99312.4 of the Public Utilities Code. The remaining 30 percent of these revenues shall be continuously appropriated to the Controller for allocation under the State Transit Assistance program, pursuant to subdivision (c) of Section 99312.1 of the Public Utilities Code.

(b) Commencing with the 2017–18 fiscal year, two hundred fifty million dollars ($250,000,000) shall annually be deposited into the State Highway Account for appropriation by the annual Budget Act to the Congested Corridor Program created pursuant to Section 2391 of the Streets and Highways Code. The Controller shall, each month, set aside one-twelfth of this amount, to accumulate a total of two hundred fifty million dollars ($250,000,000) in each fiscal year.

(c) The remaining revenues after the transfers made in subdivisions (a) and (b) shall be deposited into the Road Maintenance and Rehabilitation Account created pursuant to Section 2031 of the Streets and Highway Code.

SEC. 32. Section 60050 of the Revenue and Taxation Code is amended to read:

60050. (a) (1) A tax of sixteen cents ($0.16) is hereby imposed upon each gallon of diesel fuel subject to the tax in Sections 60051, 60052, and 60058.

(2) If the federal fuel tax is reduced below the rate of fifteen cents ($0.15) per gallon and federal financial allocations to this state for highway and exclusive public mass transit guideway purposes are reduced or eliminated correspondingly, the tax rate imposed by paragraph (1) shall be increased by an amount so that the combined state rate under paragraph (1) and the federal tax rate per gallon equal what it would have been in the absence of the federal reduction.

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

(b) On and after November 1, 2017, in addition to the tax imposed pursuant to subdivision (a), an additional tax of twenty cents ($0.20) is hereby imposed upon each gallon of diesel fuel subject to the tax in Sections 60051, 60052, and 60058.

(c) On July 1, 2020, and every July 1 thereafter, the State Board of Equalization shall adjust the taxes imposed by subdivisions (a), and (b), with the adjustment to apply to both to the base tax rates specified in those provisions and to any previous adjustment in rates made pursuant to this subdivision, by increasing the taxes by a percentage amount equal to the increase in the California Consumer Price Index, as calculated by the Department of Finance with the resulting taxes rounded to the nearest one-tenth of one cent ($0.01). The first adjustment pursuant to this subdivision shall be a percentage amount equal to the increase in the California Consumer Price Index from November 1, 2017, to November 1, 2019. Subsequent annual adjustments shall cover subsequent 12 month
periods. The incremental change shall be added to the associated rate for that year.

(d) Any changes to the taxes imposed under this section that are enacted by legislation subsequent to July 1, 2017, shall be deemed to be changes to the base tax rates for purposes of the California Consumer Price Index calculation and adjustment performed pursuant to paragraph (1).

SEC. 33. Section 60050.2 is added to the Revenue and Taxation Code, to read:

60050.2. (a) For the privilege of storing, for the purpose of sale, each supplier, wholesaler, and retailer owning 1,000 or more gallons of tax-paid diesel fuel on November 1, 2017, shall pay a storage tax of twenty cents ($0.20) per gallon of tax-paid diesel fuel in storage according to the volumetric measure thereof.

(b) For purposes of this section:

(1) “Owning” means having title to the diesel fuel.

(2) “Retailer” means any person who sells diesel fuel in this state to a person who subsequently uses the diesel fuel.

(3) “Storing” includes the ownership or possession of tax-paid diesel fuel outside of the bulk transfer/terminal system, including the holding of tax-paid diesel fuel for sale at wholesale or retail locations stored in a container of any kind, including railroad tank cars and trucks or trailer cargo tanks. “Storing” also includes tax-paid diesel fuel purchased from and invoiced by the seller, and tax-paid diesel fuel removed from a terminal or entered into by a supplier, prior to the date specified in subdivision (a) and in transit on that date.

(4) “Wholesaler” means any person who sells diesel fuel in this state for resale to a retailer or to a person who is not a retailer and subsequently uses the diesel fuel.

SEC. 34. Section 60201.4 is added to the Revenue and Taxation Code, to read:

60201.4. On or before January 1, 2018, each person subject to the storage tax imposed under Section 60050.2 shall prepare and file with the board, in a form prescribed by the board, a return showing the total number of gallons of tax-paid diesel fuel owned by the person on November 1, 2017, the amount of the storage tax, and any other information that the board deems necessary for the proper administration of this part. The return shall be accompanied by a remittance payable to the board in the amount of tax due.

SEC. 35. Article 2.5 (commencing with Section 800) is added to Chapter 4 of Division 1 of the Streets and Highways Code, to read:

Article 2.5. Advance Mitigation Program

800. (a) The Advance Mitigation Program is hereby created to enhance communications between the department and stakeholders to protect natural resources through project mitigation, to meet or exceed applicable
environmental requirements, to accelerate project delivery, and to fully mitigate environmental impacts from transportation infrastructure projects. The department shall consult on all activities pursuant to this article with the Department of Fish and Wildlife, including activities pursuant to Chapter 9 (commencing with Section 1850) of Division 2 of the Fish and Game Code.

(b) Commencing with the 2017–18 fiscal year, and for a period of four years, the department shall set aside no less than thirty million dollars ($30,000,000) annually for the Advance Mitigation Program from the annual appropriations for the State Transportation Improvement Program and the State Highway Operation and Protection Program for the planning and implementation of projects in the Advanced Mitigation Program.

c) The annual Budget Act and subsequent legislation may establish additional provisions and requirements for the program.

SEC. 36. Chapter 2 (commencing with Section 2030) is added to Division 3 of the Streets and Highways Code, to read:

CHAPTER 2. ROAD MAINTENANCE AND REHABILITATION PROGRAM

2030. (a) The Road Maintenance and Rehabilitation Program is hereby created to address deferred maintenance on the state highway system and the local street and road system. Funds made available by the program shall be prioritized for expenditure on basic road maintenance and road rehabilitation projects, and on critical safety projects.

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

(A) Road maintenance and rehabilitation.
(B) Safety projects.
(C) Railroad grade separations.
(D) Complete street components, including active transportation purposes, pedestrian and bicycle safety projects, transit facilities, and drainage and stormwater capture projects in conjunction with any other allowable project.
(E) Traffic control devices.

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

(c) To the extent possible and cost effective, and where feasible, the department and cities and counties receiving funds under the program shall use advanced technologies and material recycling techniques that reduce the cost of maintaining and rehabilitating the streets and highways, and that exhibit reduced levels of greenhouse gas emissions through material choice and construction method.

(d) To the extent possible and cost effective, and where feasible, the department and cities and counties receiving funds under the program shall use advanced technologies and communications systems in transportation infrastructure that recognize and accommodate advanced automotive
technologies that may include, but are not necessarily limited to, charging or fueling opportunities for zero-emission vehicles, and provision of infrastructure-to-vehicle communications for transitional or full autonomous vehicle systems.

(e) To the extent deemed cost effective, and where feasible, in the context of both the project scope and the risk level for the asset due to global climate change, the department and cities and counties receiving funds under the program shall include features in the projects funded by the program to better adapt the asset to withstand the negative effects of climate change and make the asset more resilient to impacts such as fires, floods, and sea level rise.

(f) To the extent beneficial, cost effective, and practicable in the context of facility type, right-of-way, project scope, and quality of nearby alternative facilities, and where feasible, the department and cities and counties receiving funds under the program shall incorporate complete street elements into projects funded by the program, including, but not limited to, elements that improve the quality of bicycle and pedestrian facilities and that improve safety for all users of transportation facilities.

(g) For purposes of funds directed to the State Highway Operation and Protection Program, the guidelines and reporting provisions shall be consistent with Section 14526.5 of the Government Code.

(h) Guidelines adopted by the commission to facilitate the allocation of funds in the account shall be exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

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

(a) Notwithstanding subdivision (b) of Section 2103 and pursuant to subdivision (a) of Section 2103.1, the portion of the revenues in the Highway Users Tax Account attributable to the increases in the motor vehicle fuel excise tax pursuant to subdivision (c) of Section 7360 of the Revenue and Taxation Code, as adjusted pursuant to subdivision (d) of that section.

(b) The revenues from the portion of the transportation improvement fee pursuant to subdivision (c) of Section 11053 of the Revenue and Taxation Code.

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

(d) Notwithstanding subdivision (b) of Section 2103 and pursuant to paragraph (2) of subdivision (b) of Section 2103.1, one-half of the revenues attributable to the increase in the diesel fuel excise tax pursuant to subdivisions (b) and (c) of Section 60050 of the Revenue and Taxation Code.

(e) Any other revenues designated for the program.
2031.5. For each fiscal year, the annual Budget Act shall contain an appropriation from the Road Maintenance and Rehabilitation Account for the costs of administering this chapter.

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

(2) Eligible projects under this subdivision shall include, but not are limited to, sound walls for a freeway that was built prior to 1987 without sound walls and with or without high occupancy vehicle lanes if the completion of the sound walls has been deferred due to lack of available funding for at least 20 years and a noise barrier scope summary report has been completed within the last 20 years.

(3) Notwithstanding Section 13340 of the Government Code, the funds available under this subdivision in each fiscal year are hereby continuously appropriated for allocation to each eligible county and each city in the county for road maintenance and rehabilitation purposes pursuant to Section 2033.

(b) After deducting the amounts appropriated in the annual Budget Act pursuant to Section 2031.5 and the amount allocated in subdivision (a), beginning in the 2017–18 fiscal year, one hundred million dollars ($100,000,000) of the remaining revenues shall be available annually for expenditure, upon appropriation by the Legislature, on the Active Transportation Program created pursuant to Chapter 8 (commencing with Section 2380) of Division 3 to be allocated by the California Transportation Commission pursuant to Section 2381. The Controller shall each month set aside one-twelfth of this amount, to accumulate a total of one hundred million dollars ($100,000,000) in each fiscal year.

(c) After deducting the amounts appropriated in the annual Budget Act pursuant to Section 2031.5 and the amounts allocated in subdivisions (a) and (b), beginning in the 2017–18 fiscal year, four hundred million dollars ($400,000,000) of the remaining revenues shall be available annually for expenditure, upon appropriation by the Legislature, by the department for bridge and culvert maintenance and rehabilitation. The Controller shall each month set aside one-twelfth of this amount, to accumulate a total of four hundred million dollars ($400,000,000) in each fiscal year.

(d) After deducting the amounts appropriated in the annual Budget Act pursuant to Section 2031.5 and the amounts allocated in subdivisions (a), (b), and (c), beginning in the 2017–18 fiscal year, twenty-five million dollars ($25,000,000) of the remaining revenues shall be transferred annually to the State Highway Account for expenditure, upon appropriation by the Legislature, to supplement the freeway service patrol program. The
Controller shall each month set aside one-twelfth of this amount, to accumulate a total of twenty-five million dollars ($25,000,000) in each fiscal year.

(e) After deducting the amounts appropriated in the annual Budget Act pursuant to Section 2031.5 and the amounts allocated in subdivisions (a), (b), (c), and (d), in the 2017–18, 2018–19, 2019–20, 2020–21, and 2021–22 fiscal years, from revenues in the Road Maintenance and Rehabilitation Account that are not subject to Article XIX of the California Constitution, five million dollars ($5,000,000) shall be appropriated in each fiscal year to the California Workforce Development Board to assist local agencies to implement policies to promote preapprenticeship training programs to carry out the projects that are funded by the account pursuant to Section 2038. Funds appropriated pursuant to this subdivision in the Budget Act but remaining unexpended at the end of each applicable fiscal year shall be reappropriated for the same purposes in the following year’s Budget Act, but all funds appropriated or reappropriated pursuant to this subdivision in the Budget Act shall be liquidated no later than June 30, 2027.

(f) After deducting the amounts appropriated in the annual Budget Act pursuant to Section 2031.5 and the amounts allocated in subdivisions (a), (b), (c), (d), and (e), beginning in the 2017–18 fiscal year, twenty-five million dollars ($25,000,000) of the remaining revenues shall be available annually for expenditure, upon appropriation by the Legislature, by the department for local planning grants, as described in Section 2033.5. The Controller shall each month set aside one-twelfth of this amount, to accumulate a total of twenty-five million dollars ($25,000,000) in each fiscal year.

(g) After deducting the amounts appropriated in the annual Budget Act pursuant to Section 2031.5 and the amounts allocated in subdivisions (a), (b), (c), (d), (e), and (f), beginning in the 2017–18 fiscal year and each fiscal year thereafter, from the remaining revenues, five million dollars ($5,000,000) shall be available, upon appropriation, to the University of California for the purpose of conducting transportation research and two million dollars ($2,000,000) shall be available, upon appropriation, to the California State University for the purpose of conducting transportation research and transportation-related workforce education, training, and development. Prior to the start of each fiscal year, the Secretary of Transportation and the chairs of the Assembly Committee on Transportation and the Senate Committee on Transportation and Housing may set out a recommended priority list of research components to be addressed in the upcoming fiscal year.

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

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

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

2032.5. (a) It is the intent of the Legislature that the Department of Transportation and local governments are held accountable for the efficient investment of public funds to maintain the public highways, streets, and roads, and are accountable to the people through performance goals that are tracked and reported.

(b) The department shall annually report to the commission relative to the expenditures made with funds received pursuant to subdivision (c) of, and paragraph (1) of subdivision (g) of, Section 2032, and the progress made and achievement of the performance goals outlined in subdivision (n) of Section 1 of the act enacting this section.

(c) For each fiscal year in which the department receives an allocation of funds described in subdivision (b), the department shall submit documentation to the commission that includes a description and the location of each completed project, the amount of funds expended on the project, the completion date, and the project’s estimated useful life. Annually, the commission shall evaluate the effectiveness of the department in reducing deferred maintenance and improving road conditions on the state highway system, as demonstrated by the progress made by the goals set forth in subdivision (n) of Section 1 of the act enacting this section. The commission may make recommendations for improvement and may withhold future project allocations if it determines program funds are not being appropriately spent. The commission shall annually include any findings in its annual report to the Legislature pursuant to Section 14535 of the Government Code.

(d) The department shall implement efficiency measures with the goal to generate at least one hundred million dollars ($100,000,000) per year in savings to invest in maintenance and rehabilitation of the state highway system. These savings shall be reported to the commission.

2033. (a) On or before January 1, 2018, the commission, in cooperation with the department, transportation planning agencies, county transportation commissions, and other local agencies, shall develop guidelines for the allocation of funds pursuant to subdivision (a) of Section 2032.

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

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

2033.5. The department, from funds made available pursuant to subdivision (f) of Section 2032, shall allocate local planning grants to encourage local and regional planning that furthers state goals, including, but not limited to, the goals and best practices cited in the regional transportation guidelines adopted by the commission pursuant to Sections 14522 to 14522.3, inclusive, of the Government Code. The department shall develop a grant guide and shall consult with the State Air Resources Board, the Governor’s Office of Planning and Research, and the Department of Housing and Community Development in the development of the grant
guide, and shall provide status reports as it administers these funds. The grant guide shall be exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

2034. (a) (1) Prior to receiving an apportionment of funds under the program pursuant to paragraph (2) of subdivision (h) of Section 2032 from the Controller in a fiscal year, an eligible city or county shall submit to the commission a list of projects proposed to be funded with these funds pursuant to an adopted city or county budget. All projects proposed to receive funding shall be included in a city or county budget that is adopted by the applicable city council or county board of supervisors at a regular public meeting. The list of projects proposed to be funded with these funds shall include a description and the location of each proposed project, a proposed schedule for the project’s completion, and the estimated useful life of the improvement. The project list shall not limit the flexibility of an eligible city or county to fund projects in accordance with local needs and priorities so long as the projects are consistent with subdivision (b) of Section 2030.

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

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

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

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

(c) For any city incorporated after July 1, 2009, the Controller shall calculate an annual average expenditure for the period between July 1, 2009, and December 31, 2015, inclusive, that the city was incorporated.

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

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

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

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

2038. The California Workforce Development Board shall develop guidelines for public agencies receiving Road Maintenance and Rehabilitation Account funds to participate in, invest in, or partner with, new or existing preapprenticeship training programs established pursuant to subdivision (e) of Section 14230 of the Unemployment Insurance Code. The department and local agencies that receive Road Maintenance and Rehabilitation Account funds pursuant to this chapter shall, not later than July 1, 2023, follow the guidelines set forth by the board. The board shall also establish a preapprenticeship development and training grant program, beginning January 1, 2019, pursuant to subdivision (e) of Section 14230 of the Unemployment Insurance Code. Local public agencies that receive Road Maintenance and Rehabilitation Account funds pursuant to this chapter are eligible to compete for such grants and may apply in partnership with other agencies and entities, including those with existing preapprenticeship programs. Successful grant applicants shall, to the extent feasible:

(a) Follow the multicraft core curriculum implemented by the State Department of Education for its pilot project with the California Partnership Academies and by the California Workforce Development Board and local boards.
(b) Include a plan for outreach to and retention of women participants in the preapprenticeship program to help increase the representation of women in the building and construction trades.

(c) Include a plan for outreach to and retention of minority participants and underrepresented subgroups in the preapprenticeship program to help increase their representation in the building and construction trades.

(d) Include a plan for outreach to and retention of disadvantaged youth participants in the preapprenticeship program to help increase their employment opportunities in the building and construction trades.

(e) Include a plan for outreach to individuals in the local labor market area and to formerly incarcerated individuals to provide pathways to employment and training.

(f) Coordinate with local state-approved apprenticeship programs, local building trade councils, and to the extent possible the California Conservation Corps and certified community conservation corps, so individuals who have completed these programs have a pathway to continued employment.

SEC. 37. Section 2103.1 is added to the Streets and Highways Code, to read:

2103.1. (a) Notwithstanding subdivision (b) of Section 2103, the portion of revenues in the Highway Users Tax Account attributable to the increases in the motor vehicle fuel excise tax pursuant to subdivision (c) of Section 7360 of the Revenue and Taxation Code, as adjusted pursuant to subdivision (d) of that section, shall be transferred to the Road Maintenance and Rehabilitation Account pursuant to Section 2031.

(b) Notwithstanding subdivision (b) of Section 2103, the portion of revenues in the Highway Users Tax Account attributable to the increase in the diesel fuel excise tax pursuant to subdivision (b) of Section 60050 of the Revenue and Taxation Code, as adjusted pursuant to subdivision (c) of that section, shall be transferred as follows:

1. Fifty percent to the Trade Corridors Enhancement Account pursuant to Section 2192.4.

2. Fifty percent to the Road Maintenance and Rehabilitation Account pursuant to Section 2031.

(c) Notwithstanding subdivision (b) of Section 2103, the portion of the revenues in the Highway Users Tax Account attributable to the storage taxes imposed pursuant to Sections 7361.2 and 60050.2 of the Revenue and Taxation Code shall be deposited in the Road Maintenance and Rehabilitation Account created pursuant to Section 2031.

SEC. 38. Section 2104 of the Streets and Highways Code is amended to read:

2104. Notwithstanding Section 13340 of the Government Code, a sum equal to the net revenue derived from 11.3 percent of the per gallon tax under the Motor Vehicle Fuel License Tax Law (Part 2 (commencing with Section 7301) of Division 2), 1.80 cents ($0.0180) under the Use Fuel Tax Law (Part 3 (commencing with Section 8601) of Division 2), and 11.5 percent of the per gallon tax under the Diesel Fuel Tax Law (Part 31
(commencing with Section 60001) of Division 2) of the Revenue and Taxation Code, shall be apportioned among the counties, as follows:

(a) Each county shall be paid one thousand six hundred sixty-seven dollars ($1,667) during each calendar month, which amount shall be expended exclusively for engineering costs and administrative expenses with respect to county roads.

(b) A sum equal to the total of all reimbursable snow removal or snow grooming, or both, costs filed pursuant to subdivision (d) of Section 2152, or seven million dollars ($7,000,000), whichever is less, shall be apportioned in 12 approximately equal monthly apportionments for snow removal or snow grooming, or both, on county roads, as provided in Section 2110.

(c) A sum equal to five hundred thousand dollars ($500,000) shall be apportioned in 12 approximately equal monthly apportionments, as provided in Section 2110.5.

(d) (1) Seventy-five percent of the funds payable under this section shall be apportioned among the counties monthly in the respective proportions that the number of fee-paid and exempt vehicles which are registered in each county bears to the total number of fee-paid and exempt vehicles registered in the state.

(2) For purposes of apportionment under this subdivision, the Department of Motor Vehicles shall, as soon as possible after the last day of each calendar month, furnish to the Controller a verified statement showing the number of fee-paid and exempt vehicles which are registered in each county and in the state as of the last day of each calendar month as reflected by the records of the Department of Motor Vehicles.

(e) Of the remaining money payable, there shall be paid to each eligible county an amount that is computed monthly as follows: The number of miles of maintained county roads in each county shall be multiplied by sixty dollars ($60); from the resultant amount, there shall be deducted the amount received by each county under subdivision (d) and the remainder, if any, shall be paid to each county.

(f) The remaining money payable, after the foregoing apportionments, shall be apportioned among the counties in the same proportion as the money referred to in subdivision (d).

(g) (1) Transfers of revenues from the Highway Users Tax Account to counties pursuant to this section collected during the months of March, April, May, June, and July of 2008, shall be made with the transfer of August 2008 revenues in September of 2008. This suspension shall not apply to a county with a population of less than 40,000.

(2) For the purpose of meeting the cash obligations associated with ongoing budgeted costs, a county may make use of any cash balance in its county road fund, including that resulting from the receipt of funds pursuant to the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Chapter 12.49 (commencing with Section 8879.20) of Division 1 of Title 2 of the Government Code (hereafter bond act)) for local streets and roads maintenance, during the period of this suspension, without the use of this cash being reflected as an expenditure of bond act funds,
provided the cash is replaced once this suspension is repaid in September of 2008. Counties may accrue the revenue received in September 2008 as repayment of these suspensions for the months of April, May, and June of 2008 back to the 2007–08 fiscal year. Nothing in this paragraph shall change the fact that expenditures must be accrued and reflected from the appropriate funding sources for which the moneys were received and meet all the requirements of those funding sources.

(h) (1) The transfer of revenues from the Highway Users Tax Account to counties pursuant to this section that are collected during the months of January, February, and March 2009, shall be made with the transfer of April 2009 revenues in May 2009.

(2) For the purpose of meeting the cash obligations associated with ongoing budgeted costs, a county may make use of any cash balance in its county road fund, including that resulting from the receipt of funds pursuant to the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Chapter 12.49 (commencing with Section 8879.20) of Division 1 of Title 2 of the Government Code (bond act)) for local streets and roads maintenance during the period of this suspension, provided the cash is replaced once this suspension is repaid in May of 2009.

(3) This subdivision shall not affect any requirement that an expenditure is required to be accrued and reflected from the appropriate funding source for which the money was received and to meet all the requirements of its funding source.

SEC. 39. Section 2105 of the Streets and Highways Code is amended to read:

2105. Notwithstanding Section 13340 of the Government Code, in addition to the apportionments prescribed by Sections 2104, 2106, and 2107, from the revenues derived from a per gallon tax imposed pursuant to Section 7360 of the Revenue and Taxation Code, and a per gallon tax imposed pursuant to Sections 8651, 8651.5, and 8651.6 of the Revenue and Taxation Code, and a per gallon tax imposed pursuant to Sections 60050 and 60115 of the Revenue and Taxation Code, the following apportionments shall be made:

(a) A sum equal to 5.8 percent of the per gallon tax under Section 7360 of the Revenue and Taxation Code, 11.5 percent of any per gallon tax in excess of nine cents ($0.09) per gallon under Sections 8651, 8651.5, and 8651.6 of the Revenue and Taxation Code, and 6.5 percent of the per gallon tax under Sections 60050 and 60115 of the Revenue and Taxation Code, shall be apportioned among the counties, including a city and county.

The amount of apportionment to each county, including a city and county, during a fiscal year shall be calculated as follows:

(1) One million dollars ($1,000,000) for apportionment to all counties, including a city and county, in proportion to each county’s receipts during the prior fiscal year under Sections 2104 and 2106.

(2) One million dollars ($1,000,000) for apportionment to all counties, including a city and county, as follows:
(A) Seventy-five percent in the proportion that the number of fee-paid and exempt vehicles which are registered in the county bears to the number of fee-paid and exempt vehicles registered in the state.

(B) Twenty-five percent in the proportion that the number of miles of maintained county roads in the county bears to the miles of maintained county roads in the state.

(3) For each county, determine its factor which is the higher amount calculated pursuant to paragraph (1) or (2) divided by the sum of the higher amounts for all of the counties.

(4) The amount to be apportioned to each county is equal to its factor multiplied by the amount available for apportionment.

(b) A sum equal to 5.8 percent of the per gallon tax under Section 7360 of the Revenue and Taxation Code, 11.5 percent of any per gallon tax in excess of nine cents ($0.09) per gallon under Sections 8651, 8651.5, and 8651.6 of the Revenue and Taxation Code, and 6.5 percent of the per gallon tax under Sections 60050 and 60115 of the Revenue and Taxation Code, shall be apportioned to cities, including a city and county, in the proportion that the total population of the city bears to the total population of all the cities in the state.

(c) (1) Transfers of revenues from the Highway Users Tax Account to counties or cities pursuant to this section collected during the months of March, April, May, June, and July of 2008, shall be made with the transfer of August 2008 revenues in September of 2008. This suspension shall not apply to a county with a population of less than 40,000.

(2) For the purpose of meeting the cash obligations associated with ongoing budgeted costs, a city or county may make use of any cash balance in the city account that is designated for the receipt of state funds allocated for local streets and roads or the county road fund, including that resulting from the receipt of funds pursuant to the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Chapter 12.49 (commencing with Section 8879.20) of Division 1 of Title 2 of the Government Code (hereafter bond act)) for local streets and roads maintenance, during the period of this suspension, without the use of this cash being reflected as an expenditure of bond act funds, provided the cash is replaced once this suspension is repaid in September of 2008. Counties and cities may accrue the revenue received in September 2008 as repayment of these suspensions for the months of April, May, and June of 2008 back to the 2007–08 fiscal year. Nothing in this paragraph shall change the fact that expenditures must be accrued and reflected from the appropriate funding sources for which the moneys were received and meet all the requirements of those funding sources.

(d) (1) The transfer of revenues from the Highway Users Tax Account to counties or cities pursuant to this section collected during the months of January, February, and March 2009 shall be made with the transfer of April 2009 revenues in May 2009.

(2) For the purpose of meeting the cash obligations associated with ongoing budgeted costs, a city or county may make use of any cash balance
in the city account that is designated for the receipt of state funds allocated for local streets and roads or the county road fund, including that resulting from the receipt of funds pursuant to the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Chapter 12.49 (commencing with Section 8879.20) of Division 1 of Title 2 of the Government Code (bond act)) for local streets and roads maintenance, during the period of this suspension, and the use of this cash shall not be considered as an expenditure of bond act funds, if the cash is replaced when the payments that are suspended pursuant to this subdivision are repaid in May 2009.

(3) This subdivision shall not affect any requirement that an expenditure is required to be accrued and reflected from the appropriate funding source for which the money was received and to meet all the requirements of its funding source.

SEC. 40. Section 2106 of the Streets and Highways Code is amended to read:

2106. Notwithstanding Section 13340 of the Government Code, a sum equal to the net revenue derived from 5.3 percent of the per gallon tax under the Motor Vehicle Fuel License Tax Law (Part 2 (commencing with Section 7301) of Division 2 of the Revenue and Taxation Code) shall be apportioned monthly from the Highway Users Tax Account in the Transportation Tax Fund among the counties and cities as follows:

(a) Four hundred dollars ($400) per month shall be apportioned to each city and city and county and eight hundred dollars ($800) per month shall be apportioned to each county and city and county.

(b) On the last day of each month, the sum of six hundred thousand dollars ($600,000) shall be transferred to the State Highway Account in the State Transportation Fund for the Active Transportation Program pursuant to Chapter 8 (commencing with Section 2380). For each month in the 2013–14 fiscal year that has passed prior to the enactment of the bill adding this sentence, six hundred thousand dollars ($600,000) shall be immediately transferred from the Bicycle Transportation Account to the State Highway Account in the State Transportation Fund for the Active Transportation Program, less any amount already expended for that program from the Bicycle Transportation Account during the 2013–14 fiscal year.

(c) The balance shall be apportioned, as follows:

(1) A base sum shall be computed for each county by using the same proportions of fee-paid and exempt vehicles as are established for purposes of apportionment of funds under subdivision (d) of Section 2104.

(2) For each county, the percentage of the total assessed valuation of tangible property subject to local tax levies within the county which is represented by the assessed valuation of tangible property outside the incorporated cities of the county shall be applied to its base sum, and the resulting amount shall be apportioned to the county. The assessed valuation of taxable tangible property, for purposes of this computation, shall be that most recently used for countywide tax levies as reported to the Controller by the State Board of Equalization. If an incorporation or annexation is
legally completed following the base sum computation, the new city’s assessed valuation shall be deducted from the county’s assessed valuation, the estimate of which may be provided by the State Board of Equalization.

(3) The difference between the base sum for each county and the amount apportioned to the county shall be apportioned to the cities of that county in the proportion that the population of each city bears to the total population of all the cities in the county. Populations used for determining apportionment of money under Section 2107 are to be used for purposes of this section.

(d) (1) Transfers of revenues from the Highway Users Tax Account to counties or cities pursuant to this section collected during the months of March, April, May, June, and July of 2008, shall be made with the transfer of August 2008 revenues in September of 2008. This suspension shall not apply to a county with a population of less than 40,000.

(2) For the purpose of meeting the cash obligations associated with ongoing budgeted costs, a city or county may make use of any cash balance in the city account that is designated for the receipt of state funds allocated for local streets and roads or the county road fund, including that resulting from the receipt of funds pursuant to the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Chapter 12.49 (commencing with Section 8879.20) of Division 1 of Title 2 of the Government Code (hereafter bond act)) for local streets and roads maintenance, during the period of this suspension, without the use of this cash being reflected as an expenditure of bond act funds, provided the cash is replaced once this suspension is repaid in September of 2008. Counties and cities may accrue the revenue received in September 2008 as repayment of these suspensions for the months of April, May, and June of 2008 back to the 2007–08 fiscal year. Nothing in this paragraph shall change the fact that expenditures must be accrued and reflected from the appropriate funding sources for which the moneys were received and meet all the requirements of those funding sources.

(e) (1) The transfer of revenues from the Highway Users Tax Account to counties or cities pursuant to this section collected during the months of January, February, and March 2009, shall be made with the transfer of April 2009 revenues in May 2009.

(2) For the purpose of meeting the cash obligations associated with ongoing budgeted costs, a city or county may make use of any cash balance in the city account that is designated for the receipt of state funds allocated for local streets and roads or the county road fund, including that resulting from the receipt of funds pursuant to the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Chapter 12.49 (commencing with Section 8879.20) of Division 1 of Title 2 of the Government Code (bond act)) for local streets and roads maintenance, during the period of this suspension, and the use of this cash shall not be considered as an expenditure of bond act funds, if the cash is replaced when the payments that are suspended pursuant to this subdivision are repaid in May 2009.
This subdivision shall not affect any requirement that an expenditure is required to be accrued and reflected from the appropriate funding source for which the money was received and to meet all the requirements of its funding source.

SEC. 41. Section 2107 of the Streets and Highways Code is amended to read:

2107. (a) Notwithstanding Section 13340 of the Government Code, a sum equal to the net revenues derived from 7.3 percent of the per gallon tax under the Motor Vehicle Fuel License Tax Law (Part 2 (commencing with Section 7301) of Division 2), 2.59 cents ($0.0259) under the Use Fuel Tax Law (Part 3 (commencing with Section 8601) of Division 2), and 11.5 percent under the Diesel Fuel Tax Law (Part 31 (commencing with Section 60001) of Division 2) of the Revenue and Taxation Code, shall be apportioned monthly to the cities and cities and counties of this state from the Highway Users Tax Account in the Transportation Tax Fund as provided in this section.

(b) From the sum determined pursuant to subdivision (a), the Controller shall allocate annually to each city that has filed a report containing the information prescribed by subdivision (c) of Section 2152, and that had expenditures in excess of five thousand dollars ($5,000) during the preceding fiscal year for snow removal, an amount equal to one-half of the amount of its expenditures for snow removal in excess of five thousand dollars ($5,000) during that fiscal year.

(c) The balance of the sum determined pursuant to subdivision (a) from the Highway Users Tax Account shall be allocated to each city, including city and county, in the proportion that the total population of the city bears to the total population of all the cities in this state.

(d) (1) For the purpose of this section, except as otherwise provided in paragraph (2), the population in each city is the population determined for that city in the manner specified in Section 11005.3 of the Revenue and Taxation Code.

(2) Commencing with the ninth fiscal year of a city described in subdivision (a) of Section 11005.3 of the Revenue and Taxation Code, the sixth fiscal year of a city described in subdivision (b) of Section 11005.3 of the Revenue and Taxation Code, and the 61st month of the city described in subdivision (c) of Section 11005.3 of the Revenue and Taxation Code, the population in each city is the actual population of that city, as defined in subdivision (e) of Section 11005.3 of the Revenue and Taxation Code.

(e) (1) Transfers of revenues from the Highway Users Tax Account to cities pursuant to this section collected during the months of March, April, May, June, and July of 2008, shall be made with the transfer of August 2008 revenues in September of 2008.

(2) For the purpose of meeting the cash obligations associated with ongoing budgeted costs, a city may make use of any cash balance in the city account that is designated for the receipt of state funds allocated for local streets and roads, including that resulting from the receipt of funds pursuant to the Highway Safety, Traffic Reduction, Air Quality, and Port...
Security Bond Act of 2006 (Chapter 12.49 (commencing with Section 8879.20) of Division 1 of Title 2 of the Government Code (hereafter bond act)) for local streets and roads maintenance, during the period of this suspension, without the use of this cash being reflected as an expenditure of bond act funds, provided the cash is replaced once this suspension is repaid in September of 2008. Cities may accrue the revenue received in September 2008 as repayment of these suspensions for the months of April, May, and June of 2008 back to the 2007–08 fiscal year. Nothing in this paragraph shall change the fact that expenditures must be accrued and reflected from the appropriate funding sources for which the moneys were received and meet all the requirements of those funding sources.

