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March 6, 2011

The Honorable Jerry Brown
Governor, State of California
State Capitol
Sacramento, CA 95814

Re: **Revised 2011 Realignment Proposal – SUPPORT IN CONCEPT**

Dear Governor Brown:

On behalf of the California State Association of Counties (CSAC), I write to express our conceptual support for your revised realignment proposal, including ongoing constitutional protections for counties. We sincerely appreciate your commitment to partnering with counties during this process, as we consider a fundamental redesign of the delivery of vital public services in our state. Our conceptual support position is conditioned upon the resolution of the critical issues outlined below.

Please know that counties do not come to this position lightly, as we have a great deal of concern about many of the risks involved in this broad and complex proposal. We appreciate the significant time and effort provided by your staff in working through both the constitutional amendment and programmatic aspects of the proposal; it is clear that your revised proposal incorporates a number of concerns shared by counties and our affiliated organizations. In that spirit, we continue to communicate specific areas of concern that are of primary importance to counties.

Constitutional Protections. We have shared with your staff a number of priority issues that we believe must be addressed to provide counties sufficient constitutional protections that will offer appropriate revenue stability and predictability, program certainty and flexibility, and an acceptable level of fiscal risk. These issues include:

Federal law changes: Counties must receive funding for federal law changes. It is too great a risk for counties to assume in full the entire responsibility for future federal law changes under the proposal where counties will assume a 100% share of cost for many federal entitlement programs. While we recognize that this is not existing mandate law, the

potential fiscal risk contemplated requires a rethinking of this concept. (We understand “federal law” to mean federal statutes, regulations, or directives.)

Judicial decisions: Similarly, judicial outcomes that create new programs, higher levels of service, or additional costs also pose a significant financial risk to counties. Counties must receive funding for judicial outcomes that impose costs; of course, if the outcome is the result of a county action, we accept responsibility. Again, we recognize that this is not existing mandate law, but it is simply too great a risk for counties to take under the proposed realignment where counties will assume a 100 percent share of cost for many federal entitlement programs. At the very least, the state should retain its existing responsibilities for complaints or petitions of writs of mandate filed prior to the effective date of the measure.

Controller/priority payment: Counties seek clarifications in the constitutional amendment that clearly prescribe revenue determination and calculation for 2016-17 and beyond. These clarifications ensure that revenues are provided annually beginning July 1, that the Controller is obligated to continue to provide funding throughout the year, and that the level of priority for payment is only behind the priorities for school funding and general obligation bond payments.

Timing and process of implementation: The scope of programs to be realigned should be specified in accompanying legislation to be enacted with the constitutional amendment. Counties are concerned with the broad categories of “public safety services” and the length of time under which the Legislature may pass legislation or the state may pass regulations to implement the 2011 Realignment Legislation. Further, counties are concerned about the time and extent to which the state can be reimbursed for costs until 2011 Realignment is implemented. Counties seek clarity and predictability in the constitutional amendment and accompanying statutory measures to be able to appropriately plan for and carry out these significant new responsibilities.

Non-supplant language: The constitutional amendment cannot have a strict prohibition on supplantation because counties cannot be required to continue to backfill underfunded programs. We believe it is more appropriate to deal with supplantation issues in the statutory construct. Counties are concerned about the inability to adjust county General Fund spending in these programs in the future. As you are undoubtedly aware, the fiscal constraints faced by all levels of government have forced difficult budget choices. Counties must retain the flexibility to make such choices in a manner that reflects the needs of their communities and balances the fiscal pressures they face.

Good faith funding: The constitutional amendment contemplates state funding for new and/or expanded programs; unfortunately, counties' previous experience suggests that practical provision of services can create obligations beyond available resources. In order to appropriately plan for and deliver services anticipated under new plans or proposals, counties must be able to rely on a good faith effort to provide full funding.

Underfunding of Health and Human Services Programs. Counties must continue working with the Administration and Legislature on the funding levels for health and human services programs. We estimate that the Administration's assumptions are approximately \$750 million short of what counties need to assure good outcomes for these programs. The child welfare services program in particular is underfunded by nearly \$400 million, due in large part to the high and nearly unmanageable caseloads and workload. Research has proven that caseloads and workload matter when it comes to achieving success, and an appropriate funding increase with realignment is necessary to ensure program services can be provided as expected.

CalWORKs Interaction with 2011-12 Budget Reductions. While a share of CalWORKs grants seems reasonable given the past history of relative stability with grants, the current budget environment casts significant doubt on counties' ability to manage the share of grants. The budget pending before the Legislature includes a \$427 million cut to the CalWORKs single allocation.* Welfare-to-work services will be significantly curtailed. Counties' ability to manage any increased share of grant costs is linked to their ability to provide welfare-to-work services and move people into jobs.

Public Safety Program Scoping and Feasibility. Unlike the health and human services programs proposed for realignment, the programs on the public safety side contemplated for local responsibility represent wholly new programmatic redesigns. We understand efforts are underway to scope the programs and populations that would shift to counties under the revised realignment proposal. To assure that counties can, in fact, demonstrate improved offender outcomes and reduce the cycle of recidivism, a number of operational and transitional issues must be addressed as part of our discussions, including the following:

* Counties need the single allocation restored in 2012-13 to make a CalWORKs share of grants workable. Our suggestion to restore the single allocation cut in 2012-13 is as follows: decrease the county share of grants to correspond to a fixed \$427 million share of the single allocation. The \$427 million would become a new Maintenance of Effort (MOE) funded from 1991 realignment revenues that counties would have to invest in the single allocation each year.

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- Addressing county capacity issues – relating both to physical and human infrastructure – to manage the expanded offender populations locally;
- Recasting existing statutory construct around construction of local jail and juvenile rehabilitative facilities (AB 900 and SB 81); and
- Clarifying and developing more specific costing assumptions, transitional constructs, and operational processes as it relates most particularly to the low-level offender transfer and the proposed shift of adult parole.

In conclusion, with an expectation that these concerns outlined above will be addressed in future discussions, CSAC supports in concept the revised realignment proposal. We will continue to work with the Administration and the Legislature in a cooperative manner to address these and other critical issues as they arise. Counties recognize both the significant opportunities and risks associated with the realignment proposal and appreciate your commitment to an ongoing dialogue as we debate these challenging, yet unresolved issues. Once again, thank you for your demonstrated commitment to the partnership between the State and counties.

Sincerely,

A handwritten signature in black ink, appearing to read "John Tavaglione". The signature is fluid and cursive, with a large loop at the end.

John Tavaglione
President, California State Association of Counties
Riverside County Supervisor

cc: The Honorable Darrell Steinberg, Senate President Pro Tempore
The Honorable John Perez, Speaker of the Assembly
The Honorable Bob Dutton, Senate Republican Leader
The Honorable Connie Conway, Assembly Republican Leader
Ana Matosantos, Director, Department of Finance
Diane Cummins, Special Advisor to the Governor