



**Housing, Land Use, and Transportation Policy
Committee**

CSAC Annual Meeting

Wednesday, December 2, 2015 — 8:30 a.m. – 10:00 a.m.

Monterey Marriott, San Carlos Rooms 1 & 2

Monterey County, California

Supervisor Phil Serna, Sacramento County, Chair
Supervisor David Rabbitt, Sonoma County, Vice Chair

- 8:30 a.m. I. **Welcome and Introductions**
Supervisor Phil Serna, Sacramento County, Chair
- 8:40 a.m. II. **State Transportation Funding and Federal Transportation Reauthorization Update**
Kiana Buss, Legislative Representative, CSAC
Chris Lee, Legislative Analyst, CSAC
- 9:00 a.m. III. **Indian Gaming Working Group Update: Fee-to-Trust Reform Legislation – ACTION ITEM**
Supervisor David Rabbitt, Sonoma County, Co-Chair
Supervisor Ryan Sundberg, Humboldt County, Co-Chair
- 9:30 a.m. IV. **2016 HLT Legislative Priorities**
Kiana Buss, Legislative Representative, CSAC
Chris Lee, Legislative Analyst, CSAC
- 9:45 a.m. V. **Land Use Planning and Housing Policy Update**
 - Affordable Housing and Sustainable Communities Grant Program Guidelines Update
 - CEQA Guidelines and Traffic Impacts Analysis Update
 - California Department of Housing and Community Development Working Group Update*Kiana Buss, Legislative Representative, CSAC*
Chris Lee, Legislative Analyst, CSAC
- 9:55 a.m. VI. **NACo Committee Opportunities**
Kiana Buss, Legislative Representative, CSAC
Chris Lee, Legislative Analyst, CSAC
- 10:00 a.m. VII. **Adjournment**

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Attachment Two Legislative Analyst's Office Summary of Transportation Funding Proposals

Indian Gaming Working Group Update: Fee-to-Trust Reform Legislation

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2016 HLT Legislative Priorities

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State Transportation Funding and Federal
Transportation Reauthorization Update

Attachment One

CSAC Priorities for New Transportation Funding



CSAC Priorities for a Comprehensive Transportation Funding Package

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Requirements

1. **Make a robust investment in transportation infrastructure.** Any solution must provide an investment large enough to demonstrate tangible benefits to taxpayers and the traveling public. Recent focus group efforts and polling conducted by the California Alliance for Jobs and Transportation California suggests that voters support new taxes of up to \$5 billion a year, as long as there are accountability provisions and assurances that funds will be dedicated to transportation purposes.
2. **Focus on maintenance of existing transportation infrastructure.** Counties, and voters polled on transportation issues, support provisions requiring new revenues to be invested into the existing transportation system, including local streets and roads and state highways.
3. **Equitable revenue sharing between systems.** Cities, counties and the state are all facing tremendous funding shortfalls for road and highway maintenance. County Supervisors feel very strongly that revenues for road maintenance must be shared equally, in order to support a comprehensive road and highway network.
4. **Direct subventions.** Counties have historically received gas and sales tax revenues via direct subventions for the investment in local roads. Counties base maintenance programs on information from required pavement management systems to ensure cost effective investments. Plans are typically adopted in county budgets and counties report detailed information on how the monies are spent on an annual basis to the State Controller. In short, local investments of these formula funds are transparent, accountable and effective.
5. **Repay all existing transportation loans and return OHV related tax swap revenues.** We must repay all existing transportation fund loans and end diversions of off-highway vehicle funding related to the transportation tax swap before increasing taxes or fees for transportation as a precondition for raising additional revenues.
6. **Constitutional guarantees.** Time and time again (Proposition 42, 2002; Proposition 1A, 2006), voters have overwhelmingly supported dedicating and constitutionally-protecting transportation dollars for transportation purposes. The results of recent focus group and polling efforts confirm that voters fear that increased revenues will be diverted and therefore want to include protections against using new transportation revenue for other purposes.
7. **Fix the annual price-based excise tax adjustment.** While the former sales tax revenues naturally adjusted to real-time changes in the price of gasoline, the new excise rate is only adjusted annually. When there are significant fluctuations in gas prices during a single year, the excise rate must be raised or lowered in one large adjustment, which can create budgeting and planning problems for local agencies and Caltrans. This problem has real costs when rates are adjusted too far downward

based on current prices, as inflation and increases in construction costs make funds available today more valuable than a true-up in future years. A fix to this process could be to incorporate historical price data into the rate setting calculation or simply eliminating the BOE adjustment and indexing the rate to inflation.