(f) (1) A transfer of revenues from the Highway Users Tax Account to cities pursuant to this section collected during the months of January, February, and March 2009, shall be made with the transfer of April 2009 revenues in May 2009.

(2) For the purpose of meeting the cash obligations associated with ongoing budgeted costs, a city may make use of any cash balance in the city account that is designated for the receipt of state funds allocated for local streets and roads, including that resulting from the receipt of funds pursuant to the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Chapter 12.49 (commencing with Section 8879.20) of Division 1 of Title 2 of the Government Code (bond act)) for local streets and roads maintenance, during the period of this suspension, and the use of this cash shall not be reflected as an expenditure of bond act funds, if the cash is replaced once this suspension is repaid in May 2009.

(3) This subdivision shall not affect any requirement that an expenditure is required to be accrued and reflected from the appropriate funding sources for which the moneys were received and to meet all the requirements of those funding sources.

SEC. 42. Section 2192.4 is added to the Streets and Highways Code, to read:

2192.4. The Trade Corridor Enhancement Account is hereby created in the State Transportation Fund to receive funds from subdivision (b) of Section 60050 of the Revenue and Taxation Code, as adjusted. Funds in the account shall be available for expenditure upon appropriation by the Legislature for corridor-based freight projects nominated by local agencies and the state.

SEC. 43. The Legislature finds and declares all of the following:

(a) Californians know congestion. For decades, California has been home to five or six of the nation’s most congested travel corridors, which are located in Los Angeles, the San Francisco-Oakland-San Jose Bay Area, the Inland Empire, San Diego, and increasingly, in the central valley. While congestion is a vexing challenge in a state that is home to nearly 40 million people and that adds nearly a half-million people each year, regions and localities are finding new ways to address congestion in highly traveled corridors by undertaking long-term, comprehensive, and multimodal approaches that seek to reduce congestion by expanding travel choices,
improving the quality of life, and preserving the local community character within the corridor.

(b) Examples of this more comprehensive approach to improving congestion in highly traveled corridors include, but are not limited to, programs in the following regions:

(1) The North Coast Corridor improvements along Route 5 and the parallel rail corridor in the County of San Diego.

(2) The Route 91 and Metrolink rail corridor improvements in the County of Riverside.

(3) Emerging solutions for the Route 101 and Caltrain corridor connecting Silicon Valley with San Francisco.

(4) Multimodal approaches for the Route 101 and SMART rail corridor between the Counties of Marin and Sonoma.

(5) Comprehensive solutions for the Route 405 Corridor in the County of Los Angeles.

(c) The state recognizes the benefits to mobility, quality of life, and the environment through comprehensive, multimodal proposals that address mobility, community, and environmental challenges along highly traveled corridors. Therefore, the Solutions for Congested Corridors Program is being created to support collaborative and comprehensive proposals to address these challenges.

SEC. 44. Chapter 8.5 (commencing with Section 2390) is added to Division 3 of the Streets and Highways Code, to read:

Chapter 8.5. Congested Corridors

2390. The Solutions for Congested Corridors Program is hereby created.

2391. Pursuant to subdivision (b) of Section 11053 of the Revenue and Taxation Code, two hundred fifty million dollars ($250,000,000) in the State Highway Account shall be available for appropriation to the Department of Transportation in each annual Budget Act for the Solutions for Congested Corridors Program. Funds made available for the program shall be allocated by the California Transportation Commission to projects designed to achieve a balanced set of transportation, environmental, and community access improvements within highly congested travel corridors throughout the state. Funding shall be available for projects that make specific performance improvements and are part of a comprehensive corridor plan designed to reduce congestion in highly traveled corridors by providing more transportation choices for residents, commuters, and visitors to the area of the corridor while preserving the character of the local community and creating opportunities for neighborhood enhancement projects. In order to mitigate increases in vehicle miles traveled, greenhouse gases, and air pollution, highway lane capacity-increasing projects funded by this program shall be limited to high-occupancy vehicle lanes, managed lanes as defined in Section 14106 of the Government Code, and other non-general purpose lane improvements primarily designed to improve safety for all modes of
travel, such as auxiliary lanes, truck climbing lanes, or dedicated bicycle lanes. Project elements within the corridor plans may include improvements to state highways, local streets and roads, public transit facilities, bicycle and pedestrian facilities, and restoration or preservation work that protects critical local habitat or open space.

2392. A regional transportation planning agency or county transportation commission or authority responsible for preparing a regional transportation improvement plan under Section 14527 of the Government Code or the department may nominate projects for funding through the program that are consistent with the policy objectives of the program as set forth in this chapter. The commission shall allocate no more than one-half of the funds available each year to projects nominated exclusively by the department. Preference shall be given to corridor plans that demonstrate that the plans and the specific project improvements to be undertaken are the result of collaboration between the department and local or regional partners that reflect a comprehensive approach to addressing congestion and quality-of-life issues within the affected corridor through investment in transportation and related environmental solutions. Collaboration between the partners may be demonstrated by a project being jointly nominated by both the regional agency and the department.

2393. A project nomination shall include documentation regarding the quantitative and qualitative measures validating the project’s consistency with the policy objectives of the program as set forth in this chapter. In addition to being included in a corridor plan, a nominated project shall also be included in the region’s regional transportation plan. Projects within the boundaries of a metropolitan planning organization must be included in an adopted regional transportation plan that includes a sustainable communities strategy determined by the State Air Resources Board to achieve the region’s greenhouse gas emissions reduction targets.

2394. The commission shall allocate program funds to projects after reviewing the corridor plans submitted by the regional agencies or the department and making a determination that a proposed project is consistent with the objectives of the corridor plan. In addition to making a consistency determination with respect to project nominations, the commission shall score the proposed projects on the following criteria:

(a) Safety.
(b) Congestion.
(c) Accessibility.
(d) Economic development and job creation and retention.
(e) Furtherance of state and federal ambient air standards and greenhouse gas emissions reduction standards pursuant to the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38550) of the Health and Safety Code) and Senate Bill 375 (Chapter 728 of the Statutes of 2008).
(f) Efficient land use.
(g) Matching funds.
(h) Project deliverability.
2395. The commission shall adopt an initial program of projects to be funded through the initial appropriation for the program. The initial program may cover a multiyear programming period. Subsequent programs of projects shall be adopted on a biennial basis consistent with available funds for the program, and may include updates to programs of projects previously adopted.

2396. The commission, in consultation with the State Air Resources Board, shall develop and adopt guidelines for the program consistent with the requirements of this chapter. Guidelines adopted by the commission shall be exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). Prior to adopting the guidelines, the commission shall conduct at least one public hearing in northern California and one public hearing in southern California to review and provide an opportunity for public comment. The commission shall adopt the final guidelines no sooner than 30 days after the commission provides the proposed guidelines to the Joint Legislative Budget Committee and the transportation policy committees in the Senate and the Assembly.

2397. On or before March 1, 2019, and annually thereafter, the commission shall provide project update reports on the development and implementation of the program described in this chapter in its annual report to the Legislature prepared pursuant to Section 14535 of the Government Code. A copy of the report shall be provided to the Joint Legislative Budget Committee and the transportation policy committees of both houses of the Legislature. The report, at a minimum, shall include information on each project that received funding under the program, including, but not limited to, all of the following:

(a) A summary describing the overall progress of the project since the initial award.
(b) Expenditures to date for all project phase costs.
(c) A summary of milestones achieved during the prior year and milestones expected to be reached in the coming year.
(d) An assessment of how the project is meeting the quantitative and qualitative measurements identified in the project nomination, as outlined in Section 2393.

SEC. 45. Section 4000.15 is added to the Vehicle Code, to read:

4000.15. (a) Effective January 1, 2020, the department shall confirm, prior to the initial registration or the transfer of ownership and registration of a diesel-fueled vehicle with a gross vehicle weight rating of more than 14,000 pounds, that the vehicle is compliant with, or exempt from, applicable air pollution control technology requirements pursuant to Division 26 (commencing with Section 39000) of the Health and Safety Code and regulations of the State Air Resources Board adopted pursuant to that division.

(b) Except as otherwise provided in subdivision (c), for diesel-fueled vehicles subject to Section 43018 of the Health and Safety Code, as applied to the reduction of emissions of diesel particulate matter, oxides of nitrogen,
and other criteria pollutants from in-use diesel-fueled vehicles, and Section 2025 of Title 13 of the California Code of Regulations as it read January 1, 2017, or as subsequently amended:

(1) The department shall refuse registration, or renewal or transfer of registration, for a diesel-fueled vehicle with a gross vehicle weight rating of 14,001 pounds to 26,000 pounds for the following vehicle model years:
   (A) Effective January 1, 2020, vehicle model years 2004 and older.
   (B) Effective January 1, 2021, vehicle model years 2007 and older.
   (C) Effective January 1, 2023, vehicle model years 2010 and older.

(2) The department shall refuse registration, or renewal or transfer of registration, for a diesel-fueled vehicle with a gross vehicle weight rating of more than 26,000 pounds for the following vehicle model years:
   (A) Effective January 1, 2020, vehicle model years 2000 and older.
   (B) Effective January 1, 2021, vehicle model years 2005 and older.
   (C) Effective January 1, 2022, vehicle model years 2007 and older.
   (D) Effective January 1, 2023, vehicle model years 2010 and older.

(c) (1) As determined by the State Air Resources Board, notwithstanding effective dates and vehicle model years identified in subdivision (b), the department may allow registration, or renewal or transfer of registration, for a diesel-fueled vehicle that has been reported to the State Air Resources Board, and is using an approved exemption, or is compliant with applicable air pollution control technology requirements pursuant to Division 26 (commencing with Section 39000) of the Health and Safety Code and regulations of the State Air Resources Board adopted pursuant to that division, including vehicles equipped with the required model year emissions equivalent engine or otherwise using an approved compliance option.

(2) The State Air Resources Board shall notify the department of the vehicles allowed to be registered pursuant to this subdivision.

SEC. 46. Section 4156 of the Vehicle Code is amended to read:

4156. (a) Notwithstanding any other provision of this code, and except as provided in subdivision (b), the department in its discretion may issue a temporary permit to operate a vehicle when a payment of fees has been accepted in an amount to be determined by, and paid to the department, by the owner or other person in lawful possession of the vehicle. The permit shall be subject to the terms and conditions, and shall be valid for the period of time, that the department shall deem appropriate under the circumstances.

(b) (1) The department shall not issue a temporary permit pursuant to subdivision (a) to operate a vehicle for which a certificate of compliance is required pursuant to Section 4000.3, and for which that certificate of compliance has not been issued, unless the department is presented with sufficient evidence, as determined by the department, that the vehicle has failed its most recent smog check inspection.

(2) Only one temporary permit may be issued pursuant to this subdivision to a vehicle owner in a two-year period.

(3) A temporary permit issued pursuant to paragraph (1) is valid for either 60 days after the expiration of the registration of the vehicle or 60 days after
the date that vehicle is removed from nonoperation, whichever is applicable at the time that the temporary permit is issued.

(4) A temporary permit issued pursuant to paragraph (1) is subject to Section 9257.5.

(c) (1) The department may issue a temporary permit pursuant to subdivision (a) to operate a vehicle for which registration may be refused pursuant to Section 4000.15.

(2) Only one temporary permit may be issued pursuant to this subdivision for any vehicle, unless otherwise approved by the State Air Resources Board.

(3) A temporary permit issued pursuant to paragraph (1) is valid for either 90 days after the expiration of the registration of the vehicle or 90 days after the date that vehicle is removed from nonoperation, whichever is applicable at the time the temporary permit is issued.

(4) A temporary permit issued pursuant to paragraph (1) is subject to Section 9257.5.

SEC. 47. Section 9250.6 is added to the Vehicle Code, to read:

9250.6. (a) In addition to any other fees specified in this code, or the Revenue and Taxation Code, commencing July 1, 2020, a road improvement fee of one hundred dollars ($100) shall be paid to the department for registration or renewal of registration of every zero-emission motor vehicle model year 2020 and later subject to registration under this code, except those motor vehicles that are expressly exempted under this code from payment of registration fees.

(b) On January 1, 2021, and every January 1 thereafter, the Department of Motor Vehicles shall adjust the road improvement fee imposed under subdivision (a) by increasing the fee in an amount equal to the increase in the California Consumer Price Index for the prior year, except the first adjustment shall cover the prior six months, as calculated by the Department of Finance, with amounts equal to or greater than fifty cents ($0.50) rounded to the highest whole dollar. The incremental change shall be added to the associated fee rate for that year.

(c) Any changes to the road improvement fee imposed by subdivision (a) that are enacted by legislation subsequent to July 1, 2017, shall be deemed to be changes to the base fee rate for purposes of the California Consumer Price Index calculation and adjustment performed pursuant to subdivision (b).

(d) Revenues from the road improvement fee, after deduction of the department’s administrative costs related to this section, shall be deposited in the Road Maintenance and Rehabilitation Account created pursuant to Section 2031 of the Streets and Highways Code.

(e) This section does not apply to a commercial motor vehicle subject to Section 9400.1.

(f) The road improvement fee required pursuant to this section does not apply to the initial registration after the purchase of a new zero-emission motor vehicle.

(g) For purposes of this section, “zero-emission motor vehicle” means a motor vehicle as described in subdivision (d) of Section 44258 of the
Health and Safety Code, or any other motor vehicle that is able to operate on any fuel other than gasoline or diesel fuel.

SEC. 48. (a) On or before January 1, 2019, the Institute for Transportation Studies at the University of California, Davis is requested to prepare and submit to the Governor and the Legislature a report that makes recommendations on potential methodologies to raise revenue from zero-emission and low-emission vehicle owners to achieve the state’s transportation electrification, clean air, and climate targets established under law while also ensuring those vehicle owners pay their fair share of any costs borne by motorists to fund improvements to the transportation system.

(b) The report shall examine all fees, taxes, and incentives for zero- and low-emission vehicles, and other vehicles, and shall make recommendations for options that ensure the purchase and ownership of zero- and low-emission vehicles are properly incentivized to assist in meeting state clean air and climate targets, while also ensuring appropriate levels of funding for roads and transportation.

(c) The study shall assess annual fees on zero-emission vehicles or other vehicles not otherwise subject to state fuel excise or use taxes and compare that to the average annual state fuel excise tax assessed on gasoline or diesel vehicles with equivalent fuel economy.

(d) The Institute shall consult with the State Air Resources Board, the Department of Transportation, the Department of Motor Vehicles, and the State Board of Equalization in preparing the report.

(e) This report shall be submitted in compliance with Section 9795 of the Government Code.

SEC. 49. Guidelines adopted to implement transportation programs in this act by the California Transportation Commission, the Department of Transportation, the Transportation Agency, or any other state agency shall be exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

SEC. 50. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide additional funding for road maintenance and rehabilitation purposes as quickly as possible, it is necessary for this act to take effect immediately.
An act to amend Section 97.70 of the Revenue and Taxation Code, relating to local government finance.

LEGISLATIVE COUNSEL'S DIGEST

SB 37, as introduced, Roth. Local government finance: property tax revenue allocations: vehicle license fee adjustments.

Existing property tax law requires the county auditor, in each fiscal year, to allocate property tax revenue to local jurisdictions in accordance with specified formulas and procedures, and generally provides that each jurisdiction be allocated an amount equal to the total of the amount of revenue allocated to that jurisdiction in the prior fiscal year, subject to certain modifications, and that jurisdiction’s portion of the annual tax increment, as defined.

Existing property tax law also requires that, for purposes of determining property tax revenue allocations in each county for the 1992–93 and 1993–94 fiscal years, the amounts of property tax revenue deemed allocated in the prior fiscal year to the county, cities, and special districts be reduced in accordance with certain formulas. It requires that the revenues not allocated to the county, cities, and special districts as a result of these reductions be transferred to the Educational Revenue Augmentation Fund in that county for allocation to school districts, community college districts, and the county office of education.

Beginning with the 2004–05 fiscal year and for each fiscal year thereafter, existing law requires that each city, county, and city and county receive additional property tax revenues in the form of a vehicle license fee adjustment amount, as defined, from a Vehicle License Fee
Property Tax Compensation Fund that exists in each county treasury. Existing law requires that these additional allocations be funded from ad valorem property tax revenues otherwise required to be allocated to educational entities.

This bill would modify these reduction and transfer provisions for a city incorporating after January 1, 2004, and on or before January 1, 2012, for the 2017–18 fiscal year and for each fiscal year thereafter, by providing for a vehicle license fee adjustment amount calculated on the basis of changes in assessed valuation.

By imposing additional duties upon local tax officials with respect to the allocation of ad valorem property tax revenues, this bill would impose a state-mandated local program.

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.


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

SECTION 1. Section 97.70 of the Revenue and Taxation Code is amended to read:

97.70. Notwithstanding any other law, for the 2004–05 fiscal year and for each fiscal year thereafter, all of the following apply:

(a) (1) (A) The auditor shall reduce the total amount of ad valorem property tax revenue that is otherwise required to be allocated to a county’s Educational Revenue Augmentation Fund by the countywide vehicle license fee adjustment amount.

(B) If, for the fiscal year, after complying with Section 97.68 there is not enough ad valorem property tax revenue that is otherwise required to be allocated to a county Educational Revenue Augmentation Fund for the auditor to complete the allocation reduction required by subparagraph (A), the auditor shall additionally reduce the total amount of ad valorem property tax revenue that is otherwise required to be allocated to all school districts and community college districts in the county for that
fiscal year by an amount equal to the difference between the countywide vehicle license fee adjustment amount and the amount of ad valorem property tax revenue that is otherwise required to be allocated to the county Educational Revenue Augmentation Fund for that fiscal year. This reduction for each school district and community college district in the county shall be the percentage share of the total reduction that is equal to the proportion that the total amount of ad valorem property tax revenue that is otherwise required to be allocated to the school district or community college district bears to the total amount of ad valorem property tax revenue that is otherwise required to be allocated to all school districts and community college districts in a county. For purposes of this subparagraph, “school districts” and “community college districts” do not include any districts that are excess tax school entities, as defined in Section 95.

(2) The countywide vehicle license fee adjustment amount shall be allocated to the Vehicle License Fee Property Tax Compensation Fund that shall be established in the treasury of each county.

(b) (1) The auditor shall allocate moneys in the Vehicle License Fee Property Tax Compensation Fund according to the following:

(A) Each city in the county shall receive its vehicle license fee adjustment amount.

(B) Each county and city and county shall receive its vehicle license fee adjustment amount.

(2) The auditor shall allocate one-half of the amount specified in paragraph (1) on or before January 31 of each fiscal year, and the other one-half on or before May 31 of each fiscal year.

(c) For purposes of this section, all of the following apply:

(1) “Vehicle license fee adjustment amount” for a particular city, county, or a city and county means, subject to an adjustment under paragraph (2) and Section 97.71, all of the following:

(A) For the 2004–05 fiscal year, an amount equal to the difference between the following two amounts:

(i) The estimated total amount of revenue that would have been deposited to the credit of the Motor Vehicle License Fee Account in the Transportation Tax Fund, including any amounts that would have been certified to the Controller by the auditor of the County of Ventura under subdivision (j) of Section 98.02, as that section read on January 1, 2004, for distribution under the law as it read on January 1, 2004, to the county, city and county, or city for the
2004–05 fiscal year if the fee otherwise due under the Vehicle
License Fee Law (Pt. (Part 5 (commencing with Section 10701)
of Div. Division 2) was 2 percent of the market value of a vehicle,
as specified in Section Sections 10752 and 10752.1 as those
sections read on January 1, 2004.

(ii) The estimated total amount of revenue that is required to be
distributed from the Motor Vehicle License Fee Account in the
Transportation Tax Fund to the county, city and county, and each
city in the county for the 2004–05 fiscal year under Section 11005.
as that section read on the operative date of the act that amended
this clause.

(B) (i) Subject to an adjustment under clause (ii), for the
2005–06 fiscal year, the sum of the following two amounts:
(I) The difference between the following two amounts:
(ia) The actual total amount of revenue that would have been
deposited to the credit of the Motor Vehicle License Fee Account
in the Transportation Tax Fund, including any amounts that would
have been certified to the Controller by the auditor of the County
of Ventura under subdivision (j) of Section 98.02, as that section
read on January 1, 2004, for distribution under the law as it read
on January 1, 2004, to the county, city and county, or city for the
2004–05 fiscal year if the fee otherwise due under the Vehicle
License Fee Law (Part 5 (commencing with Section 10701) of
Division 2) was 2 percent of the market value of a vehicle, as
specified in Sections 10752 and 10752.1 as those sections read on
(II) The product of the following two amounts:
(Ia) The amount described in subclause (I).
(ib) The percentage change from the prior fiscal year to the
current fiscal year in gross taxable assessed valuation within the

99
jurisdiction of the entity, as reflected in the equalized assessment roll for those fiscal years. For the first fiscal year for which a change in a city’s jurisdictional boundaries first applies, the percentage change in gross taxable assessed valuation from the prior fiscal year to the current fiscal year shall be calculated solely on the basis of the city’s previous jurisdictional boundaries, without regard to the change in that city’s jurisdictional boundaries. For each following fiscal year, the percentage change in gross taxable assessed valuation from the prior fiscal year to the current fiscal year shall be calculated on the basis of the city’s current jurisdictional boundaries.

(ii) The amount described in clause (i) shall be adjusted as follows:

(I) If the amount described in subclause (I) of clause (i) for a particular city, county, or city and county is greater than the amount described in subparagraph (A) for that city, county, or city and county, the amount described in clause (i) shall be increased by an amount equal to this difference.

(II) If the amount described in subclause (I) of clause (i) for a particular city, county, or city and county is less than the amount described in subparagraph (A) for that city, county, or city and county, the amount described in clause (i) shall be decreased by an amount equal to this difference.

(C) For the 2006–07 fiscal year and for each fiscal year thereafter, the sum of the following two amounts:

(i) The vehicle license fee adjustment amount for the prior fiscal year, if Section 97.71 and clause (ii) of subparagraph (B) did not apply for that fiscal year, for that city, county, and city and county.

(ii) The product of the following two amounts:

(I) The amount described in clause (i).

(II) The percentage change from the prior fiscal year to the current fiscal year in gross taxable assessed valuation within the jurisdiction of the entity, as reflected in the equalized assessment roll for those fiscal years. For the first fiscal year for which a change in a city’s jurisdictional boundaries first applies, the percentage change in gross taxable assessed valuation from the prior fiscal year to the current fiscal year shall be calculated solely on the basis of the city’s previous jurisdictional boundaries, without regard to the change in that city’s jurisdictional boundaries. For each following fiscal year, the percentage change in gross taxable
assessed valuation from the prior fiscal year to the current fiscal year shall be calculated on the basis of the city’s current jurisdictional boundaries.

(2) Notwithstanding paragraph (1), “vehicle license fee adjustment amount,” for a city incorporating after January 1, 2004, and on or before January 1, 2012, means the following:

(A) For the 2017–18 fiscal year, the quotient derived from the following fraction:

(i) The numerator is the product of the following two amounts:

(I) The sum of the most recent vehicle license fee adjustment amounts determined for all cities in the county.

(II) The population of the incorporating city.

(ii) The denominator is the sum of the populations of all cities in the county.

(B) For the 2018–19 fiscal year, and for each fiscal year thereafter, the sum of the following two amounts:

(i) The vehicle license fee adjustment amount for the prior fiscal year.

(ii) The product of the following two amounts:

(I) The amount described in clause (i).

(II) The percentage change from the prior fiscal year to the current fiscal year in gross taxable assessed valuation within the jurisdiction of the entity, as reflected in the equalized assessment roll for those fiscal years.

(3) For the 2013–14 fiscal year, the vehicle license fee adjustment amount that is determined under subparagraph (C) of paragraph (1) for the County of Orange shall be increased by fifty-three million dollars ($53,000,000). For the 2014–15 fiscal year and each fiscal year thereafter, the calculation of the vehicle license fee adjustment amount for the County of Orange under subparagraph (C) of paragraph (1) shall be based on a prior fiscal year amount that reflects the full amount of this one-time increase of fifty-three million dollars ($53,000,000).

(4) “Countywide vehicle license fee adjustment amount” means, for any fiscal year, the total sum of the amounts described in paragraphs (1), (2), and (3) for a county or city and county, and each city in the county.
(5) On or before June 30 of each fiscal year, the auditor shall report to the Controller the vehicle license fee adjustment amount for the county and each city in the county for that fiscal year.

d) For the 2005–06 fiscal year and each fiscal year thereafter, the amounts determined under subdivision (a) of Section 96.1, or any successor to that provision, shall not reflect, for a preceding fiscal year, any portion of any allocation required by this section.

e) For purposes of Section 15 of Article XI of the California Constitution, the allocations from a Vehicle License Fee Property Tax Compensation Fund constitute successor taxes that are otherwise required to be allocated to counties and cities, and as successor taxes, the obligation to make those transfers as required by this section shall not be extinguished nor disregarded in any manner that adversely affects the security of, or the ability of, a county or city to pay the principal and interest on any debts or obligations that were funded or secured by that city’s or county’s allocated share of motor vehicle license fee revenues.

(f) This section shall not be construed to do any of the following:

1. Reduce any allocations of excess, additional, or remaining funds that would otherwise have been allocated to county superintendents of schools, cities, counties, and cities and counties pursuant to clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Sections 97.2 and 97.3 or Article 4 (commencing with Section 98) had this section not been enacted. The allocations required by this section shall be adjusted to comply with this paragraph.

2. Require an increased ad valorem property tax revenue allocation or increased tax increment allocation to a community redevelopment agency.

3. Alter the manner in which ad valorem property tax revenue growth from fiscal year to fiscal year is otherwise determined or allocated in a county.

4. Reduce ad valorem property tax revenue allocations required under Article 4 (commencing with Section 98).

(g) Tax exchange or revenue sharing agreements, entered into prior to the operative date of this section, between local agencies or between local agencies and nonlocal agencies are deemed to be modified to account for the reduced vehicle license fee revenues resulting from the act that added this section. These agreements are modified in that these reduced revenues are, in kind and in lieu
thereof, replaced with ad valorem property tax revenue from a
Vehicle License Fee Property Tax Compensation Fund or an
Educational Revenue Augmentation Fund.

SEC. 2. If the Commission on State Mandates determines that
this act contains costs mandated by the state, reimbursement to
local agencies and school districts for those costs shall be made
pursuant to Part 7 (commencing with Section 17500) of Division
4 of Title 2 of the Government Code.
An act to add Section 69614.5 to the Government Code, relating to judgeships.

LEGISLATIVE COUNSEL'S DIGEST

SB 39, as amended, Roth. Suspension and allocation of judgeships. Existing law specifies the number of judges for the superior court of each county. Existing law allocates additional judgeships to the various counties in accordance with uniform standards for factually determining additional judicial need in each county, as updated and approved by the Judicial Council, pursuant to the Update of Judicial Needs Study, based on specified criteria, including, among others, workload standards that represent the average amount of time of bench and nonbench work required to resolve each case type.

This bill would require the suspension of 4 vacant judgeships, as defined, in superior courts with more authorized judgeships than their assessed judicial need. The bill would require the allocation of 4 judgeships to superior courts with fewer authorized judgeships than their assessed judicial need and would require the judgeships to be funded using existing appropriations for the compensation of superior court judges. The bill would require the suspension to be in accordance with a methodology approved by the Judicial Council, as specified, and would require the determination of a superior court’s assessed judicial need to be in accordance with the above uniform standards and be based
on the criteria described above. The bill would require the Judicial Council, if a vacant judgeship is eligible for suspension, to promptly notify the applicable courts, the Legislature, and the Governor that the judgeship will be suspended, subject to approval by the Governor.

This bill would also make a statement of legislative intent regarding the authority of the Legislature, the Governor, and the Chief Justice of California.


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

SECTION 1. It is the intent of the Legislature that this act shall not be construed to limit any of the following:

(a) The authority of the Legislature to create and fund new judgeships pursuant to Section 4 of Article VI of the California Constitution.

(b) The authority of the Governor to appoint a person to fill a vacancy pursuant to subdivision (c) of Section 16 of Article VI of the California Constitution.

(c) The authority of the Chief Justice of California to assign judges pursuant to subdivision (e) of Section 6 of Article VI of the California Constitution.

SEC. 2. Section 69614.5 is added to the Government Code, to read:

69614.5. (a) To provide for a more equitable distribution of judgeships, and pursuant to the requirements described in subdivision (d), both of the following actions shall occur:

1. Four vacant judgeships shall be suspended in superior courts with more authorized judgeships than their assessed judicial need pursuant to subdivision (c).

2. Four judgeships shall be allocated to superior courts with fewer authorized judgeships than their assessed judicial need pursuant to subdivision (c). The four judgeships shall be funded using existing appropriations for the compensation of superior court judges.

(b) The suspension of vacant judgeships pursuant to subdivision (a) shall be in accordance with a methodology approved by the Judicial Council after solicitation of public comments.
(c) The determination of a superior court’s assessed judicial need shall be in accordance with the uniform standards for factually determining additional judicial need in each county, as updated and approved by the Judicial Council, pursuant to the Update of Judicial Needs Study, based on the criteria set forth in subdivision (b) of Section 69614.

(d) If a judgeship in a superior court becomes vacant, the Judicial Council shall determine whether the judgeship is eligible for suspension under the methodology, standards, and criteria described in subdivisions (b) and (c). If the judgeship is eligible for suspension, the Judicial Council shall promptly notify the applicable courts, the Legislature, and the Governor that the vacant judgeship shall be suspended, subject to approval by the Governor in compliance with subdivision (c) of Section 16 of Article VI of the California Constitution.

(e) (1) For purposes of this section only, a judgeship shall become “vacant” when an incumbent judge relinquishes the office through resignation, retirement, death, removal, or confirmation to an appellate court judgeship during either of the following:
   (A) At any time before the deadline to file a declaration of intention to become a candidate for a judicial office pursuant to Section 8023 of the Elections Code.
   (B) After the deadline to file a declaration of intention to become a candidate for a judicial office pursuant to Section 8023 of the Elections Code if no candidate submits qualifying nomination papers by the deadline pursuant to Section 8020 of the Elections Code.

   (2) For purposes of this section, a judgeship shall not become “vacant” when an incumbent judge relinquishes the office as a result of being defeated in an election for that office.

(f) For purposes of this section only, the “suspension” of a vacant judgeship means that the vacant judgeship may not be filled by appointment or election, notwithstanding any other law, unless an appropriation by the Legislature is made for the judgeship.

(g) A court in which a vacant judgeship is suspended shall not have the court’s funding allocation reduced or any of its funding
shifted or transferred as a result of, or in connection with, the
suspension of a vacant judgeship pursuant to this section.
Senate Bill No. 130

CHAPTER 9

An act to amend Section 97.70 of the Revenue and Taxation Code, relating to local government finance, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor May 12, 2017. Filed with Secretary of State May 12, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

SB 130, Committee on Budget and Fiscal Review. Local government finance: property tax revenue allocations: vehicle license fee adjustments.

Existing property tax law requires the county auditor, in each fiscal year, to allocate property tax revenue to local jurisdictions in accordance with specified formulas and procedures, and generally provides that each jurisdiction be allocated an amount equal to the total of the amount of revenue allocated to that jurisdiction in the prior fiscal year, subject to certain modifications, and that jurisdiction’s portion of the annual tax increment, as defined.

Existing property tax law also requires that, for purposes of determining property tax revenue allocations in each county for the 1992–93 and 1993–94 fiscal years, the amounts of property tax revenue deemed allocated in the prior fiscal year to the county, cities, and special districts be reduced in accordance with certain formulas. It requires that the revenues not allocated to the county, cities, and special districts as a result of these reductions be transferred to the Educational Revenue Augmentation Fund in that county for allocation to school districts, community college districts, and the county office of education.

Beginning with the 2004–05 fiscal year and for each fiscal year thereafter, existing law requires that each city, county, and city and county receive additional property tax revenues in the form of a vehicle license fee adjustment amount, as defined, from a Vehicle License Fee Property Tax Compensation Fund that exists in each county treasury. Existing law requires that these additional allocations be funded from ad valorem property tax revenues otherwise required to be allocated to educational entities.

This bill would modify these reduction and transfer provisions for a city incorporating after January 1, 2004, and on or before January 1, 2012, for the 2017–18 fiscal year and for each fiscal year thereafter, by providing for a vehicle license fee adjustment amount calculated on the basis of changes in assessed valuation.

By imposing additional duties upon local tax officials with respect to the allocation of ad valorem property tax revenues, this bill would impose a state-mandated local program.
This bill would appropriate $5,000 to the Department of Finance to prepare a report to the Legislature by a specified date regarding compliance by county auditors with respect to this measure.

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.

This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Appropriation: yes.

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

SECTION 1. Section 97.70 of the Revenue and Taxation Code is amended to read:

97.70. Notwithstanding any other law, for the 2004–05 fiscal year and for each fiscal year thereafter, all of the following apply:

(a) (1) (A) The auditor shall reduce the total amount of ad valorem property tax revenue that is otherwise required to be allocated to a county’s Educational Revenue Augmentation Fund by the countywide vehicle license fee adjustment amount.

