June 21, 2017
NVTA Agenda Item 11.5
Continued From: New
Action Requested: INFORMATION

NAPA VALLEY TRANSPORTATION AUTHORITY
Board Agenda Letter

TO: Board of Directors

FROM: Kate Miller, Executive Director

REPORT BY: Kate Miller, Executive Director
(707) 259-8634 / Email: kmiller@nvta.ca.gov

SUBJECT: Federal and State Legislative Updates and State Bill Matrix

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RECOMMENDATION

That the Napa Valley Transportation Authority (NVTA) Board receive the monthly Federal and State Legislative updates, and State Bill Matrix.

EXECUTIVE SUMMARY

The Board will receive the Federal Transportation Legislative update (Attachment 1) provided by Van Scoyoc Associates, the State Legislative update (Attachment 2), the State Bill Matrix (Attachment 3), and Capital Update (Attachment 4) provided by Platinum Advisors.

FISCAL IMPACT

Is there a Fiscal Impact? No

SUPPORTING DOCUMENTS

Attachments: (1) May 30, 2017 Federal Legislative Update (Van Scoyoc Associates)
(2) May 30, 2017 State Legislative Update (Platinum Advisors)
(3) May 30, 2017 State Bill Matrix (Platinum Advisors)
(4) June 2, 2017 Capital Update (Platinum Advisors)

VAN SCOYOC
ASSOCIATES

TO: Kate Miller, NVTA
FROM: Steve Palmer, Channon Hanna, and David Haines
DATE: May 30, 2017
SUBJECT: Federal Legislative Update

The following is a summary of federal legislative activities related to transportation, housing, and environmental issues over the last month.

Legislative Action

FY 2017 Appropriations. On May 4, final Congressional passage occurred for the fiscal year (FY) 2017 omnibus appropriations bill. The House passed the bill by a vote of 309-118, and the Senate passed the bill by a vote of 79-18 that funds the federal government through September 30, 2017. Base discretionary funding alone in the bill meets the caps in current law, providing $1.07 trillion.

Department of Transportation (DOT) Deputy Secretary. On May 16, the Senate confirmed the nomination of Jeffrey Rosen to be the next DOT Deputy Transportation Secretary with a vote of 56-42.

Reducing Regulatory Burdens Act of 2017. On May 24, the House of Representatives passed H.R. 953, the Reducing Regulatory Burdens Act of 2017, by a vote of 256-165. The bill amends the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Water Pollution Control Act (commonly known as the Clean Water Act) to prohibit the Environmental Protection Agency or a state from requiring a permit under the National Pollutant Discharge Elimination System for a discharge of a pesticide from a point source into navigable waters if the discharge is approved under FIFRA. Point source pollution is waste discharged from a distinct place, such as a pipe, channel, or tunnel. The bill establishes exemptions from this prohibition. The legislation has been sent to the Senate for further consideration.

Congressional Hearings

Infrastructure Project Streamlining. On May 3, the Senate Committee on Environment and Public Works held a full committee hearing entitled to review infrastructure project streamlining and efficiency and to examine how to achieve faster, better, and cheaper results. Witnesses included the following individuals: William Panos, Wyoming DOT; Leah Pilconis; Associated General Contractors of America; and John Porcari, WSP Parsons Brinkerhoff.

Modernization of the Endangered Species Act. On May 10, the Senate Committee on Environment and Public Works held a full committee hearing to review state views on the need to modernize the Endangered Species Act. Witness included representatives from Florida Fish and Wildlife Conservation Commission, Arizona Game and Fish Department, and Rhode Island Department of Environmental Management.

Leveraging Federal Funding. On May 16, the Senate Committee on Environment and Public Works Subcommittee on Transportation and Infrastructure held a Subcommittee hearing regarding leveraging federal funding and innovative solutions for infrastructure. Witnesses included representatives from City of Los Angeles, City of Oklahoma City, Infrastructure Practice Group, Center for American Progress, and Virginia DOT.

Improving America's Infrastructure; the Road Forward. On May 17, the Environment and Public Works Committee held a hearing on ways to improve the nation's infrastructure. U.S. DOT Secretary Chao testified at the hearing and discussed the Administration's infrastructure plan.

Emerging Transportation Technologies. On May 18, the Transportation, Housing and Urban Development Appropriations Subcommittee held a hearing to explore automated vehicles, drones, and other emerging transportation technologies. Witnesses included representatives from the RAND Corporation, the Stanford University Department of Aeronautics and Astronautics, the Self-Driving Coalition for Safer Streets, and the Association of Unmanned Vehicle Systems International.

Attainability of Ground-Level Ozone Standards. On May 23, the Senate Committee on Environment and Public Works Subcommittee on Clean Air and Nuclear Safety held a subcommittee hearing reviewing the attainability of the National Ambient Air Quality Standards for Ground-Level Ozone. The Subcommittee sought ways to make the Standards more attainable. Additionally, the Subcommittee heard from the following witnesses: Senator Jeff Flake (R-AZ); Misael Cabrera, Arizona Department of Environmental Quality; Ahron Hakimi, Kern Council of Governments; Kyle Zeringue, Baton Rouge Area Chamber; Shawn Garvin, Deleware Department of Natural Resources and Environmental Control; Dr. Monico Kraft, University of Arizona College of Medicine.

DHS FY 2018 Budget. On Wednesday, May 24 and May 25, the House and Senate Subcommittees on Homeland Security Appropriations held hearings to examine the FY 2018 DHS budget proposal. DHS Secretary John Kelly testified at the hearings.

Executive Branch

Public Transit, Information on Job Access and Reverse Commute Activities. On May 4, the Government Accountability Office (GAO) released a report that examines: (1) how FTA communicated the 2012 statutory changes to on Job Access and Reverse Commute (JARC) activities to transit providers and (2) whether and how selected states and transit providers have continued to fund and provide JARC activities since the 2012 statutory changes.