Flexible Options

1. **Provide Prop 1B like transparency and accountability.** Likely voter support increases when accountability and transparency measures are added to any transportation funding package. CSAC could support additional accountability and transparency measures in the form of Prop 1B like reporting, which included submitting project lists to the Department of Finance and additional year end reporting.
2. **Use truck weight fees for transportation projects.** As a part of the 2010 transportation tax swap, transportation stakeholders, including CSAC, agreed to provide the state with approximately \$1 billion in tax swap revenue, now in the form of truck weight fees, for general obligation debt service related to transportation bonds. Some decision-makers and stakeholders would like to see truck weight fees used for new transportation projects rather than bond debt service. CSAC could support such a shift as long as the package provides a backfill to ensure there is not a state general fund impact.
3. **Increase taxes/fees across a broad base of options.** Potential voters support spreading any potential tax or fee increases across a range of options rather than generating revenue from just one source. CSAC supports a broad based approach or other approaches that can achieve a 2/3rds vote of the legislature and the Governor's approval.
4. **Incentivize and reward self-help counties.** The existing 20 self-help counties generate approximately \$3.9 billion a year for investment into the state highway system, local streets and roads, transit and other local priorities. Another 15 counties are actively considering measures that could generate up to another \$300 million a year annually. CSAC supports providing an incentive for additional communities to tax themselves at the local level for a variety of transportation purposes and rewarding those who have already made this decision at the ballot box.
5. **Cap and Trade.** A significant portion of the revenues generated by California's cap and trade program are attributable to the cap on fuels. Accordingly, revenues generated from fuels should be reinvested back into transportation programs and projects that reduce greenhouse gas emissions.

State Transportation Funding and Federal
Transportation Reauthorization Update

Attachment Two

Legislative Analyst's Office Summary of Transportation Funding Proposals

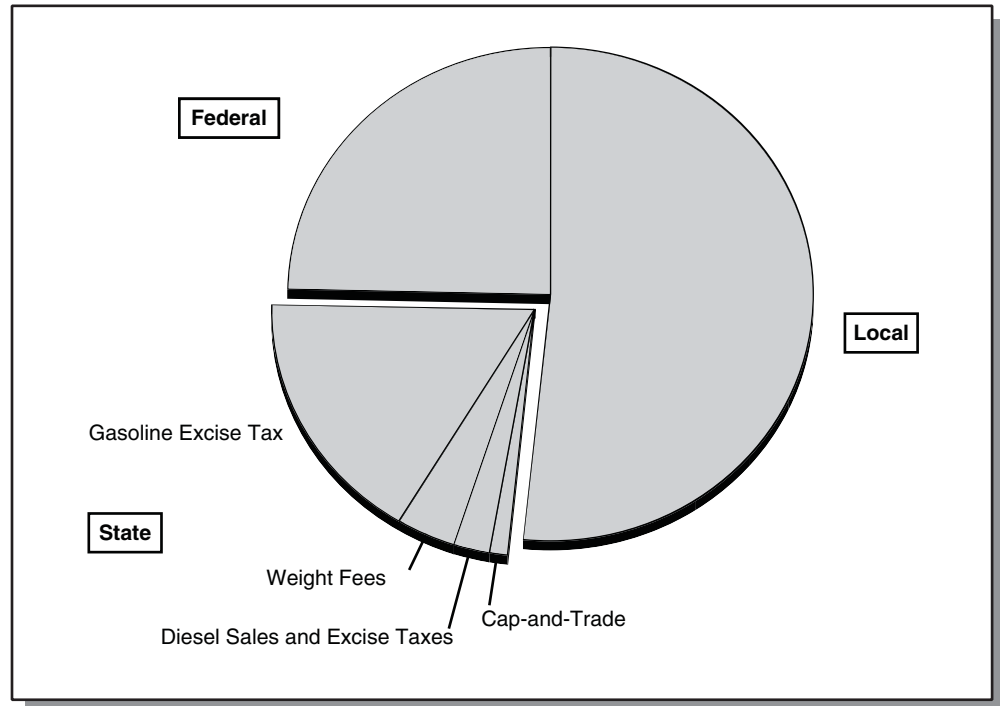
Overview of Proposals to Address Transportation Challenges