(B) If, for the fiscal year, after complying with Section 97.68 there is not enough ad valorem property tax revenue that is otherwise required to be allocated to a county Educational Revenue Augmentation Fund for the auditor to complete the allocation reduction required by subparagraph (A), the auditor shall additionally reduce the total amount of ad valorem property tax revenue that is otherwise required to be allocated to all school districts and community college districts in the county for that fiscal year by an amount equal to the difference between the countywide vehicle license fee adjustment amount and the amount of ad valorem property tax revenue that is otherwise required to be allocated to the county Educational Revenue Augmentation Fund for that fiscal year. This reduction for each school district and community college district in the county shall be the percentage share of the total reduction that is equal to the proportion that the total amount of ad valorem property tax revenue that is otherwise required to be allocated to the school district or community college district bears to the total amount of ad valorem property tax revenue that is otherwise required to be allocated to all school districts and community college districts in a county. For purposes of this subparagraph, “school districts” and “community college districts” do not include any districts that are excess tax school entities, as defined in Section 95.
(2) The countywide vehicle license fee adjustment amount shall be allocated to the Vehicle License Fee Property Tax Compensation Fund that shall be established in the treasury of each county.

(b) (1) The auditor shall allocate moneys in the Vehicle License Fee Property Tax Compensation Fund according to the following:

(A) Each city in the county shall receive its vehicle license fee adjustment amount.

(B) Each county and city and county shall receive its vehicle license fee adjustment amount.

(2) The auditor shall allocate one-half of the amount specified in paragraph (1) on or before January 31 of each fiscal year, and the other one-half on or before May 31 of each fiscal year.

(c) For purposes of this section, all of the following apply:

(1) “Vehicle license fee adjustment amount” for a particular city, county, or a city and county means, subject to an adjustment under paragraph (2) and Section 97.71, all of the following:

(A) For the 2004–05 fiscal year, an amount equal to the difference between the following two amounts:

(i) The estimated total amount of revenue that would have been deposited to the credit of the Motor Vehicle License Fee Account in the Transportation Tax Fund, including any amounts that would have been certified to the Controller by the auditor of the County of Ventura under subdivision (j) of Section 98.02, as that section read on January 1, 2004, for distribution under the law as it read on January 1, 2004, to the county, city and county, or city for the 2004–05 fiscal year if the fee otherwise due under the Vehicle License Fee Law (Part 5 (commencing with Section 10701) of Division 2) was 2 percent of the market value of a vehicle, as specified in Sections 10752 and 10752.1 as those sections read on January 1, 2004.

(ii) The estimated total amount of revenue that is required to be distributed from the Motor Vehicle License Fee Account in the Transportation Tax Fund to the county, city and county, and each city in the county for the 2004–05 fiscal year under Section 11005, as that section read on the operative date of the act that amended this clause.

(B) (i) Subject to an adjustment under clause (ii), for the 2005–06 fiscal year, the sum of the following two amounts:

(I) The difference between the following two amounts:

(ia) The actual total amount of revenue that would have been deposited to the credit of the Motor Vehicle License Fee Account in the Transportation Tax Fund, including any amounts that would have been certified to the Controller by the auditor of the County of Ventura under subdivision (j) of Section 98.02, as that section read on January 1, 2004, for distribution under the law as it read on January 1, 2004, to the county, city and county, or city for the 2004–05 fiscal year if the fee otherwise due under the Vehicle License Fee Law (Part 5 (commencing with Section 10701) of Division 2) was 2 percent of the market value of a vehicle, as specified in Sections 10752 and 10752.1 as those sections read on January 1, 2004.
(ib) The actual total amount of revenue that was distributed from the Motor Vehicle License Fee Account in the Transportation Tax Fund to the county, city and county, and each city in the county for the 2004–05 fiscal year under Section 11005, as that section read on the operative date of the act that amended this subsubclause.

(II) The product of the following two amounts:

(i) The amount described in subclause (I).

(ii) The percentage change from the prior fiscal year to the current fiscal year in gross taxable assessed valuation within the jurisdiction of the entity, as reflected in the equalized assessment roll for those fiscal years. For the first fiscal year for which a change in a city's jurisdictional boundaries first applies, the percentage change in gross taxable assessed valuation from the prior fiscal year to the current fiscal year shall be calculated solely on the basis of the city's previous jurisdictional boundaries, without regard to the change in that city's jurisdictional boundaries. For each following fiscal year, the percentage change in gross taxable assessed valuation from the prior fiscal year to the current fiscal year shall be calculated on the basis of the city's current jurisdictional boundaries.

(ii) The amount described in clause (i) shall be adjusted as follows:

(I) If the amount described in subclause (I) of clause (i) for a particular city, county, or city and county is greater than the amount described in subparagraph (A) for that city, county, or city and county, the amount described in clause (i) shall be increased by an amount equal to this difference.

(II) If the amount described in subclause (I) of clause (i) for a particular city, county, or city and county is less than the amount described in subparagraph (A) for that city, county, or city and county, the amount described in clause (i) shall be decreased by an amount equal to this difference.

(C) For the 2006–07 fiscal year and for each fiscal year thereafter, the sum of the following two amounts:

(i) The vehicle license fee adjustment amount for the prior fiscal year, if Section 97.71 and clause (ii) of subparagraph (B) did not apply for that fiscal year, for that city, county, and city and county.

(ii) The product of the following two amounts:

(I) The amount described in clause (i).

(II) The percentage change from the prior fiscal year to the current fiscal year in gross taxable assessed valuation within the jurisdiction of the entity, as reflected in the equalized assessment roll for those fiscal years. For the first fiscal year for which a change in a city's jurisdictional boundaries first applies, the percentage change in gross taxable assessed valuation from the prior fiscal year to the current fiscal year shall be calculated solely on the basis of the city's previous jurisdictional boundaries, without regard to the change in that city's jurisdictional boundaries. For each following fiscal year, the percentage change in gross taxable assessed valuation from the prior fiscal year to the current fiscal year shall be calculated on the basis of the city's current jurisdictional boundaries.
Notwithstanding paragraph (1), “vehicle license fee adjustment amount,” for a city incorporating after January 1, 2004, and on or before January 1, 2012, means the following:

(A) For the 2017–18 fiscal year, the quotient derived from the following fraction:
   (i) The numerator is the product of the following two amounts:
      (I) The sum of the most recent vehicle license fee adjustment amounts determined for all cities in the county.
      (II) The population of the incorporating city.
   (ii) The denominator is the sum of the populations of all cities in the county.

(B) For the 2018–19 fiscal year, and for each fiscal year thereafter, the sum of the following two amounts:
   (i) The vehicle license fee adjustment amount for the prior fiscal year.
   (ii) The product of the following two amounts:
        (I) The amount described in clause (i).
        (II) The percentage change from the prior fiscal year to the current fiscal year in gross taxable assessed valuation within the jurisdiction of the entity, as reflected in the equalized assessment roll for those fiscal years.

(3) For the 2013–14 fiscal year, the vehicle license fee adjustment amount that is determined under subparagraph (C) of paragraph (1) for the County of Orange shall be increased by fifty-three million dollars ($53,000,000). For the 2014–15 fiscal year and each fiscal year thereafter, the calculation of the vehicle license fee adjustment amount for the County of Orange under subparagraph (C) of paragraph (1) shall be based on a prior fiscal year amount that reflects the full amount of this one-time increase of fifty-three million dollars ($53,000,000).

(4) “Countywide vehicle license fee adjustment amount” means, for any fiscal year, the total sum of the amounts described in paragraphs (1), (2), and (3) for a county or city and county, and each city in the county.

(5) On or before June 30 of each fiscal year, the auditor shall report to the Controller the vehicle license fee adjustment amount for the county and each city in the county for that fiscal year.

(d) For the 2005–06 fiscal year and each fiscal year thereafter, the amounts determined under subdivision (a) of Section 96.1, or any successor to that provision, shall not reflect, for a preceding fiscal year, any portion of any allocation required by this section.

(e) For purposes of Section 15 of Article XI of the California Constitution, the allocations from a Vehicle License Fee Property Tax Compensation Fund constitute successor taxes that are otherwise required to be allocated to counties and cities, and as successor taxes, the obligation to make those transfers as required by this section shall not be extinguished nor disregarded in any manner that adversely affects the security of, or the ability of, a county or city to pay the principal and interest on any debts or obligations that were funded or secured by that city’s or county’s allocated share of motor vehicle license fee revenues.

(f) This section shall not be construed to do any of the following:
(1) Reduce any allocations of excess, additional, or remaining funds that would otherwise have been allocated to county superintendents of schools, cities, counties, and cities and counties pursuant to clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Sections 97.2 and 97.3 or Article 4 (commencing with Section 98) had this section not been enacted. The allocations required by this section shall be adjusted to comply with this paragraph.

(2) Require an increased ad valorem property tax revenue allocation or increased tax increment allocation to a community redevelopment agency.

(3) Alter the manner in which ad valorem property tax revenue growth from fiscal year to fiscal year is otherwise determined or allocated in a county.

(4) Reduce ad valorem property tax revenue allocations required under Article 4 (commencing with Section 98).

(g) Tax exchange or revenue sharing agreements, entered into prior to the operative date of this section, between local agencies or between local agencies and nonlocal agencies are deemed to be modified to account for the reduced vehicle license fee revenues resulting from the act that added this section. These agreements are modified in that these reduced revenues are, in kind and in lieu thereof, replaced with ad valorem property tax revenue from a Vehicle License Fee Property Tax Compensation Fund or an Educational Revenue Augmentation Fund.

SEC. 2. The sum of five thousand dollars ($5,000) is hereby appropriated to the Department of Finance to prepare, by September 1, 2018, a report to the Legislature regarding the compliance by county auditors with paragraph (2) of subdivision (c) of Section 97.70 of the Revenue and Taxation Code.

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

SEC. 4. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.
Senate Bill No. 132

CHAPTER 7

An act to amend the Budget Act of 2016 (Chapter 23 of the Statutes of 2016) by amending Items 9800-001-0001, 9800-001-0494, and 9800-001-0988 of, and adding Items 2660-109-0042, 2660-109-0046, 2660-110-0042, and 3900-101-3291 to, Section 2.00 of, and amending Section 39.00 of, that act, relating to the state budget, and making an appropriation therefor, to take effect immediately, budget bill.

[Approved by Governor April 28, 2017. Filed with Secretary of State April 28, 2017.]

LEGISLATIVE COUNSEL'S DIGEST


The Budget Act of 2016 made appropriations for the support of state government for the 2016–17 fiscal year.

This bill would amend the Budget Act of 2016 by amending and adding items of appropriation and making other changes.

This bill would become operative only if SB 496 of the 2017–18 Regular Session is enacted and becomes operative.

This bill would declare that it is to take effect immediately as a Budget Bill.

Appropriation: yes.

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

SECTION 1. Item 2660-109-0042 is added to Section 2.00 of the Budget Act of 2016, to read:

2660-109-0042—For local assistance, Department of Transportation, payable from the State Highway Account, State Transportation Fund .......................................................... 100,000,000

Schedule:
(1) 1835020-Local Assistance................. 100,000,000

Provisions:
1. The funds appropriated in this item are for the University of California, Merced Campus Parkway Project and shall be available for encumbrance and liquidation until June 30, 2023.

SEC. 2. Item 2660-109-0046 is added to Section 2.00 of the Budget Act of 2016, to read:
2660-109-0046—For local assistance, Department of Transportation, payable from the Public Transportation Account, State Transportation Fund .......................................................... 400,000,000

Schedule:
(1) 1835020-Local Assistance.............. 400,000,000

Provisions:
1. The funds appropriated in this item shall be used for the extension of the Altamont Corridor Express to Ceres and Merced, including associated system improvements.
2. Notwithstanding any other law restricting the allocation of program funds, this appropriation is for the Altamont Corridor Express from the Transit and Inter-city Rail Capital Program and shall be available for encumbrance and liquidation until June 30, 2027.

SEC. 3. Item 2660-110-0042 is added to Section 2.00 of the Budget Act of 2016, to read:

2660-110-0042—For local assistance for the Riverside County Transportation Efficiency Corridor, Department of Transportation, payable from the State Highway Account, State Transportation Fund .......................................................... 427,172,000

Schedule:
(1) 91 Toll Connector to Interstate 15 North............................................. 180,000,000
(2) Hamner Bridge Widening..................... 6,322,000
(3) McKinley Grade Separation.................. 84,450,000
(4) Jurupa Avenue Grade Separation....... 108,400,000
(5) Interstate 15/Limonite Interchange....... 48,000,000

Provisions:
1. The funds appropriated in this item shall be available for encumbrance and liquidation until June 30, 2023.
2. The Secretary of Transportation shall convene a task force of state, local, and private sector experts to develop recommendations to accelerate the schedule of delivery of these and other projects in the region. Any recommendations that require statutory changes should be included in the May Revision to the 2017–18 Governor’s Budget.

SEC. 4. Item 3900-101-3291 is added to Section 2.00 of the Budget Act of 2016, to read:

3900-101-3291—For local assistance, State Air Resources Board, payable from the Trade Corridor Enhancement Account .......................................................... 50,000,000
Schedule:
(1) 3525-The Zero/Near-Zero Emission Warehouse Program....................... 50,000,000

Provisions:
1. The funds appropriated in this item are available for encumbrance or expenditure until June 30, 2019.
2. The funds appropriated in this item are for a competitive funding program to advance implementation of zero/near zero emission warehouses and technology. The funds will be combined with a one-to-one match resulting in $100,000,000 for projects.

SEC. 5. Item 9800-001-0001 of Section 2.00 of the Budget Act of 2016, as amended by Section 1 of Chapter 2 of the Statutes of 2017, is amended to read:

9800-001-0001—For Augmentation for Employee Compensation.............................................................. 549,624,000

Schedule:
(1) 7800-Employee Compensation Program........................................... 549,624,000

Provisions:
1. The amount appropriated in this item shall not be construed to control or influence collective bargaining between the state employer and employee representatives.
2. The funds appropriated in this item are for compensation increases and increases in benefits related thereto of employees whose compensation, or portion thereof, is chargeable to the General Fund, to be allocated by budget executive order by the Director of Finance to the several state offices, departments, boards, bureaus, commissions, and other state agencies, in augmentation of their respective appropriations or allocations, in accordance with approved memoranda of understanding or, for employees excluded from collective bargaining, in accordance with salary and benefit schedules established by the Department of Human Resources.
3. It is the intent of the Legislature that all proposed augmentations for increased employee compensation costs, including, but not limited to, base salary increases, pay increases to bring one group of employees into a pay equity position with another group of public employees, and recruitment and retention differentials, be budgeted and considered on a comprehensive, statewide basis. Therefore, the Legislature declares its intent to reject any proposed augmentations that are
not included in Items 9800-001-0001, 9800-001-0494, and 9800-001-0988, given that these are the items where the funds to implement comprehensive statewide compensation policies, including those adopted pursuant to collective bargaining, are considered. This provision shall not apply to augmentations for increased employee compensation costs resulting from mandatory judicial orders to raise pay for any group of employees or augmentations for increased compensation costs, or approvals for departments to provide increased employee compensation levels, that are included in bills separate from the Budget Act.

4. This item contains funds estimated to be necessary to implement side letters, appendices, or other addenda to a memorandum of understanding (collectively referred to as “pending agreements”) that have been determined by the Joint Legislative Budget Committee to require legislative approval prior to their implementation, but which may not have been approved in separate legislation as of the date of the passage of this act. In the event that the Legislature does not approve separate legislation to authorize implementation of any of the pending agreements, the Director of Finance shall not allocate any funds related to those pending agreements pursuant to Provision 2, and the expenditure of funds for those pending agreements shall not be deemed to have been approved by the Legislature.

5. As of July 31, 2017, the unencumbered balances of the above appropriation shall revert to the General Fund.

6. The Director of Finance may adjust this item of appropriation to reflect the health benefit premiums approved by the Board of Administration of the Public Employees’ Retirement System or dental benefit premiums approved by the Department of Human Resources for the 2017 calendar year. Within 30 days of making any adjustment pursuant to this provision, the Director of Finance shall report the adjustment in writing to the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the committees in each house of the Legislature that consider appropriations.

7. Notwithstanding Sections 3517.6 and 3517.63 of the Government Code, the Department of Finance shall provide written notification to the Joint Legislative Budget Committee regarding any expenditure of funds resulting from any side letter, appendix, or other ad-
8. Notice provided pursuant to Provision 7 shall include a copy of the side letter, appendix, or other addendum (collectively addendum) and a fiscal summary of any expenditure of funds resulting from the agreement in the 2016–17 fiscal year and future fiscal years. The notice shall indicate whether the Department of Finance determines that an agreement does or does not require legislative action to ratify the addendum before implementation, pursuant to subdivision (a), (b), or (c) of this provision.

(a) An addendum to a properly ratified memorandum of understanding may be implemented without legislative action not less than 30 calendar days after notice has been provided to the Joint Legislative Budget Committee, or not sooner than whatever lesser time after that notification the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may in each instance determine, if all of the following apply:

(1) The agreement results in total net costs of less than $1,000,000 (all funds) during the 2016–17 fiscal year.

(2) Any cost resulting from the agreement can be absorbed within the 2016–17 fiscal year appropriation authority of impacted departments.

(3) The addendum does not present substantial additions that are reasonably outside the parameters of the original memorandum of understanding.

(b) An addendum to a properly ratified memorandum of understanding that results in any expenditure of funds may be implemented not less than 30 calendar days after notice has been provided to the Joint Legislative Budget Committee, or not sooner than whatever lesser time after that notification the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may in each instance determine, if, during the legislative consideration of the 2016–17 Governor’s Budget, the Department of Finance identified to the Legislature both of the following:

(1) The administration anticipated that the addendum would be signed during the 2016–17 fiscal year.
(2) Any costs resulting from the addendum are included in the 2016–17 Governor’s Budget or another piece of legislation.

(c) An addendum to a properly ratified memorandum of understanding that results in any expenditure of funds requires legislative action before implementation if any of the following apply:

1. The agreement results in total net costs greater than $1,000,000 (all funds) during the 2016–17 fiscal year.
2. The agreement results in costs that cannot be absorbed within the 2016–17 fiscal year appropriation authority of impacted departments.
3. The addendum presents substantial additions that are not reasonably within the parameters of the original memorandum of understanding.

Notwithstanding Sections 3517.6 and 3517.63 of the Government Code, any addendum to a properly ratified memorandum of understanding that is implemented in the 2016–17 fiscal year, pursuant to subdivision (a) of Provision 8 and requires the expenditure of funds beyond the 2016–17 fiscal year that was not approved as part of the Budget Act of 2016, shall be approved by the Legislature as part of the Budget Act of 2017 or through another piece of legislation.

10. The Department of Human Resources shall promptly post on its public Internet Web site all signed addenda. Each addendum shall be posted in its entirety, including any attachments or schedules that are part of the agreement, along with the fiscal summary documents of the agreement.

SEC. 6. Item 9800-001-0494 of Section 2.00 of the Budget Act of 2016, as amended by Section 2 of Chapter 2 of the Statutes of 2017, is amended to read:

9800-001-0494—For Augmentation for Employee Compensation, payable from other unallocated special funds........... 313,108,000

Schedule:
(1) 7800-Employee Compensation Program........................................... 313,108,000

Provisions:
1. The amount appropriated in this item shall not be construed to control or influence collective bargaining
between the state employer and employee representatives.

2. The funds appropriated in this item are for compensation increases and increases in benefits related thereto of employees whose compensation, or portion thereof, is chargeable to special funds, to be allocated by budget executive order by the Director of Finance to the several state offices, departments, boards, bureaus, commissions, and other state agencies, in augmentation of their respective appropriations or allocations, in accordance with approved memoranda of understanding or, for employees excluded from collective bargaining, in accordance with salary and benefit schedules established by the Department of Human Resources.

3. Notwithstanding any other provision of law, upon approval of the Director of Finance, expenditure authority may be transferred between this item and Item 9800-001-0988 as necessary to fund costs for approved memoranda of understanding or, for employees excluded from collective bargaining, in accordance with salary and benefit schedules established by the Department of Human Resources.

4. It is the intent of the Legislature that all proposed augmentations for increased employee compensation costs, including, but not limited to, base salary increases, pay increases to bring one group of employees into a pay equity position with another group of public employees, and recruitment and retention differentials, be budgeted and considered on a comprehensive, statewide basis. Therefore, the Legislature declares its intent to reject any proposed augmentations that are not included in Items 9800-001-0001, 9800-001-0494, and 9800-001-0988, given that these are the items where the funds to implement comprehensive statewide compensation policies, including those adopted pursuant to collective bargaining, are considered. This provision does not apply to augmentations for increased employee compensation costs resulting from mandatory judicial orders to raise pay for any group of employees or augmentations for increased compensation costs, or approvals for departments to provide increased employee compensation levels, that are included in bills separate from the Budget Act.

5. This item contains funds estimated to be necessary to implement side letters, appendices, or other addenda to a memorandum of understanding (collectively referred to as “pending agreements”) that have been
determined by the Joint Legislative Budget Committee
to require legislative approval prior to their implemen-
tation, but which may not have been approved in sep-
arate legislation as of the date of the passage of this
act. In the event that the Legislature does not approve
separate legislation to authorize implementation of
any of the pending agreements, the Director of Finance
shall not allocate any funds related to those pending
agreements pursuant to Provision 2, and the expendi-
ture of funds for those pending agreements shall not
be deemed to have been approved by the Legislature.
6. As of July 31, 2017, the unencumbered balances of
the above appropriation shall no longer be available
for expenditure.
7. The Director of Finance may adjust this item of appro-
priation to reflect the health benefit premiums ap-
proved by the Board of Administration of the Public
Employees’ Retirement System or dental benefit pre-
miums approved by the Department of Human Re-
sources for the 2017 calendar year. Within 30 days of
making any adjustment pursuant to this provision, the
Director of Finance shall report the adjustment in
writing to the Chairperson of the Joint Legislative
Budget Committee and the chairpersons of the com-
mittees in each house of the Legislature that consider
appropriations.
8. Notwithstanding Sections 3517.6 and 3517.63 of the
Government Code, the Department of Finance shall
provide written notification to the Joint Legislative
Budget Committee regarding any expenditure of funds
resulting from any side letter, appendix, or other ad-
dendum to a properly ratified memorandum of under-
standing.
9. Notice provided pursuant to Provision 8 shall include
a copy of the side letter, appendix, or other addendum
(collectively addendum) and a fiscal summary of any
expenditure of funds resulting from the agreement in
the 2016–17 fiscal year and future fiscal years. The
notice shall indicate whether the Department of Fi-
nance determines that an agreement does or does not
require legislative action to ratify the addendum before
implementation, pursuant to subdivision (a), (b), or
(c) of this provision.
(a) An addendum to a properly ratified memorandum
of understanding may be implemented without
legislative action not less than 30 calendar days
after notice has been provided to the Joint Legisla-
tive Budget Committee, or not sooner than whatever lesser time after that notification the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may in each instance determine, if all of the following apply:

1. The agreement results in total net costs of less than $1,000,000 (all funds) during the 2016–17 fiscal year.

2. Any cost resulting from the agreement can be absorbed within the 2016–17 fiscal year appropriation authority of impacted departments.

3. The addendum does not present substantial additions that are reasonably outside the parameters of the original memorandum of understanding.

(b) An addendum to a properly ratified memorandum of understanding that results in any expenditure of funds may be implemented not less than 30 calendar days after notice has been provided to the Joint Legislative Budget Committee, or not sooner than whatever lesser time after that notification the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may in each instance determine, if, during the legislative consideration of the 2016–17 Governor’s Budget, the Department of Finance identified to the Legislature both of the following:

1. The administration anticipated that the addendum would be signed during the 2016–17 fiscal year.

2. Any costs resulting from the addendum are included in the 2016–17 Governor’s Budget or another piece of legislation.

(c) An addendum to a properly ratified memorandum of understanding that results in any expenditure of funds requires legislative action before implementation if any of the following apply:

1. The agreement results in total net costs greater than $1,000,000 (all funds) during the 2016–17 fiscal year.

2. The agreement results in costs that cannot be absorbed within the 2016–17 fiscal year appropriation authority of impacted departments.

3. The addendum presents substantial additions that are not reasonably within the parameters
of the original memorandum of understanding.

10. Notwithstanding Sections 3517.6 and 3517.63 of the Government Code, any addendum to a properly ratified memorandum of understanding that is implemented in the 2016–17 fiscal year, pursuant to subdivision (a) of Provision 9 and requires the expenditure of funds beyond the 2016–17 fiscal year that was not approved as part of the Budget Act of 2016, shall be approved by the Legislature as part of the Budget Act of 2017 or through another piece of legislation.

11. The Department of Human Resources shall promptly post on its public Internet Web site all signed addenda. Each addendum shall be posted in its entirety, including any attachments or schedules that are part of the agreement, along with the fiscal summary documents of the agreement.

SEC. 7. Item 9800-001-0988 of Section 2.00 of the Budget Act of 2016, as amended by Section 3 of Chapter 2 of the Statutes of 2017, is amended to read:

9800-001-0988—For Augmentation for Employee Compensation, payable from other unallocated nongovernmental cost funds........................................................................................................ 161,144,000

Schedule:
(1) 7800-Employee Compensation Program..................................................... 161,144,000

Provisions:
1. The amount appropriated in this item shall not be construed to control or influence collective bargaining between the state employer and employee representatives.

2. The funds appropriated in this item are for employee compensation increases, and increases in benefits related thereto, whose compensation or portion thereof is chargeable to nongovernmental cost funds, to be allocated by budget executive order by the Director of Finance to the several state offices, departments, boards, bureaus, commissions, and other state agencies, in augmentation of their respective appropriations or allocations, in accordance with approved memoranda of understanding or, for employees excluded from collective bargaining, in accordance with salary and benefit schedules established by the Department of Human Resources.
3. Notwithstanding any other provision of law, upon approval of the Director of Finance, expenditure authority may be transferred between Item 9800-001-0494 and this item as necessary to fund costs for approved memoranda of understanding or, for employees excluded from collective bargaining, in accordance with salary and benefit schedules established by the Department of Human Resources.

4. It is the intent of the Legislature that all proposed augmentations for increased employee compensation costs, including, but not limited to, base salary increases, pay increases to bring one group of employees into a pay equity position with another group of public employees, and recruitment and retention differentials, be budgeted and considered on a comprehensive, statewide basis. Therefore, the Legislature declares its intent to reject any proposed augmentations that are not included in Items 9800-001-0001, 9800-001-0494, and 9800-001-0988, given that these are the items where the funds to implement comprehensive statewide compensation policies, including those adopted pursuant to collective bargaining, are considered. This provision shall not apply to augmentations for increased employee compensation costs resulting from mandatory judicial orders to raise pay for any group of employees or augmentations for increased compensation costs, or approvals for departments to provide increased employee compensation levels, that are included in bills separate from the Budget Act.

5. This item contains funds estimated to be necessary to implement side letters, appendices, or other addenda to a memorandum of understanding (collectively referred to as “pending agreements”) that have been determined by the Joint Legislative Budget Committee to require legislative approval prior to their implementation, but which may not have been approved in separate legislation as of the date of the passage of this act. In the event that the Legislature does not approve separate legislation to authorize implementation of any of the pending agreements, the Director of Finance shall not allocate any funds related to those pending agreements pursuant to Provision 2, and the expenditure of funds for those pending agreements shall not be deemed to have been approved by the Legislature.

6. As of July 31, 2017, the unencumbered balances of the above appropriation shall no longer be available for expenditure.
7. The Director of Finance may adjust this item of appropriation to reflect the health benefit premiums approved by the Board of Administration of the Public Employees’ Retirement System or dental benefit premiums approved by the Department of Human Resources for the 2017 calendar year. Within 30 days of making any adjustment pursuant to this provision, the Director of Finance shall report the adjustment in writing to the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the committees in each house of the Legislature that consider appropriations.

8. Notwithstanding Sections 3517.6 and 3517.63 of the Government Code, the Department of Finance shall provide written notification to the Joint Legislative Budget Committee regarding any expenditure of funds resulting from any side letter, appendix, or other addendum to a properly ratified memorandum of understanding.

9. Notice provided pursuant to Provision 8 shall include a copy of the side letter, appendix, or other addendum (collectively addendum) and a fiscal summary of any expenditure of funds resulting from the agreement in the 2016–17 fiscal year and future fiscal years. The notice shall indicate whether the Department of Finance determines that an agreement does or does not require legislative action to ratify the addendum before implementation, pursuant to subdivision (a), (b), or (c) of this provision.

(a) An addendum to a properly ratified memorandum of understanding may be implemented without legislative action not less than 30 calendar days after notice has been provided to the Joint Legislative Budget Committee, or not sooner than whatever lesser time after that notification the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may in each instance determine, if all of the following apply:

(1) The agreement results in total net costs of less than $1,000,000 (all funds) during the 2016–17 fiscal year.

(2) Any cost resulting from the agreement can be absorbed within the 2016–17 fiscal year appropriation authority of impacted departments.

(3) The addendum does not present substantial additions that are reasonably outside the pa-
rameters of the original memorandum of un-
derstanding.

(b) An addendum to a properly ratified memorandum
of understanding that results in any expenditure
of funds may be implemented not less than 30
calendar days after notice has been provided to
the Joint Legislative Budget Committee, or not
sooner than whatever lesser time after that notifi-
cation the Chairperson of the Joint Legislative
Budget Committee, or his or her designee, may
in each instance determine, if, during the legisla-
tive consideration of the 2016–17 Governor’s
Budget, the Department of Finance identified to
the Legislature both of the following:

(1) The administration anticipated that the adden-
dum would be signed during the 2016–17
fiscal year.

(2) Any costs resulting from the addendum are
included in the 2016–17 Governor’s Budget
or another piece of legislation.

(c) An addendum to a properly ratified memorandum
of understanding that results in any expenditure
of funds requires legislative action before imple-
mentation if any of the following apply:

(1) The agreement results in total net costs
greater than $1,000,000 (all funds) during
the 2016–17 fiscal year.

(2) The agreement results in costs that cannot be
absorbed within the 2016–17 fiscal year ap-
propriation authority of impacted depart-
ments.

(3) The addendum presents substantial additions
that are not reasonably within the parameters
of the original memorandum of understand-
ing.

10. Notwithstanding Sections 3517.6 and 3517.63 of the
Government Code, any addendum to a properly ratified
memorandum of understanding that is implemented
in the 2016–17 fiscal year, pursuant to subdivision (a)
of Provision 9, and requires the expenditure of funds
beyond the 2016–17 fiscal year that was not approved
as part of the Budget Act of 2016, shall be approved
by the Legislature as part of the Budget Act of 2017
or through another piece of legislation.

11. The Department of Human Resources shall promptly
post on its public Internet Web site all addenda. Each
addendum shall be posted in its entirety, including any
SEC. 8. Section 39.00 of the Budget Act of 2016, as amended by Section 4 of Chapter 2 of the Statutes of 2017, is amended to read:

SEC. 39.00. The Legislature hereby finds and declares that the following bills are other bills providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution: AB 1600, AB 1601, AB 1602, AB 1603, AB 1604, AB 1605, AB 1606, AB 1607, AB 1608, AB 1609, AB 1610, AB 1611, AB 1612, AB 1614, AB 1615, AB 1616, AB 1617, AB 1618, AB 1619, AB 1620, AB 1621, AB 1624, AB 1625, AB 1626, AB 1627, AB 1628, AB 1629, AB 1630, AB 1632, AB 1633, AB 1634, AB 1635, AB 1636, SB 828, SB 829, SB 831, SB 832, SB 833, SB 834, SB 835, SB 836, SB 837, SB 838, SB 839, SB 840, SB 841, SB 842, SB 843, SB 844, SB 845, SB 846, SB 847, SB 848, SB 849, SB 850, SB 851, SB 852, SB 854, SB 855, SB 856, SB 857, SB 858, SB 859, SB 860, SB 861, SB 862, SB 863, SB 864, and SB 865 of the 2015–16 Regular Session and AB 48, SB 28, SB 48, SB 49, SB 50, SB 51, SB 127, SB 128, SB 129, SB 130, and SB 131 of the 2017–18 Regular Session.

SEC. 9. This act shall become operative only if Senate Bill 496 of the 2017–18 Regular Session is enacted and becomes operative.

SEC. 10. This act is a Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution and shall take effect immediately.
(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 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 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.


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

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

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

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

(2) Notwithstanding paragraph (1), a person shall be entitled to a hearing pursuant to this chapter if he or she files the request more than 90 days after the order or action complained of and there is good cause for filing the request beyond the 90-day period. The director may determine whether good cause exists.
(b) (1) Notwithstanding subdivision (a), a person may request a hearing pursuant to this chapter involving a Medi-Cal managed care plan within 120 calendar days after the order or action complained of.

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

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

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

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

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

Article 6.3. Medi-Cal Managed Care Plans

14197. (a) It is the intent of the Legislature that the department implement the time and distance requirements set forth in 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.

(b) The department, in consultation with the Department of Managed Health Care, shall develop all of the following:
(1) Time and distance standards for the following provider types, as specified in Section 438.68(b)(1) of Title 42 of the Code of Federal Regulations, to ensure that medically necessary covered services are accessible to enrollees of Medi-Cal managed care plans.

(A) Primary care, adult and pediatric.

(B) Obstetrics and gynecology.

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

(D) Specialist, adult and pediatric.

(E) Hospital.

(F) Pharmacy.

(G) Pediatric dental.

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

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

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

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

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

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

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

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

(d) In developing the time and distance standards, if the department elects a county standard for time and distance, the department shall categorize counties into at least five or more
(e) The department may have varying standards for the same provider type based on geographic areas, subject to the requirements of this section.

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

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

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

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

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

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

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

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

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

(E) Article 2.91 (commencing with Section 14089).
(F) Chapter 8 (commencing with Section 14200), including dental managed care plans.