DOT's FY 2016 Payment Reporting. On May 10, the DOT Inspector General released a report which found that for fiscal year 2016, the DOT reported approximately $55.5 billion in payments in programs or activities susceptible to significant improper payments. Specifically, the Federal Aviation Administration (FAA) program funded by the Facilities and Equipment—Disaster Relief Appropriations Act (F&E-DRAA), the Federal Railroad Administration's (FRA) High-Speed Intercity Passenger Rail (HSIPR) program, and the Federal Transit Administration's (FTA) Formula Grants and Passenger Rail Investment and Improvement Act (FG-PRIIA) program did not achieve their own targets to reduce improper payments. The Department concurred with the IG's three recommendations to improve its ability to meet improper payment reduction targets for these programs.

EPA Assistant Administrator Nomination. On May 16, President Trump nominated Susan Parker Bodine to serve as an Assistant Administrator of the U.S. Environmental Protection Agency.

DOT Operational Improvements. On May 18, the Government Accountability Office (GAO) released a report that found that DOT could make operational improvements but does not need to implement organizational changes. Five areas were identified for improvement: (1) collaboration and coordination; (2) data quality and analytics; (3) regulation development; (4) project delivery processes; and (5) addressing emerging issues.

National Performance Measures. On May 19, the Federal Highway Administration (FHWA) announced the indefinite delay of specific portions of the National Performance Management measures; Assessing Performance of the National Highway System, Freight Movement on the Interstate System, and Congestion Mitigation and Air Quality Improvement Program Final Rule and announced the initiation of additional regulatory proceedings for those portions. Essentially the rules will advance without reference to measuring carbon dioxide emissions from on-road mobile sources, which FHWA said would benefit from additional review. The revised rule took effect on May 20.

Project Management Plan Guidance. On May 22, the Federal Highway Administration (FHWA) announced and outlined the purpose and contents of Project Management Plans, when Plans are required, and the preferred form and procedure for submission of these Plans to FHWA. The Guidance clarifies prior Guidance, including when to prepare Plan updates. The guidance is effective on May 22, 2017.

FY 2018 Budget Proposal. On Tuesday, May 23, the White House sent President Trump's FY 2018 budget proposal to the Congress. The President's budget proposes $54 billion in cuts to the domestic discretionary budget and includes $76 billion for the Department of Transportation (DOT). In total, this is roughly the same funding level as FY 2016. The FY 2018 budget request also includes the initial $5 billion to support President Trump's ten-year infrastructure initiative. This funding was not included in the DOT request, but was included as an unspecified request. The President's budget indicates that this initial $5 billion will grow to $50 billion by 2021 and then decrease through 2028. The budget also requested to zero out the Community Development Block Grant Program and the HOME Investment Program. Senior Republicans in Congress have stated the Congressional budget will look very different from President Trump's proposed budget.

Risk Evaluation Under the Toxic Substances Control Act. On May 23, the U.S. Environmental Protection Agency (EPA) submitted its final rulemaking on the Procedures for Prioritization of Chemicals for Risk Evaluation Under the Toxic Substances Control Act (TSCA) to the Office of Management and Budget for review and approval. TSCA mandates EPA to publish a final rule by June 22, 2017.

HUD Assistant Secretary Nomination. On May 25, President Trump nominated Neal Rackleff to serve as Assistant Secretary of the U.S. Department of Housing and Urban Development.

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ATTACHMENT 2
NVTA Agenda Item 11.5
June 21, 2017

May 30, 2017

TO: Kate Miller, Executive Director
Napa Valley Transportation Authority

FR: Steve Wallauch
Platinum Advisors

RE: Legislative Update

SB 1 Implementation: While the final content of the SB 1 implementation bills will not be known until June 15th, the California Transportation Commission (CTC) has scheduled a kick-off seminar on June 8th & 9th focused on developing the guidelines on several SB 1 programs. This two-day meeting will be held at the Sacramento City Hall Chambers. The meeting on June 8th will provide an overview of the programs the CTC is responsible for and perspectives from numerous interest groups. The June 9th meeting will initiate the development of guidelines for various programs. The agenda is expected to be posted on the CTC's website by 5:00 today, and these meetings will be webcast.

Conference Begins: The final step of the budget process is the conference committee where the differences between the Senate and Assembly versions of the budget are reconciled. Senate Pro Tem Kevin de Leon and Speaker Anthony Rendon announced their appointments to the Budget Conference Committee. This year Senator Holly Mitchell (D) will serve as the committee chair and Assemblyman Phil Ting (D) as the co-chair. The remaining members include Senators Ricardo Lara (D), Richard Roth (D), Jim Nielsen (R), and John Moorlach (R), and Assembly members Phillip Chen (R), Kevin McCarty (D), Jay Obernolte (R), Shirley Weber (D), and Joaquin Arambula (D).

The Conference Committee is expected to begin its work today and meet daily until all items are closed. Today's hearing will consist of an overview of the state's fiscal outlook by the Legislative Analyst's Office. Given that the budget must be adopted by midnight of June 15th, and the budget bill must be in print for 72 hours, the Conference Committee is expected to complete its work no later than June 12th. The differences between the Senate and Assembly budgets are not that significant, so this should be plenty of time. Many of the items on the agenda are not necessarily a difference in priorities, but the need for additional time to reach an agreement with the Administration.

The items needing additional time include the SB 1 implementation legislation, and an effort to reach an agreement on extending the cap & trade program beyond 2020. The proposed SB 1 trailer bills are outlined below. The cap & trade extension will require a 2/3 vote, which will likely force any action on this item to be delayed until the end of session.