LEGISLATIVE ANALYST'S OFFICE

Presented to:
Conference Committee on SBX1 4 and ABX1 3
Hon. Jim Beall, Chair
Hon. Jimmy Gomez, Chair



Transportation Funding in California Comes From Various Sources



- In 2015-16, we estimate that \$28 billion in transportation revenues will be provided from all levels of government.
- Local governments provide half of all transportation funding in California. Local funding sources include local sales taxes, transit fares, development impact fees, and property taxes.
- About one-fourth of the state's transportation funding comes from the federal government.
- The remaining one-fourth of funding comes from various state revenue sources—primarily excise taxes on gasoline.
- In addition to the funds identified above, the state also receives revenue from other sources (primarily vehicle registration fees) to support the California Highway Patrol and the Department of Motor Vehicles.



State Transportation Revenues Fund Various Programs

Revenue Source	Allowable Uses	Current Uses
Gasoline and diesel excise taxes	Article XIX Section 2 of the State Constitution limits use of revenues to construction, maintenance, mitigation, and associated administrative costs of state highways, local roads, and transit fixed guideways.	Highway Maintenance Program, SHOPP, STIP, local streets and roads, and Caltrans administration.
Vehicle registration fee	Article XIX Section 3 of the State Constitution limits use of revenues to: (1) construction, maintenance, mitigation, and associated administrative costs of state highways, local roads, and transit fixed guideways and (2) state administration and enforcement of traffic laws.	Support of DMV and CHP.
Vehicle weight fees	Same as vehicle registration fees.	Debt service on transportation bonds.
Cap-and-trade auction revenue	Article XIII A Section 3 of the State Constitution, various court decisions regarding what constitutes a fee versus tax, and Health and Safety Code 39712 limits use of revenues to activities that reduce greenhouse gas emissions.	Transit and intercity rail capital program and transit operating grants.

SHOPP = State Highway Operation and Protection Program; STIP = State Transportation Improvement Program; Caltrans = California Department of Transportation; DMV = Department of Motor Vehicles; and CHP = California Highway Patrol.

Funding Challenges. The state and local governments face significant funding needs to maintain and repair existing transportation infrastructure and meet future travel demand. For example, best practices indicate that state highways should receive preventive and minor corrective maintenance on average every five to seven years. However, the California Department of Transportation’s (Caltrans’) current funding level for this type of work only allows for such maintenance on a stretch of pavement every 20 years on average. Caltrans estimates indicate it would cost an additional \$1 billion annually to fully fund maintenance of pavement, bridges, and culverts.



Comparison of Major Funding Proposals

Governor	Senate Committee ^b	Senate Republican	Assembly Republican
New Taxes^a			
\$3 Billion Annually <ul style="list-style-type: none"> • \$65 vehicle registration fee • 6 cents per gallon gasoline excise tax • 11 cents per gallon diesel excise tax • Index gasoline and diesel excise tax rates for inflation 	\$4.6 Billion Annually <ul style="list-style-type: none"> • \$70 from two vehicle registration fees and \$100 additional fee for zero emission vehicles • 12 cents per gallon gasoline excise tax • 22 cents per gallon diesel excise tax • Index gasoline and diesel excise tax rates for inflation • 3.5 percent diesel sales tax 	—	—
Allocate Existing Revenue^a			
\$600 Million Annually <ul style="list-style-type: none"> • \$500 million from cap-and-trade • \$100 million Caltrans efficiency savings 	\$400 Million Annually <ul style="list-style-type: none"> • \$400 million from cap-and-trade 	\$2.9 Billion Annually <ul style="list-style-type: none"> • \$1.9 billion from cap-and-trade • \$1 billion from weight fees 	\$4.4 Billion Annually <ul style="list-style-type: none"> • \$1.2 billion from cap-and-trade • \$1 billion from weight fees • \$1 billion General Fund • \$685 million from vacant positions • \$500 million Caltrans efficiency savings
One-Time Funding^a			
\$879 million in loan repayments	\$1 billion in various loan repayments	\$2.4 billion in various loan repayments	
^a Revenue estimates provided by proponents of each proposal. ^b Proposals approved by the Senate Transportation and Infrastructure Development Committee.			