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

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

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

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

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

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

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

(1) “Medical loss ratio (MLR) reporting year” shall have the same meaning as that term is defined in Section 438.8 of Title 42 of the Code of Federal Regulations.
"Medi-Cal managed care plan" means any individual, organization, or entity that enters into a contract with the department to provide services to enrolled Medi-Cal beneficiaries pursuant to any of the following:
(i) Article 2.7 (commencing with Section 14087.3).
(ii) Article 2.8 (commencing with Section 14087.5).
(iii) Article 2.81 (commencing with Section 14087.96).
(iv) Article 2.9 (commencing with Section 14088).
(v) Article 2.91 (commencing with Section 14089).
(vi) Article 1 (commencing with Section 14200) of Chapter 8.
(vii) Article 7 (commencing with Section 14490) of Chapter 8.

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

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

(1) Designated public hospitals systems play an essential role in the Medi-Cal program, providing high-quality care to a disproportionate number of low-income Medi-Cal and uninsured populations in the state. Because Medi-Cal covers approximately one-third of the state’s population, the strength of these essential public health care systems is of critical importance to the health and welfare of the people of California.
(2) Designated public hospital systems provide comprehensive health care services to low-income patients and life-saving trauma, burn, and disaster-response services for entire communities, and train the next generation of doctors and other health care
professionals, such as nurses and paramedical professionals, who
are critical to new team-based care models that achieve more
efficient and patient-centered care.
(3) The Legislature intends to continue to provide levels of
support for designated public hospital systems in light of their
reliance on Medi-Cal funding to provide quality care to everyone,
regardless of insurance status, ability to pay, or other circumstance,
the significant proportion of Medi-Cal services provided under
managed care by these public hospital systems, and new federal
requirements related to Medicaid managed care.
(4) It is the intent of the Legislature that Medi-Cal managed
care plans and designated public hospital systems shall in good
faith negotiate for, and implement, contract rates, the provision
and arrangement of services and member assignment that are
sufficient to ensure continued participation by designated public
hospital systems and to maintain access to services for Medi-Cal
managed care beneficiaries and other low-income patients.
(b) Commencing with the 2017–18 state fiscal year, and for
each state fiscal year thereafter, and notwithstanding any other
law, the department shall require each Medi-Cal managed care
plan to enhance contract services payments to the designated public
hospital systems by a uniform percentage as described in this
subdivision.
(1) The applicable percentage for purposes of the directed
payments shall be uniformly applied across all of the following
classes of designated public hospital systems:
(A) Designated public hospital systems owned and operated by
the University of California.
(B) Designated public hospital systems not identified in
subparagraph (A) that include a designated public hospital with a
level 1 or level 2 trauma designation.
(C) Designated public hospital systems not identified in
subparagraph (A) or (B).
(2) The department, in consultation with the designated public
hospital systems, shall annually determine the applicable uniform
percentages for each class identified in paragraph (1) and the
classification of each designated public hospital system. Once the
department determines the classification for each designated public
hospital system for a particular state fiscal year, that classification
shall not be eligible to change until no sooner than the subsequent
state fiscal year. To the extent necessary to meet the objectives identified in subdivisions (a) and (d) or to comply with federal requirements, the department may, in consultation with the designated public hospital systems, adjust or modify the applicable percentages or the classifications. The department shall consult with the designated public hospital systems and each affected Medi-Cal managed care plan with regard to the implementation of the directed payment requirements once these payment levels have been established.

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

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

(A) A Medi-Cal managed care plan and the designated public hospital systems shall determine the manner, timing, and amount of payment for contracted contract services, including through fee-for-service, capitation, or other permissible manner. The rates of payment for contracted contract services agreed upon by the Medi-Cal managed care plan and the designated public hospital system shall be established and documented without regard to the directed payments and quality incentive payments required by this section.

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

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

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

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

(5) Each year, a Medi-Cal managed care plan shall provide to
the department, at the times and in the form and manner specified
by the department, an accounting of amounts paid or payable to
the designated public hospital systems it contracts with, including
both contracted contract rates and the directed payments, to
demonstrate compliance with this subdivision. To the extent the
department determines, in its sole discretion, that a Medi-Cal
managed care plan is not in compliance with the requirements of
this subdivision, or is otherwise circumventing the purposes
thereof, to the material detriment of an applicable designated public
hospital system, and, independent of any remedy available to the
designated public hospital system, the department may reduce the
default assignment into the Medi-Cal managed care plan with respect to all Medi-Cal managed care beneficiaries by up to 25 percent, so long as the other Medi-Cal managed care plan or Medi-Cal managed care plans in the applicable county have the capacity to receive the additional default membership. The department’s determination, whether to exercise discretion under this paragraph, shall not be subject to judicial review. Nothing in this paragraph shall be construed to preclude or otherwise limit the right of any designated public hospital system to pursue a breach of contract action in connection with the requirements of this subdivision.

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

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

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

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

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

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

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

(A) This amount shall be paid to the designated public hospital
system by each of its contracted Medi-Cal managed care plans. If a designated public hospital system contracts with multiple
Medi-Cal managed care plans, the department shall identify each
Medi-Cal managed care plan’s proportionate amount of the
designated public hospital system’s payment. The timing and
amount of the distributions and any related reporting requirements
for interim payments shall be established and agreed to by the
designated public hospital system and each of the applicable
Medi-Cal managed care plans.

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

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

(4) Nothing in this subdivision shall be construed to replace or
otherwise prevent the continuation of prior quality incentive or
pay-for-performance payment mechanisms or the establishment
of new payment programs by any Medi-Cal managed care plan
and their contracted designated public hospital systems.
(5) The department shall provide appropriate funding to each Medi-Cal managed care plan, to account for and to enable them to make the quality incentive payments described in this subdivision, through the incorporation into actuarially sound capitation rates or any other federally permissible method. The amounts designated by the department for the quality incentive payments made pursuant to this subdivision shall be reserved for the purposes of the performance-based quality incentive payment program.

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

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

(f) (1) The nonfederal share of the portion of the capitation rates specifically associated with directed payments to designated public hospital systems required under subdivision (b) and for the quality incentive payments established pursuant to subdivision (c) may consist of voluntary intergovernmental transfers of funds provided by designated public hospitals and their affiliated governmental entities, or other public entities, pursuant to Section 14164. Upon providing any intergovernmental transfer of funds, each transferring entity shall certify that the transferred funds qualify for federal financial participation pursuant to applicable federal Medicaid laws, and in the form and manner specified by the department. Any intergovernmental transfer of funds made
pursuant to this section shall be considered voluntary for purposes of all federal laws. Notwithstanding any other law, the department shall not assess the fee described in subdivision (d) of Section 14301.4 or any other similar fee.

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

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

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

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

(2) The department shall consult with the designated public hospital systems with regard to the development and implementation of the directed payment levels and the quality incentive payments established pursuant to this section.

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

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

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

1. “Contract services payments” means the amount paid or payable to a designated public hospital system, including amounts paid or payable under fee-for-service, capitation, prior to any adjustments for service payment withholds or deductions, or other basis, under a contract with a Medi-Cal managed care plan for services, drugs, supplies or other items provided to a Medi-Cal beneficiary enrolled in the Medi-Cal managed care plan. Contract services includes all services, drugs, supplies, or other items the designated public hospital system provides, or is responsible for providing, or arranging or paying for, pursuant to a contract entered into with a Medi-Cal managed care plan. In the event a Medi-Cal managed care plan subcontracts or otherwise delegates responsibility to a separate entity for either or both the arrangement or payment of services, “contract services payments” also include amounts paid or payable for the services provided by, or otherwise the responsibility of, the designated public hospital system that are within the scope of services of the subcontracted or delegated arrangement so long as the designated public hospital system holds a contract with the primary Medi-Cal managed care plan.

2. “Designated public hospital” shall have the same meaning as set forth in subdivision (f) of Section 14184.10.

3. “Designated public hospital system” means a designated public hospital and its affiliated government entity clinics,
practices, and other health care providers, including the respective
affiliated hospital authority and county government entities
described in Chapter 5 (commencing with Section 101850) and
Chapter 5.5 (commencing with Section 101852), of Part 4 of
Division 101 of the Health and Safety Code.
(4) (A) “Medi-Cal managed care plan” means an applicable
organization or entity that enters into a contract with the department
pursuant to any of the following:
(i) Article 2.7 (commencing with Section 14087.3).
(ii) Article 2.8 (commencing with Section 14087.5).
(iii) Article 2.81 (commencing with Section 14087.96).
(iv) Article 2.91 (commencing with Section 14089).
(v) Chapter 8 (commencing with Section 14200).
(B) “Medi-Cal managed care plan” does not include any of the
following:
(i) A mental health plan contracting to provide mental health
care for Medi-Cal beneficiaries pursuant to Chapter 8.9
(commencing with Section 14700).
(ii) A plan not covering inpatient services, such as primary care
management plans, operating pursuant to Section 14088.85.
(iii) A Program of All-Inclusive Care for the Elderly
organization operating pursuant to Chapter 8.75 (commencing
with Section 14591).
An act to amend Sections 5090.10, 5090.11, 5090.15, 5090.24, 5090.30, 5090.31, 5090.32, 5090.34, 5090.35, 5090.43, 5090.60, 5090.61, and 5090.70 of, and to add Sections 5090.13, 5090.14, and 5090.39 to, the Public Resources Code, and to amend Section 8352.6 of the Revenue and Taxation Code, and to amend Section 38225 of the Vehicle Code, relating to state parks, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL’S DIGEST

SB 249, as amended, Allen. Off-highway motor vehicle recreation. (1) The Off-Highway Motor Vehicle Recreation Act of 2003 creates the Division of Off-Highway Motor Vehicle Recreation within the Department of Parks and Recreation. The act gives the division certain duties and responsibilities, including the planning, acquisition, development, conservation, and restoration of lands in state vehicular recreation areas. Existing law requires the division to develop and implement a grant and cooperative agreement program with other agencies funded from no more than \( \frac{1}{2} \) of the revenues in the Off-Highway Vehicle Trust Fund, with specified percentages of these revenues to be available, upon appropriation, for various purposes related to off-highway vehicles. Existing law requires the remaining revenues in the Off-Highway Vehicle Trust Fund to be available for the support of the division and for the planning, acquisition, development, construction, maintenance, administration, operation,
restoration, and conservation of lands in state vehicular recreation areas and certain other areas. The act is repealed on January 1, 2018.

This bill would revise and recast various provisions of the act. The bill would expand the duties of the division by requiring it to, among other things, (1) prepare and submit program and strategic planning reports to the department and the Natural Resources Agency regarding units of the state park system, as specified, (2) post on the department’s Internet Web site all plans, reports, and studies developed pursuant to the act’s provisions, as specified, (3) in consultation with specified bodies and departments, update the 2008 Soil Conservation Standard and Guidelines to establish a generic and measurable soil conservation standard by December 31, 2020, and review and, as appropriate, update that standard every 5 years thereafter, (4) implement a monitoring program, as defined, to monitor and evaluate the condition of soils, wildlife, and vegetation habitats in each state vehicular recreation area each year, as specified, and (5) identify and protect sensitive natural, cultural, and archaeological resources within state vehicular recreation areas as natural and cultural preserves closed to off-highway vehicle recreation use. The bill would require the division to take other specified measures to protect natural and cultural preserves within state vehicular recreation areas, including measures to mitigate harmful impacts to these areas and to protect them from off-highway vehicle recreation use, as specified. The bill would require the Director of Parks and Recreation to assemble a science advisory team to advise and assist the department and the division in meeting the natural and cultural resource conservation purposes of the act, as specified. The bill would also prohibit any expansion of an existing, or development of any new, state vehicular recreation area or allocation of grant program funds for new or expanded units of the system until the science advisory team completes its review and submits its recommendations to the department, and the department implements the recommendations. The bill would establish specified procedures for the review of the protocols and practices, no later than July 1, 2019, to ensure certain requirements relating to the management of state vehicular recreation areas and other areas of the system are met. The bill would establish specified procedures for the review of the protocols and practices by the department and would, by July 1, 2020, require the department to determine whether they meet the requirements of the act and to modify any aspects that are inadequate. The bill would change the repeal date for the act to January 1, 2023, thereby extending the act’s provisions until that date.
(2) Existing law, until January 1, 2018, creates the Off Highway Vehicle Trust Fund. Existing law provides for deposit of various revenues in the fund, including a portion of gasoline excise tax revenues attributable to off-highway vehicle use and $33 in annual special charges imposed, until January 1, 2018, on off-highway motor vehicles subject to identification, which charges are collected by the Department of Motor Vehicles. Existing law, until January 1, 2018, requires the moneys in the trust fund to be used for the Off Highway Motor Vehicle Recreation Program. Existing law, until January 1, 2018, also requires an annual service fee of $7 to be paid to the Department of Motor Vehicles for deposit in the Motor Vehicle Account for the issuance or renewal of identification of off-highway motor vehicles.

This bill would extend the Off Highway Vehicle Trust Fund until January 1, 2023, and would also similarly extend the $33 annual special charge and the $7 identification fee.

(3) Existing law requires any money temporarily transferred from the Off Highway Vehicle Trust Fund to the General Fund to be reimbursed, without interest, within 2 fiscal years of the transfer.

This bill would delete this provision.

(4) Existing law imposes an excise tax on gasoline. Existing law requires a portion of the moneys attributable to the excise tax on gasoline related to specified off-highway motor vehicles and off-highway vehicle activities to be transferred monthly from the Motor Vehicle Fuel Account to the Off-Highway Vehicle Trust Fund and, commencing November 1, 2017, requires the portion of those moneys from a $0.12 per gallon increase, and future inflation adjustments from that increase, to be transferred to the State Parks and Recreation Fund, to be used for state parks, off-highway vehicle programs, or boating programs. Existing law requires the amount of money transferred to be based upon the percentage of total fuel tax revenues transferred for this purpose in the 2006–07 fiscal year, but authorizes the Department of Transportation, in cooperation with the Department of Parks and Recreation and the Department of Motor Vehicles, to adjust the amount transferred every 5 years, beginning in the 2013–14 fiscal year. Existing law specifies the factors to be considered in making an adjustment from the 2006–07 fiscal year baseline, including the number of off-highway vehicles paying identification fees, the number of registered street-legal vehicles anticipated to be used off highway, attendance at state vehicular recreation areas, and off-highway recreation use on federal lands.
This bill would revise the method of calculating the gasoline excise taxes attributable to off-highway vehicle use. The bill would require an estimate to be made every 5 years of gasoline excise tax revenue paid by motor vehicles when actually used off highway for motorized recreation and by motor vehicles when actually used off highway to access nonmotorized recreation. The bill would delete the use of factors based on vehicle populations and attendance at state vehicular recreation areas. The bill would delete the reference to the 2006–07 fiscal year baseline.

This bill would initially require all of these fuel taxes to be transferred to the State Parks and Recreation Fund. The bill would require the Director of the Department of Parks and Recreation, in consultation with the State Park and Recreation Commission, to include, in the annual budget submitted by the Governor to the Legislature, a proposed allocation of fuel taxes for the purposes of the department, including support for state parks and the Off-Highway Motor Vehicle Recreation Program. The bill, upon enactment of the Budget Act, would require the portion of fuel tax revenues allocated by the Budget Act for purposes of the Off-Highway Motor Vehicle Recreation Program to be transferred to the Off-Highway Vehicle Trust Fund. The bill would make statements of legislative intent in this regard.

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


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

SECTION 1. Section 5090.10 of the Public Resources Code is amended to read:

5090.10. “Conservation” and “conserve” mean activities, practices, and programs that protect and sustain soils, plants, wildlife, habitats, and cultural resources in accordance with the standards adopted pursuant to Section 5090.35.

SEC. 2. Section 5090.11 of the Public Resources Code is amended to read:

5090.11. “Restoration” and “restore” mean, upon closure of the unit or any portion thereof, the restoration of land to the contours, the plant communities, and the plant covers comparable
to those on surrounding lands or at least those that existed prior to
off-highway motor vehicle use.

SEC. 3. Section 5090.13 is added to the Public Resources Code, to read:

5090.13. “Monitoring program” means a program adopted by
the department that provides periodic evaluations of monitoring
results to assess the adequacy of conservation and restoration
actions to inform adaptive management strategies. A monitoring
program includes, but is not limited to, all of the following at each
individual system unit:

(a) Surveys to determine the status of natural and cultural
resources.
(b) Periodic assessments of the effectiveness of protection and
restoration measures currently in place.
(c) Progress reports on the implementation of conservation and
restoration measures, the designation and management of cultural
and natural preserves, and alternative management strategies.
(d) A schedule for conducting monitoring activities.

SEC. 4. Section 5090.14 is added to the Public Resources Code, to read:

5090.14. “Adaptive management” means to use the results of
information gathered through a monitoring program or scientific
research and regulatory standards to adjust management strategies
and practices at individual system units to ensure conservation and
protection of natural and cultural resources.

SEC. 5. Section 5090.15 of the Public Resources Code is
amended to read:

5090.15. (a) There is in the department the Off-Highway Motor
Vehicle Recreation Commission, consisting of nine members, five
of whom shall be appointed by the Governor and subject to Senate
confirmation, two of whom shall be appointed by the Senate
Committee on Rules, and two of whom shall be appointed by the
Speaker of the Assembly.

(b) Persons appointed to the commission shall have expertise,
or work or volunteer experience, or both, in one or more of the
following areas:

(1) Off-highway vehicle recreation.
(2) Biological or soil sciences.
(3) The legal and practical aspects of rural landownership and
management.
(4) Law enforcement.
(5) Environmental and cultural resource protection or management.
(6) Nonmotorized outdoor recreation.

(c) It is the intent of the Legislature that appointees to the commission represent all of the primary qualifications delineated in paragraphs (1) to (6) of subdivision (b), inclusive, to the extent possible, at all times and that no more than two commissioners may serve under the same qualification at any time.

It is further the intent of the Legislature that the commissioners reflect the geographic diversity of California as well as the diversity of all Californians, including, but not limited to, the special needs of Californians who participate in off-highway vehicular recreation pursuant to this chapter.

SEC. 6. Section 5090.24 of the Public Resources Code is amended to read:

5090.24. The commission has the following duties and responsibilities:
(a) Be fully informed regarding all governmental activities affecting the program.
(b) Meet periodically at least four times per year at various locations throughout the state to receive comments on the implementation of the program. Establish an annual calendar of proposed meetings at the beginning of each calendar year. The meetings shall include a public meeting, before the beginning of each grant program cycle, to collect public input concerning the program, recommendations for program improvements, and specific project needs for the system.
(c) Receive public comment regarding any proposed substantial acquisition or development project at a location in close geographic proximity to the project, unless a hearing consistent with federal law or regulation has already been held regarding the project.
(d) Consider, upon the request of any owner or tenant, whose property is in the vicinity of any land in the system, any adverse impacts occurring on that person’s property from the operation of off-highway motor vehicles and recommend to the division suitable measures for the prevention of any adverse impact determined by the commission to be occurring, and suitable measures for the restoration of adversely impacted property.
(e) Review and comment annually to the director on the proposed budget of expenditures from the fund.

(f) Review and comment on all plans for new and expanded local and regional vehicle recreation areas that have applied for grant funds.

(g) Review and comment on strategic plans periodically developed by the division.

(h) Prepare and submit a program report to the Governor, the Assembly Committee on Water, Parks, and Wildlife, the Senate Committee on Natural Resources and Water, and the Committee on Appropriations of each house of the Legislature on or before January 1, 2022. The report shall be adopted by the commission after discussing the contents during two or more public meetings. One of the public meetings shall be held in northern California and one shall be held in southern California. The report shall address the status of the program and off-highway motor vehicle recreation, including all of the following:

1. A summary of the process and protocols developed pursuant to subdivision (a) of Section 5090.39.

2. The condition of natural and cultural resources of areas and trails receiving state off-highway motor vehicle funds and the resolution of conflicts of use in those areas and trails.

3. The status and accomplishments of funds appropriated for restoration pursuant to paragraph (2) of subdivision (b) of Section 5090.50.

4. A summary of resource monitoring data compiled and restoration work completed.

5. Actions taken by the division and department since the last program report to discourage and decrease trespass of off-highway motor vehicles on private property.

6. Other relevant program-related environmental issues that have arisen since the last program report.

(i) Make other recommendations to the deputy director regarding the off-highway motor vehicle recreation program.

SEC. 7. Section 5090.30 of the Public Resources Code is amended to read:

5090.30. There is in the department the Division of Off-Highway Motor Vehicle Recreation. Whenever any reference
is made to the Office of Off-Highway Motor Vehicle Recreation, it shall be deemed to be a reference to, and to mean, the division.

SEC. 8. Section 5090.31 of the Public Resources Code is amended to read:

5090.31. The division shall be under the direction of a deputy director appointed by the director. The deputy director shall be part of the department’s management team.

SEC. 9. Section 5090.32 of the Public Resources Code is amended to read:

5090.32. Under the general direction of the director, the division has the following duties and responsibilities:
(a) Planning, acquisition, development, conservation, and restoration of lands in the state vehicular recreation areas.
(b) Direct management, maintenance, administration, and operation of lands in the state vehicular recreation areas.
(c) Provide for law enforcement and appropriate public safety activities.
(d) Implementation of all aspects of the program.
(e) Ensure program compliance with the California Environmental Quality Act (Division 13 (commencing with Section 21000)) in state vehicular recreation areas.
(f) Provide staff assistance to the commission.
(g) Prepare, implement, and periodically update plans for lands in, or proposed to be included in, state vehicular recreation areas, including new state vehicular recreation areas. However, a plan need not be prepared or updated in any instance specified in subdivision (c) of Section 5002.2, except for 5002.2. For purposes of subdivision (c) of Section 5002.2 and this subdivision, unauthorized or otherwise unintended off-highway trails that were not created for the purpose of emergency repair or restoration work authorized by the division, or expansion areas, which areas shall not be considered an existing facility or use under this section.
(h) Conduct, or cause to be conducted, surveys, and prepare, or cause to be prepared, studies that are necessary or desirable for implementing the program.
(i) Recruit and utilize volunteers to further the objectives of the program.
(j) Prepare and coordinate safety and education programs.
(k) Provide for the enforcement of Division 16.5 (commencing with Section 38000) of the Vehicle Code and other laws regulating the use or equipment of off-highway motor vehicles in all areas acquired, maintained, or operated by funds from the fund; however, the Department of the California Highway Patrol shall have responsibility for enforcement on highways.

(l) Ensure protection of natural and cultural resources, including by setting unit capacity limits pursuant to Sections 5001.96 and 5019.5.

(m) Prepare and submit program and strategic planning reports, reports to the department and the Natural Resources Agency, including annually reporting the number and type of injuries and accidents and the number and type of citations and other enforcement actions taken at system units, disaggregated by individual unit.

(n) Post on the department’s Internet Web site all plans, reports, and studies developed pursuant to this chapter, including those regarding conservation, restoration, monitoring, and adaptive management of system units, disaggregated by individual unit.

(o) Report on any closure implemented pursuant to Section 5090.35 at the next commission meeting following the closure.

(p) Complete other duties as determined by the director.

SEC. 10. Section 5090.34 of the Public Resources Code is amended to read:

5090.34. (a) In cooperation with the commission, the division shall make available on the division’s Internet Web site information regarding off-highway motor vehicle recreation opportunities, pertinent laws and regulations, and responsible use of the system. At a minimum, the Internet Web site shall include the following:

(1) The text of laws and regulations relating to the program and operation of off-highway vehicles.

(2) A statewide map and regional maps of federal, state, and local off-highway vehicle recreation areas and facilities in the state, including links to maps of federal off-highway vehicle routes resulting from the route designation process.

(3) Information concerning safety, education, and trail etiquette.

(4) Information to prevent trespass, damage to public and private property, and damage to natural resources, including penalties and liability associated with trespass and damage caused.
The division shall create, and make available for distribution, an updated guidebook of federal, state, and local off-highway vehicle recreation opportunities that includes contact information where current specific maps and information for each facility can be located. Contact information may be provided and shall include available Internet Web site addresses, telephone numbers, and addresses of offices where maps can be accessed. The guidebook shall also include the address of the Internet Web site where the information in subdivision (a) may be found. The division may publish the guidebook when funds are provided in the annual budget process.

SEC. 11. Section 5090.35 of the Public Resources Code is amended to read:

5090.35. (a) The protection of public safety, the appropriate utilization of lands, and the conservation of natural and cultural resources are of the highest priority in the management of the state vehicular recreation areas, areas and other areas in the system, as defined in Section 5090.09. Accordingly, the division shall promptly repair and continuously maintain areas and trails, anticipate and prevent erosion and other impacts, and restore lands damaged by erosion and other impacts. The division shall take steps necessary to prevent damage to natural and cultural resources in these areas. When damage occurs in any portion of a state vehicular recreation area that is inconsistent with natural and cultural resources protection plans, plans or this section, the division shall promptly close the area. That area shall undertake protective and restoration measures which may include closure. Any area or portion of an area that is closed shall remain closed until it is repaired and restored and effective adaptive management measures are implemented to prevent repeated or continuous damage. The area shall be permanently closed if repeated or continuous damage cannot be prevented.

(b) (1) The division, in consultation with the United States Natural Resource Conservation Service, the United States Geological Survey, the United States Forest Service, the United States Bureau of Land Management, the United States Fish and Wildlife Service, the California Department of Fish and Wildlife, and the California Department of Conservation shall update the 2008 Soil Conservation Standard and Guidelines and Standards to establish a generic and measurable soil conservation...
conservation standard by December 31, 2020, and shall review and, as appropriate, update the standard at least every five years thereafter.

(2) If the division determines that the soil conservation standards and habitat protection plans are not being met in any portion of any state vehicular recreation area, the division shall temporarily close and restore the noncompliant portion to repair and prevent erosion, until the soil conservation standards are met pursuant to subdivision (a).

(3) If the division determines that the soil conservation standards cannot be met in any portion of any state vehicular recreation area, the division shall permanently close and restore the noncompliant portion pursuant to subdivision (a). Section 5090.11.

(4) (1) By December 31, 2020, the division shall compile, and update at least every five years thereafter, an inventory of wildlife and native plant populations, including wildlife habitats and vegetation communities in each state vehicular recreation area and shall prepare a wildlife habitat protection plan to conserve a viable species composition specific to each state vehicular recreation area consistent with recommendations of the science advisory team established pursuant to Section 5090.39.

(2) If the division determines that the wildlife habitat protection plan is not being met in any portion of any state vehicular recreation area, the division shall close—and restore the noncompliant portion temporarily until the wildlife habitat protection plan is met pursuant to subdivision (a).

(3) If the division determines that the wildlife habitat protection plan cannot be met in any portion of any state vehicular recreation area, the division shall—permanently close and restore the noncompliant portion pursuant to subdivision (a). Section 5090.11.

(d) The division shall implement a monitoring program to monitor evaluate the condition of soils, wildlife, and vegetation habitats in each state vehicular recreation area each year in order to determine whether the soil conservation standards and wildlife habitat protection plans are being met.

(e) The division shall not fund trail construction unless the trail is capable of complying with the conservation specifications prescribed in subdivisions (b) and (c) this section. The division shall not fund trail construction where conservation is not feasible.
(f) The division shall identify and protect sensitive natural, cultural, and archaeological resources within the state vehicular recreation areas as natural and cultural preserves closed to off-highway vehicle recreation use: areas.

SEC. 12. Section 5090.39 is added to the Public Resources Code, to read:

5090.39. (a) The director shall assemble a science advisory team to advise and assist the department and the division in meeting the natural and cultural resource conservation purposes of this chapter. At the request of the director, the science advisory team shall convene to identify, develop, and prioritize pertinent subjects for investigation and review, compile the best readily available and applicable scientific information, and describe the gaps in that information, if any.

(b) The science advisory team shall be composed of the following:

(1) Staff from the department, the Department of Fish and Wildlife, the Department of Conservation, and the State Water Resources Control Board.

(2) Staff from appropriate federal agencies to the extent that they are able to participate.

(3) Five to seven members who are scientists with expertise in soils, geomorphology, natural resource conservation, biology, botany, ecology, historical and cultural resources, or land use management systems. These members should also be familiar with off-highway motor vehicle recreation.

(c) Meetings of the science advisory team shall be open to the public and the public shall be given an opportunity to comment on the work of the team. The team shall consider relevant information from local communities, public agencies, public and nonprofit land management agencies, and other interested parties at its meetings.

(d) Among other subjects, as determined by the science advisory team or the director, the team shall investigate and, using the best available science, make recommendations to the department regarding all of the following:

(1) The soil conservation standards and measures necessary to avoid erosion damage.
(2) Habitat and wildlife assessment protocols appropriate to ensure accurate inventories of natural resources at every individual system unit.

(3) Habitat protection standards necessary for the protection, conservation, and restoration of natural and cultural resources, including sensitive species.

(4) Monitoring, evaluation, and corrective action practices necessary to support necessary adaptive management changes in response to reasonably foreseen events and unforeseen circumstances at individual system units.

(e) The science advisory team shall consider and recommend actions to ensure consistency in the management of system units with other resource protection plans, including, but not limited to, the state wildlife action plan, natural community conservation plans, regional conservation investment strategies, wildlife corridor plans, and other regional land use and resource conservation plans.

(f) The science advisory team shall complete its initial review and submit recommendations to the director by no later than July 1, 2020.

SEC. 12. Section 5090.39 is added to the Public Resources Code, to read:

5090.39. (a) The division shall ensure that its management of state vehicular recreation areas and the management of other areas in the system as defined in Section 5090.09 meet the requirements of this chapter. No later than July 1, 2019, the division shall, through a public process, develop protocols and practices to ensure all of the following:

(1) Soil conservation standards and measures are adequate to minimize erosion damage.

(2) Wildlife and habitat assessment and inventory methodologies incorporate the best available science.

(3) Soil conservation and habitat protection standards are capable of protecting, conserving, and restoring natural and cultural resources, including sensitive species.

(4) Monitoring and evaluation efforts comply with this chapter, and adaptive management practices address reasonable foreseen and unanticipated circumstances that may occur at units of the system.

(5) Management plans and soil conservation and wildlife habitat protection plans are consistent with other relevant resource
protection plans, including, but not limited to, the state wildlife
teraction plans, natural community conservation plans, regional
vestment strategies, wildlife corridor plans, and
other regional land use and resource conservation plans prepared
by a local agency.
(6) The acquisition of land intended for off-highway motor
vehicle use, to the maximum extent feasible, avoids lands on which
motorized recreation would be inconsistent with this chapter.
(b) As part of the public process referenced in subdivision (a),
the division shall conduct at least two public workshops, one in
northern California and one in southern California. Thirty days
prior to the workshop dates, the workshops shall be noticed on
both the department’s and the commission’s Internet Web sites.
(c) Not later than January 1, 2020, the department shall
complete a review of the practices and protocols developed
pursuant to subdivision (a). The director shall solicit and consider
comments and recommendations from the public, scientists with
expertise in related fields of investigation, and others. By July 1,
2020, the director shall either determine in writing that the
protocols and practices are adequate to meet the requirements of
this chapter or the director shall modify any aspects of the
protocols and practices that are inadequate.
(d) The director shall ensure that Section 5090.35 is
implemented consistent with the practices and protocols.
SEC. 13. Section 5090.43 of the Public Resources Code is
amended to read:
5090.43. (a) Lands for state vehicular recreation areas shall
be selected to avoid or minimize impacts to natural or cultural
resources.
5090.43. (b) Lands for state vehicular recreation areas may be
established on lands where there are quality opportunities for
off-highway motor vehicle recreation and shall be managed in
accordance with the requirements of this chapter. Areas may be
developed, managed, and operated for the purpose of providing
appropriate public use of the outdoor recreational opportunities
present while protecting natural and cultural resources.
(b)
(c) All unavoidable impacts to natural or cultural resources in new, expanded, and existing state vehicular recreation areas shall be fully mitigated to a level of insignificance by implementing appropriate mitigation measures, including permanently protecting lands that provide comparable natural and cultural resources and values. Section 21081 does not apply to establishing new, or expanding existing, state vehicular recreation areas. State vehicular recreation areas shall incorporate all mitigation and permit recommendations or requirements of the Department of Fish and Wildlife and Wildlife, the United States Fish and Wildlife Service, and all other responsible or trustee agencies.

(e) The use of funds from the Off-Highway Vehicle Trust Fund or any other source to purchase land for a state vehicular recreation area shall not predetermine that the land is appropriate for off-highway vehicle recreation.

(d) The department shall manage, or collaborate with another public entity or nonprofit organization to manage lands acquired for state vehicular recreation areas that are determined to not be appropriate for off-highway vehicle recreation. These lands shall be managed for park purposes, open space purposes, or conservation purposes. The department may dispose of, consistent with applicable provisions of law, lands acquired for state vehicular recreation areas that are determined to not be appropriate for off-highway vehicle recreation. If lands are sold, any revenue that results from the sale shall be reverted back to the fund originally used to purchase the lands.

(e) After January 1, 1988, no new cultural or natural preserves or state wildernesses shall be established within state vehicular recreation areas. To ensure consistent protection of natural and cultural resources across all state parks, including state vehicular recreation areas, cultural or natural preserves sensitive areas shall be established within state vehicular recreation areas where determined by the division to be necessary to protect natural and cultural resources. These sensitive areas shall be managed by the division in accordance with Sections 5019.71, 5019.65, 5019.71, and 5019.74, which define the purpose and management of natural and cultural preserves. The division shall not create designations, other than sensitive areas, for lands containing natural or cultural values that the division determines need protection.
(e) If off-highway motor vehicle use results in damage to any natural or cultural preserve or values protected therein, or damage within sensitive areas, appropriate measures shall be promptly taken to protect these lands from any further damage, restore damage. These measures shall include restoration of damaged lands, lands and resources and take measures to prevent future damage, including which may include the erection of physical barriers.

SEC. 14. Section 5090.60 of the Public Resources Code is amended to read:

5090.60. The fund consists of deposits from the following sources:

(a) Revenues from fuel taxes transferred from the State Parks and Recreation Fund, pursuant to subdivision (b) of Section 8352.6 of the Revenue and Taxation Code.

(b) Fees paid pursuant to subdivision (b) of Section 38225 of the Vehicle Code.