Transportation: The Governor's May Revise for transportation funding focuses on implementing SB 1 programs. The Senate and Assembly Budget Committee concurred with the May Revise funding adjustments for the following programs:

State Transit Assistance (STA) – STA allocations are increased by $305 million, for a total Fiscal Year (FY) 2017-18 STA allocation of $694 million. This amount includes the SB 1 increase of $305 million, $294 million in base STA formula allocations, $75 million cap & trade auction revenue for the Low Carbon Transit Operations Program (LCTOP), and a lingering $25 million in Prop 1B funds that remains available for transit operators.

Active Transportation Program: $100 million will be available for ATP project in FY 2017-18. The current cycle for ATP includes funds through FY 2020-21, and the next ATP program is not scheduled to be adopted until April 2019. Therefore, the CTC is considering adopting a 2018 ATP that will program the SB 1 funds available in FY 2017-18 and FY 2018-19. The CTC plans to hold workshops and begin developing guidelines in June. CTC staff is recommending that projects already programed in the current ATP be advanced into the proposed 2018 ATP, and then issue a call for projects for the remaining funds.

Transit & Intercity Rail Capital Program (TIRCP): An additional $330 million is available for this program in FY 2017-18, which includes $85 million loan repayment funds. This would be in addition to the anticipated $150 million in cap & trade auction revenue. CalSTA plans to update it guidelines for the existing program and anticipates awarding funds in the spring of 2018. With this next round of funding, CalSTA expects to adopt a multi-year allocation that would program TIRCP funds for up to 5 years, which could result in awarding over $ 1billion in TIRCP funds.

Intercity & Commuter Rail Program: $25 million will be allocated by CalSTA to intercity and commuter rail operators in FY 2017-18.

Local Partnership Program: $200 million for the Local Partnership Program, which would be used to match local transportation sales tax revenue, and voter approved developer fees. The CTC is in charge of developing the guidelines for this program. CTC staff has suggested that the new Partnership Program should allocate 75% of these funds through a competitive process and 25% by formula. The State and Local Partnership Program in Prop 1B allocated 95% of the funds by formula.

Congested Corridors Program: $250 million is appropriated to the Congested Corridors Program. The CTC does not shed any light on its plans for this program, other than it plans to begin the guideline development process in June.

Trade Corridor Enhancement Program: $200 million for projects improving major trade corridors will be available in 2017-18. CalSTA has proposed budget trailer bill language that provides greater detail and direction on how this program will be implemented.

Local Streets & Roads Funds: $445 million in new SB 1 revenue is expected to be allocated to cities and counties for local street and road maintenance projects. This revenue is expected to begin flowing to cities and counties in January 2018. SB 1 does include a new oversight role for the CTC on the expenditure of these funds. The CTC is expected to develop guidelines in June and July governing it role and the responsibilities for cities and counties in order to receive this funding. The CTC is expected to adopt the final guidelines in October.

Proposed Trailer Bills: The Administration proposed SB 1 implementation bills as part of the May Revise. The Senate Budget Committee did not adopt these measures, but instead adopted "place holder" language while discussions continue. The Assembly Budget Committee adopted the proposed language all of these proposals except for the Trade Corridors Enhancement Program. However, given the Senate's actions all of the following trailer bills will be sorted out by the Conference Committee.

SB 1 Clean-up: This proposed trailer bill makes numerous mainly clarifying and technical changes to provisions within SB 1. The primary change adds language to various sections clarifying the amount of revenue that will be allocated to programs in the FY 2017-18 fiscal year. This clarification is needed to address the fact that the fuel tax revenue will only be collected for 8 months of the fiscal year. The changes also allow the Controller to adjust the amounts allocated in order to "true-up" the allocations during the final months of the fiscal year. The only change that raises questions relates to the Local Partnership Program. SB 1 specified that the funds would be for counties that have received voter approval for transportation tax. The proposed amendment would replace the word "counties" with "a local or regional transportation agency."

Trade Corridors Enhancement Account: Trailer bill language is proposed to implement the Trade Corridors Enhancement Program in SB 1. The draft language generally recasts the existing Trade Corridors Improvement Fund that was created as part of Prop 1B to become the Trade Corridors Enhancement Account. This renamed account is where 10 cents of the diesel excise tax revenue in SB 1 is deposited, and the federal FAST Act funds are also deposited into this account. The CTC is directed to develop guidelines and award funding under this program, which includes the following provisions:

- No funds may be awarded to projects that include the purchase of fully automated cargo handling equipment, but funds can be used to purchase zero or near-zero human operated equipment. *Since the majority of these funds are from excise tax revenue, it is unclear whether these are eligible expenses pursuant to Article 19.*
- 60% of the funds shall be available for projects nominated by regional transportation agencies and other public agencies. These projects must be consistent state freight plans.
- The CTC shall provide reasonable geographic targets for fund allocations.
- 40% of the funds shall be available for projects nominated by Caltrans.
- CTC shall give the highest priority to projects jointly nominated by Caltrans and regional or other public agencies.
- The CTC shall consider economic benefits and projects that improve trade corridor mobility and safety while also improving emissions, and in particular reducing negative impacts to disadvantaged communities.

<u>Alternative Project Delivery</u>: This draft trailer bill expands the use of construction manager/general contractor and design-build methods of project delivery. However, the expansion of this authority primarily focuses on the delivery of the projects in Riverside County that were funded in SB 132, which was one of the deal maker bills. This proposal includes the following changes:

- The number of projects Caltrans may use the construction manager/general contractor (CM/GC) is 14 additional projects. Current law limits Caltrans' use of CM/GC to eight projects. However, two of the projects must be reserved for projects in Riverside County that are listed in SB 132.
- Existing design-build authority is expanded to include up to 6 transportation projects. This new language would authorize Caltrans to select 6 projects submitted by a city, county, or transit district to use design-build authority. A transportation project would also include rehabilitation projects, including bridge replacement and grade separation projects. In addition, three of these projects are reserved for projects listed in SB 132 and selected by the Riverside County Transportation Commission.
- The local authority to use CM/GC method is expanded to include grade separations and bridge rehabilitation projects specified in SB 132 in Riverside County.
- New language is added extending the use of CM/GC or design-build to the construction of the 91 Toll Connector to I-15 north in Riverside County, and this

new contracting authority may be implemented through an amendment to an existing contract for the I-15 Express Lane or the 91 Express Lane projects.