LAO Comments on Funding Proposals

- Increase Funding for Transportation.*** All proposals provide a significant ongoing increase in funding for transportation programs—ranging from almost \$3 billion to \$5 billion annually.
- Allocate Existing Revenues.*** The proposals all allocate some existing revenues to transportation, with some proposals allocating a few hundred million dollars and others providing billions of dollars. All proposals allocate cap-and-trade auction revenues. Allocating weight fees, which currently benefit the General Fund, or providing direct General Fund support, would require budgetary trade-offs regarding other non-Proposition 98 General Fund priorities.
- Shift Toward Vehicle Registration Fees.*** The proposals that raise new revenues do so with a mix of fuel taxes and vehicle fees. This approach would likely provide stable and modestly growing revenues over time.
- Index Fuel Excise Taxes.*** The proposals that raise new revenues also eliminate the current variable tax adjustment process and instead index tax rates for inflation. This approach would likely result in more stable and predictable transportation revenues.



Comparison of Major Expenditure Proposals

Governor	Senate Committee ^a	Senate Republican	Assembly Republican
Expenditure of New Ongoing Revenue			
<p>\$1.7 Billion for State Programs</p> <ul style="list-style-type: none"> • \$1.5 billion SHOPP and Maintenance • \$200 million Trade Corridors <p>\$1.3 billion for Local Programs</p> <ul style="list-style-type: none"> • \$1.05 billion Local Streets and Roads • \$250 million Local Partnership Program 	<p>\$2.2 Billion for State Programs</p> <ul style="list-style-type: none"> • \$1.9 billion SHOPP and Maintenance • \$300 million Trade Corridors <p>\$2.4 Billion for Local Programs</p> <ul style="list-style-type: none"> • \$1.9 billion local roads • \$200 million Local Partnership Program • \$300 million STA 	—	—
Expenditure of Existing Ongoing Revenue			
<p>\$500 Million for Local Programs</p> <ul style="list-style-type: none"> • \$400 million Transit and Intercity Rail Grants • \$100 million Low Carbon Road Program 	<p>\$400 Million for Local Programs</p> <ul style="list-style-type: none"> • \$400 million Transit and Intercity Rail Grants 	<p>\$2.9 Billion for Highways and Roads</p>	<p>\$4.4 Billion for Highways and Roads</p>
One-Time Expenditures			
<p>\$879 Million</p> <ul style="list-style-type: none"> • \$334 million Trade Corridors • \$265 million Transit and Intercity Rail • \$148 million TCRP • \$132 million SHOPP 	<p>\$1 Billion</p> <ul style="list-style-type: none"> • For SHOPP local roads and Local Partnership Program 	<p>\$2.4 Billion</p> <ul style="list-style-type: none"> • For highways and roads 	—
<p>^a Senate Transportation and Infrastructure Development Committee. SHOPP = State Highway Operation and Protection Program; STA = State Transit Assistance; and TCRP = Traffic Congestion Relief Program.</p>			



LAO Comments on Expenditure Proposals

- Fully Fund Cost-Effective Maintenance.** Preventative and minor corrective maintenance, which is performed by the Caltrans Highway Maintenance Program, is significantly more cost-effective than allowing highways to deteriorate such that major rehabilitation is needed. Caltrans estimates fully funding maintenance would require an additional \$1 billion annually and would reduce future State Highway Operation and Protection Program (SHOPP) costs by up to several billions of dollars each year. In light of these benefits, we recommend fully funding maintenance as part of any transportation funding package.

- Using Cap-and-Trade Revenues.** All proposals allocate cap-and-trade auction revenues to increase funding for transportation programs. There is currently legal uncertainty as to how the state can spend cap-and-trade revenue. To eliminate this uncertainty the Legislature would have to approve these revenues as a tax. Absent that, it could minimize legal risk by targeting cap-and-trade revenues to transportation projects that have a closer nexus to greenhouse gas emission reductions.

- Simplify Distribution of Funds.** The current system of distributing transportation revenues is complex and may not allow flexibility to ensure funding meets transportation priorities as revenues and priorities change over time. Some of the special session proposals create additional and more complex formulas for allocating funds among programs. The Legislature could consider allocating new and existing funding in the same manner and further could consider simplifying the system of allocating transportation revenues to better ensure funding is allocated to the highest priorities.