(c) Unexpended service fees.

(d) Fees and other proceeds collected at state vehicular recreation areas, as provided in subdivision (c) of Section 5010.

(e) Reimbursements.

(f) Revenues and income from any other source required by law to be deposited in the fund.

SEC. 15. Section 5090.61 of the Public Resources Code is amended to read:

5090.61. Moneys in the fund shall be available, upon appropriation by the Legislature, as follows:

(a) An amount, not to exceed 50 percent of the annual revenues to the fund, shall be available for grants and cooperative agreements pursuant to Article 5 (commencing with Section 5090.50).

(b) (1) The remainder of the annual revenues to the fund shall be available for the support of the division in implementing the off-highway motor vehicle recreation program and for the planning, acquisition, development, mitigation, construction, maintenance, administration, operation, restoration, and conservation of lands in the system.

(2) As used in this subdivision, “support of the division” includes functions performed outside of the division by others on behalf of the division, including a prorated share of the
department’s common overhead and other costs incurred on behalf of the division for personnel management and training, accounting, and fiscal analysis, records, purchasing, public information activities, consultation of professional scientists and reclamation experts for the purposes of Section 5090.35, and legal services.

SEC. 16. Section 5090.70 of the Public Resources Code is amended to read:

5090.70. (a) This chapter shall remain in effect only until January 1, 2023, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2023, deletes or extends that date.

(b) No expansion of an existing, or development of any new, state vehicular recreation area or allocation of grant program funds for new or expanded units of the system shall be undertaken or approved until the science advisory team completes its initial review and submits its recommendation to the department, pursuant to Section 5090.39, and the department implements the team’s recommendations.

SEC. 17. Section 8352.6 of the Revenue and Taxation Code is amended to read:

8352.6. (a) (1) Subject to Section 8352.1, and except as otherwise provided in paragraphs (2) and (3), on the first day of every month, there shall be transferred from moneys deposited to the credit of the Motor Vehicle Fuel Account to the State Parks and Recreation Fund created by Section 5010 of the Public Resources Code an amount attributable to taxes imposed upon distributions of motor vehicle fuel used in the operation of motor vehicles off highway and for which a refund has not been claimed.

Transfers made pursuant to this section shall be made prior to transfers pursuant to Section 8352.2.

(2) The revenues attributable to the taxes imposed pursuant to subdivision (b) of Section 7360 and otherwise to be deposited in the State Parks and Recreation Fund pursuant to paragraph (1) shall instead be transferred to the General Fund.

(3) The Controller shall withhold eight hundred thirty-three thousand dollars ($833,000) from the monthly transfer to the State Parks and Recreation Fund pursuant to paragraph (1), and transfer that amount to the General Fund.

(b) The Director of Parks and Recreation, in consultation with the State Park and Recreation Commission, shall include, in the
annual budget to be submitted by the Governor to the Legislature;
a proposed allocation of fuel taxes transferred to the State Parks
and Recreation Fund pursuant to this section for the purposes of
the department, including support for state parks and the
Off-Highway Motor Vehicle Recreation Program established
pursuant to Chapter 1.25 (commencing with Section 5090.01) of
Division 5 of the Public Resources Code. Upon enactment of the
Budget Act, moneys to be allocated pursuant to the budget for the
purposes of the Off-Highway Motor Vehicle Recreation Program
shall be transferred to the Off-Highway Vehicle Trust Fund created
by Section 38225 of the Vehicle Code.
(c) The amount transferred pursuant to subdivision (a) shall be
equal to the motor vehicle fuel tax revenue paid by motor vehicles
when actually used off highway for motorized recreation at units
of the system, as defined in Section 5090.09 of the Public
Resources Code, and by motor vehicles when actually used off
highway to access nonmotorized recreation, whether or not that
recreation is in a unit of the state park system. To calculate the
amount of the transfer, an estimate shall be made every five years
by the Department of Transportation, in cooperation with the
Department of Parks and Recreation and the Department of Motor
Vehicles, of the fuel tax revenues attributable to the following
vehicles solely while in off-highway use:
(1) Vehicles identified with the Department of Motor Vehicles
as off-highway motor vehicles as required by Division 16.5
(commencing with Section 38000) of the Vehicle Code.
(2) Registered street legal vehicles used off highway for
motorized recreation at units of the system, as defined in Section
5090.09 of the Public Resources Code, and registered street legal
vehicles used off highway to access nonmotorized recreation;
including four-wheel drive vehicles, all-wheel drive vehicles, and
dual-sport motorcycles.
(3) Vehicles used off highway for motorized recreation or used
off highway to access nonmotorized recreation on federal lands
as indicated by the United States Forest Service’s National Visitor
Use Monitoring and the United States Bureau of Land
Management’s Recreation Management Information System, to
the extent not otherwise accounted for in paragraph (1) or (2).
(d) It is the intent of the Legislature that transfers from the Motor
Vehicle Fuel Account pursuant to subdivision (a) should reflect
the full range of motorized vehicle use off-highway for both
motorized recreation on any part of the system, as defined in
Section 5090.09 of the Public Resources Code, and motorized
off-highway access to nonmotorized recreation.
(c) It is the intent of the Legislature that the motor vehicle fuel
tax revenues transferred pursuant to paragraph (1) of subdivision
(a) that are associated with off-highway access to nonmotorized
recreation should be used to augment funding available to the state
park system for road improvements pursuant to Section 2107.7 of
the Streets and Highways Code, and to support transportation and
access to the state park system and other appropriate public
recreation areas for underserved populations by, among other
things, implementing a grant program for nonmotorized recreation
and education opportunities.
(f) In the 2014–15 fiscal year, the Department of Transportation,
in consultation with the Department of Parks and Recreation and
the Department of Motor Vehicles, shall undertake a study to
determine the appropriate adjustment to the amount transferred
pursuant to subdivision (c) and to update the estimate of the amount
attributable to taxes imposed upon distributions of motor vehicle
fuel used in the operation of motor vehicles off highway and for
which a refund has not been claimed. The department shall provide
a copy of this study to the Legislature no later than January 1,
2016.
SEC. 18. Section 38225 of the Vehicle Code is amended to
read:
38225. (a) A service fee of seven dollars ($7) shall be paid to
the department for the issuance or renewal of identification of
off-highway motor vehicles subject to identification, except as
expressly exempted under this division.
(b) In addition to the service fee required by subdivision (a), a
special fee of thirty-three dollars ($33) shall be paid at the time of
payment of the service fee for the issuance or renewal of an
identification plate or device.
(c) All fees received by the department pursuant to subdivision
(b) and all day use, overnight use, or annual or biennial use fees
for state vehicular recreation areas received by the Department of
Parks and Recreation shall be deposited in the Off-Highway
Vehicle Trust Fund, which is hereby created. In addition, the
moneys allocated pursuant to subdivision (b) of Section 8352.6 of
the Revenue and Taxation Code for the purposes of the off-highway motor vehicle recreation program in each Budget Act shall be transferred to the fund. There shall be a separate reporting of special fee revenues by vehicle type, including four-wheeled vehicles, all-terrain vehicles, motorcyles, and snowmobiles. All money described in this subdivision shall be deposited in the fund; and, upon appropriation by the Legislature, shall be allocated according to Section 5090.61 of the Public Resources Code.

(d) This section shall remain in effect only until January 1, 2023, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2023, deletes or extends that date. Any unencumbered funds remaining in the Off Highway Vehicle Trust Fund on January 1, 2023, shall be transferred to the General Fund.

SEC. 19. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make necessary changes to funding mechanisms for off-highway vehicle programs and related purposes as quickly as possible, it is necessary that this act take effect immediately.

SEC. 17. Section 8352.6 of the Revenue and Taxation Code is amended to read:

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

(2) (A) Commencing July 1, 2012, the revenues attributable to the taxes imposed pursuant to subdivision (b) of Section 7360 and otherwise to be deposited in the Off-Highway Vehicle Trust State Parks and Recreation Fund pursuant to paragraph (1) shall instead be transferred to the General Fund.
(B) Commencing November 1, 2017, the revenues attributable
to the taxes imposed pursuant to subdivision (c) of Section 7360,
any adjustment pursuant to subdivision (d) of Section 7360, and
Section 7361.2, and otherwise to be deposited in the Off-Highway
Vehicle Trust State Parks and Recreation Fund pursuant to
subdivision (a), shall instead be transferred to the State Parks and
Recreation Fund to be used for state parks, off-highway vehicle
programs, or boating programs.

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

(b) Upon enactment of the Budget Act, moneys to be allocated
pursuant to the budget for the purposes of the Off-Highway Motor
Vehicle Recreation Program established pursuant to Chapter 1.25
(commencing with Section 5090.01) of Division 5 of the Public
Resources Code shall be transferred to the Off-Highway Vehicle
Trust Fund created by Section 38225 of the Vehicle Code. Fuel
taxes transferred to the Off-Highway Vehicle Trust Fund shall be
at least equal to the amount of fuel taxes transferred to the
Off-Highway Vehicle Trust Fund pursuant to this section during
the 2016–17 fiscal year, unless the amount transferred to the State
Parks and Recreation Fund is less than that amount.

(b)

(c) The amount transferred to the Off-Highway Vehicle Trust
Fund pursuant to paragraph (1) of subdivision (a), as a percentage
of the Motor Vehicle Fuel Account, (a) shall be equal to the
percentage transferred in the 2006-07 fiscal year. Every five years,
starting in the 2013–14 fiscal year, the percentage transferred may
be adjusted by the Department of Transportation in cooperation
with the Department of Parks and Recreation and the Department
of Motor Vehicles. Adjustments shall be based on, but not limited
to, the changes in the following factors since the 2006–07 fiscal
year or the last adjustment, whichever is more recent: motor vehicle
fuel tax revenue paid by motor vehicles when actually used off
highway for motorized recreation at units of the system, as defined
in Section 5090.09 of the Public Resources Code, and by motor
vehicles when actually used off highway to access nonmotorized
recreation, whether or not that recreation is in a unit of the state
park system. To calculate the amount of the transfer, an estimate shall be made every five years by the Department of Transportation, in cooperation with the Department of Parks and Recreation and the Department of Motor Vehicles, of the fuel tax revenues attributable to the following vehicles solely while in off-highway use:

(1) The number of vehicles—Vehicles identified with the Department of Motor Vehicles registered as off-highway motor vehicles as required by Division 16.5 (commencing with Section 38000) of the Vehicle Code.

(2) The number of registered street-legal vehicles that are anticipated to be used off highway, highway for motorized recreation at units of the system, as defined in Section 5090.09 of the Public Resources Code, and registered street-legal vehicles used off highway to access nonmotorized recreation, including four-wheel drive vehicles, all-wheel drive vehicles, and dual-sport motorcycles.

(3) Attendance at the state vehicular recreation areas.

(4) Off highway recreation use

(3) Vehicles used off highway for motorized recreation or used off highway to access nonmotorized recreation on federal lands as indicated by the United States Forest Service’s National Visitor Use Monitoring Program and the United States Bureau of Land Management’s Recreation Management Information System, to the extent not otherwise accounted for in paragraph (1) or (2).

(d) It is the intent of the Legislature that transfers from the Motor Vehicle Fuel Account to the Off Highway Vehicle Trust Fund pursuant to subdivision (a) should reflect the full range of motorized vehicle use off highway for both motorized recreation on any part of the system, as defined in Section 5090.09 of the Public Resources Code, and motorized off road off-highway access to other recreation opportunities. Therefore, the Legislature finds that the fuel tax baseline established in subdivision (b), attributable to off-highway estimates of use as of the 2006–07 fiscal year, accounts for the three categories of vehicles that have been found over the years to be users of fuel for off highway motorized recreation or motorized access to nonmotorized recreational pursuits. These three categories are registered off-highway
motorized vehicles, registered street legal motorized vehicles used
off highway, and unregistered off highway motorized vehicles.

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

(e) It is the intent of the Legislature that the motor vehicle fuel
tax revenues transferred pursuant to paragraph (1) of subdivision
(a) that are associated with off-highway access to nonmotorized
recreation should be used to augment funding available to the
state park system for road improvements pursuant to Section
2107.7 of the Streets and Highways Code, compliance with the
Americans with Disability Act of 1990 (Public Law 101-336), and
to support community access to the state park system and other
appropriate public recreation areas, including areas operated by
local, regional or federal agencies, for underserved populations
by, among other things, implementing a grant program for
nonmotorized recreation trails and education opportunities.

(f) In the 2014–15 fiscal year, the Department of Transportation,
in consultation with the Department of Parks and Recreation and
the Department of Motor Vehicles, shall undertake a study to
determine the appropriate adjustment to the amount transferred
pursuant to subdivision (b) (c) and to update the estimate of the
amount attributable to taxes imposed upon distributions of motor
vehicle fuel used in the operation of motor vehicles off highway
and for which a refund has not been claimed. The department shall
provide a copy of this study to the Legislature no later than January
1, 2016.
An act to amend Section 1808.4 of the Vehicle Code, relating to the Department of Motor Vehicles.

LEGISLATIVE COUNSEL’S DIGEST

SB 362, as introduced, Galgiani. Department of Motor Vehicles: records: confidentiality.
(1) Existing law prohibits the disclosure of the home addresses of certain public employees and officials that appear in records of the Department of Motor Vehicles, except to a court, a law enforcement agency, an attorney in a civil or criminal action under certain circumstances, and certain other official entities.

This bill would extend that prohibition, subject to those same exceptions, to the disclosure of the home addresses of investigators employed by the Department of Insurance, code enforcement officers, as defined, and parking control officers, as specified.

(2) 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.

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

SECTION 1. Section 1808.4 of the Vehicle Code is amended to read:

1808.4. (a) For all of the following persons, his or her home address that appears in a record of the department is confidential if the person requests the confidentiality of that information:

1. Attorney General.
2. State Public Defender.
3. Member of the Legislature.
4. Judge or court commissioner.
5. A district attorney.
6. A public defender.
7. An attorney employed by the Department of Justice, the office of the State Public Defender, or a county office of the district attorney or public defender.
8. A city attorney and an attorney who submits verification from his or her public employer that the attorney represents the city in matters that routinely place the attorney in personal contact with persons under investigation for, charged with, or convicted of, committing criminal acts, if that attorney is employed by a city attorney.
10. A child abuse investigator or social worker, working in child protective services within a social services department.
11. An active or retired peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code.
13. A nonsworn employee of a city police department, a county sheriff’s office, the Department of the California Highway Patrol, a federal, state, or local detention facility, or a local juvenile hall, camp, ranch, or home, who submits agency verification that, in the normal course of his or her employment, he or she controls or supervises inmates or is required to have a prisoner in his or her care or custody.
14. A county counsel assigned to child abuse cases.
An investigator employed by the Department of Justice, the Department of Insurance, a county district attorney, or a county public defender.

A member of a city council.

A member of a board of supervisors.

A federal prosecutor, criminal investigator, or National Park Service Ranger working in this state.

An active or retired city enforcement officer engaged in the enforcement of the Vehicle Code or municipal parking ordinances.

An employee of a trial court.

A psychiatric social worker employed by a county.

A police or sheriff department employee designated by the chief of police of the department or the sheriff of the county as being in a sensitive position. A designation pursuant to this paragraph shall, for purposes of this section, remain in effect for three years subject to additional designations that, for purposes of this section, shall remain in effect for additional three-year periods.

A state employee in one of the following classifications:

(A) Licensing-Registration Examiner, Department of Motor Vehicles.

(B) Motor Carrier Specialist I, Department of the California Highway Patrol.

(C) Museum Security Officer and Supervising Museum Security Officer.

(D) Licensing Program Analyst, State Department of Social Services.

(A) The spouse or child of a person listed in paragraphs (1) to (23), inclusive, regardless of the spouse’s or child’s place of residence.

(B) The surviving spouse or child of a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, if the peace officer died in the line of duty.
(C) (i) Subparagraphs (A) and (B) shall not apply if the person listed in those subparagraphs was convicted of a crime and is on active parole or probation.

(ii) For requests made on or after January 1, 2011, the person requesting confidentiality for their spouse or child listed in subparagraph (A) or (B) shall declare, at the time of the request for confidentiality, whether the spouse or child has been convicted of a crime and is on active parole or probation.

(iii) Neither the listed person’s employer nor the department shall be required to verify, or be responsible for verifying, that a person listed in subparagraph (A) or (B) was convicted of a crime and is on active parole or probation.

(D) (i) The department shall discontinue holding a home address confidential pursuant to this subdivision for a person specified in subparagraph (A) or (B) who is the child or spouse of a person described in paragraph (9), (11), (13), or (22) if the child or spouse is convicted of a felony in this state or is convicted of an offense in another jurisdiction that, if committed in California, would be a felony.

(ii) The department shall comply with this subparagraph upon receiving notice of a disqualifying conviction from the agency that employs or formerly employed the parent or spouse of the convicted person, or as soon as the department otherwise becomes aware of the disqualifying conviction.

(b) The confidential home address of a person listed in subdivision (a) shall not be disclosed, except to any of the following:

(1) A court.

(2) A law enforcement agency.

(3) The State Board of Equalization.

(4) An attorney in a civil or criminal action that demonstrates to a court the need for the home address, if the disclosure is made pursuant to a subpoena.

(5) A governmental agency to which, under any provision of law, information is required to be furnished from records maintained by the department.

(c) (1) A record of the department containing a confidential home address shall be open to public inspection, as provided in Section 1808, if the address is completely obliterated or otherwise removed from the record.
Following termination of office or employment, a confidential home address shall be withheld from public inspection for three years, unless the termination is the result of conviction of a criminal offense. If the termination or separation is the result of the filing of a criminal complaint, a confidential home address shall be withheld from public inspection during the time in which the terminated individual may file an appeal from termination, while an appeal from termination is ongoing, and until the appeal process is exhausted, after which confidentiality shall be at the discretion of the employing agency if the termination or separation is upheld. Upon reinstatement to an office or employment, the protections of this section are available.

With respect to a retired peace officer, his or her home address shall be withheld from public inspection permanently upon request of confidentiality at the time the information would otherwise be opened. The home address of the surviving spouse or child listed in subparagraph (B) of paragraph (24) of subdivision (a) shall be withheld from public inspection for three years following the death of the peace officer.

The department shall inform a person who requests a confidential home address what agency the individual whose address was requested is employed by or the court at which the judge or court commissioner presides.

A violation of subdivision (a) by the disclosure of the confidential home address of a peace officer, as specified in paragraph (11) of subdivision (a), a nonsworn employee of the city police department or county sheriff's office, or the spouses or children of these persons, including, but not limited to, the surviving spouse or child listed in subparagraph (B) of paragraph (24) of subdivision (a), that results in bodily injury to the peace officer, employee of the city police department or county sheriff's office, or the spouses or children of these persons is a felony.

SEC. 2. The Legislature finds and declares that Section 1 of this act, which amends Section 1808.4 of the Vehicle Code, imposes a limitation on the public’s right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the

99
Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:
The need to protect the privacy of specified officers from the public disclosure of their home addresses outweighs the interest in public disclosure of that information.
An act to amend Sections 360, 361.5, 366.21, 366.22, and 366.25 of the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL’S DIGEST

Existing law establishes the jurisdiction of the juvenile court, which may adjudge children to be dependents of the court under certain circumstances, including when the child suffered or there is a substantial risk that the child will suffer serious physical harm, or a parent fails to provide the child with adequate food, clothing, shelter, or medical treatment. Existing law establishes the grounds for removal of a dependent child from the custody of his or her parents or guardian, and establishes procedures to determine temporary and permanent placement of a dependent child. Existing law prescribes various hearings, including specified review hearings, and other procedures for these purposes. Whenever a court orders a hearing to terminate parental rights to, or to establish legal guardianship of, a dependent child to be held, existing law requires the court to direct the agency supervising the child and the county adoption agency, or the State Department of Social Services when it is acting as an adoption agency, to prepare an assessment and requires this assessment to include, among other things, a preliminary
assessment of the eligibility and commitment of any identified prospective adoptive parent or legal guardian, as specified.

This bill would authorize this preliminary assessment of a legal guardian to include the development of a plan for a successor guardian in the case of the incapacity or death of the guardian. The bill would authorize the court, in the event of the incapacity or death of an appointed guardian, to appoint an individual identified in the assessment as a successor guardian pursuant to the existing procedures that govern the appointment of a legal guardian.

If the court finds that a child comes within the jurisdiction of the juvenile court and the parent has advised the court that the parent is not interested in family maintenance or reunification services, existing law authorizes the juvenile court to order a legal guardianship, appoint a legal guardian, and issue letters of guardianship, in addition to or in lieu of adjudicating the child a dependent child of the court, if the court determines that a guardianship is in the best interest of the child, provided that the parent and the child agree to the guardianship, as specified. Existing law prohibits the court from appointing a legal guardian until a specified assessment is read and considered by the court.

This bill would authorize the court to consider, at this hearing, any plan for a successor guardian submitted to the court. The bill would authorize the court, in the event of the incapacity or death of an appointed guardian, to appoint an individual identified in the assessment as a successor guardian pursuant to the existing procedures that govern the appointment of a legal guardian.


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

SECTION 1. Section 360 of the Welfare and Institutions Code is amended to read:

360. After receiving and considering the evidence on the proper disposition of the case, the juvenile court may enter judgment as follows:

(a) (1) Notwithstanding any other law, if the court finds that the child is a person described by Section 300 and the parent has advised the court that the parent is not interested in family maintenance or family reunification services, it may, in addition
to or in lieu of adjudicating the child a dependent child of the court, order a legal guardianship, appoint a legal guardian, and issue letters of guardianship, if the court determines that a guardianship is in the best interest of the child, provided the parent and the child agree to the guardianship, unless the child’s age or physical, emotional, or mental condition prevents the child’s meaningful response. The court shall advise the parent and the child that no reunification services will be provided as a result of the establishment of a guardianship. The proceeding for the appointment of a guardian shall be in the juvenile court.

(2) Any application for termination of guardianship shall be filed in juvenile court in a form as may be developed by the Judicial Council pursuant to Section 68511 of the Government Code. Sections 366.4 and 388 shall apply to this order of guardianship.

(3) (A) A person shall not be appointed a legal guardian under this section until an assessment as specified in subdivision (g) of Section 361.5 is read and considered by the court and reflected in the minutes of the court. The court may consider any plan for a successor guardian submitted to the court.

(B) In the event of the incapacity or death of an appointed guardian, the court may appoint an individual identified in the assessment submitted to the court under this paragraph as a successor guardian pursuant to the procedures for the appointment of a legal guardian in Section 366.26.

(4) On and after the date that the director executes a declaration pursuant to Section 11217, if the court appoints an approved relative caregiver as the child’s legal guardian, the child has been in the care of that approved relative for a period of six consecutive months under a voluntary placement agreement, and the child otherwise meets the conditions for federal financial participation, the child shall be eligible for aid under the Kin-GAP Program as provided in Article 4.7 (commencing with Section 11385) of Chapter 2. The nonfederally eligible child placed with an approved relative caregiver who is appointed as the child’s legal guardian shall be eligible for aid under the state-funded Kin-GAP Program, as provided for in Article 4.5 (commencing with Section 11360) of Chapter 2.

(5) The person responsible for preparing the assessment may be called and examined by any party to the guardianship proceeding.
If the court finds that the child is a person described by Section 300, it may, without adjudicating the child a dependent child of the court, order that services be provided to keep the family together and place the child and the child’s parent or guardian under the supervision of the social worker for a time period consistent with Section 301.

If the family subsequently is unable or unwilling to cooperate with the services being provided, the social worker may file a petition with the juvenile court pursuant to Section 332 alleging that a previous petition has been sustained and that disposition pursuant to subdivision (b) has been ineffective in ameliorating the situation requiring the child welfare services. Upon hearing the petition, the court shall order either that the petition shall be dismissed or that a new disposition hearing shall be held pursuant to subdivision (d).

If the court finds that the child is a person described by Section 300, it may order and adjudge the child to be a dependent child of the court.

SEC. 2. Section 361.5 of the Welfare and Institutions Code is amended to read:

361.5. (a) Except as provided in subdivision (b), or when the parent has voluntarily relinquished the child and the relinquishment has been filed with the State Department of Social Services, or upon the establishment of an order of guardianship pursuant to Section 360, or when a court adjudicates a petition under Section 329 to modify the court’s jurisdiction from delinquency jurisdiction to dependency jurisdiction pursuant to subparagraph (A) of paragraph (2) of subdivision (b) of Section 607.2 and the parents or guardian of the ward have had reunification services terminated under the delinquency jurisdiction, whenever a child is removed from a parent’s or guardian’s custody, the juvenile court shall order the social worker to provide child welfare services to the child and the child’s mother and statutorily presumed father or guardians. Upon a finding and declaration of paternity by the juvenile court or proof of a prior declaration of paternity by any court of competent jurisdiction, the juvenile court may order services for the child and the biological father, if the court determines that the services will benefit the child.

(1) Family reunification services, when provided, shall be provided as follows:
(A) Except as otherwise provided in subparagraph (C), for a child who, on the date of initial removal from the physical custody of his or her parent or guardian, was three years of age or older, court-ordered services shall be provided beginning with the dispositional hearing and ending 12 months after the date the child entered foster care as provided in Section 361.49, unless the child is returned to the home of the parent or guardian.

(B) For a child who, on the date of initial removal from the physical custody of his or her parent or guardian, was under three years of age, court-ordered services shall be provided for a period of six months from the dispositional hearing as provided in subdivision (e) of Section 366.21, but no longer than 12 months from the date the child entered foster care, as provided in Section 361.49, unless the child is returned to the home of the parent or guardian.

(C) For the purpose of placing and maintaining a sibling group together in a permanent home should reunification efforts fail, for a child in a sibling group whose members were removed from parental custody at the same time, and in which one member of the sibling group was under three years of age on the date of initial removal from the physical custody of his or her parent or guardian, court-ordered services for some or all of the sibling group may be limited as set forth in subparagraph (B). For the purposes of this paragraph, “a sibling group” shall mean two or more children who are related to each other as full or half siblings.

(2) Any motion to terminate court-ordered reunification services prior to the hearing set pursuant to subdivision (f) of Section 366.21 for a child described by subparagraph (A) of paragraph (1), or prior to the hearing set pursuant to subdivision (e) of Section 366.21 for a child described by subparagraph (B) or (C) of paragraph (1), shall be made pursuant to the requirements set forth in subdivision (c) of Section 388. A motion to terminate court-ordered reunification services shall not be required at the hearing set pursuant to subdivision (e) of Section 366.21 if the court finds by clear and convincing evidence one of the following:

(A) That the child was removed initially under subdivision (g) of Section 300 and the whereabouts of the parent are still unknown.

(B) That the parent has failed to contact and visit the child.

(C) That the parent has been convicted of a felony indicating parental unfitness.
(3) (A) Notwithstanding subparagraphs (A), (B), and (C) of paragraph (1), court-ordered services may be extended up to a maximum time period not to exceed 18 months after the date the child was originally removed from physical custody of his or her parent or guardian if it can be shown, at the hearing held pursuant to subdivision (f) of Section 366.21, that the permanent plan for the child is that he or she will be returned and safely maintained in the home within the extended time period. The court shall extend the time period only if it finds that there is a substantial probability that the child will be returned to the physical custody of his or her parent or guardian within the extended time period or that reasonable services have not been provided to the parent or guardian. In determining whether court-ordered services may be extended, the court shall consider the special circumstances of an incarcerated or institutionalized parent or parents, parent or parents court-ordered to a residential substance abuse treatment program, or a parent who has been arrested and issued an immigration hold, detained by the United States Department of Homeland Security, or deported to his or her country of origin, including, but not limited to, barriers to the parent’s or guardian’s access to services and ability to maintain contact with his or her child. The court shall also consider, among other factors, good faith efforts that the parent or guardian has made to maintain contact with the child. If the court extends the time period, the court shall specify the factual basis for its conclusion that there is a substantial probability that the child will be returned to the physical custody of his or her parent or guardian within the extended time period. The court also shall make findings pursuant to subdivision (a) of Section 366 and subdivision (e) of Section 358.1.

(B) When counseling or other treatment services are ordered, the parent or guardian shall be ordered to participate in those services, unless the parent’s or guardian’s participation is deemed by the court to be inappropriate or potentially detrimental to the child, or unless a parent or guardian is incarcerated or detained by the United States Department of Homeland Security and the corrections facility in which he or she is incarcerated does not provide access to the treatment services ordered by the court, or has been deported to his or her country of origin and services ordered by the court are not accessible in that country. Physical custody of the child by the parents or guardians during the
applicable time period under subparagraph (A), (B), or (C) of paragraph (1) shall not serve to interrupt the running of the time period. If at the end of the applicable time period, a child cannot be safely returned to the care and custody of a parent or guardian without court supervision, but the child clearly desires contact with the parent or guardian, the court shall take the child’s desire into account in devising a permanency plan.

(C) In cases where the child was under three years of age on the date of the initial removal from the physical custody of his or her parent or guardian or is a member of a sibling group as described in subparagraph (C) of paragraph (1), the court shall inform the parent or guardian that the failure of the parent or guardian to participate regularly in any court-ordered treatment programs or to cooperate or avail himself or herself of services provided as part of the child welfare services case plan may result in a termination of efforts to reunify the family after six months. The court shall inform the parent or guardian of the factors used in subdivision (e) of Section 366.21 to determine whether to limit services to six months for some or all members of a sibling group as described in subparagraph (C) of paragraph (1).

(4) (A) Notwithstanding paragraph (3), court-ordered services may be extended up to a maximum time period not to exceed 24 months after the date the child was originally removed from physical custody of his or her parent or guardian if it is shown, at the hearing held pursuant to subdivision (b) of Section 366.22, that the permanent plan for the child is that he or she will be returned and safely maintained in the home within the extended time period. The court shall extend the time period only if it finds that it is in the child’s best interest to have the time period extended and that there is a substantial probability that the child will be returned to the physical custody of his or her parent or guardian who is described in subdivision (b) of Section 366.22 within the extended time period, or that reasonable services have not been provided to the parent or guardian. If the court extends the time period, the court shall specify the factual basis for its conclusion that there is a substantial probability that the child will be returned to the physical custody of his or her parent or guardian within the extended time period. The court also shall make findings pursuant to subdivision (a) of Section 366 and subdivision (e) of Section 358.1.
(B) When counseling or other treatment services are ordered, the parent or guardian shall be ordered to participate in those services, in order for substantial probability to be found. Physical custody of the child by the parents or guardians during the applicable time period under subparagraph (A), (B), or (C) of paragraph (1) shall not serve to interrupt the running of the time period. If at the end of the applicable time period, the child cannot be safely returned to the care and custody of a parent or guardian without court supervision, but the child clearly desires contact with the parent or guardian, the court shall take the child’s desire into account in devising a permanency plan.

(C) Except in cases where, pursuant to subdivision (b), the court does not order reunification services, the court shall inform the parent or parents of Section 366.26 and shall specify that the parent’s or parents’ parental rights may be terminated.

(b) Reunification services need not be provided to a parent or guardian described in this subdivision when the court finds, by clear and convincing evidence, any of the following:

(1) That the whereabouts of the parent or guardian are unknown. A finding pursuant to this paragraph shall be supported by an affidavit or by proof that a reasonably diligent search has failed to locate the parent or guardian. The posting or publication of notices is not required in that search.

(2) That the parent or guardian is suffering from a mental disability that is described in Chapter 2 (commencing with Section 7820) of Part 4 of Division 12 of the Family Code and that renders him or her incapable of utilizing those services.

(3) That the child or a sibling of the child has been previously adjudicated a dependent pursuant to any subdivision of Section 300 as a result of physical or sexual abuse, that following that adjudication the child had been removed from the custody of his or her parent or guardian pursuant to Section 361, that the child has been returned to the custody of the parent or guardian from whom the child had been taken originally, and that the child is being removed pursuant to Section 361, due to additional physical or sexual abuse.

(4) That the parent or guardian of the child has caused the death of another child through abuse or neglect.
(5) That the child was brought within the jurisdiction of the court under subdivision (e) of Section 300 because of the conduct of that parent or guardian.

(6) (A) That the child has been adjudicated a dependent pursuant to any subdivision of Section 300 as a result of severe sexual abuse or the infliction of severe physical harm to the child, a sibling, or a half sibling by a parent or guardian, as defined in this subdivision, and the court makes a factual finding that it would not benefit the child to pursue reunification services with the offending parent or guardian.

(B) A finding of severe sexual abuse, for the purposes of this subdivision, may be based on, but is not limited to, sexual intercourse, or stimulation involving genital-genital, oral-genital, anal-genital, or oral-anal contact, whether between the parent or guardian and the child or a sibling or half sibling of the child, or between the child or a sibling or half sibling of the child and another person or animal with the actual or implied consent of the parent or guardian; or the penetration or manipulation of the child's, sibling's, or half sibling's genital organs or rectum by any animate or inanimate object for the sexual gratification of the parent or guardian, or for the sexual gratification of another person with the actual or implied consent of the parent or guardian.

(C) A finding of the infliction of severe physical harm, for the purposes of this subdivision, may be based on, but is not limited to, deliberate and serious injury inflicted to or on a child's body or the body of a sibling or half sibling of the child by an act or omission of the parent or guardian, or of another individual or animal with the consent of the parent or guardian; deliberate and torturous confinement of the child, sibling, or half sibling in a closed space; or any other torturous act or omission that would be reasonably understood to cause serious emotional damage.

(7) That the parent is not receiving reunification services for a sibling or a half sibling of the child pursuant to paragraph (3), (5), or (6).