- A new bidding process would also be extended to the Riverside County projects listed in SB 132 known as A+B Bidding, or Cost-Plus-Time Bidding. This is a competitive bidding process that uses cost and time to determine a bid value.

May 30, 2017

Existing Positions

Bills	Subject	Status	Client - Position
AB 1 (Frazier D) Transportation funding.	AB 1 is Assemblyman Frazier's renewed effort to address the funding shortfall facing our transportation infrastructure. This bill would generate about $6.6 billion in revenue for the maintenance and rehabilitation of state highways and local streets and roads, as well as provide targeted investments in public transit and good movement corridors.	ASSEMBLY TRANS	SUPPORT
AB 17 (Holden D) Transit Pass Program: free or reduced-fare transit passes.	AB 17 would create the Student Transit Pass Pilot Program to be administered by the Caltrans. As amended by the Assembly Appropriations Committee, the bill now appropriates $20 million from the Public Transportation Account for this program. The amendments also make it a one-time pilot program that directs Caltrans to develop guidelines and competitively award the funds	ASSEMBLY FLOOR	Watch
AB 28 (Frazier D) Department of Transportation: environmental review process: federal pilot program.	AB 28 would re-enact provisions that sunset on December 31st 2016 that delegate the responsibility to Caltrans for complete NEPA review of transportation projects. While this same provision is also in AB 1 and SB 1, AB 28 is an urgency measure that can be moved ahead of any transportation funding agreement.	Signed Into Law Chapter	SUPPORT
AB 317 (Aguiar-Curry D) Napa County; farmworker housing	AB 317 would make the Napa County Farmworker Housing Centers eligible to receive state funds. Specifically, the bill would establish the Napa County Farmworker Centers Account to be administered by the Department of Housing and Community Development to assist in the financing, maintenance, and operation	ASSEMBLY FLOOR	SUPPORT

<u>AB 317</u> **(<u>Aguiar-Curry</u>** D) Napa County; farmworker housing ***(cont.)***	of the Napa County Housing Authority's Farmworker Centers.		
<u>AB 399</u> **(<u>Grayson</u> D)** Autonomous vehicles: Contra Costa Transportation Authority: pilot project.	Last year, legislation was enacted to authorize the Contra Costa Transportation Authority to conduct a pilot project testing the use of autonomous vehicles on streets that are open to the public, but located within a private business park. AB 399 extends the sunset date on the authority for the pilot project to operate according to existing law, prior to the requirement to then comply with regulations being developed by the DMV. Currently, this pilot program must comply with the DMV regulations within 180 days of the operative date of the regulations. AB 399 extends this "phase-in" period to 12 months.	ASSEMBLY 2 YEAR	SUPPORT
<u>AB 1113</u> **(<u>Bloom</u> D)** State Transit Assistance program	AB 1113 is sponsored by the California Transit Association (CTA). This bill is intended to implement corrections to the State Controller's new interpretation of how State Transit Assistance (STA) funds are allocated. The bill makes several clarifying changes that clean-up the structure of these codes, and in particular specifies that only public transit operators are eligible to receive STA funds directly. It also specifies that when reporting to the Controller an operator's reportable revenue cannot exceed its expenses for purposes of the STA calculation.	SENATE T&H	SUPPORT
<u>AB 1444</u> **(<u>Baker</u> R)** Livermore Amador Valley Transit Authority: demonstration project.	This measure would authorize the Livermore Amador Valley Transit Authority to conduct a demonstration program within the City of Dublin to test the use of autonomous vehicles on public streets.	ASSEMBLY FLOOR	SUPPORT

AB 1454 (Bloom D) Transportation projects: lease agreements.	AB 1454 was amended to remove the language that deletes the sunset date on the authority for Caltrans and regional transportation agencies to enter into public private partnerships. As amended, the bill merely states that it is the intent of the Legislature to reestablish the public-private partnership process.	ASSEMBLY RULES	SUPPORT
ACA 4 (Aguiar-Curry D) Local government financing: affordable housing and public infrastructure: voter approval.	ACA 4 would generally lower the voter threshold to 55% for imposing the following taxes or issuing debt: • Creates an additional exception to the 1% limit that would authorize a city or county, to levy an ad valorem tax to service bonded indebtedness incurred to fund the construction, reconstruction, rehabilitation, or replacement of public infrastructure or affordable housing. • Authorizes a local government to impose, extend, or increase a special tax for the purposes of funding the construction, rehabilitation or replacement of public infrastructure or affordable housing.	ASSEMBLY L. GOV	SUPPORT
SB 1 (Beall D) Transportation funding.	SB 1 contains the Governor's and Leadership's transportation funding proposal. This bill would generate about $5.2 billion in revenue for the maintenance and rehabilitation of state highways and local streets and roads, as well as provide targeted investments in public transit and good movement corridors.	Signed Into Law	SUPPORT
SB 2 (Atkins D) Building Homes and Jobs Act.	This bill establishes the Building Homes and Jobs Act (Act) and imposes a $75 fee on real estate transaction documents, excluding commercial and residential real estate sales, to provide funding for affordable housing. While SB 2 calls for 50% of the funds to be allocated to directly to local governments, the bill does not guarantee that local government will receive	SENATE FLOOR	SUPPORT & SEEK AMENDMENTS