Comparison of Other Major Proposals

Governor	Senate Committee ^a	Senate Republican	Assembly Republican
Accountability			
Requires Caltrans to meet certain performance standards	<ul style="list-style-type: none"> Requires CTC oversight of SHOPP projects Creates a transportation Inspector General Requires Caltrans efficiencies 	<ul style="list-style-type: none"> Requires CTC oversight of SHOPP projects Creates a transportation Inspector General 	—
Procurement Methods			
Extends P3 authority by ten years and allows construction manager general construction method for 12 additional projects	—	Permanently extends P3 authority	Permanently extends P3 authority
Other			
<ul style="list-style-type: none"> CEQA exemptions for certain types of projects Constitutional restrictions on new revenue 	<ul style="list-style-type: none"> Constitutional and statutory restrictions on existing and new revenue 	<ul style="list-style-type: none"> CEQA exemptions for certain types of projects Increases Caltrans use of consultants Constitutional restrictions on existing and new revenue 	—
^a Senate Transportation and Infrastructure Development Committee. CTC = California Transportation Commission; SHOPP = State Highway Operation and Protection Program; P3 = public-private partnership; and CEQA = California Environmental Quality Act.			



LAO Comments on Other Major Proposals

- Increase CTC Oversight.*** Most of the proposals require greater accountability for Caltrans. However, the legislative proposals generally require stronger accountability measures than those proposed by the Governor. Specifically, two legislative proposals establish a stronger role for the California Transportation Commission (CTC) by requiring the CTC to perform project-level oversight and approval functions for the SHOPP. These legislative proposals are consistent with prior LAO recommendations to increase CTC's role in project-level oversight for the SHOPP.

- Improve Public-Private Partnerships (P3s) Process.*** The state has experienced some challenges with using P3 procurement in the past. If the Legislature chooses to extend the authority for Caltrans to use the P3 procurement method, we recommend the Legislature require a more robust project selection and evaluation process in order to ensure that more appropriate projects are selected for P3 procurement.

Indian Gaming Working Group Update: Fee-to-Trust Reform Legislation

Attachment Three

Memo to CSAC Board of Directors on Federal Fee-to-Trust Reform Efforts



August 19, 2015

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To: CSAC Executive Committee

From: Joe Krahn, CSAC Federal Advocate
Kiana Buss, CSAC Legislative Representative
Chris Lee, CSAC Legislative Analyst

Re: *Fee-to-Trust Reform Legislation – ACTION ITEM*

Background. On July 28, U.S. Senate Committee on Indian Affairs (SCIA) Chairman John Barrasso (R-WY) introduced legislation that would overhaul the Department of the Interior's process for taking Indian fee land into trust. The bill includes a series of reforms spearheaded by CSAC, which has been at the forefront of fee-to-trust discussions on Capitol Hill and closely involved in the drafting of the Barrasso measure.

CSAC has written a letter of support for S. 1879 (attachment one). The association also is actively seeking several key adjustments to the legislation in an effort to further strengthen the bill.

Policy Considerations. Section 5 of the Indian Reorganization Act of 1934 (IRA) provides the Secretary of the Interior with authority to take land into trust for the benefit of Indian tribes. The Act does not, however, include any limits or standards relative to the exercise of that authority, which has effectively left all trust acquisition policies to the discretion of the Bureau of Indian Affairs (BIA). Unfortunately, the BIA's administratively created fee-to-trust process has yielded significant controversy, serious conflicts between tribes and local governments – including litigation costly to all parties – and broad distrust of the fairness of the system. Despite glaring deficiencies in the trust acquisition process, many of which have been cited by the Government Accountability Office and a leading independent law review, Section 5 authority has never been amended by Congress.

Under BIA's current regulatory practices, county governments are afforded limited, and often late, notice of a pending trust land application. Additionally, the BIA does not accord local concerns adequate weight in the land-into-trust process, as counties are only invited to provide comments on two narrow issues – potential jurisdictional conflicts and the loss of tax revenues. Moreover, current law does not provide any incentive for Indian tribes to enter into enforceable mitigation agreements with counties to address the often significant off-reservation impacts associated with tribal development projects, including casinos.

While California's counties have long been dissatisfied with the fee-to-trust process, the U.S. Supreme Court's 2009 decision in *Carcieri v. Salazar* created an avenue for potential legislative reform. In *Carcieri*, the Court ruled that the Secretary of the Interior's trust acquisition authority was limited to those tribes that were "under federal jurisdiction" at the time of the enactment of the IRA.