(8) That the child was conceived by means of the commission of an offense listed in Section 288 or 288.5 of the Penal Code, or by an act committed outside of this state that, if committed in this state, would constitute one of those offenses. This paragraph only applies to the parent who committed the offense or act.
(9) That the child has been found to be a child described in subdivision (g) of Section 300; that the parent or guardian of the child willfully abandoned the child, and the court finds that the abandonment itself constituted a serious danger to the child; or that the parent or other person having custody of the child voluntarily surrendered physical custody of the child pursuant to Section 1255.7 of the Health and Safety Code. For the purposes of this paragraph, “serious danger” means that without the intervention of another person or agency, the child would have sustained severe or permanent disability, injury, illness, or death. For purposes of this paragraph, “willful abandonment” shall not be construed as actions taken in good faith by the parent without the intent of placing the child in serious danger.

(10) That the court ordered termination of reunification services for any siblings or half siblings of the child because the parent or guardian failed to reunify with the sibling or half sibling after the sibling or half sibling had been removed from that parent or guardian pursuant to Section 361 and that parent or guardian is the same parent or guardian described in subdivision (a) and that, according to the findings of the court, this parent or guardian has not subsequently made a reasonable effort to treat the problems that led to removal of the sibling or half sibling of that child from that parent or guardian.

(11) That the parental rights of a parent over any sibling or half sibling of the child had been permanently severed, and this parent is the same parent described in subdivision (a), and that, according to the findings of the court, this parent has not subsequently made a reasonable effort to treat the problems that led to removal of the sibling or half sibling of that child from the parent.

(12) That the parent or guardian of the child has been convicted of a violent felony, as defined in subdivision (c) of Section 667.5 of the Penal Code.

(13) That the parent or guardian of the child has a history of extensive, abusive, and chronic use of drugs or alcohol and has resisted prior court-ordered treatment for this problem during a three-year period immediately prior to the filing of the petition that brought that child to the court’s attention, or has failed or refused to comply with a program of drug or alcohol treatment described in the case plan required by Section 358.1 on at least
two prior occasions, even though the programs identified were
available and accessible.

(14) (A) That the parent or guardian of the child has advised
the court that he or she is not interested in receiving family
maintenance or family reunification services or having the child
returned to or placed in his or her custody and does not wish to
receive family maintenance or reunification services.

(B) The parent or guardian shall be represented by counsel and
shall execute a waiver of services form to be adopted by the
Judicial Council. The court shall advise the parent or guardian of
any right to services and of the possible consequences of a waiver
of services, including the termination of parental rights and
placement of the child for adoption. The court shall not accept the
waiver of services unless it states on the record its finding that the
parent or guardian has knowingly and intelligently waived the
right to services.

(15) That the parent or guardian has on one or more occasions
willfully abducted the child or child’s sibling or half sibling from
his or her placement and refused to disclose the child’s or child’s
sibling’s or half sibling’s whereabouts, refused to return physical
custody of the child or child’s sibling or half sibling to his or her
placement, or refused to return physical custody of the child or
child’s sibling or half sibling to the social worker.

(16) That the parent or guardian has been required by the court
to be registered on a sex offender registry under the federal Adam
16913(a)), as required in Section 106(b)(2)(B)(xvi)(VI) of the
Sec. 5106a(2)(B)(xvi)(VI)).

(17) That the parent or guardian knowingly participated in, or
permitted, the sexual exploitation, as described in subdivision (c)
or (d) of Section 11165.1 of, or subdivision (c) of Section 236.1
of, the Penal Code, of the child. This shall not include instances
in which the parent or guardian demonstrated by a preponderance
of the evidence that he or she was coerced into permitting, or
participating in, the sexual exploitation of the child.

(c) (1) In deciding whether to order reunification in any case
in which this section applies, the court shall hold a dispositional
hearing. The social worker shall prepare a report that discusses
whether reunification services shall be provided. When it is alleged,
pursuant to paragraph (2) of subdivision (b), that the parent is
incapable of utilizing services due to mental disability, the court
shall order reunification services unless competent evidence from
mental health professionals establishes that, even with the provision
of services, the parent is unlikely to be capable of adequately caring
for the child within the time limits specified in subdivision (a).

(2) The court shall not order reunification for a parent or
guardian described in paragraph (3), (4), (6), (7), (8), (9), (10),
(11), (12), (13), (14), (15), (16), or (17) of subdivision (b) unless
the court finds, by clear and convincing evidence, that reunification
is in the best interest of the child.

(3) In addition, the court shall not order reunification in any
situation described in paragraph (5) of subdivision (b) unless it
finds that, based on competent testimony, those services are likely
to prevent reabuse or continued neglect of the child or that failure
to try reunification will be detrimental to the child because the
child is closely and positively attached to that parent. The social
worker shall investigate the circumstances leading to the removal
of the child and advise the court whether there are circumstances
that indicate that reunification is likely to be successful or
unsuccessful and whether failure to order reunification is likely to
be detrimental to the child.

(4) The failure of the parent to respond to previous services, the
fact that the child was abused while the parent was under the
influence of drugs or alcohol, a past history of violent behavior,
or testimony by a competent professional that the parent’s behavior
is unlikely to be changed by services are among the factors
indicating that reunification services are unlikely to be successful.
The fact that a parent or guardian is no longer living with an
individual who severely abused the child may be considered in
deciding that reunification services are likely to be successful,
provided that the court shall consider any pattern of behavior on
the part of the parent that has exposed the child to repeated abuse.

(d) If reunification services are not ordered pursuant to
paragraph (1) of subdivision (b) and the whereabouts of a parent
become known within six months of the out-of-home placement
of the child, the court shall order the social worker to provide
family reunification services in accordance with this subdivision.

(e) (1) If the parent or guardian is incarcerated, institutionalized,
or detained by the United States Department of Homeland Security,
or has been deported to his or her country of origin, the court shall order reasonable services unless the court determines, by clear and convincing evidence, those services would be detrimental to the child. In determining detriment, the court shall consider the age of the child, the degree of parent-child bonding, the length of the sentence, the length and nature of the treatment, the nature of the crime or illness, the degree of detriment to the child if services are not offered and, for children 10 years of age or older, the child’s attitude toward the implementation of family reunification services, the likelihood of the parent’s discharge from incarceration, institutionalization, or detention within the reunification time limitations described in subdivision (a), and any other appropriate factors. In determining the content of reasonable services, the court shall consider the particular barriers to an incarcerated, institutionalized, detained, or deported parent’s access to those court-mandated services and ability to maintain contact with his or her child, and shall document this information in the child’s case plan. Reunification services are subject to the applicable time limitations imposed in subdivision (a). Services may include, but shall not be limited to, all of the following:

(A) Maintaining contact between the parent and child through collect telephone calls.
(B) Transportation services, when appropriate.
(C) Visitation services, when appropriate.
(D) (i) Reasonable services to extended family members or foster parents providing care for the child if the services are not detrimental to the child.
(ii) An incarcerated or detained parent may be required to attend counseling, parenting classes, or vocational training programs as part of the reunification service plan if actual access to these services is provided. The social worker shall document in the child’s case plan the particular barriers to an incarcerated, institutionalized, or detained parent’s access to those court-mandated services and ability to maintain contact with his or her child.
(E) Reasonable efforts to assist parents who have been deported to contact child welfare authorities in their country of origin, to identify any available services that would substantially comply with case plan requirements, to document the parents’ participation in those services, and to accept reports from local child welfare
authorities as to the parents’ living situation, progress, and participation in services.

(2) The presiding judge of the juvenile court of each county may convene representatives of the county welfare department, the sheriff’s department, and other appropriate entities for the purpose of developing and entering into protocols for ensuring the notification, transportation, and presence of an incarcerated or institutionalized parent at all court hearings involving proceedings affecting the child pursuant to Section 2625 of the Penal Code. The county welfare department shall utilize the prisoner locator system developed by the Department of Corrections and Rehabilitation to facilitate timely and effective notice of hearings for incarcerated parents.

(3) Notwithstanding any other law, if the incarcerated parent is a woman seeking to participate in the community treatment program operated by the Department of Corrections and Rehabilitation pursuant to Chapter 4.8 (commencing with Section 1174) of Title 7 of Part 2 of, Chapter 4 (commencing with Section 3410) of Title 2 of Part 3 of, the Penal Code, the court shall determine whether the parent’s participation in a program is in the child’s best interest and whether it is suitable to meet the needs of the parent and child.

(f) If the court, pursuant to paragraph (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), or (17) of subdivision (b) or paragraph (1) of subdivision (e), does not order reunification services, it shall, at the dispositional hearing, that shall include a permanency hearing, determine if a hearing under Section 366.26 shall be set in order to determine whether adoption, guardianship, placement with a fit and willing relative, or another planned permanent living arrangement, or, in the case of an Indian child, in consultation with the child’s tribe, tribal customary adoption, is the most appropriate plan for the child, and shall consider in-state and out-of-state placement options. If the court so determines, it shall conduct the hearing pursuant to Section 366.26 within 120 days after the dispositional hearing. However, the court shall not schedule a hearing so long as the other parent is being provided reunification services pursuant to subdivision (a). The court may continue to permit the parent to visit the child unless it finds that visitation would be detrimental to the child.
(g) (1) Whenever a court orders that a hearing shall be held pursuant to Section 366.26, including, when, in consultation with the child’s tribe, tribal customary adoption is recommended, it shall direct the agency supervising the child and the county adoption agency, or the State Department of Social Services when it is acting as an adoption agency, to prepare an assessment that shall include:

(A) Current search efforts for an absent parent or parents and notification of a noncustodial parent in the manner provided for in Section 291.

(B) A review of the amount of and nature of any contact between the child and his or her parents and other members of his or her extended family since the time of placement. Although the extended family of each child shall be reviewed on a case-by-case basis, “extended family” for the purpose of this subparagraph shall include, but not be limited to, the child’s siblings, grandparents, aunts, and uncles.

(C) An evaluation of the child’s medical, developmental, scholastic, mental, and emotional status.

(D) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or guardian, including a prospective tribal customary adoptive parent, particularly the caretaker, to include a social history, including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the child’s needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship. If a proposed guardian is a relative of the minor, the assessment shall also consider, but need not be limited to, all of the factors specified in subdivision (a) of Section 361.3 and in Section 361.4. The assessment of a legal guardian may also include the development of a plan for a successor guardian in the case of the incapacity or death of the guardian. In the event of the incapacity or death of an appointed guardian, the court may appoint an individual identified in the assessment submitted to the court as a successor guardian pursuant to the procedures for the appointment of a legal guardian in Section 366.26. As used in this subparagraph, “relative” means an adult who is related to the minor by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words “great,” “great-great,” or “grand,” or the
spouse of any of those persons even if the marriage was terminated by death or dissolution. If the proposed permanent plan is guardianship with an approved relative caregiver for a minor eligible for aid under the Kin-GAP Program, as provided for in Article 4.7 (commencing with Section 11385) of Chapter 2 of Part 3 of Division 9, “relative” as used in this section has the same meaning as “relative” as defined in subdivision (c) of Section 11391.

(E) The relationship of the child to any identified prospective adoptive parent or guardian, including a prospective tribal customary parent, the duration and character of the relationship, the degree of attachment of the child to the prospective relative guardian or adoptive parent, the relative’s or adoptive parent’s strong commitment to caring permanently for the child, the motivation for seeking adoption or guardianship, a statement from the child concerning placement and the adoption or guardianship, and whether the child over 12 years of age has been consulted about the proposed relative guardianship arrangements, unless the child's age or physical, emotional, or other condition precludes his or her meaningful response, and if so, a description of the condition.

(F) An analysis of the likelihood that the child will be adopted if parental rights are terminated.

(G) In the case of an Indian child, in addition to subparagraphs (A) to (F), inclusive, an assessment of the likelihood that the child will be adopted, when, in consultation with the child’s tribe, a tribal customary adoption, as defined in Section 366.24, is recommended. If tribal customary adoption is recommended, the assessment shall include an analysis of both of the following:

(i) Whether tribal customary adoption would or would not be detrimental to the Indian child and the reasons for reaching that conclusion.

(ii) Whether the Indian child cannot or should not be returned to the home of the Indian parent or Indian custodian and the reasons for reaching that conclusion.

(2) (A) A relative caregiver’s preference for legal guardianship over adoption, if it is due to circumstances that do not include an unwillingness to accept legal or financial responsibility for the child, shall not constitute the sole basis for recommending removal
of the child from the relative caregiver for purposes of adoptive placement.

(B) Regardless of his or her immigration status, a relative caregiver shall be given information regarding the permanency options of guardianship and adoption, including the long-term benefits and consequences of each option, prior to establishing legal guardianship or pursuing adoption. If the proposed permanent plan is guardianship with an approved relative caregiver for a minor eligible for aid under the Kin-GAP Program, as provided for in Article 4.7 (commencing with Section 11385) of Chapter 2 of Part 3 of Division 9, the relative caregiver shall be informed about the terms and conditions of the negotiated agreement pursuant to Section 11387 and shall agree to its execution prior to the hearing held pursuant to Section 366.26. A copy of the executed negotiated agreement shall be attached to the assessment.

(h) If, at any hearing held pursuant to Section 366.26, a guardianship is established for the minor with an approved relative caregiver and juvenile court dependency is subsequently dismissed, the minor shall be eligible for aid under the Kin-GAP Program as provided for in Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385), as applicable, of Chapter 2 of Part 3 of Division 9.

(i) In determining whether reunification services will benefit the child pursuant to paragraph (6) or (7) of subdivision (b), the court shall consider any information it deems relevant, including the following factors:

1. The specific act or omission comprising the severe sexual abuse or the severe physical harm inflicted on the child or the child’s sibling or half sibling.
2. The circumstances under which the abuse or harm was inflicted on the child or the child’s sibling or half sibling.
3. The severity of the emotional trauma suffered by the child or the child’s sibling or half sibling.
4. Any history of abuse of other children by the offending parent or guardian.
5. The likelihood that the child may be safely returned to the care of the offending parent or guardian within 12 months with no continuing supervision.
6. Whether or not the child desires to be reunified with the offending parent or guardian.
When the court determines that reunification services will not be ordered, it shall order that the child’s caregiver receive the child’s birth certificate in accordance with Sections 16010.4 and 16010.5. Additionally, when the court determines that reunification services will not be ordered, it shall order, when appropriate, that a child who is 16 years of age or older receive his or her birth certificate.

The court shall read into the record the basis for a finding of severe sexual abuse or the infliction of severe physical harm under paragraph (6) of subdivision (b), and shall also specify the factual findings used to determine that the provision of reunification services to the offending parent or guardian would not benefit the child.

SEC. 3. Section 366.21 of the Welfare and Institutions Code is amended to read:

366.21. (a) Every hearing conducted by the juvenile court reviewing the status of a dependent child shall be placed on the appearance calendar. The court shall advise all persons present at the hearing of the date of the future hearing and of their right to be present and represented by counsel.

(b) Except as provided in Sections 294 and 295, notice of the hearing shall be provided pursuant to Section 293.

(c) At least 10 calendar days prior to the hearing, the social worker shall file a supplemental report with the court regarding the services provided or offered to the parent or legal guardian to enable him or her to assume custody and the efforts made to achieve legal permanence for the child if efforts to reunify fail, including, but not limited to, efforts to maintain relationships between a child who is 10 years of age or older and has been in out-of-home placement for six months or longer and individuals who are important to the child, consistent with the child’s best interests; the progress made; and, where relevant, the prognosis for return of the child to the physical custody of his or her parent or legal guardian; and shall make his or her recommendation for disposition. If the child is a member of a sibling group described in subparagraph (C) of paragraph (1) of subdivision (a) of Section 361.5, the report and recommendation may also take into account those factors described in subdivision (e) relating to the child’s sibling group. If the recommendation is not to return the child to a parent or legal guardian, the report shall specify why the return
of the child would be detrimental to the child. The social worker
shall provide the parent or legal guardian, counsel for the child,
and any court-appointed child advocate with a copy of the report,
including his or her recommendation for disposition, at least 10
calendar days prior to the hearing. In the case of a child removed
from the physical custody of his or her parent or legal guardian,
the social worker shall, at least 10 calendar days prior to the
hearing, provide a summary of his or her recommendation for
disposition to any foster parents, relative caregivers, and certified
foster parents who have been approved for adoption by the State
Department of Social Services when it is acting as an adoption
agency or by a county adoption agency, community care facility,
or foster family agency having the physical custody of the child.
The social worker shall include a copy of the Judicial Council
Caregiver Information Form (JV-290) with the summary of
recommendations to the child’s foster parents, relative caregivers,
or foster parents approved for adoption, in the caregiver’s primary
language when available, along with information on how to file
the form with the court.

(d) Prior to any hearing involving a child in the physical custody
of a community care facility or a foster family agency that may
result in the return of the child to the physical custody of his or
her parent or legal guardian, or in adoption or the creation of a
legal guardianship, or in the case of an Indian child, in consultation
with the child’s tribe, tribal customary adoption, the facility or
agency shall file with the court a report, or a Judicial Council
Caregiver Information Form (JV-290), containing its
recommendation for disposition. Prior to the hearing involving a
child in the physical custody of a foster parent, a relative caregiver,
or a certified foster parent who has been approved for adoption by
the State Department of Social Services when it is acting as an
adoption agency or by a county adoption agency, the foster parent,
relative caregiver, or the certified foster parent who has been
approved for adoption by the State Department of Social Services
when it is acting as an adoption agency or by a county adoption
agency, may file with the court a report containing his or her
recommendation for disposition. The court shall consider the report
and recommendation filed pursuant to this subdivision prior to
determining any disposition.
(e) (1) At the review hearing held six months after the initial
dispositional hearing, but no later than 12 months after the date
the child entered foster care as determined in Section 361.49,
whichever occurs earlier, after considering the admissible and
relevant evidence, the court shall order the return of the child to
the physical custody of his or her parent or legal guardian unless
the court finds, by a preponderance of the evidence, that the return
of the child to his or her parent or legal guardian would create a
substantial risk of detriment to the safety, protection, or physical
or emotional well-being of the child. The social worker shall have
the burden of establishing that detriment. At the hearing, the court
shall consider the criminal history, obtained pursuant to paragraph
(1) of subdivision (f) of Section 16504.5, of the parent or legal
guardian subsequent to the child’s removal to the extent that the
criminal record is substantially related to the welfare of the child
or the parent’s or guardian’s ability to exercise custody and control
regarding his or her child, provided the parent or legal guardian
agreed to submit fingerprint images to obtain criminal history
information as part of the case plan. The court shall also consider
whether the child can be returned to the custody of his or her parent
who is enrolled in a certified substance abuse treatment facility
that allows a dependent child to reside with his or her parent. The
fact that the parent is enrolled in a certified substance abuse
treatment facility shall not be, for that reason alone, prima facie
evidence of detriment. The failure of the parent or legal guardian
to participate regularly and make substantive progress in
court-ordered treatment programs shall be prima facie evidence
that return would be detrimental. In making its determination, the
court shall review and consider the social worker’s report and
recommendations and the report and recommendations of any child
advocate appointed pursuant to Section 356.5; and shall consider
the efforts or progress, or both, demonstrated by the parent or legal
guardian and the extent to which he or she availed himself or
herself of services provided, taking into account the particular
barriers to a minor parent or a nonminor dependent parent, or an
incarcerated, institutionalized, detained, or deported parent’s or
legal guardian’s access to those court-mandated services and ability
to maintain contact with his or her child.

(2) Regardless of whether the child is returned to a parent or
legal guardian, the court shall specify the factual basis for its
conclusion that the return would be detrimental or would not be

detrimental. The court also shall make appropriate findings
pursuant to subdivision (a) of Section 366; and, when relevant,
shall order any additional services reasonably believed to facilitate
the return of the child to the custody of his or her parent or legal
guardian. The court shall also inform the parent or legal guardian
that if the child cannot be returned home by the 12-month
permanency hearing, a proceeding pursuant to Section 366.26 may
be instituted. This section does not apply in a case in which,
pursuant to Section 361.5, the court has ordered that reunification
services shall not be provided.

(3) If the child was under three years of age on the date of the
initial removal, or is a member of a sibling group described in
subparagraph (C) of paragraph (1) of subdivision (a) of Section
361.5, and the court finds by clear and convincing evidence that
the parent failed to participate regularly and make substantive
progress in a court-ordered treatment plan, the court may schedule
a hearing pursuant to Section 366.26 within 120 days. If, however,
the court finds there is a substantial probability that the child, who
was under three years of age on the date of initial removal or is a
member of a sibling group described in subparagraph (C) of
paragraph (1) of subdivision (a) of Section 361.5, may be returned
to his or her parent or legal guardian within six months or that
reasonable services have not been provided, the court shall continue
the case to the 12-month permanency hearing.

(4) For the purpose of placing and maintaining a sibling group
together in a permanent home, the court, in making its
determination to schedule a hearing pursuant to Section 366.26
for some or all members of a sibling group, as described in
subparagraph (C) of paragraph (1) of subdivision (a) of Section
361.5, shall review and consider the social worker’s report and
recommendations. Factors the report shall address, and the court
shall consider, may include, but need not be limited to, whether
the sibling group was removed from parental care as a group, the
closeness and strength of the sibling bond, the ages of the siblings,
the appropriateness of maintaining the sibling group together, the
detriment to the child if sibling ties are not maintained, the
likelihood of finding a permanent home for the sibling group,
whether the sibling group is currently placed together in a
preadoptive home or has a concurrent plan goal of legal
permanency in the same home, the wishes of each child whose age and physical and emotional condition permits a meaningful response, and the best interests of each child in the sibling group. The court shall specify the factual basis for its finding that it is in the best interests of each child to schedule a hearing pursuant to Section 366.26 within 120 days for some or all of the members of the sibling group.

(5) If the child was removed initially under subdivision (g) of Section 300 and the court finds by clear and convincing evidence that the whereabouts of the parent are still unknown, or the parent has failed to contact and visit the child, the court may schedule a hearing pursuant to Section 366.26 within 120 days. The court shall take into account any particular barriers to a parent’s ability to maintain contact with his or her child due to the parent’s incarceration, institutionalization, detention by the United States Department of Homeland Security, or deportation. If the court finds by clear and convincing evidence that the parent has been convicted of a felony indicating parental unfitness, the court may schedule a hearing pursuant to Section 366.26 within 120 days.

(6) If the child had been placed under court supervision with a previously noncustodial parent pursuant to Section 361.2, the court shall determine whether supervision is still necessary. The court may terminate supervision and transfer permanent custody to that parent, as provided for by paragraph (1) of subdivision (b) of Section 361.2.

(7) In all other cases, the court shall direct that any reunification services previously ordered shall continue to be offered to the parent or legal guardian pursuant to the time periods set forth in subdivision (a) of Section 361.5, provided that the court may modify the terms and conditions of those services.

(8) If the child is not returned to his or her parent or legal guardian, the court shall determine whether reasonable services that were designed to aid the parent or legal guardian in overcoming the problems that led to the initial removal and the continued custody of the child have been provided or offered to the parent or legal guardian. The court shall order that those services be initiated, continued, or terminated.

(f) (1) The permanency hearing shall be held no later than 12 months after the date the child entered foster care, as that date is determined pursuant to Section 361.49. At the permanency hearing,
the court shall determine the permanent plan for the child, which shall include a determination of whether the child will be returned to the child’s home and, if so, when, within the time limits of subdivision (a) of Section 361.5. After considering the relevant and admissible evidence, the court shall order the return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The social worker shall have the burden of establishing that detriment.

(A) At the permanency hearing, the court shall consider the criminal history, obtained pursuant to paragraph (1) of subdivision (f) of Section 16504.5, of the parent or legal guardian subsequent to the child’s removal to the extent that the criminal record is substantially related to the welfare of the child or the parent’s or legal guardian’s ability to exercise custody and control regarding his or her child, provided that the parent or legal guardian agreed to submit fingerprint images to obtain criminal history information as part of the case plan. The court shall also determine whether reasonable services that were designed to aid the parent or legal guardian to overcome the problems that led to the initial removal and continued custody of the child have been provided or offered to the parent or legal guardian.

(B) The court shall also consider whether the child can be returned to the custody of his or her parent who is enrolled in a certified substance abuse treatment facility that allows a dependent child to reside with his or her parent. The fact that the parent is enrolled in a certified substance abuse treatment facility shall not be, for that reason alone, prima facie evidence of detriment. The failure of the parent or legal guardian to participate regularly and make substantive progress in court-ordered treatment programs shall be prima facie evidence that return would be detrimental.

(C) In making its determination, the court shall review and consider the social worker’s report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5, shall consider the efforts or progress, or both, demonstrated by the parent or legal guardian and the extent to which he or she availed himself or herself of services provided, taking into account the particular barriers to a minor parent or a
nonminor dependent parent, or an incarcerated, institutionalized, 
detained, or deported parent’s or legal guardian’s access to those 
court-mandated services and ability to maintain contact with his 
or her child, and shall make appropriate findings pursuant to 
subdivision (a) of Section 366.

(D) For each youth 16 years of age and older, the court shall 
also determine whether services have been made available to assist 
him or her in making the transition from foster care to successful 
adulthood.

(2) Regardless of whether the child is returned to his or her 
parent or legal guardian, the court shall specify the factual basis 
for its decision. If the child is not returned to a parent or legal 
guardian, the court shall specify the factual basis for its conclusion 
that the return would be detrimental. The court also shall make a 
finding pursuant to subdivision (a) of Section 366. If the child is 
not returned to his or her parent or legal guardian, the court shall 
consider, and state for the record, in-state and out-of-state 
placement options. If the child is placed out of the state, the court 
shall make a determination whether the out-of-state placement 
continues to be appropriate and in the best interests of the child.

(g) If the time period in which the court-ordered services were 
provided has met or exceeded the time period set forth in 
subparagraph (A), (B), or (C) of paragraph (1) of subdivision (a) 
of Section 361.5, as appropriate, and a child is not returned to the 
custody of a parent or legal guardian at the permanency hearing 
held pursuant to subdivision (f), the court shall do one of the 
following:

(1) Continue the case for up to six months for a permanency 
review hearing, provided that the hearing shall occur within 18 
months of the date the child was originally taken from the physical 
custody of his or her parent or legal guardian. The court shall 
continue the case only if it finds that there is a substantial 
probability that the child will be returned to the physical custody 
of his or her parent or legal guardian and safely maintained in the 
home within the extended period of time or that reasonable services 
have not been provided to the parent or legal guardian. For the 
purposes of this section, in order to find a substantial probability 
that the child will be returned to the physical custody of his or her 
parent or legal guardian and safely maintained in the home within
the extended period of time, the court shall be required to find all
of the following:
(A) That the parent or legal guardian has consistently and
regularly contacted and visited with the child.
(B) That the parent or legal guardian has made significant
progress in resolving problems that led to the child’s removal from
the home.
(C) The parent or legal guardian has demonstrated the capacity
and ability both to complete the objectives of his or her treatment
plan and to provide for the child’s safety, protection, physical and
emotional well-being, and special needs.
(i) For purposes of this subdivision, the court’s decision to
continue the case based on a finding or substantial probability that
the child will be returned to the physical custody of his or her
parent or legal guardian is a compelling reason for determining
that a hearing held pursuant to Section 366.26 is not in the best
interests of the child.
(ii) The court shall inform the parent or legal guardian that if
the child cannot be returned home by the next permanency review
hearing, a proceeding pursuant to Section 366.26 may be instituted.
The court shall not order that a hearing pursuant to Section 366.26
be held unless there is clear and convincing evidence that
reasonable services have been provided or offered to the parent or
legal guardian.
(2) Continue the case for up to six months for a permanency
review hearing, provided that the hearing shall occur within 18
months of the date the child was originally taken from the physical
custody of his or her parent or legal guardian, if the parent has
been arrested and issued an immigration hold, detained by the
United States Department of Homeland Security, or deported to
his or her country of origin, and the court determines either that
there is a substantial probability that the child will be returned to
the physical custody of his or her parent or legal guardian and
safely maintained in the home within the extended period of time
or that reasonable services have not been provided to the parent
or legal guardian.
(3) For purposes of paragraph (2), in order to find a substantial
probability that the child will be returned to the physical custody
of his or her parent or legal guardian and safely maintained in the
home within the extended period of time, the court shall find all
of the following:

(A) The parent or legal guardian has consistently and regularly
contacted and visited with the child, taking into account any
particular barriers to a parent’s ability to maintain contact with his
or her child due to the parent’s arrest and receipt of an immigration
hold, detention by the United States Department of Homeland
Security, or deportation.

(B) The parent or legal guardian has made significant progress
in resolving the problems that led to the child’s removal from the
home.

(C) The parent or legal guardian has demonstrated the capacity
or ability both to complete the objectives of his or her treatment
plan and to provide for the child’s safety, protection, physical and
emotional well-being, and special needs.

(4) Order that a hearing be held within 120 days, pursuant to
Section 366.26, but only if the court does not continue the case to
the permanency planning review hearing and there is clear and
convincing evidence that reasonable services have been provided
or offered to the parents or legal guardians. On and after January
1, 2012, a hearing pursuant to Section 366.26 shall not be ordered
if the child is a nonminor dependent, unless the nonminor
dependent is an Indian child and tribal customary adoption is
recommended as the permanent plan.

(5) Order that the child remain in foster care, but only if the
court finds by clear and convincing evidence, based upon the
evidence already presented to it, including a recommendation by
the State Department of Social Services when it is acting as an
adoption agency or by a county adoption agency, that there is a
compelling reason for determining that a hearing held pursuant to
Section 366.26 is not in the best interests of the child because the
child is not a proper subject for adoption and has no one willing
to accept legal guardianship as of the hearing date. For purposes
of this section, a recommendation by the State Department of
Social Services when it is acting as an adoption agency or by a
county adoption agency that adoption is not in the best interests
of the child shall constitute a compelling reason for the court’s
determination. That recommendation shall be based on the present
circumstances of the child and shall not preclude a different
recommendation at a later date if the child’s circumstances change.
On and after January 1, 2012, the nonminor dependent’s legal status as an adult is in and of itself a compelling reason not to hold a hearing pursuant to Section 366.26. The court may order that a nonminor dependent who otherwise is eligible pursuant to Section 11403 remain in a planned, permanent living arrangement.

(A) The court shall make factual findings identifying any barriers to achieving the permanent plan as of the hearing date. When the child is under 16 years of age, the court shall order a permanent plan of return home, adoption, tribal customary adoption in the case of an Indian child, legal guardianship, or placement with a fit and willing relative, as appropriate. When the child is 16 years of age or older, or is a nonminor dependent, and no other permanent plan is appropriate at the time of the hearing, the court may order another planned permanent living arrangement, as described in paragraph (2) of subdivision (i) of Section 16501.

(B) If the court orders that a child who is 10 years of age or older remain in foster care, the court shall determine whether the agency has made reasonable efforts to maintain the child’s relationships with individuals other than the child’s siblings who are important to the child, consistent with the child’s best interests, and may make any appropriate order to ensure that those relationships are maintained.

(C) If the child is not returned to his or her parent or legal guardian, the court shall consider, and state for the record, in-state and out-of-state options for permanent placement. If the child is placed out of the state, the court shall make a determination whether the out-of-state placement continues to be appropriate and in the best interests of the child.

(h) In any case in which the court orders that a hearing pursuant to Section 366.26 shall be held, it shall also order the termination of reunification services to the parent or legal guardian. The court shall continue to permit the parent or legal guardian to visit the child pending the hearing unless it finds that visitation would be detrimental to the child. The court shall make any other appropriate orders to enable the child to maintain relationships with individuals, other than the child’s siblings, who are important to the child, consistent with the child’s best interests. When the court orders a termination of reunification services to the parent or legal guardian, it shall also order that the child’s caregiver receive the child’s birth certificate in accordance with Sections 16010.4 and 16010.5.
Additionally, when the court orders a termination of reunification services to the parent or legal guardian, it shall order, when appropriate, that a child who is 16 years of age or older receive his or her birth certificate.

(i) (1) Whenever a court orders that a hearing pursuant to Section 366.26, including, when, in consultation with the child’s tribe, tribal customary adoption is recommended, shall be held, it shall direct the agency supervising the child and the county adoption agency, or the State Department of Social Services when it is acting as an adoption agency, to prepare an assessment that shall include:

(A) Current search efforts for an absent parent or parents or legal guardians.

(B) A review of the amount of and nature of any contact between the child and his or her parents or legal guardians and other members of his or her extended family since the time of placement. Although the extended family of each child shall be reviewed on a case-by-case basis, “extended family” for the purpose of this subparagraph shall include, but not be limited to, the child’s siblings, grandparents, aunts, and uncles.

(C) An evaluation of the child’s medical, developmental, scholastic, mental, and emotional status.

(D) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or legal guardian, particularly the prospective tribal customary adoptive parent, including the caretaker, to include a social history including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the child’s needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship. If a proposed guardian is a relative of the minor, the assessment shall also consider, but need not be limited to, all of the factors specified in subdivision (a) of Section 361.3 and in Section 361.4. The assessment of a legal guardian may also include the development of a plan for a successor guardian in the case of the incapacity or death of the guardian. In the event of the incapacity or death of an appointed guardian, the court may appoint an individual identified in the assessment submitted to the court as a successor guardian pursuant to the procedures for the appointment of a legal guardian in Section 366.26.
(E) The relationship of the child to any identified prospective adoptive parent or legal guardian, the duration and character of the relationship, the degree of attachment of the child to the prospective relative guardian or adoptive parent, the relative’s or adoptive parent’s strong commitment to caring permanently for the child, the motivation for seeking adoption or guardianship, a statement from the child concerning placement and the adoption or guardianship, and whether the child, if over 12 years of age, has been consulted about the proposed relative guardianship arrangements, unless the child’s age or physical, emotional, or other condition precludes his or her meaningful response, and if so, a description of the condition.

(F) A description of efforts to be made to identify a prospective adoptive parent or legal guardian, including, but not limited to, child-specific recruitment and listing on an adoption exchange within the state or out of the state.

(G) An analysis of the likelihood that the child will be adopted if parental rights are terminated.