SB 2 (Atkins D) Building Homes and Jobs Act. ***(cont.)***	funds. The bill should be amended to provide a return to source for some of these funds.		
SB 240 (Dodd D) County service areas: farmworker housing: County of Napa.	This bill would increase the limit on the amount of the annual benefit assessment that the Napa County Board of Supervisors may levy from $10 to $15 per planted vineyard acre for the purpose of funding farmworker housing centers.	ASSEMBLY L. GOV	SUPPORT
SB 595 (Beall D) Metropolitan Transportation Commission: toll bridge revenues.	SB 595 requires the City and County of San Francisco and the other eight Bay Area counties to conduct a special election to increase the toll rate charged on state-owned bridges within the region. SB 595 currently does not specify the amount of the toll increase and it does not list any projects or programs. The bill merely includes legislative finding on the need, and the general provisions for placing this measure on the ballot. As this bill moves forward specific projects that would be funded with the toll revenue will be specified in the bill. In addition, the amount of the toll increase, or a range of the toll increase, will be specified in the bill.	SENATE FLOOR	Recommended Position: SUPPORT
SB 496 (Cannella R) Indemnity: design professionals.	SB 496 eliminates the ability of a public agency to contract with engineers and architects, known as design professionals, for upfront legal defense costs against claims related to a project's design work. SB 496 is part of the agreement Senator Cannella reached with leadership for his support of SB 1. Another measure that appropriates $500 million in transportation funds to projects in his district is joined to the passage of SB 496.	Signed Into Law	WATCH

<u>SCA 2</u> **(<u>Newman</u> D)** Motor vehicle fees and taxes: restriction on expenditures.	With the passage of ACA 5, SCA 2 was placed on the Inactive File. SCA 2 and ACA 5 are identical and would prospectively prohibit the use of truck weight fees to pay for transportation bonds approved after January 1, 2017. The bill would also expand the protections for Public Transportation Account revenues to also include the 1.75% increase to the diesel fuel sales tax that was enacted as part of the gas tax swap. The ban on borrowing fees and taxes would also apply to any vehicle fees or taxes dedicated to transportation accounts.	SENATE INACTIVE FILE	SUPPORT
<u>SCA 6</u> **(<u>Wiener</u> D)** Local transportation measures: special taxes: voter approval.	SCA 6 would allow a local government to impose any special tax with a 55% approval of the voters if the special tax dedicates 100% of the revenues, not including collection and administrative expenses, to transportation programs and projects.	SENATE APPR – SUSPENSE FILE	SUPPORT

June 2, 2017

Capitol Update

Steve Wallauch, Nicole Wordelman, & Amy Jenkins contributed to this update.

With legislative and budget deadlines, the Capitol is extremely busy. May 26 was the deadline for fiscal committees to hear and report bills in their first house to the floor. Both the Assembly and Senate Appropriations Committees made determinations about which fiscal bills will move forward in 2017 and which will remain on suspense. Today is the house of origin deadline, requiring legislators to move legislation to the second house or wait until 2018.

Transportation Funding Implementation: While the final content of the SB 1 implementation bills will not be known until the Budget Conference Committee completes its work, the California Transportation Commission (CTC) has scheduled a kick-off seminar on June 8th and 9th focused on developing the guidelines on several programs. This two-day meeting will be held at the Sacramento City Hall Chambers. The meeting on June 8th will provide an overview of the programs the CTC is responsible for, and perspectives from numerous interest groups. The June 9th meeting will initiate the development of guidelines for various programs. The agenda for both days has been posted on the CTC's website, and these meetings will be webcast. The agendas can be found at: http://www.catc.ca.gov/

Cap & Trade: While negotiations to extend the Cap & Trade program will continue, resolution of this effort will likely not be attempted until the end of session in September. Given the divisiveness of this issue, the advancement of legislation in the Senate and Assembly is also on hold.

As you will recall, the governor's proposed budget included a $2 billion expenditure plan for auction revenue that is contingent on the legislature reauthorizing the Cap & Trade program with a 2/3 vote. There are three measures pending in the legislature, all of which remain in their house of origin. SB 775 (Wieckowski), which would create a significantly revamped auction process, remains in the Senate Environmental Quality Committee. In the Assembly, AB 378 (Cristina Garcia) failed passage on the Assembly Floor last night where it mustered 35 Aye votes. The bill would essentially extend the existing auction program with a majority vote, and tie eligibility to participate in the auction to meeting other air pollution requirements.

In addition, this past week the New Democrats, aka the moderate Democrats, released an outline of provisions any new Cap & Trade program must include to garner their support. The following principles from the group are not too different than the existing proposals, aside from the proposal to sunset the new program in 2025:

- Cap & Trade must be the primary greenhouse gas reduction method for California to meet its 2030 goals.
- Cap & Trade needs to be a cost-effective mechanism to fight climate change and, therefore, must include cost containment tools like carbon offsets and free allowances that reduce the direct burden on consumers and limit emissions leakage to other states.
- Any Cap & Trade extension should sunset in 2025 to ensure continued legislative oversight. Furthermore, an analysis by the Legislative Analyst's Office (LAO) is crucial to evaluating the performance of the program in its entirety.
- Workforce development and job training for the green economy are fundamental to achieving our climate goals and transitioning California's workforce.
- Program revenues should prioritize addressing localized air pollution, particularly in non-attainment zones.
- Rural California and impacted industries - like agriculture and goods movement - should benefit from equipment upgrade incentive programs to allow them to be more competitive in the marketplace, while reducing their emissions.

Budget: The budget subcommittees wrapped up last week and budget committees in each house adopted their final budget plans in preparation for conference committee between the two houses. The Budget Conference Committee allows discussion of priorities as well as time for negotiation with the governor prior to adoption of the final negotiated budget by each full house.