Since the *Carcieri* decision, Indian tribes have called upon Congress to reverse the Court's action by passing legislation that would put all federally recognized tribes on equal footing relative to the opportunity to have land taken into trust. CSAC, while in agreement that Congress should address the inequity caused by the decision, has remained steadfast that any legislation restoring the Secretary's trust acquisition authority must be coupled with long-overdue reforms in the BIA's flawed fee-to-trust process.

The Interior Improvement Act

The Interior Improvement Act (S. 1879, attachment two) would transform the process whereby the federal government takes land into trust on behalf of Indian tribes. It is important to note that the bill would codify standards in federal statute, which CSAC believes is essential in light of the fact that the current trust acquisition process is administratively driven and subject to political influences and recurring changes.

Among other things, and consistent with CSAC's priorities for fee-to-trust reform (attachment three), S. 1879 would require the BIA to provide adequate, up-front notice to counties whenever the agency receives a complete or partial application from a tribe seeking to have off-reservation fee or restricted land taken into trust. In turn, counties would be afforded an opportunity to review an application and comment on its entirety.

Moreover, the legislation would encourage tribes that are seeking trust land to enter into cooperative agreements with counties, the terms of which could relate to mitigation, changes in land use, dispute resolution, fees, etc. In cases in which tribes and counties have not entered into mitigation agreements, the bill would require the Secretary of the Interior to consider whether off-reservation impacts have been mitigated to the extent practicable.

CSAC has been a tireless advocate for legislative reforms that would encourage local mitigation agreements between tribes and counties. Furthermore, and in recognition that not all interaction between tribes and counties will yield intergovernmental cooperation, a central pillar of CSAC's reform principles is the need for a Secretarial determination that any off-reservation impacts stemming from tribal development have been sufficiently mitigated. CSAC staff is pleased that many of the provisions of the Interior Improvement Act are consistent with the association's policies for reforming the fee-to-trust process and closely mirrors CSAC's own comprehensive legislative proposal.

While a number of CSAC's key reforms are reflected in S. 1879, we believe that certain provisions of the legislation should be further strengthened and clarified. Accordingly, we have provided specific legislative recommendations to SCIA Chairman Barrasso and his staff.

Refinements Sought

As written, S. 1879 would require the Secretary to make a "Determination of Mitigation" describing whether economic impacts have been mitigated to the extent practicable; in turn, the Secretary would need to consider that determination in making a decision to approve or deny a trust application. The provisions, which would codify mitigation-related requirements that are wholly absent from BIA' regulations, are consistent with CSAC's goals regarding the mitigation of off-reservation impacts.

CSAC believes that the aforementioned language could be strengthened by explicitly requiring the Secretary to determine – prior to issuing a final decision to approve a trust land acquisition – that all reasonably anticipated off-reservation impacts associated with a tribal development project have been sufficiently mitigated. Likewise, CSAC believes that the term "mitigation" should be expressly defined in the legislation and that the definition of the term "economic impact" should be broadened to include environmental impacts.

CSAC also is urging the Committee to include language that would require the Secretary to undertake a thorough review process prior to any material change in use of trust land that would lead to significantly increased off-site impacts. CSAC's intent is not to tread on tribal sovereignty or unnecessarily impede efforts by tribes to initiate lateral/benign changes in trust-land. Rather, the association believes it should be the responsibility of the Department of the Interior to ensure that any significant impacts arising from a new development project are sufficiently mitigated.

There are several other refinements to S. 1879 that CSAC is seeking. Accordingly, we are continuing to work with SCIA staff and key members of the California congressional delegation to strengthen the bill.

Political Landscape

S. 1879 is the first comprehensive fee-to-trust reform bill introduced in Congress since the Supreme Court's *Carcieri* decision in 2009. All other previous and current *Carcieri*-related measures have been so-called "quick fix"/"clean fix" bills (written solely to restore the Secretary's trust acquisition authority). Incidentally, those particular pieces of legislation have garnered strong support from key members of Congress, including relevant committee leaders and members who champion the cause of Indian Country. Although clean fix advocates have advanced their bills to various stages of the legislative process, they have been ultimately unsuccessful in securing Senate passage.

Given the high level of support in Congress for a *Carcieri* clean fix, introduction of Chairman Barrasso's reform legislation is extremely significant and serves as a testament to the assertive and sustained lobbying efforts of CSAC. The association also has done considerable outreach to tribes and tribal organizations in an effort to build some level of consensus regarding the merits of fee-to-trust reform.