(H) In the case of an Indian child, in addition to subparagraphs (A) to (G), inclusive, an assessment of the likelihood that the child will be adopted, when, in consultation with the child’s tribe, a tribal customary adoption, as defined in Section 366.24, is recommended. If tribal customary adoption is recommended, the assessment shall include an analysis of both of the following:

(i) Whether tribal customary adoption would or would not be detrimental to the Indian child and the reasons for reaching that conclusion.

(ii) Whether the Indian child cannot or should not be returned to the home of the Indian parent or Indian custodian and the reasons for reaching that conclusion.

(2) (A) A relative caregiver’s preference for legal guardianship over adoption, if it is due to circumstances that do not include an unwillingness to accept legal or financial responsibility for the child, shall not constitute the sole basis for recommending removal of the child from the relative caregiver for purposes of adoptive placement.

(B) Regardless of his or her immigration status, a relative caregiver shall be given information regarding the permanency options of guardianship and adoption, including the long-term benefits and consequences of each option, prior to establishing
legal guardianship or pursuing adoption. If the proposed permanent
plan is guardianship with an approved relative caregiver for a
minor eligible for aid under the Kin-GAP Program, as provided
for in Article 4.7 (commencing with Section 11385) of Chapter 2
of Part 3 of Division 9, the relative caregiver shall be informed
about the terms and conditions of the negotiated agreement
pursuant to Section 11387 and shall agree to its execution prior to
the hearing held pursuant to Section 366.26. A copy of the executed
negotiated agreement shall be attached to the assessment.

(j) If, at any hearing held pursuant to Section 366.26, a
guardianship is established for the minor with an approved relative
caregiver, and juvenile court dependency is subsequently
dismissed, the minor shall be eligible for aid under the Kin-GAP
Program, as provided for in Article 4.5 (commencing with Section
11360) or Article 4.7 (commencing with Section 11385), as
applicable, of Chapter 2 of Part 3 of Division 9.

(k) As used in this section, “relative” means an adult who is
related to the minor by blood, adoption, or affinity within the fifth
degree of kinship, including stepparents, stepsiblings, and all
relatives whose status is preceded by the words “great,”
“great-great,” or “grand,” or the spouse of any of those persons
even if the marriage was terminated by death or dissolution. If the
proposed permanent plan is guardianship with an approved relative
caregiver for a minor eligible for aid under the Kin-GAP Program,
as provided for in Article 4.7 (commencing with Section 11385)
of Chapter 2 of Part 3 of Division 9, “relative” as used in this
section has the same meaning as “relative” as defined in
subdivision (c) of Section 11391.

(l) For purposes of this section, evidence of any of the following
circumstances shall not, in and of itself, be deemed a failure to
provide or offer reasonable services:

1. The child has been placed with a foster family that is eligible
to adopt a child, or has been placed in a preadoptive home.

2. The case plan includes services to make and finalize a
permanent placement for the child if efforts to reunify fail.

3. Services to make and finalize a permanent placement for
the child, if efforts to reunify fail, are provided concurrently with
services to reunify the family.

SEC. 4. Section 366.22 of the Welfare and Institutions Code
is amended to read:
When a case has been continued pursuant to paragraph (1) or (2) of subdivision (g) of Section 366.21, the permanency review hearing shall occur within 18 months after the date the child was originally removed from the physical custody of his or her parent or legal guardian. After considering the admissible and relevant evidence, the court shall order the return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The social worker shall have the burden of establishing that detriment. At the permanency review hearing, the court shall consider the criminal history, obtained pursuant to paragraph (1) of subdivision (f) of Section 16504.5, of the parent or legal guardian subsequent to the child’s removal, to the extent that the criminal record is substantially related to the welfare of the child or the parent’s or legal guardian’s ability to exercise custody and control regarding his or her child, provided that the parent or legal guardian agreed to submit fingerprint images to obtain criminal history information as part of the case plan. The court shall also consider whether the child can be returned to the custody of his or her parent who is enrolled in a certified substance abuse treatment facility that allows a dependent child to reside with his or her parent. The fact that the parent is enrolled in a certified substance abuse treatment facility shall not be, for that reason alone, prima facie evidence of detriment. The failure of the parent or legal guardian to participate regularly and make substantive progress in court-ordered treatment programs shall be prima facie evidence that return would be detrimental. In making its determination, the court shall review and consider the social worker’s report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5; shall consider the efforts or progress, or both, demonstrated by the parent or legal guardian and the extent to which he or she availed himself or herself of services provided, taking into account the particular barriers of a minor parent or a nonminor dependent parent, or an incarcerated or institutionalized parent’s or legal guardian’s access to those court-mandated services and ability to maintain contact with his or her child; and shall make appropriate findings pursuant to subdivision (a) of Section 366.
(2) Whether or not the child is returned to his or her parent or legal guardian, the court shall specify the factual basis for its decision. If the child is not returned to a parent or legal guardian, the court shall specify the factual basis for its conclusion that return would be detrimental. If the child is not returned to his or her parent or legal guardian, the court shall consider, and state for the record, in-state and out-of-state options for the child’s permanent placement. If the child is placed out of the state, the court shall make a determination whether the out-of-state placement continues to be appropriate and in the best interests of the child.

(3) Unless the conditions in subdivision (b) are met and the child is not returned to a parent or legal guardian at the permanency review hearing, the court shall order that a hearing be held pursuant to Section 366.26 in order to determine whether adoption, or, in the case of an Indian child, in consultation with the child’s tribe, tribal customary adoption, guardianship, or continued placement in foster care is the most appropriate plan for the child. On and after January 1, 2012, a hearing pursuant to Section 366.26 shall not be ordered if the child is a nonminor dependent, unless the nonminor dependent is an Indian child, and tribal customary adoption is recommended as the permanent plan. However, if the court finds by clear and convincing evidence, based on the evidence already presented to it, including a recommendation by the State Department of Social Services when it is acting as an adoption agency or by a county adoption agency, that there is a compelling reason, as described in paragraph (5) of subdivision (g) of Section 366.21, for determining that a hearing held under Section 366.26 is not in the best interests of the child because the child is not a proper subject for adoption and has no one willing to accept legal guardianship as of the hearing date, the court may, only under these circumstances, order that the child remain in foster care with a permanent plan of return home, adoption, tribal customary adoption in the case of an Indian child, legal guardianship, or placement with a fit and willing relative, as appropriate. If the child is 16 years of age or older or is a nonminor dependent, and no other permanent plan is appropriate at the time of the hearing, the court may order another planned permanent living arrangement, as described in paragraph (2) of subdivision (i) of Section 16501. The court shall make factual findings identifying any barriers to achieving the permanent plan as of the hearing date. On and after
January 1, 2012, the nonminor dependent’s legal status as an adult is in and of itself a compelling reason not to hold a hearing pursuant to Section 366.26. The court may order that a nonminor dependent who otherwise is eligible pursuant to Section 11403 remain in a planned, permanent living arrangement. If the court orders that a child who is 10 years of age or older remain in foster care, the court shall determine whether the agency has made reasonable efforts to maintain the child’s relationships with individuals other than the child’s siblings who are important to the child, consistent with the child’s best interests, and may make any appropriate order to ensure that those relationships are maintained. The hearing shall be held no later than 120 days from the date of the permanency review hearing. The court shall also order termination of reunification services to the parent or legal guardian. The court shall continue to permit the parent or legal guardian to visit the child unless it finds that visitation would be detrimental to the child. The court shall determine whether reasonable services have been offered or provided to the parent or legal guardian. For purposes of this subdivision, evidence of any of the following circumstances shall not, in and of themselves, be deemed a failure to provide or offer reasonable services:

(A) The child has been placed with a foster family that is eligible to adopt a child, or has been placed in a preadoptive home.

(B) The case plan includes services to make and finalize a permanent placement for the child if efforts to reunify fail.

(C) Services to make and finalize a permanent placement for the child, if efforts to reunify fail, are provided concurrently with services to reunify the family.

(b) If the child is not returned to a parent or legal guardian at the permanency review hearing and the court determines by clear and convincing evidence that the best interests of the child would be met by the provision of additional reunification services to a parent or legal guardian who is making significant and consistent progress in a court-ordered residential substance abuse treatment program, a parent who was either a minor parent or a nonminor dependent parent at the time of the initial hearing making significant and consistent progress in establishing a safe home for the child’s return, or a parent recently discharged from incarceration, institutionalization, or the custody of the United States Department of Homeland Security and making significant
and consistent progress in establishing a safe home for the child’s return, the court may continue the case for up to six months for a subsequent permanency review hearing, provided that the hearing shall occur within 24 months of the date the child was originally taken from the physical custody of his or her parent or legal guardian. The court shall continue the case only if it finds that there is a substantial probability that the child will be returned to the physical custody of his or her parent or legal guardian and safely maintained in the home within the extended period of time or that reasonable services have not been provided to the parent or legal guardian. For the purposes of this section, in order to find a substantial probability that the child will be returned to the physical custody of his or her parent or legal guardian and safely maintained in the home within the extended period of time, the court shall be required to find all of the following:

1. That the parent or legal guardian has consistently and regularly contacted and visited with the child.
2. That the parent or legal guardian has made significant and consistent progress in the prior 18 months in resolving problems that led to the child’s removal from the home.
3. The parent or legal guardian has demonstrated the capacity and ability both to complete the objectives of his or her substance abuse treatment plan as evidenced by reports from a substance abuse provider as applicable, or complete a treatment plan postdischarge from incarceration, institutionalization, or detention, or following deportation to his or her country of origin and his or her return to the United States, and to provide for the child’s safety, protection, physical and emotional well-being, and special needs.

For purposes of this subdivision, the court’s decision to continue the case based on a finding or substantial probability that the child will be returned to the physical custody of his or her parent or legal guardian is a compelling reason for determining that a hearing held pursuant to Section 366.26 is not in the best interests of the child.

The court shall inform the parent or legal guardian that if the child cannot be returned home by the subsequent permanency review hearing, a proceeding pursuant to Section 366.26 may be instituted. The court shall not order that a hearing pursuant to Section 366.26 be held unless there is clear and convincing
evidence that reasonable services have been provided or offered
to the parent or legal guardian.
(c) (1) Whenever a court orders that a hearing pursuant to
Section 366.26, including when a tribal customary adoption is
recommended, shall be held, it shall direct the agency supervising
the child and the county adoption agency, or the State Department
of Social Services when it is acting as an adoption agency, to
prepare an assessment that shall include:
(A) Current search efforts for an absent parent or parents.
(B) A review of the amount of and nature of any contact between
the child and his or her parents and other members of his or her
extended family since the time of placement. Although the
extended family of each child shall be reviewed on a case-by-case
basis, “extended family” for the purposes of this subparagraph
shall include, but not be limited to, the child’s siblings,
grandparents, aunts, and uncles.
(C) An evaluation of the child’s medical, developmental,
scholastic, mental, and emotional status.
(D) A preliminary assessment of the eligibility and commitment
of any identified prospective adoptive parent or legal guardian,
particularly the caretaker, to include a social history including
screening for criminal records and prior referrals for child abuse
or neglect, the capability to meet the child’s needs, and the
understanding of the legal and financial rights and responsibilities
of adoption and guardianship. If a proposed legal guardian is a
relative of the minor, the assessment shall also consider, but need
not be limited to, all of the factors specified in subdivision (a) of
Section 361.3 and Section 361.4. The assessment of a legal
guardian may also include the development of a plan for a
successor guardian in the case of the incapacity or death of the
guardian. In the event of the incapacity or death of an appointed
guardian, the court may appoint an individual identified in the
assessment submitted to the court as a successor guardian pursuant
to the procedures for the appointment of a legal guardian in
Section 366.26.
(E) The relationship of the child to any identified prospective
adoptive parent or legal guardian, the duration and character of
the relationship, the degree of attachment of the child to the
prospective relative guardian or adoptive parent, the relative’s or
adoptive parent’s strong commitment to caring permanently for
the child, the motivation for seeking adoption or legal guardianship,
a statement from the child concerning placement and the adoption
or legal guardianship, and whether the child, if over 12 years of
age, has been consulted about the proposed relative guardianship
arrangements, unless the child’s age or physical, emotional, or
other condition precludes his or her meaningful response, and if
so, a description of the condition.
(F) An analysis of the likelihood that the child will be adopted
if parental rights are terminated.
(G) In the case of an Indian child, in addition to subparagraphs
(A) to (F), inclusive, an assessment of the likelihood that the child
will be adopted, when, in consultation with the child’s tribe, a
tribal customary adoption, as defined in Section 366.24, is
recommended. If tribal customary adoption is recommended, the
assessment shall include an analysis of both of the following:
(i) Whether tribal customary adoption would or would not be
detrimental to the Indian child and the reasons for reaching that
conclusion.
(ii) Whether the Indian child cannot or should not be returned
to the home of the Indian parent or Indian custodian and the reasons
for reaching that conclusion.
(2) (A) A relative caregiver’s preference for legal guardianship
over adoption, if it is due to circumstances that do not include an
unwillingness to accept legal or financial responsibility for the
child, shall not constitute the sole basis for recommending removal
of the child from the relative caregiver for purposes of adoptive
placement.
(B) Regardless of his or her immigration status, a relative
caregiver shall be given information regarding the permanency
options of guardianship and adoption, including the long-term
benefits and consequences of each option, prior to establishing
legal guardianship or pursuing adoption. If the proposed permanent
plan is guardianship with an approved relative caregiver for a
minor eligible for aid under the Kin-GAP Program, as provided
for in Article 4.7 (commencing with Section 11385) of Chapter 2
of Part 3 of Division 9, the relative caregiver shall be informed
about the terms and conditions of the negotiated agreement
pursuant to Section 11387 and shall agree to its execution prior to
the hearing held pursuant to Section 366.26. A copy of the executed
negotiated agreement shall be attached to the assessment.
(d) This section shall become operative January 1, 1999. If at any hearing held pursuant to Section 366.26, a legal guardianship is established for the minor with an approved relative caregiver, and juvenile court dependency is subsequently dismissed, the minor shall be eligible for aid under the Kin-GAP Program, as provided for in Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385), as applicable, of Chapter 2 of Part 3 of Division 9.

(e) As used in this section, “relative” means an adult who is related to the child by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words “great,” “great-great,” or “grand,” or the spouse of any of those persons even if the marriage was terminated by death or dissolution. If the proposed permanent plan is guardianship with an approved relative caregiver for a minor eligible for aid under the Kin-GAP Program, as provided for in Article 4.7 (commencing with Section 11385) of Chapter 2 of Part 3 of Division 9, “relative” as used in this section has the same meaning as “relative” as defined in subdivision (c) of Section 11391.

SEC. 5. Section 366.25 of the Welfare and Institutions Code is amended to read:

366.25. (a) (1) When a case has been continued pursuant to subdivision (b) of Section 366.22, the subsequent permanency review hearing shall occur within 24 months after the date the child was originally removed from the physical custody of his or her parent or legal guardian. After considering the relevant and admissible evidence, the court shall order the return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The social worker shall have the burden of establishing that detriment. At the subsequent permanency review hearing, the court shall consider the criminal history, obtained pursuant to paragraph (1) of subdivision (f) of Section 16504.5, of the parent or legal guardian subsequent to the child’s removal to the extent that the criminal record is substantially related to the welfare of the child or parent’s or legal guardian’s ability to exercise custody and control regarding his or her child.
provided that the parent or legal guardian agreed to submit fingerprint images to obtain criminal history information as part of the case plan. The court shall also consider whether the child can be returned to the custody of a parent who is enrolled in a certified substance abuse treatment facility that allows a dependent child to reside with his or her parent. The fact that the parent is enrolled in a certified substance abuse treatment facility shall not be, for that reason alone, prima facie evidence of detriment. The failure of the parent or legal guardian to participate regularly and make substantive progress in court-ordered treatment programs shall be prima facie evidence that return would be detrimental. In making its determination, the court shall review and consider the social worker’s report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5; shall consider the efforts or progress, or both, demonstrated by the parent or legal guardian and the extent to which he or she availed himself or herself of services provided; and shall make appropriate findings pursuant to subdivision (a) of Section 366.

(2) Whether or not the child is returned to his or her parent or legal guardian, the court shall specify the factual basis for its decision. If the child is not returned to a parent or legal guardian, the court shall specify the factual basis for its conclusion that return would be detrimental. If the child is not returned to his or her parent or legal guardian, the court shall consider and state for the record, in-state and out-of-state options for the child’s permanent placement. If the child is placed out of the state, the court shall make a determination whether the out-of-state placement continues to be appropriate and in the best interests of the child.

(3) If the child is not returned to a parent or legal guardian at the subsequent permanency review hearing, the court shall order that a hearing be held pursuant to Section 366.26 in order to determine whether adoption, or, in the case of an Indian child, tribal customary adoption, guardianship, or, in the case of a child 16 years of age or older when no other permanent plan is appropriate, another planned permanent living arrangement is the most appropriate plan for the child. On and after January 1, 2012, a hearing pursuant to Section 366.26 shall not be ordered if the child is a nonminor dependent, unless the nonminor dependent is an Indian child and tribal customary adoption is recommended as
the permanent plan. However, if the court finds by clear and
c友们，认为该证据已经向它提出，并包括由州社会服务部
doing as an adoption agency or by a county
adoption agency, that there is a compelling reason, as described
in paragraph (5) of subdivision (g) of Section 366.21, for
determining that a hearing held under Section 366.26 is not in the
best interest of the child because the child is not a proper subject
for adoption or, in the case of an Indian child, tribal customary
adoption, and has no one willing to accept legal guardianship as
of the hearing date, then the court may, only under these
circumstances, order that the child remain in foster care with a
permanent plan of return home, adoption, tribal customary adoption
in the case of an Indian child, legal guardianship, or placement
with a fit and willing relative, as appropriate. If the child is 16
years of age or older or is a nonminor dependent, and no other
permanent plan is appropriate at the time of the hearing, the court
may order another planned permanent living arrangement, as
described in paragraph (2) of subdivision (i) of Section 16501.
The court shall make factual findings identifying any barriers to
achieving the permanent plan as of the hearing date. On and after
January 1, 2012, the nonminor dependent’s legal status as an adult
is in and of itself a compelling reason not to hold a hearing pursuant
to Section 366.26. The court may order that a nonminor dependent
who otherwise is eligible pursuant to Section 11403 remain in a
planned, permanent living arrangement. If the court orders that a
child who is 10 years of age or older remain in foster care, the
court shall determine whether the agency has made reasonable
efforts to maintain the child’s relationships with individuals other
than the child’s siblings who are important to the child, consistent
with the child’s best interests, and may make any appropriate order
to ensure that those relationships are maintained. The hearing shall
be held no later than 120 days from the date of the subsequent
permanency review hearing. The court shall also order termination
of reunification services to the parent or legal guardian. The court
shall continue to permit the parent or legal guardian to visit the
child unless it finds that visitation would be detrimental to the
child. The court shall determine whether reasonable services have
been offered or provided to the parent or legal guardian. For
purposes of this paragraph, evidence of any of the following
circumstances shall not, in and of themselves, be deemed a failure to provide or offer reasonable services:

(A) The child has been placed with a foster family that is eligible to adopt a child, or has been placed in a preadoptive home.

(B) The case plan includes services to make and finalize a permanent placement for the child if efforts to reunify fail.

(C) Services to make and finalize a permanent placement for the child, if efforts to reunify fail, are provided concurrently with services to reunify the family.

(b) (1) Whenever a court orders that a hearing pursuant to Section 366.26 shall be held, it shall direct the agency supervising the child and the county adoption agency, or the State Department of Social Services when it is acting as an adoption agency, to prepare an assessment that shall include:

(A) Current search efforts for an absent parent or parents.

(B) A review of the amount of, and nature of, any contact between the child and his or her parents and other members of his or her extended family since the time of placement. Although the extended family of each child shall be reviewed on a case-by-case basis, “extended family” for the purposes of this paragraph shall include, but not be limited to, the child’s siblings, grandparents, aunts, and uncles.

(C) An evaluation of the child’s medical, developmental, scholastic, mental, and emotional status.

(D) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or legal guardian, including a prospective tribal customary adoptive parent, particularly the caretaker, to include a social history including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the child’s needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship. If a proposed legal guardian is a relative of the minor, the assessment shall also consider, but need not be limited to, all of the factors specified in subdivision (a) of Section 361.3 and in Section 361.4. The assessment of a legal guardian may also include the development of a plan for a successor guardian in the case of the incapacity or death of the guardian. In the event of the incapacity or death of an appointed guardian, the court may appoint an individual identified in the assessment submitted to the court as a successor guardian pursuant
to the procedures for the appointment of a legal guardian in Section 366.26.

(E) The relationship of the child to any identified prospective adoptive parent or legal guardian, including a prospective tribal customary adoptive parent, the duration and character of the relationship, the degree of attachment of the child to the prospective relative guardian or adoptive parent, the relative’s or adoptive parent’s strong commitment to caring permanently for the child, the motivation for seeking adoption or legal guardianship, a statement from the child concerning placement and the adoption or legal guardianship, and whether the child, if over 12 years of age, has been consulted about the proposed relative guardianship arrangements, unless the child’s age or physical, emotional, or other condition precludes his or her meaningful response, and if so, a description of the condition.

(F) An analysis of the likelihood that the child will be adopted if parental rights are terminated.

(G) In the case of an Indian child, in addition to subparagraphs (A) to (F), inclusive, an assessment of the likelihood that the child will be adopted, when, in consultation with the child’s tribe, a tribal customary adoption, as defined in Section 366.24, is recommended. If tribal customary adoption is recommended, the assessment shall include an analysis of both of the following:

(i) Whether tribal customary adoption would or would not be detrimental to the Indian child and the reasons for reaching that conclusion.

(ii) Whether the Indian child cannot or should not be returned to the home of the Indian parent or Indian custodian and the reasons for reaching that conclusion.

(2) (A) A relative caregiver’s preference for legal guardianship over adoption, if it is due to circumstances that do not include an unwillingness to accept legal or financial responsibility for the child, shall not constitute the sole basis for recommending removal of the child from the relative caregiver for purposes of adoptive placement.

(B) Regardless of his or her immigration status, a relative caregiver shall be given information regarding the permanency options of guardianship and adoption, including the long-term benefits and consequences of each option, prior to establishing legal guardianship or pursuing adoption. If the proposed permanent
plan is guardianship with an approved relative caregiver for a
minor eligible for aid under the Kin-GAP Program, as provided
for in Article 4.7 (commencing with Section 11385) of Chapter 2
of Part 3 of Division 9, the relative caregiver shall be informed
about the terms and conditions of the negotiated agreement
pursuant to Section 11387 and shall agree to its execution prior to
the hearing held pursuant to Section 366.26. A copy of the executed
negotiated agreement shall be attached to the assessment.
(c) If, at any hearing held pursuant to Section 366.26, a
guardianship is established for the minor with an approved relative
caregiver, and juvenile court dependency is subsequently
dismissed, the minor shall be eligible for aid under the Kin-GAP
Program, as provided for in Article 4.5 (commencing with Section
11360) or Article 4.7 (commencing with Section 11385), as
applicable, of Chapter 2 of Part 3 of Division 9.
(d) As used in this section, “relative” means an adult who is
related to the minor by blood, adoption, or affinity within the fifth
degree of kinship, including stepparents, stepsiblings, and all
relatives whose status is preceded by the words “great,”
“great-great,” or “grand,” or the spouse of any of those persons
even if the marriage was terminated by death or dissolution. If the
proposed permanent plan is guardianship with an approved relative
caregiver for a minor eligible for aid under the Kin-GAP Program,
as provided in Article 4.7 (commencing with Section 11385) of
Chapter 2 of Part 3 of Division 9, “relative” as used in this section
has the same meaning as “relative” as defined in subdivision (c)
of Section 11391.
An act to amend Section 14149.8 of, and to add Article 2.93 (commencing with Section 14091.40) to Chapter 7 of Part 3 of Division 9 of, the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL’S DIGEST


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 by, and funded pursuant to, federal Medicaid program provisions. Existing law provides for a schedule of benefits provided under the Medi-Cal program, which includes certain dental services that are referred to as the Medi-Cal dental program, or Denti-Cal. Existing law requires the department to work with dental managed care plans that contract with the department for the purposes of implementing Denti-Cal, as specified.

This bill would authorize the department, no sooner than July 1, 2019, and to the extent that federal financial participation is available and any necessary federal approvals have been obtained, to authorize a Dental Health Collaboration Pilot Program for Medi-Cal beneficiaries enrolled in Medi-Cal managed care health plans that serve the County of Riverside, the County of San Bernardino, or both of those counties, using a hybrid collaboration model that coordinates the efforts of participating health plans, dental managed care plans, and the
The bill would authorize the department to undertake specified activities in support of the pilot program, such as providing technical assistance to participating health plans and dental managed care plans and providing an innovative payment structure, including payment incentives, that facilitates the pilot program’s health and dental objectives. The bill would require participating health plans and dental managed care plans to collaborate with each other and would require a dental managed care plan to collaborate with the department on the design and implementation of the pilot program for an operating period of up to 5 years. The bill would require participating health plans and dental managed care plans to, among other things, deliver Denti-Cal services to participating beneficiaries, engage in specified beneficiary outreach activities, and coordinate patient care. The bill would authorize a participating dental managed care plan to implement and demonstrate innovative payment methods, including incentive payments. The bill would authorize a participating health plan or dental managed care plan to terminate its participation in the program by giving specific notice to the department, beneficiaries, and participating health plans or dental managed care plans, as applicable.

This bill would require a Medi-Cal dental managed care plan to work with the department to ensure access to, and the provision of, quality dental services to Medi-Cal beneficiaries, and would also require a managed care plan in connection therewith to undertake specified activities, such as ensuring enrolled beneficiaries have access to primary and specialist dental care, maintaining a utilization management program, and conducting or participating in quality improvement projects.


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

SECTION 1. Article 2.93 (commencing with Section 14091.40) is added to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, to read:

Article 2.93. Dental Health Collaboration Pilot Program

14091.40. The following definitions shall apply for the purposes of this article:
(a) “Dental managed care plan” means a plan that contracts with the department for the purpose of implementing the Medi-Cal dental program, which includes, but is not limited to, contracts authorized pursuant to Sections 14087.46, 14089, and 14104.3 that provide beneficiaries with access to dental plan liaisons to assist in the coordination of care for enrolled members.

(b) “Oral health care” means health care that works toward a state of being free from chronic mouth and facial pain, oral and throat cancer, oral sores, birth defects such as cleft lip and palate, periodontal (gum) disease, tooth decay and tooth loss, and other diseases and disorders that affect the oral cavity.

(c) “Oral hygiene education” means education on the practice of brushing and flossing to keep the mouth clean and to prevent tooth decay and gum disease.

14091.41. The Legislature finds and declares all of the following:

(a) Untreated tooth decay affects more children than any other chronic infectious disease in the United States, leading to pain and suffering, loss of school days, and even death, despite being a largely preventable disease, as noted by the Pediatric Oral Health Research and Policy Center.

(b) Children at increased risk of developing caries often lack access to dental care and many do not have good home care prevention practices.

(c) According to the California State Auditor’s report of December 2014, in 2013 less than one-half of the children enrolled in California’s Medi-Cal dental program, also known as Denti-Cal, were able to access basic dental care.

(d) Recent estimates by the State Department of Health Care Services indicate that only 25 percent of adults enrolled in Denti-Cal accessed any dental treatment benefits during 2014, even though adult benefits were partially restored.

(e) The Medi-Cal Dental Services Rate Review, dated July 1, 2015, reflects that California’s reimbursement rates for Denti-Cal were considerably lower than the comparable states of Florida, New York, and Texas, and only 31 percent of the national average for commercial dental insurance.

(f) Research has identified associations between chronic oral infections and diabetes, heart and lung disease, stroke, and poor birth outcomes.
(g) The federal Centers for Medicare and Medicaid Services (CMS) is encouraging states to emphasize new approaches to integrated whole-person care, including dental care, as well as developing innovative payment methods for state Medicaid programs.

(h) Several states have demonstrated successful outcomes with redesigning their dental programs under Medicaid.

(i) Innovative models of health and dental collaboration and innovative payment methods need to be tested in California to improve the overall health of Medi-Cal beneficiaries and to ensure an efficient and effective Denti-Cal program.

(j) Documented experience in the Counties of San Bernardino and Riverside has identified a lack of dentists accepting new Medi-Cal beneficiaries and difficulty for Medi-Cal beneficiaries in navigating dental providers.

(k) Strategic payment incentive approaches to attract and retain dentists and effectively drive the timely and appropriate use of dental services have been effective in several state Medicaid programs.

14091.42. (a) It is the intent of the Legislature to establish the Dental Health Collaboration Pilot Program to test and examine the efficacy of using a hybrid collaboration model to provide comprehensive oral health care, including oral hygiene education, prevention services, and dental treatment, under the auspices of a dental managed care plan and in collaboration with a health plan that is a Medi-Cal managed care health plan that serves the County of San Bernardino or the County of Riverside, or both of those counties.

(b) It is the intent of the Legislature for the Dental Health Collaboration Pilot Program to do all of the following, as permitted by federal law:

(1) Design and implement an oral hygiene education collaborative to provide parents, caregivers, children, and adults with applicable information and motivation to adopt positive oral health behaviors.

(2) Provide direct linkage between health care and dental care for Medi-Cal beneficiaries, including an ongoing relationship with the beneficiary and dental provider.
(3) Establish objectives for improving access to comprehensive oral health care, including access to dental prevention services and pediatric dentistry.

(4) Establish objectives for improving dental utilization, as medically indicated, for Medi-Cal beneficiaries.

(5) Test innovative payment models.

(6) Enroll eligible Medi-Cal beneficiaries into the pilot program on a voluntary basis.

(7) Achieve improved health and dental outcomes for enrolled Medi-Cal beneficiaries.

(8) Collect, measure, and analyze data in collaboration with the department.

(9) Conduct ongoing quality improvement to facilitate attainment of pilot program objectives.

14091.43. (a) No sooner than July 1, 2019, and subject to any necessary federal approvals and in accordance with this article, the department may authorize a Dental Health Collaboration Pilot Program for Medi-Cal beneficiaries.

(b) The department may authorize implementation of the pilot program for a period of up to five years.

(c) The department may seek any federal approvals as necessary, including state plan amendments or waivers.

(d) The department may provide an innovative payment structure through the pilot program to specifically facilitate health and dental objectives as identified in the pilot program, including health care savings attributable to improved dental access and the use of payment incentives to facilitate dental provider participation and the cost-effective utilization of oral health care services.

(e) The department may facilitate and assist in any necessary exchange of data between the participating health plan and the participating dental managed care plan as needed to implement the pilot program.

(f) The department may provide technical assistance as necessary to participating health plans and participating dental managed care plans.

(g) The department may develop specific contract language with a participating health plan for the purposes of implementing the Dental Health Collaboration Pilot Program that shall be incorporated into the contracts of each affected health plan.

(h)
(g) The department may develop specific contract language with a participating dental managed care plan for the purposes of implementing the Dental Health Collaboration Pilot Program that shall be incorporated into the contracts of each affected dental managed care plan.

14091.44. (a) A health plan that is a Medi-Cal managed care plan and that serves the County of San Bernardino or the County of Riverside, or both of those counties, may choose to participate in the Dental Health Collaboration Pilot Program in accordance with this section.

(b) A health plan that chooses to participate in the pilot program shall do all of the following: may participate as follows:

1. Engage with the department and the participating dental managed care plan as deemed appropriate to design and implement the pilot program for an operating period of up to five years.

2. In collaboration with the department and the participating dental managed care plan, as deemed appropriate, identify and establish core objectives for improving dental utilization and overall health care for Medi-Cal beneficiaries who opt to participate in the pilot program.

3. Collaborate with the participating dental managed care plan to engage in consistent and ongoing outreach to Medi-Cal beneficiaries for the purpose of obtaining their participation in medically appropriate usage of Denti-Cal and enrollment into the pilot program. Outreach activities may include, but are not limited to, the following:

   A. Identifying. At the initial dental screening, as described in paragraph (1) of subdivision (g) of Section 14149.8, identifying Medi-Cal beneficiaries who are not utilizing or underutilizing Denti-Cal program services, as appropriate.

   B. Providing notification to beneficiaries regarding the pilot program, as appropriate.

   C. Participating in health and dental community-based events.

4. Provide linkage, as applicable, between the participating dental managed care plan to ensure a warm handoff of identified and Medi-Cal beneficiaries who have opted into the pilot program.

5. Actively engage. Engage in patient care coordination functions with the participating dental managed care plans, including, but not limited to, the following: advising patients of...
the availability of the Dental Health Collaboration Pilot Program, as applicable.

(A) Identifying, as applicable, patients with special health care and dental care needs.

(B) Developing an overall health and dental care strategy that meets the patient’s medical needs.

(C) Coordinating and monitoring patient care with the goal of achieving optimum health care and dental care outcomes in an efficient and cost-effective manner.

(D) Arranging for patient consultations and postreview activities for continued quality improvement and improved patient compliance with the patient’s health and dental plan.

(6) Collect, measure, and analyze data in collaboration with the department and participating dental managed care plans to identify lessons learned and pilot program achievements. The participating dental managed care plan shall be the lead entity in this collaboration with the department.

14091.45. (a) A dental managed care plan that chooses to participate in the Dental Health Collaboration Pilot Program in accordance with this section, and that is under contract with the department to serve Medi-Cal beneficiaries in the County of San Bernardino, the County of Riverside, or both of those counties, shall do all of the following:

(1) Engage with the department and the participating health plan as deemed appropriate to design and implement the pilot program for an operating period of up to five years.

(2) In collaboration with the department and participating health plans, as deemed appropriate, identify and establish core objectives for improving dental utilization and overall health care for Medi-Cal beneficiaries who opt to participate in the pilot program.