The Senate is leading the discussion this year, with the following members appointed to the committee:

Senator Holly Mitchell (D – Los Angeles), Chair
Senator Ricardo Lara (D – Bell Gardens)
Senator Richard Roth (D – Riverside)
Senator Jim Nielsen (R – Tehama)
Senator John Moorlach (R – Costa Mesa)

Assemblymember Phil Ting (D-San Francisco), Co-Chair
Assemblymember Phillip Chen (R-Diamond Bar)
Assemblymember Kevin McCarty (D-Sacramento)
Assemblymember Jay Obernolte (R-Hesperia)
Assemblymember Shirley Weber (D-San Diego)
Assemblymember Joaquin Arambula (D-Fresno), Democratic Alternate

As in prior years, the Senate adopted the LAO's General Fund revenue estimates in 2017-18, about $900 million more than the Administration's estimates in the current year and budget year. They also adopted the LAO's property tax revenue estimates which are higher than the Administration by $100 million in 2016-17, $170 million in 2018-19, and $24 million in 2019-20. It's important to note that this is a theme from prior years, and is not indicative that the final budget will contain these estimates. Historically, Governor Brown's estimates are incorporated as part of the chaptered budget, and the Legislature is forced to reduce their spending priorities. The Assembly adopted the Department of Finance's revenue estimates.

Budget Conference Committee began meeting May 30, running through an overview of the differences between the two houses' budgets. It lasted less than an hour, allowing committee members, Amy Costa from the Department of Finance, and Mac Taylor, the Legislative Analyst, to comment. Below are the graphics provided by the LAO showing the major differences in spending between the houses and the Administration.

(In Millions)

	Senate	Assembly	Comments
Health and Human Services			
Medi-Cal (use of Proposition 56 revenues)	$349	$1,000	Both houses allocate Proposition 56 revenues to expand benefits and increase rates and provider reimbursements, although in different amounts. The amount in the Senate's plan would increase to $1.1 billion annually by 2020-21.
Medi-Cal (other)	—	139	The Assembly provides $109 million General Fund to restore optional Medi-Cal benefits beginning in 2017-18. (The Senate plan includes roughly the same amount from Proposition 56 revenues to restore optional benefits beginning in 2018-19.) The Assembly also provides $30 million to expand Medi-Cal eligibility to seniors and persons with disabilities with income up to 138 percent of the Federal Poverty Level.
CalWORKs	100	253	Both houses provide funding to offset reductions to county services and administration funding included in the May Revision, but the Assembly provides $40 million more than the Senate. The Assembly also provides $113 million for home visiting programs, diaper assistance, and educational incentives for CalWORKs families.
Statewide Health Planning Development	6	33	Both houses reject the Governor's proposal to fully eliminate a $100 million three-year legislative augmentation for health care provider education. Instead, the Senate and Assembly plans include $18 million and $100 million, respectively, from the General Fund over three-year periods for health care workforce development.
Foster Care	31	10	Both houses provide funding to establish an emergency child care bridge program for foster youth. The Senate assumed the program would implement on July 1, 2017, while the Assembly assumed a March 1, 2017 implementation date. Both houses assume ongoing annualized costs will be $31 million.

(Continued)

	Senate	Assembly	Comments
Higher Education			
UC	—	$75	Allocates $50 million General Fund money to increase funding for graduate medical education and $25 million for deferred maintenance.
Middle Class Scholarships	—	53	Rejects administration's proposal to phase out Middle Class Scholarship program.
CSU	—	64	Provides $39 million ongoing General Fund to support additional 1 percent enrollment growth and $25 million for deferred maintenance.
Criminal Justice and Judiciary			
Judicial branch	$52	$47	The Senate provides $30 million ongoing for the Equal Access Fund and the Assembly provides $10 million for this purpose. Both houses provide $22 million for dependency counsel. The Assembly also provides $15 million for court reporters in family law proceedings.

(Continued)

	Senate	Assembly	Comments
Other			
Housing and homelessness	—	$468	Provides $200 million for the multifamily housing program, $90 million for the Housing of Healthy California program, $68 million for homelessness services, $45 million for the Down Payment Assistance program, $40 million for the Joe Serna Farmworker Housing Grant program, and $25 million for teacher workforce housing.
Earned Income Tax Credit	—	225	Expand the tax credit by (1) increasing its earned income threshold to approximately $22,000 and (2) allowing self-employment income to be considered in calculating the credit.
Child care	$20	52	Both houses increase funding for child care programs, including increasing eligibility and providing additional slots.
Natural Resource Agency	—	42	Makes various augmentations, including $30 million for preserving open space in West Coyote Hills, $2 million to commission a study for the rehabilitation of Clear Lake, and $1.2 million to make improvements to the Walnut Creed Nature Park and Morgan Park.
Department of Veterans Affairs	—	30	Provides funding to develop the Orange County Veterans' Cemetery in the City of Irvine.

Note: Figure excludes smaller spending proposals and identical augmentations made by both houses. Shows differences relative to the May Revision in 2017-18.

We anticipate that the Proposition 56 tobacco tax funding will remain a major point of contention between the Legislature and Administration. Prop 56 specified that funds could not be used to supplant existing General Fund; however, the Department of Finance is interpreting the language to mean General Fund as of the 2016-17 budget. Instead of increasing funding to Medi-Cal through rates or benefits, the governor's budget proposal directs Prop 56 revenues to backfill federal reductions. The Legislature approached the revenues much differently, expanding benefits, rates, and provider reimbursements.

Below are some county priorities and their current place in the budget process as well as a few other items that may be of interest.