It should be noted that the National Congress of American Indians (NCAI) and the United South and Eastern Tribes (USET) – the nation's leading and highly influential tribal organizations – are likely to formally endorse the Barrasso bill. The notion that NCAI and USET would support a comprehensive fee-to-trust reform bill would have been unheard of in previous sessions of Congress given their rigid and persistent calls for a clean fix. The organizations' dramatic change of course regarding *Carcieri* would appear to reflect a recognition that tribes are unlikely to successfully advance a clean fix and that, after six years of legislative stalemate, the time for compromise has come.

On a related matter, the Vice Chairman of SCIA, Senator Jon Tester (D-MT), recently announced the withdrawal of his *Carcieri* clean fix legislation (S. 732). According to Vice Chairman Tester, the recent introduction of S. 1879 – which includes language restoring the Secretary's trust acquisition authority – warrants a further examination of the issue. Senator Tester's announcement represents another significant development in the evolution of the fee-to-trust reform discussion.

Outlook

Barring any unforeseen developments, S. 1879 is expected to be considered – and cleared – by SCIA in September. The outlook for Senate floor action, however, is much less certain.

In the upper chamber, 60 votes are generally needed to advance any legislation of consequence. Moreover, often times a handful of senators – or even a single senator – can block a bill from being considered on the floor. With several key members, including Senator Feinstein, expected to pursue amendments to the bill

(including potentially seeking controversial modifications to the Indian Gaming Regulatory Act (IGRA)), it may be challenging for Chairman Barrasso to advance S. 1879 without making certain concessions. Without question, Senator Barrasso and his supporters are facing a formidable challenge in attempting to strike a legislative balance that will be acceptable to all major stakeholders.

Finally, in the House, a companion fee-to-trust reform bill has not been introduced. While the House Natural Resources Committee has extensively examined Carcieri, including holding a recent hearing to shine light on the lack of trust acquisition standards in the IRA, it is unclear when, or if, the committee will act on a reform bill.

Action Requested. Staff requests that the Board of Directors reaffirm support of S.1879 and direct staff to seek amendments to the bill as outlined above and consistent with CSAC's adopted fee-to-trust reform proposal.

Staff Contact. Please contact Kiana Buss (kbuss@counties.org or 916/650.8185) or Chris Lee (clee@counties.org or 916/650.8180) for additional information.

LIST OF ATTACHMENTS

Attachment One..... CSAC Letter of Support to Chairman
Barrasso for S.1879

Attachment Two..... Text of S.1879

Attachment Three..... CSAC Comprehensive Fee to Trust Reform
Proposal

Attachment One

CSAC Letter of Support to Chairman Barrasso for S.1879



July 28, 2015

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The Honorable John Barrasso
Chairman
Senate Committee on Indian Affairs
838 Hart Senate Office Building
Washington, D.C. 20510

Dear Chairman Barrasso:

On behalf of the California State Association of Counties (CSAC), I am writing to thank you for introducing the *Interior Improvement Act (S. 1879)*. CSAC is pleased to offer our strong support for this critically important piece of legislation, which, if enacted, would bring much-needed, long-overdue reforms to the Department of the Interior's fee-to-trust process.

As you know, the *Indian Reorganization Act of 1934 (IRA)* provides the Secretary of the Interior with broad discretionary power to take land into trust for the benefit of Indian tribes, an authority that has not been amended by Congress since the IRA's enactment 81 years ago. The Act does not include any limits or standards relative to the exercise of the Secretary's trust acquisition authority, which has left all policies for taking land into trust to the discretion of the Bureau of Indian Affairs (BIA). Unfortunately, the BIA's fee-to-trust process has created significant controversy, serious conflicts between tribes and local governments – including litigation costly to all parties – and broad distrust of the fairness of the system.

Under current BIA practices, county governments are afforded limited, and often late, notice of a pending trust land application. Additionally, the BIA does not accord local concerns adequate weight in the land-into-trust process, as counties are only invited to provide comments on two narrow issues – potential jurisdictional conflicts and the loss of tax revenues. Moreover, current law does not provide any incentive for Indian tribes to enter into enforceable mitigation agreements with counties to address the often significant off-reservation impacts associated with tribal development projects, including casinos.

Under your legislation, the BIA would be required to provide adequate, up-front notice to counties whenever the agency receives a complete or partial application from a tribe seeking to have off-reservation fee or restricted land taken into trust. In turn, counties would be afforded an opportunity to review and comment on the application.

