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May 8, 2012

The Honorable Members  
California State Senate  
State Capitol  
Sacramento, CA 95814

The Honorable Members  
California State Assembly  
State Capitol  
Sacramento, CA 95814

Re: **Implementation of 2011 Realignment**

Dear Senators and Assembly Members:

On behalf of the California State Association of Counties (CSAC), we write to express our commitment to successful implementation of 2011 Realignment. We sincerely appreciate your partnership with counties to construct a realignment plan that balances state needs, county needs, and the needs of the Californians we mutually serve.

In 2011, counties identified many risks with embarking on a realignment that would shift nearly \$6 billion in additional responsibilities to counties. However, Governor Brown's principles for realignment – including an emphasis on local control and flexibility – coupled with his commitment to proceed with a constitutional amendment, guaranteeing funding and protecting the realigned programs from increased costs, helped bring counties to a place of support for realignment.

As you know, when the Legislature passed the 2011 Realignment package, the funding structure was solely for the 2011-12 fiscal year. We have been working with counties and the Administration to craft a permanent fiscal structure, allocate funds among accounts and subaccounts, allocate funds among counties, and craft appropriate local flexibilities. That work is ongoing. Counties are working closely with the Legislature to put a permanent structure into place. As realignment discussions proceed, counties would like to highlight our priorities to ensure 2011 Realignment is implemented successfully.

#### **Constitutional Protections**

The framework for the 2011 Realignment would not be workable without the constitutional amendment and its accompanying protections. Counties sought constitutional protections that offered appropriate revenue stability and predictability, program certainty and flexibility, and an acceptable level of fiscal risk. The constitutional amendment includes many important elements outlined below.

**Revenue Protection and Predictability.** The constitutional amendment guarantees ongoing funding for the realigned programs, while giving the Legislature flexibility to change the revenue source(s) in the future – as long as they are replaced with revenues equal to or greater than what the specified portions of sales and use tax and Vehicle License Fees would have produced. The funds are continuously appropriated.

**Federal law changes.** Counties must receive funding for federal law changes – including federal statutes, regulations or directives. 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 percent share of cost for many federal entitlement programs.

**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 or inaction, we accept responsibility. Again, it is simply too great a risk for counties to take under realignment with counties assuming a 100 percent share of cost for many federal entitlement programs.

**State Legislation.** The constitutional amendment creates an obligation for the state to pay for higher costs resulting from new legislation. If the Legislature does not appropriate funds, counties are relieved of the responsibility to provide the enhanced service. One of the counties' lessons learned from the 1991 Realignment is that realigned programs change over time. One such example is the In-Home Supportive Services (IHSS) program. In 1991, the IHSS program was a state-only program with a non-unionized workforce. Today, IHSS is a federal Medicaid program with a collective bargaining mandate. While the changes to the IHSS program over the last 20 years have greatly increased access to the program, the changes also increased costs to a degree not originally envisioned when the 1991 realignment fiscal structure was developed.

### **Local Control and Flexibility**

Our members strongly believe in Governor Brown's principle of bringing government closer to the people. Governor Brown outlined a number of principles underpinning his public safety realignment, including providing more flexibility at the local level, reducing duplication and overlap, and building on previous success.

There is a strong commitment among counties to improving public safety outcomes. Counties genuinely believe that we can do better than the state has done in providing services to the population leaving state prison and to reducing recidivism. The Legislature provided appropriate flexibilities to allow counties to implement the public safety realignment in a manner that best addresses local needs.

The Legislature cannot offer similar flexibilities with the health and human services programs included in 2011 Realignment because many of these programs are federal

entitlement programs, with strict federal requirements. The fiscal structure becomes critical on the health and human services side because the Legislature cannot relax federal rules. The Administration has proposed two subaccounts on the health and human services side – a Protective Services Subaccount (social services programs) and a Behavioral Health Subaccount (mental health and alcohol and drug programs). Counties will have the flexibility to allocate funds among the programs within each subaccount.

Additionally, the structure on the health and human services side replicates a flexibility found in the 1991 Realignment – the ability to transfer 10 percent of funds across subaccounts once per year. It is absolutely critical that this flexibility be part of the 2011 Realignment. It will allow counties to move funds in situations where caseloads may be declining within one subaccount, while increasing in the other subaccount.

There are additional places where the Legislature can offer limited flexibilities on the health and human services side, including making some of the social services programs optional. Counties are supportive of this flexibility and look forward to engaging with the Legislature and other stakeholders in these discussions.

There also appears to be additional interest in expanding the role and scope of state oversight of the health and human services programs. While counties understand that the state must demonstrate to the federal government appropriate oversight mechanisms since the state is the single state agency, very little has changed with the programs – other than the source of funding. The state has existing oversight mechanisms for all of the health and human services programs. It is not clear what authority state departments currently lack that would impede their appropriate oversight of counties. Further, health and human services programmatic realignment trailer bills need to approach the state-county relationship and the state's oversight role in a consistent manner across the realigned programs. Some advocacy organizations may suggest that separating the programs into separate subaccounts is an answer to state oversight. Putting all the funding streams back into their original silos does nothing to increase state oversight and would create an administrative nightmare and time-consuming operational complexities at the county level – which, ultimately, would drain resources that should be dedicated to program delivery. Counties will be engaging the Legislature and the Administration about the appropriate state oversight mechanisms in discussions over budget trailer bill language.

In conclusion, CSAC remains committed to ensuring successful implementation on the 2011 Realignment. 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. To be clear, the 2011 Realignment will fail without appropriate local control and flexibility and without constitutional protections. We look forward to crafting a permanent realignment structure that addresses outstanding county concerns.

Counties are committed to a partnership to reshape government that offers services and supports for all Californians. Once again, thank you for your demonstrated commitment to the partnership between the State and counties.

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CSAC – Realignment Implementation

Respectfully,



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President, CSAC  
Yolo County Supervisor



John Gioia  
2<sup>nd</sup> Vice President, CSAC  
Contra Costa County Supervisor



David Finigan  
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John Tavaglione  
Immediate Past President, CSAC  
Riverside County Supervisor

cc: Governor Jerry Brown  
Nancy McFadden, Executive Secretary, Office of Governor Brown  
Ana Matosantos, Director, Department of Finance  
Diane Cummins, Special Advisor to the Governor  
Craig Cornett, Chief Fiscal Advisor, Senate President Pro Tempore Steinberg  
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Seren Taylor, Director, Senate Republican Fiscal  
Chris Woods, Budget Director, Assembly Speaker Pérez  
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