Dismantling the CCI, the County IHSS MOE, and Shifting IHSS Collective Bargaining to Counties – In essence, both the Senate Budget Committee and the Assembly Budget

Subcommittee on Health and Human Services adopted placeholder trailer bill language approving the Administration's May Revise proposal in concept:

- To help mitigate the high cost to counties, state General Fund assistance will be provided as follows:
  - $400 million in 2017-18
  - $330 million in 2018-19
  - $200 million in 2019-20
  - $150 million in 2020-21 and ongoing
- Instead of returning to the historical sharing ratio, the proposal establishes a new MOE with a sliding scale maintenance factor aligned with the performance of realignment revenues. Beginning in year 2, if revenue growth is negative, there would be no inflation factor. If it's less than 2% then the factor would be 3.5%, and if it's above 2%, the inflation factor would be 7%.
  - 2017-18 = 0
  - 2018-19 = 5%
  - 2019-20 = 7%
- Redirects VLF growth funding for three years from the health, County Medical Services program, and mental health subaccounts to fund IHSS. In years four and five, 50% of the VLF growth will be redirected.
- Redirects sales tax growth after it has funded caseload growth.
- Moves collective bargaining back to counties, however, allows a union to appeal to the Public Employees Relations Board, if collective bargaining at the county level doesn't conclude within 9 months.
- Increases state participation in wages and benefits to always be $1.10 an hour above minimum wage.
- Estimated county costs not covered:
  - 2017-18 $141 million
  - 2018-19 $129 million
  - 2019-20 $230 million
  - 2020-21 $251 million
- Under current law, counties are obligated to provide a 3.5% rate increase annually to the Institutions for Mental Disease. In any year the mental health subaccount does not receive its full growth allocation; this rate increase will be suspended.
- Counties in financial hardship can apply to the Department of Finance for a low-interest loan.
- Any funds counties owe the state through 2015-16 due to the Board of Equalization miscalculations of sales tax revenues will be forgiven. The estimated amount of this debt is between $100 and $300 million.

They also required the Department of Finance, in consultation with CSAC, to prepare a report to the Legislature evaluating 1991 realignment, the IHSS MOE structure, the inflation factor, and the long-term sustainability of 1991 realignment. This report is to be submitted to the Legislature within two years. Although this item will not necessarily be heard in Budget Conference Committee, it is likely there will be some discussion.

CalWORKs Single Allocation Funding and Methodology – The governor's January budget proposal and May Revision proposal combined, are a cut of $248 million from the CalWORKs Single Allocation which funds eligibility activities, employment and supportive services, and child care for CalWORKs recipients. The cut was proposed due to the caseload driven budget methodology, which is tied to the economy and is quite volatile. It doesn't take into account minimum services infrastructure, ongoing administrative workload, and programmatic goals and outcomes. Several counties and social services agencies in conjunction with the County Welfare Directors Association (CWDA) requested that the Legislature preserve the State's CalWORKs Single Allocation investment in 2017-18, develop recommendations for revising the budgeting methodology to stabilize services at risk of being cut, and ensure long-term programmatic stability.

In response to this request, the Senate Budget Committee appropriated $100 million in 2017-18 and directed the Department of Social Services to work with counties and consult with advocates on the revision of the Single Allocation budgeting methodology. The Assembly Budget Subcommittee on Health and Human Services appropriated $140 million in one-time funding and adopted trailer bill language to require a revised methodology to smooth fluctuations as caseload changes while providing counties with necessary resources. This item will be discussed in the Budget Conference Committee.

Adult Protective Services Program Home Safe – CWDA requested $10 million on a one-time basis to establish Home Safe, a homelessness prevention and rapid rehousing demonstration grant program for victims of elder abuse and neglect. The Assembly Budget Subcommittee on Health and Human Services adopted $10 million ongoing to implement the Home Safe Program. The Senate did not take action on the proposal. This item will be discussed in the Budget Conference Committee.

CalWORKs Homeless Assistance Program – CWDA requested support to ensure that homeless families in CalWORKs can access safe, temporary housing. The CalWORKs Homeless Assistance Program provides temporary and permanent homeless assistance to families who are receiving or are eligible to receive CalWORKs. Specifically, the ask was to enhance the temporary homeless assistance program by eliminating the requirement that the days of housing assistance be used consecutively, increasing the daily assistance voucher amount, and clarifying eligibility for CalWORKs families impacted by the dependency system. Neither house adopted this action. This item is not expected to be discussed in the Budget Conference Committee.

Dependency Counsel – The dependency counsel program provides legal representation to children in the child welfare system. In 2015, the Legislature and governor augmented the program by $11 million and the Judicial Council implemented a revised formula to attempt to begin equalizing caseloads across the state, as some counties have caseloads as high as 500 clients per lawyer. In 2016, a coalition of counties and other stakeholders, requested an augmentation of $22 million for dependency counsel across the state, as well as an additional $7 million to hold counties facing reductions harmless. Both the Senate and Assembly Budget Committees approved the funding, however, the Budget Conference Committee stripped the funding from the final budget package. This year, both budget committees have adopted a $22 million augmentation to the program. This item is not expected to be discussed in the Budget Conference Committee.

Budget Trailer Bill Language on Cannabis Regulation Unveiled: In April, the Brown Administration unveiled budget trailer bill language on cannabis regulation intended to harmonize the Medical Cannabis Regulation and Safety Act (MCRSA), which was enacted by the legislature in 2015, and the Adult Use of Marijuana Act (AUMA), which was approved by California voters last November.

The release of the much-anticipated draft language was immediately met with strong opposition from the League of California Cities (League) and the California Police Chiefs Association (Cal Chiefs). Both organization are arguing that the language undermines local control and local enforcement efforts in relation to cannabis businesses by repealing the following:

- A provision expressly empowering local governments to conduct enforcement of state health and safety and other standards, if they request and are granted that authority from the relevant state agency;
- A provision expressly empowering local governments to inspect the books of cannabis businesses and conduct audits; and
- A provision requiring a business' ability to operate to be suspended upon revocation of a local permit, subsequent to the issuance of a state license (consistent with the Prop. 64 provision providing that state licenses cannot be issued if they are in violation of local ordinances).