(3) Collaborate with the participating health plans, as deemed appropriate, to engage in consistent and ongoing outreach to Medi-Cal beneficiaries for the purpose of obtaining their participation in medically appropriate usage of Denti-Cal and enrollment into the pilot program. Outreach activities may include, but are not limited to, the following:

(A) Identifying Medi-Cal beneficiaries who are not utilizing or underutilizing Denti-Cal program services.

(B) Providing notification regarding the pilot program, as appropriate.
Scheduling appointments and providing regular appointment reminders.

(D) Providing interpreters.

(E) Providing transportation.

(F) Facilitating communication between the Medi-Cal beneficiary and his or her dental provider.

(G) Participating in health and dental community-based events.

(4) Provide culturally appropriate oral hygiene education programs with special emphasis on underserved children.

(5) Provide linkage with the participating health plan plan, as applicable, to ensure a warm handoff of identified Medi-Cal beneficiaries who have opted into the pilot program.

(6) Actively engage in patient care coordination functions with the participating health plan, as applicable, including, but not limited to, the following:

(A) Identifying, as applicable, patients with special health care and dental care needs.

(B) Engaging with referred patients to ensure that a high level, integrated, and personalized dental care plan is implemented.

(C) Developing an overall health and dental care strategy that meets the patient’s medical needs.

(D) Coordinating and monitoring patient care with the goal of achieving optimum health care and dental care outcomes in an efficient and cost-effective manner.

(E) Arranging for patient consultations and post-review activities for continued quality improvement and improved patient compliance with the patient’s health and dental plan.

(7) Monitor dental providers for performance and outcomes, including ongoing quality improvement as necessary.

(8) Collect, measure, and analyze data in collaboration with the department, the participating health plan plan, as necessary, and dental providers to identify lessons learned and pilot program achievements. The participating dental managed care plan shall be the lead entity in this collaboration with the department and dental providers.

(b) Upon the approval of the department, a participating dental managed care plan may implement and demonstrate innovative payment methods designed to provide actuarially sound reimbursement to dental providers, along with incentive payments that recognize established outcome measures and objectives.
14091.46. A health plan may terminate its participation in the pilot program by notifying the department at least 120 days before the termination. The health plan shall give participating Medi-Cal beneficiaries and dental managed care plans at least 90 days’ notice of termination.

14091.47. A dental managed care plan may terminate its participation in the pilot program by notifying the department at least 120 days before the termination. The dental managed care plan shall give participating Medi-Cal beneficiaries and health plans at least 90 days’ notice of termination.

14091.48. Contracts entered into pursuant to this article may be on a bid or nonbid basis, and shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code.

14091.49. This article shall not be construed to limit or eliminate services provided by the Medi-Cal program or Denti-Cal.

14091.50. This article shall be implemented only to the extent that federal financial participation is available and any necessary federal approvals have been obtained.

14091.51. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific this article by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions, without taking regulatory action.

SEC. 2. Section 14149.8 of the Welfare and Institutions Code is amended to read:

14149.8. (a) The department shall expedite the enrollment of Medi-Cal dental providers by streamlining the Medi-Cal provider enrollment process. The department shall pursue and implement all of the following activities, to the extent permitted by federal law:

(1) Create a dental-specific enrollment form.

(2) Pursue an alternative automatic enrollment process for a provider already commercially credentialed by either a dental fee-for-service contractor or an administrative services contractor for the purpose of providing services as a commercial provider.

(3) Discontinue requiring providers to resubmit an enrollment application that has been deemed incomplete if the missing information is available elsewhere within the application packet.
(4) To the extent that the department expedites the enrollment of Medi-Cal dental providers by streamlining the Medi-Cal provider enrollment process, the department shall publish the criteria for those processes in applicable provider bulletins and manuals.

(b) (1) The department shall maintain the provider network on a monthly basis by deactivating a billing provider who has not, over a continuous 12-month period, submitted a claim for reimbursement for services rendered.

(2) Prior to deactivating a provider described in paragraph (1), the department shall send a notice to the provider informing the provider that the provider shall be deactivated from the dental program unless the provider requests reactivation within six months after the date of the notice. The department shall not disenroll a provider until six months after the date of that notice. This paragraph shall not be implemented until the date the department implements and programs the necessary system changes to the California Dental Medicaid Management Information Systems to implement this paragraph, or no sooner than July 1, 2017, whichever is later.

(3) In order to improve the quality of the dental provider network, the department also shall exercise additional measures as appropriate and permitted by law, including, but not limited to, temporary suspensions. The parameters and criteria developed by the department for additional measures for deactivations and disenrollments shall be published in applicable provider bulletins and manuals.

(c) (1) The department shall monitor access and utilization of Medi-Cal dental services in the fee-for-service and managed care delivery systems to assess opportunities to improve access and utilization, including an annual review of the treatment authorization review process.

(2) The department shall assess opportunities to develop and implement innovative payment reform proposals within the Medi-Cal dental programs.

(d) The department shall explore additional opportunities to improve the Medi-Cal Dental Program, in consultation with stakeholders and as deemed appropriate by the department and to the extent permitted by federal law, including, but not limited to, the following:
1. Aligning the provision of dental anesthesia services with that of medical anesthesia services, including the ability to bill for applicable facility fees and ancillary services.
2. Adjusting other utilization controls for specialty services, as appropriate, to promote access to care while still protecting program integrity.
3. Expanding the scope of beneficiary outreach activities required by an entity that is contracted with the department to more broadly address underutilization throughout the state.
4. Prior to implementing an action pursuant to subdivision (d), the department shall post the proposed action on its Internet Web site at least 30 days before implementation.
5. The department shall work with dental managed care plans that contract with the department for the purposes of implementing the Medi-Cal Dental Program, which includes, but is not limited to, contracts authorized pursuant to Sections 14087.46, 14089, and 14104.3, to provide beneficiaries with access to dental plan liaisons to assist in the coordination of care for enrolled members.
6. A Medi-Cal dental managed care plan shall work with the department to ensure access to, and the provision of, quality dental services to Medi-Cal beneficiaries, and its activities in connection therewith shall include, but not be limited to, all of the following:
   1. Maintaining licensure pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code).
   2. Ensuring each enrolled Medi-Cal beneficiary has an available primary care dentist.
   3. Ensuring each enrolled Medi-Cal beneficiary has access to specialists for medically necessary covered services.
   4. Implementing and actively maintaining a utilization management program to ensure appropriate processes are used to review and approve the provision of medically necessary dental services as identified in the Manual of Criteria and Schedule of Maximum Allowances contained in the Medi-Cal Dental Program Provider Handbook.
   5. Maintaining a full-time dentist as dental director pursuant to Section 53913.5 of Title 22 of the California Code of Regulations.
   6. Complying with Title 28 of the California Code of Regulations, including Sections 1300.67.2 and 1300.70, regarding
accessibility of services and requirements for ongoing quality
assurance systems, respectively.

(7) Monitoring contracting dental providers using quality
improvement thresholds as established by the department.

(8) Developing and submitting to the department an annual
quality improvement report that describes activities undertaken
and evaluates areas of success and needed improvements.

(9) Conducting or participating in quality improvement projects
as approved by the department.

(h) A Medi-Cal managed care health plan shall do all of the
following:

(1) Provide dental screenings for every eligible beneficiary as
a part of the beneficiary’s initial health assessment.

(2) Ensure that an eligible beneficiary is referred to an
appropriate Medi-Cal dental provider.

(3) Identify plan liaisons available to dental managed care
contractors and dental fee-for-service contractors to assist with
referrals to health plan covered services.

(i) (1) To increase the efficiency and timeliness of changes,
any contract amendment, modification, or change order to any
contract entered into by the department for the purposes of
implementing the state Medi-Cal Dental Program shall be exempt,
except as provided in paragraph (2), from Part 2 (commencing
with Section 10100) of Division 2 of the Public Contract Code, as
well as Sections 11545 and 11546 of the Government Code, in
addition to any policies, procedures, or regulations authorized by
those provisions.

(2) Paragraph (1) shall not exempt the department from
establishing a competitive bid process for awarding new contracts
pursuant to Section 14104.3, as well as for awarding new dental
contracts pursuant to Sections 14087.46 and 14089.

(j) Prior to implementing any change pursuant to this section,
the department shall consult with, and provide notification to,
stakeholders, including representatives from counties, local dental
societies, nonprofit entities, legal aid entities, and other interested
parties.
(k) (1) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department, without taking any further regulatory action, shall implement, interpret, or make specific policies and procedures pertaining to the dental fee-for-service program and dental managed care plans, as well as applicable federal waivers and state plan amendments, including the provisions set forth in this section, by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions until regulations are adopted.

(2) No later than December 31, 2018, the department shall adopt regulations in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Beginning six months after the effective date of this section, and notwithstanding Section 10231.5 of the Government Code, the department shall provide a status report to the Legislature on a semiannual basis until regulations have been adopted.

(l) This section shall be implemented only to the extent that all of the following occur:

(1) The department obtains any federal approvals necessary to implement this section.

(2) The department obtains federal matching funds to the extent permitted by federal law.
An act to amend Section 65964 of, and to add Section 65964.2 to, the Government Code, relating to telecommunications.

LEGISLATIVE COUNSEL’S DIGEST

SB 649, as amended, Hueso. Wireless telecommunications facilities. Under existing law, a wireless telecommunications collocation facility, as specified, is subject to a city or county discretionary permit and is required to comply with specified criteria, but a collocation facility, which is the placement or installation of wireless facilities, including antennas and related equipment, on or immediately adjacent to that wireless telecommunications collocation facility, is a permitted use not subject to a city or county discretionary permit.

This bill would provide that a small cell is a permitted use, not subject only to a specified permitting process adopted by a city or county, if the small cell meets specified requirements. By imposing new duties on local agencies, this bill would impose a state-mandated local program. The bill would authorize a city or county to require an administrative permit encroachment permit or a building permit, and any additional ministerial permits, for a small cell, as specified. The bill would define the term “small cell” for these purposes.
Under existing law, a city or county, as a condition of approval of an application for a permit for construction or reconstruction of a development project for a wireless telecommunications facility, may not require an escrow deposit for removal of a wireless telecommunications facility or any component thereof, unreasonably limit the duration of any permit for a wireless telecommunications facility, or require that all wireless telecommunications facilities be limited to sites owned by particular parties within the jurisdiction of the city or county, as specified.

This bill would require permits for these facilities to be renewed for equivalent durations, as specified.

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 no reimbursement is required by this act for a specified reason.


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

SECTION 1. The Legislature finds and declares that, to ensure that communities across the state have access to the most advanced wireless communications technologies and the transformative solutions that robust wireless connectivity enables, such as Smart Communities and the Internet of Things, California should work in coordination with federal, state, and local officials to create a statewide framework for the deployment of advanced wireless communications infrastructure in California that does all of the following:

(a) Reaffirms local governments’ historic role and authority with respect to wireless communications infrastructure siting and construction generally.

(b) Reaffirms that deployment of telecommunications facilities in the rights-of-way is a matter of statewide concern, subject to a statewide franchise, and that expeditious deployment of telecommunications networks generally is a matter of both statewide and national concern.

(c) Recognizes that the impact on local interests from individual small wireless facilities will be sufficiently minor and that such
deployments should be a permitted use statewide and should not be subject to discretionary zoning review.

(d) Requires expiring permits for these facilities to be renewed so long as the site maintains compliance with use conditions adopted at the time the site was originally approved.

(e) Requires providers to obtain all applicable building or encroachment permits and comply with all related health, safety, and objective aesthetic requirements for small wireless facility deployments on a ministerial basis.

(f) Grants providers fair, reasonable, nondiscriminatory, and nonexclusive access to locally owned utility poles, streetlights, and other suitable host infrastructure located within the public right-of-way and in other local public places such as stadiums, parks, campuses, hospitals, transit stations, and public buildings consistent with all applicable health and safety requirements, including Public Utilities Commission General Order 95.

(g) Provides for full recovery by local governments of the costs of attaching small wireless facilities to utility poles, streetlights, and other suitable host infrastructure in a manner that is consistent with existing federal and state laws governing utility pole attachments generally.

(h) Permits local governments to charge wireless permit fees that are fair, reasonable, nondiscriminatory, and cost based.

(i) Advances technological and competitive neutrality while not adding new requirements on competing providers that do not exist today.

SEC. 2. Section 65964 of the Government Code is amended to read:

65964. As a condition of approval of an application for a permit for construction or reconstruction for a development project for a wireless telecommunications facility, as defined in Section 65850.6, a city or county shall not do any of the following:

(a) Require an escrow deposit for removal of a wireless telecommunications facility or any component thereof. However, a performance bond or other surety or another form of security may be required, so long as the amount of the bond security is rationally related to the cost of removal. In establishing the amount of the security, the city or county shall take into consideration
information provided by the permit applicant regarding the cost of removal.

(b) Unreasonably limit the duration of any permit for a wireless telecommunications facility. Limits of less than 10 years are presumed to be unreasonable absent public safety reasons or substantial land use reasons. However, cities and counties may establish a build-out period for a site. A permit shall be renewed for an equivalent duration unless the city or county makes a finding that the wireless telecommunications facility does not comply with the codes and permit conditions applicable at the time the permit was initially approved.

(c) Require that all wireless telecommunications facilities be limited to sites owned by particular parties within the jurisdiction of the city or county.

SEC. 3. Section 65964.2 is added to Government Code, to read:

65964.2. (a) A small cell shall be a permitted use only to a permitting process adopted by a city or county discretionary permit pursuant to subdivision (b) if it satisfies the following requirements:

1. The small cell is located in the public right-of-way in any zone or in any zone that includes a commercial or industrial use.
2. The small cell complies with all applicable state, federal, state, and local health and safety regulations, including compliance with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.).
3. The small cell is not located on a fire department facility.

(b) (1) A city or county may require that the small cell be approved pursuant to a single administrative permit or a building permit or its functional equivalent in connection with placement outside of the public right-of-way or an encroachment permit or its functional equivalent issued consistent with Sections 7901 and 7901.1 of the Public Utilities Code for the placement in public rights-of-way, and any additional ministerial permits, provided that the permit is all permits are issued within the timeframes required by state and federal law.

2. An administrative permit. Permits issued pursuant to this subdivision may be subject to the following:

(A) The same administrative permit requirements as for similar construction projects and applied in a nondiscriminatory manner.
(B) The submission of a requirement to submit additional information showing that the small cell complies with the Federal Communications Commission’s regulations concerning radio frequency emissions referenced in Section 332(c)(7)(B)(iv) of Title 47 of the United States Code.

(C) A condition that the applicable permit may be rescinded if construction is not substantially commenced within one year. Absent a showing of good cause, an applicant under this section may not renew the permit or resubmit an application to develop a small cell at the same location within six months of recision.

(D) A condition that small cells no longer used to provide service shall be removed at no cost to the city or county.

(E) Compliance with building codes, including building code structural requirements.

(F) A condition that the applicant pay all electricity costs associated with the operation of the small cell.

(G) A condition to comply with feasible design and collocation standards on a small cell to be installed on property not in the right-of-way.

(3) The administrative permit permits issued pursuant to this subdivision shall not be subject to:

(A) Requirements to provide additional services, directly or indirectly, including, but not limited to, in-kind contributions from the applicant such as reserving fiber, conduit, or pole space.

(B) The submission of any additional information other than that required of similar construction projects, except as specifically provided in this section.

(C) Limitations on routine maintenance or the replacement of small cells with small cells that are substantially similar, the same size or smaller.

(D) The regulation of any antennas micro wireless facilities mounted on cable strands a span of wire.

(c) A city or county shall not preclude the leasing or licensing of its vertical infrastructure located in public right-of-way or public utility easements under the terms set forth in this paragraph. Vertical infrastructure shall be made available for the placement of small cells under fair and reasonable fees, terms, and conditions and offered on a nondiscriminatory basis for small cells. Fees shall be cost based and shall not exceed the lesser of either of the following: conditions, which may include feasible design and
collocation standards. A city or county may reserve capacity on vertical infrastructure if the city or county adopts a resolution finding, based on substantial evidence in the record, that the capacity is needed for projected city or county uses. Fees shall be tiered or flat and within a range of $100 to $850 per small cell per year, indexed for inflation from the effective date of this section.

1. The costs of ownership of the percentage of the volume of the capacity of the vertical infrastructure rendered unusable by a small cell:

2. The rate produced by applying the formula adopted by the Federal Communications Commission for telecommunications pole attachments in Section 1.1409(e)(2) of Part 47 of the Code of Federal Regulations.

(d) A city or county shall not unreasonably discriminate in the leasing or licensing of against the deployment of a small cell on property owned by the city or county and shall make space available on property not located in the public right-of-way owned or operated by the city or county for installation of a small cell. A city or county shall authorize the installation of a small cell on property owned or controlled by the city or county not located within the public right-of-way to the same extent the city or county permits access to that property for under terms and conditions that are no less favorable than the terms and conditions under which the space is made available for comparable commercial projects or uses. These installations shall be subject to reasonable and nondiscriminatory rates, terms, and conditions, which may include feasible design and collocation standards.

(e) Nothing in this section shall be construed to alter, modify, or amend any franchise or franchise requirements under state or federal law.

(f) For purposes of this section, the following terms have the following meanings:

1. (A) “Small cell” means a wireless telecommunications facility, as defined in Section 65850.6, using licensed or unlicensed spectrum that meets the following qualifications:

   (i) Any individual antenna—All antennas on the structure, excluding the associated equipment, is individually no more than three cubic feet in volume, and all antennas on the structure total
no more than six cubic feet in volume, whether in a single array
or separate.

(ii) (I) The associated equipment on pole structures does not
exceed 21 cubic feet for poles that can support fewer than three
providers or 28 cubic feet for pole collocations that can support at
least three providers, or the associated equipment on nonpole
structures does not exceed 28 cubic feet for collocations that can
support fewer than three providers or 35 cubic feet for collocations
that can support at least three providers. provided that any
individual piece of associated equipment or pole structures do not
exceed nine cubic feet.

(II) The following types of associated ancillary equipment are
not included in the calculation of equipment volume:

(ia) Electric meters and any required pedestal.

(ib) Concealment elements.

(ic) Any telecommunications demarcation box.

(id) Grounding equipment.

(ie) Power transfer switch.

(ig) Vertical cable runs for the connection of power and other
services.

(B) “Small cell” includes a micro wireless facility that is no
larger than 24 inches long, 15 inches in width, 12 inches in height,
and that has an exterior antenna, if any, no longer than 11 inches.

(B)

(C) “Small cell” does not include communications infrastructure
extending beyond the telecommunications demarcation box, either
of the following:

(i) Coaxial or fiber optic cables that do not exclusively provide
service to that small cell.

(ii) Wireless facilities placed in any historic district listed in
the National Park Service Certified State or Local Historic
Districts or in any historical district listed on the California
Register of Historical Resources or placed in coastal zones subject
to the jurisdiction of the California Coastal Commission.

(2) (A) “Vertical infrastructure” means all poles or similar
facilities owned or controlled by a city or county that are in the
public right-of-way or public utility easements and meant for, or
used in whole or in part for, communications service, electric
service, lighting, traffic control, signage, or similar functions.
(B) For purposes of this paragraph, the term “controlled” means having the right to allow subleases or sublicensing. A city or county may impose feasible design or collocation standards for small cells placed on vertical infrastructure, including the placement of associated equipment on the vertical infrastructure or the ground.

(g) Existing agreements regarding the leasing or licensing of vertical infrastructure entered into prior to the effective date of this section remain in effect, subject to applicable termination provisions. The operator of a small cell may accept the rates of this section for small cells that are the subject of an application submitted after the agreement is terminated pursuant to the terms of the agreement.

(h) Nothing in this section shall be construed to impose an obligation to charge a use fee different than those authorized by Part 2 (commencing with Section 9510) of Division 4.8 of the Public Utilities Code on a local publicly owned electric utility.

(i) The Legislature finds and declares that small cells, as defined in this section, have a significant economic impact in California and are not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution, but are a matter of statewide concern.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.
An act to amend Section 8685.4 of the Government Code, relating to emergency services.

LEGISLATIVE COUNSEL’S DIGEST


The California Emergency Services Disaster Assistance Act establishes the Office of Emergency Services headed by the Director of Emergency Services and provides that the office is responsible for the state’s emergency and disaster response services for natural, technological, or manmade disasters and emergencies. The act requires the director, during a state of war emergency, a state of emergency, or a local emergency, to coordinate the emergency activities of all state agencies in connection with that emergency and further requires every state agency and officer to cooperate with the director in rendering all possible assistance in carrying out the provisions of the act. Services after the proclamation of a local emergency or state of emergency, as specified. The act sets forth the process by which a local agency may apply for those allocations and, as part of this process, generally provides for completion of a state agency investigation and report to the director on the proposed work within 60 days from the date of the application.

This bill would state the intent of the Legislature to enact legislation to establish specific guidelines and timeframes with respect to the state’s
response to a local proclamation of an emergency as set forth in a specified provision of the act. require the director to notify the local agency of all approved costs within 60 days from the date that investigation is completed.


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

SECTION 1. Section 8685.4 of the Government Code is amended to read:

8685.4. A local agency shall make application to the director for state financial assistance within 60 days after the date of the proclamation of a local emergency. The director may extend the time for this filing only under unusual circumstances. No financial aid shall be provided until a state agency, upon the request of the director, has first investigated and reported upon the proposed work, has estimated the cost of the work, and has filed its report with the director within 60 days from the date the local agency made application, unless the director extends the time because of unusual circumstances. The estimate of cost of the work may include expenditures made by the local agency for the work prior to the making of the estimate. If the reporting state agency fails to report its findings within the 60-day period, and time is not extended by the director, the director may complete the investigation and recover a proportionate amount allocated to the state agency for the balance of the investigation. The director shall notify the local agency of all approved costs within 60 days from the date the investigation is completed. “Unusual circumstances,” as used above, are unavoidable delays that result from recurrence of a disaster, prolonged severe weather within a one-year period, or other conditions beyond the control of the applicant. Delays resulting from administrative procedures are not unusual circumstances which warrant extensions of time.

SECTION 1. It is the intent of the Legislature to enact legislation to establish specific guidelines and timeframes with respect to the state’s response to a local proclamation of an emergency as set forth in Section 8588 of the Government Code.
An act relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 804, as introduced, Morrell. Public records.
Existing law, the California Public Records Act, requires a local agency, as defined, to make public records available for inspection, subject to certain exceptions. In addition to maintaining public records for public inspection during the office hours of the public agency, existing law authorizes a public agency to make a public record available for inspection by posting it on its Internet Web site and, in response to a request for a public record posted on the Internet Web site, directing a member of the public to the location on the Internet Web site where the public record is posted.

This bill would state the intent of the Legislature to subsequently amend this bill to include provisions that would require the exploration and promotion of efficiencies and modernization in the storage of, and public access to, local government documents and recordings.


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

1. SECTION 1. It is the intent of the Legislature to subsequently amend this measure to include provisions that would require the exploration and promotion of efficiencies and modernization in
the storage of, and public access to, local government documents and recordings.
Senate Constitutional Amendment No. 12

Introduced by Senator Mendoza
(Coauthors: Senators Allen, Bradford, Galgiani, Hertzberg, Hill, Hueso, Wiener, and Wilk)

April 27, 2017

Senate Constitutional Amendment No. 12—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 4 of, and adding Sections 4.5 and 4.6 to, Article XI thereof, relating to counties.

LEGISLATIVE COUNSEL’S DIGEST

SCA 12, as introduced, Mendoza. Counties: governing body: county executive.

1) The California Constitution requires that a county charter provide for a governing body of 5 or more members, elected by district, at large, or at large with a requirement that they reside in a district, and provide for the compensation, terms, and removal of members of the governing body. Existing law also requires a general law county to have a board of supervisors consisting of 5 members, and requires, except as provided, each member of the board of supervisors to be elected by the district which the member represents.

This measure would, commencing January 1, 2022, in a county that is found at a decennial United States census, beginning with the 2020 United States census, to have a population of more than 5,000,000, require, and deem any applicable law, including a county charter, to require, a governing body consisting of a sufficient number of members so as to ensure that each member represents a district containing a population equivalent to no more than 2 districts in the United States House of Representatives. The measure would require that the members of the governing body serve for a term of 4 years and limit election to
the governing body to no more than 3 terms. The measure would also
provide that, in such a county, the expenditures for the governing body
and its staff may not exceed, for any subsequent fiscal year after the
release of the census finding that the county has a population of more
than 5,000,000, the amount that was allocated for the expenses of the
governing body and its staff in the county’s adopted budget for the
fiscal year in which that same census was conducted, unless adjusted
as provided.

(2) The California Constitution additionally requires that a county
charter provide for an elected sheriff, an elected district attorney, an
elected assessor, and other officers.

This measure would require a county that is found at a decennial
United States census, beginning with the 2020 United States census, to
have a population of more than 5,000,000, to have an elected county
executive. The measure would provide for the election of the county
executive to a term of 6 years at a general election, and would limit
election to that office to no more than 2 terms. The measure would
require the county executive to appoint, supervise, and dismiss any
appointed department head, and to appoint the members of county
commissions, subject to confirmation by the governing body of the
county. The measure would additionally require the county executive
to develop and submit the county budget to the governing body, for
approval or amendment by that body, and to approve, with or without
line-item vetoes, the budget as transmitted back by the governing body.

(3) The California Constitution provides that charter counties are
subject to statutes that relate to apportioning population of governing
body districts.

This measure would recast this provision to provide that charter
counties are subject to federal, state, and local laws that relate to
apportioning population of governing body districts.

(4) This measure would also make other technical, nonsubstantive
changes.

(5) This measure would declare that its provisions are severable.

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

1 WHEREAS, California’s counties are creations of the state and
2 their governance is mandated by the California Constitution, and
3 changes to certain aspects of their governance require amendment
4 of the California Constitution; and
WHEREAS, California’s counties are governed by elected members of a board of supervisors; and
WHEREAS, The number of members of the board of supervisors in most counties has remained unchanged for more than a century despite enormous increases in the county’s population which, in some cases, are greater than the population of individual states in the Union; and
WHEREAS, It is a well-recognized principle that residents are more efficiently able to access their representatives for assistance for services and to hold them better accountable when the ratio of residents to each elected representative on a governing body is smaller rather than larger; and
WHEREAS, It is important to restrain the costs of governance by restricting the fiscal impact of any changes in any county’s board of supervisors and the creation of an elected county executive position; and
WHEREAS, It is therefore the intent of the people, in adopting this measure, to make all of the following changes with regard to the county board of supervisors in each county having a population of more than 5,000,000 at each decennial United States census:
(a) Increase democratic representation by making an effort to substantially reduce the population in each supervisorial district to approximate the combined population of two congressional districts;
(b) Establish smaller supervisorial districts, to provide greater opportunities for public participation in local government that provide safety, health, transportation, and other vital services;
(c) By creating a county executive position to separate the legislative and executive functions of the County of Los Angeles, consistent with the Los Angeles County Civil Grand Jury’s July 2016 Report recommending changes for the governance of the County of Los Angeles given the county’s complexity of populations, demographics, services, and financing sources, among other matters;
(d) To control the costs and size of county government through restriction of future costs for the board of supervisors and the proposed elected county executive to current respective budgets;
now, therefore, be it
Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California at its 2017–18 Regular
Session commencing on the fifth day of December 2016, two-thirds of the membership of each house concurring, hereby proposes to the people of the State of California, that the Constitution of the State be amended as follows:

First—That Section 4 of Article XI thereof is amended to read:

SEC. 4. County charters shall provide for:

(a) **Except as otherwise provided in Section 4.5, a governing body of five or more members, elected (1) by district or, (2) at large, or (3) at large, with a requirement that they each member reside in a district. Charter counties are subject to statutes federal, state, and local laws that relate to apportioning population of governing body districts.**

(b) **Except as otherwise provided in Section 4.5, the compensation, terms, and removal of members of the governing body. If a county charter provides for the Legislature to prescribe the salary of the governing body, such compensation shall be prescribed by the governing body by ordinance.**

(c) An elected sheriff, an elected district attorney, an elected assessor, other officers, their election or appointment, compensation, terms, and removal, except as otherwise provided in Section 4.6.

(d) The performance of functions required by statute.

(e) The powers and duties of governing bodies and all other county officers, and for consolidation and segregation of county officers, and for the manner of filling all vacancies occurring therein.

(f) The fixing and regulation by governing bodies, by ordinance, of the appointment and number of assistants, deputies, clerks, attachés, and other persons to be employed, and for the prescribing and regulating by such bodies of the powers, duties, qualifications, and compensation of such persons, the times at which, and terms for which they shall be appointed, and the manner of their appointment and removal.

(g) Whenever any county has framed and adopted a charter, and the same shall have been approved by the Legislature as herein provided, the general laws adopted by the Legislature in pursuance of Section 1(b) subdivision (b) of Section 1 of this article, shall, as to such county, be superseded by said charter as to matters for which, under this section it is competent to make provision in such
charter, and for which provision is made therein, except as herein otherwise expressly provided.

(h) Charter counties shall have all the powers that are provided by this Constitution or by statute for counties.

Second—That Section 4.5 is added to Article XI thereof, to read:

SEC. 4.5. (a) Commencing January 1, 2022, in a county that is found at a decennial United States census, beginning with the 2020 United States census, to have a population of more than 5,000,000, there is required, and any applicable law, including a county charter, shall be deemed to require, the following:

(1) The governing body shall consist of a sufficient number of members, elected by district, so as to ensure that each member of the governing body represents, to the extent practicable, a district containing a population approximately equivalent to no more than two districts in the United States House of Representatives. Each member of the governing body shall reside within the district that he or she represents.

(2) (A) Except as provided in subparagraph (B), the expenditures for the governing body and its staff shall not exceed, for any subsequent fiscal year after the release of the census finding a population of more than 5,000,000, the amount that was allocated for the expenses of the governing body and its staff in the county’s adopted budget for the fiscal year in which that same census was conducted.

(B) Notwithstanding subparagraph (A), the expenditures for the governing body and its staff may be adjusted for either of the following reasons:

(i) To account for inflation, as reflected in annual changes in the California Consumer Price Index.

(ii) To address contingencies unaccounted for during the fiscal year in which the census was conducted.

(3) Members of the governing body shall serve for terms of four years. A member of the governing body shall not serve more than three terms, whether or not those terms are consecutive.

(b) Any members of the governing body required by this section in addition to those required by any other law, including an existing charter, shall first be elected at a general election occurring on or after January 1, 2022. Those additional members shall serve for the same term and subject to the same provisions of the applicable
law or charter to the governing body, except that no more than 
one-half of the additional members elected on or after January 1, 
2022, may serve a shortened term so as to provide for staggered 
terms.

Third—That Section 4.6 is added to Article XI thereof, to read:
SEC. 4.6. (a) (1) A county that is found at a decennial United 
States census beginning with the 2020 United States census to 
have a population of more than 5,000,000 shall have an elected 
county executive who shall serve a term of six years. The county 
executive shall not serve more than two terms, whether or not those 
terms are consecutive. The election of the county executive shall 
 occur at a general election.

(2) (A) Except as provided in subparagraph (B), the budget for 
the county executive for the first fiscal year in which that office 
is in existence pursuant to this section shall be based upon the 
budget of the chief executive officer or his or her equivalent, if 
any, in the fiscal year in which this section was added.

(B) Notwithstanding subparagraph (A), the amount of 
expenditures for the governing body may be adjusted for any fiscal 
year for either of the following reasons:

(i) To account for inflation, as reflected in annual changes in 
the California Consumer Price Index.

(ii) To address contingencies unaccounted for during the first 
fiscal year in which this section was added.

(C) The salary of the county executive shall be the same as the 
salary paid to the presiding judge of the superior court with 
jurisdiction over the county and may be adjusted in the same 
manner. This subparagraph shall not be construed as a limitation 
on the authority of the Legislature to set the compensation for 
judges of courts of record pursuant to Section 19 of Article VI.

(b) (1) (A) The county executive shall appoint, supervise, and 
dismiss any person appointed to the position of department head, 
or its equivalent.

(B) The governing body of the county may overrule any 
appointment or dismissal made pursuant to this paragraph by a 
two-thirds vote of its entire membership. The governing body shall 
notify the county executive of its intent to overrule and shall take 
action within 30 calendar days of the date of notification. During 
the 30 calendar days, the county executive’s appointment or 
dismissal action shall be suspended.
(2) The county executive shall appoint the members of any
commission of the county, subject to confirmation by the governing
body of the county.

(c) (1) The county executive, within 45 days of the adoption
of the annual state budget pursuant to Section 12 of Article IV,
shall develop and submit to the governing body of the county an
annual budget for the county.

(2) Within 90 days of receipt of the budget pursuant to paragraph
(1), the governing body of the county shall review and approve
the budget, with or without amendments, and transmit the budget
to the county executive for review and final approval.

(3) (A) Within 15 days of receipt of the budget pursuant to
paragraph (2), the county executive shall either:

(i) Approve the budget as transmitted by the board of supervisors
pursuant to paragraph (2).

(ii) Approve the budget with any line-item vetoes.

(B) Upon taking an action pursuant to clause (i) or (ii), the
county executive shall return the budget to the governing body of
the county along with the action taken.

(4) The governing body of the county may, within 15 days of
an approval of a budget with a line-item veto pursuant to clause
(ii) of subparagraph (A) of paragraph (3), override the veto by a
two-thirds vote of its entire membership.

(5) An approved budget may be amended as follows:

(A) By a proposal of the county executive. The county executive
shall present any proposed amendments to the governing body of
the county. The governing body shall review any proposed
amendment presented by the county executive, and may approve
any amendments by a two-thirds vote of its entire membership.

(B) By the governing body, which shall approve any amendment
to an approved budget by a two-thirds vote of its entire
membership.

(d) The governing body may override any action of the county
executive by a two-thirds vote of its entire membership.

Fourth—The provisions of this measure are severable. If any
provision of this measure or its application is held invalid, that
invalidity shall not affect other provisions or applications that can
be given effect without the invalid provision or application.