The League and Cal Chiefs further argue that the language's proposed repeal of anti-concentration provisions threatens to undermine economically challenged neighborhoods having a disproportionate number of cannabis businesses. Lastly, both organizations strongly object to a provision that would repeal the state medical cannabis ID card program, leaving only a doctor's recommendation as the criteria to qualify for a sales tax exemption for medical cannabis.

CSAC has taken a different approach to the proposal and has been quietly negotiating behind the scenes to ensure that the final language maintains critical environmental protections, as well as upholds local control and local taxation and fee authority.

Key provisions being sought by CSAC include proposed revisions to a requirement that local jurisdictions submit their cannabis-related ordinance to the Bureau of Cannabis Control, as follows:

1. State license applications in jurisdictions whose ordinances ban that type of cannabis activity would be automatically denied. If the ordinance does not completely ban that type of activity (or no ordinance is submitted), the state licensing agency would send a written query to the local jurisdiction. The local jurisdiction would have 90 days to respond (positively or negatively). If the local jurisdiction responds that the applicant is not in compliance with local ordinances,

the state license will be denied.

2. If the local jurisdiction does not respond within 90 days, the state may presume that the applicant complies with local ordinances and proceed with the licensing process - but this will not preclude the local jurisdiction from subsequently taking enforcement action if the applicant/licensee does not, in fact, comply.

CSAC is also seeking revisions to provisions that would exempt the adoption of local commercial cannabis ordinances from CEQA review, provided that either (1) the ordinance requires discretionary approval (and thus CEQA) for cannabis facilities permitted under the ordinance, or (2) the ordinance bans cannabis facilities.

As negotiations continue, the Brown Administration remains committed to garnering the necessary 2/3rds vote required to pass the trailer bill by June 15, 2017. Assuming that timeline is met, the legislation would take effect on July 1, 2017, giving the regulatory agencies the ability to begin developing emergency regulations to meet the January 1, 2018 deadline to begin issuing state licenses to locally approved cannabis businesses.

Budget Trailer Bills on Transportation Funding: The Administration proposed several SB 1 implementation bills as part of the May Revise. The Senate Budget Committee did not adopt these measures, but instead adopted place holder language while discussions continue. The Assembly Budget Committee adopted the proposed language for all of these proposals except for the Trade Corridors Enhancement Program. The final outcome of the following trailer bills will be sorted in closed door meetings of the Budget Conference Committee and leadership staff.

<u>SB 1 Clean-up:</u> This proposed trailer bill makes numerous mainly clarifying and technical changes to provisions within SB 1. The primary change adds language to various sections specifying the amount of revenue that will be allocated to programs in the 2017-18 fiscal year. This clarification is needed to address the fact that the fuel tax revenue will only be collected for 8 months. The changes also allow the Controller to adjust the amounts allocated in order to true-up the allocations during the final months of the fiscal year. The only change that raises questions relates to the Local Partnership Program. SB 1 specified that the funds would be for counties that have received voter approval for a transportation tax. The proposed amendment would replace the word “counties” with “a local or regional transportation agency.”

<u>Trade Corridors Enhancement Account:</u> Trailer bill language is proposed to implement the Trade Corridors Enhancement Program in SB 1. The draft language generally recasts the existing Trade Corridors Improvement Fund that was created as part of Prop 1B to become the Trade Corridors Enhancement Account. This renamed account is where 10 cents of the diesel excise tax revenue in SB 1 is deposited, as well as the federal FAST Act funds. The CTC is directed to develop guidelines and award funding under this program, which includes the following provisions:

- No funds may be awarded to projects that include the purchase of fully automated cargo handling equipment, but funds can be used to purchase zero or near-zero human operated equipment. *Since the majority of these funds are from excise tax revenue, it is unclear whether these are eligible expenses pursuant to Article 19.*
- 60% of the funds shall be available for projects nominated by regional transportation agencies and other public agencies. These projects must be consistent with state freight plans.
- The CTC shall provide reasonable geographic targets for fund allocations.
- 40% of the funds shall be available for projects nominated by Caltrans.
- CTC shall give the highest priority to projects jointly nominated by Caltrans and regional or other public agencies.
- The CTC shall consider economic benefits and projects that improve trade corridor mobility and safety while also improving emissions, and in particular reducing negative impacts to disadvantaged communities.

<u>Alternative Project Delivery</u>: This draft trailer bill expands the use of construction manager/general contractor and design-build methods of project delivery. However, the expansion of this authority primarily focuses on the delivery of projects in Riverside County that were funded in SB 132, one of the deal-maker bills. This proposal includes the following changes:

- Caltrans may use the construction manager/general contractor (CM/GC) for 14 additional projects. Current law limits Caltrans' use of CM/GC to eight projects. However, two of the projects must be for projects in Riverside County that are listed in SB 132.
- Existing design-build authority is expanded to include up to 6 transportation projects, authorizing Caltrans to select 6 projects submitted by a city, county, or transit district to use design-build authority. A transportation project would also include rehabilitation projects, including bridge replacement and grade separation projects. In addition, three of these projects are reserved for projects listed in SB 132 and selected by the Riverside County Transportation Commission.
- The local authority to use CM/GC method is expanded to include grade separations and bridge rehabilitation projects specified in SB 132 in Riverside County.
- New language is added extending the use of CM/GC or design-build to the construction of the 91 Toll Connector to I-15 north in Riverside County, and this new contracting authority may be implemented through an amendment to an existing contract for the I-15 Express Lane or the 91 Express Lane projects.
- A new bidding process would be extended to the Riverside County projects listed in SB 132 known as A+B Bidding, or Cost-Plus-Time Bidding. This is a competitive bidding process that uses cost and time to determine a bid value.