Furthermore, the bill would encourage tribes that are seeking trust land to enter into cooperative agreements with counties, the terms of which could relate to mitigation,

changes in land use, dispute resolution, fees, etc. In cases in which tribes and counties have not entered into mitigation agreements, the bill would require the Secretary of the Interior to consider whether off-reservation impacts have been sufficiently mitigated. We are pleased that many of the provisions of S. 1879 closely mirror CSAC's comprehensive fee-to-trust reform proposal.

In closing, CSAC continues to stand ready to work with you and the Committee to advance this important reform bill. We believe that a new fee-to-trust process, one that is founded on mutual respect and encourages local governments and tribes to work together on a government-to-government basis, is long overdue. CSAC believes that tribes and counties need a process that encourages cooperation and communication, provides a basis to expedite decisions, and reduces costs and frustration for all involved.

Thank you again for introducing the *Interior Improvement Act* and for including CSAC throughout the process of developing this legislation. Should you have any questions or if you need any additional information, please contact Joe Krahn, CSAC Federal Representative, Waterman and Associates at (202) 898-1444.

Sincerely,



Matt Cate
CSAC Executive Director

cc: Members of the Senate Committee on Indian Affairs
 Senator Dianne Feinstein
 Senator Barbara Boxer
 Members of the House Committee on Natural Resources
 California Congressional Delegation

Attachment Two
Text of S.1879

114TH CONGRESS
1ST SESSION

S. _____

To improve processes in the Department of the Interior, and for other purposes.

IN THE SENATE OF THE UNITED STATES

_____ introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To improve processes in the Department of the Interior, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Interior Improvement
5 Act".

6 **SEC. 2. DEFINITIONS.**

7 (a) IN GENERAL.—The first sentence of section 19
8 of the Act of June 18, 1934 (commonly known as the "In-
9 dian Reorganization Act") (25 U.S.C. 479), is amended—

1 (1) by striking “The term” and inserting “Ef-
2 fective beginning on June 18, 1934, the term”; and

3 (2) by striking “any recognized Indian tribe
4 now under Federal jurisdiction” and inserting “any
5 federally recognized Indian tribe”.

6 (b) **RETROACTIVE PROTECTION.**—To the extent a
7 trust acquisition by the Secretary of the Interior pursuant
8 to the Act of June 18, 1934 (commonly known as the “In-
9 dian Reorganization Act”) (25 U.S.C. 461 et seq.), is sub-
10 jected to a challenge based on whether an Indian tribe was
11 federally recognized or under Federal jurisdiction on June
12 18, 1934, that acquisition is ratified and confirmed.

13 **SEC. 3. LAND ACQUISITION APPLICATIONS.**

14 The Act of June 18, 1934 (commonly known as the
15 “Indian Reorganization Act”), is amended by inserting
16 after section 5 (25 U.S.C. 465) the following:

17 **“SEC. 5A. LAND ACQUISITION APPLICATIONS.**

18 “(a) **DEFINITIONS.**—In this section:

19 “(1) **APPLICANT.**—The term ‘applicant’ means
20 an Indian tribe or individual Indian (as defined in
21 section 4 of the Indian Self-Determination and Edu-
22 cation Assistance Act (25 U.S.C. 450b)) who sub-
23 mits an application under subsection (b).

24 “(2) **APPLICATION.**—The term ‘application’
25 means an application submitted to the Department

1 by an Indian tribe or individual Indian under sub-
2 section (b).

3 “(3) CONTIGUOUS.—The term ‘contiguous’—

4 “(A) means 2 parcels of land having a
5 common boundary, notwithstanding the exist-
6 ence of non-navigable waters or a public road or
7 right-of-way; and

8 “(B) includes parcels that touch at a point.

9 “(4) CONTIGUOUS JURISDICTION.—The term
10 ‘contiguous jurisdiction’ means any county, county
11 equivalent, or Indian tribe with authority and con-
12 trol over the land contiguous to the land under con-
13 sideration in an application.

14 “(5) COUNTY AND COUNTY EQUIVALENT.—The
15 terms ‘county’ and ‘county equivalent’ mean the
16 largest territorial division for local government with-
17 in a State with the authority to enter into enforce-
18 able cooperative agreements with Indian tribes or in-
19 dividual Indians, as appropriate.

20 “(6) DEPARTMENT.—The term ‘Department’
21 means the Department of the Interior.

22 “(7) ECONOMIC IMPACT.—The term ‘economic
23 impact’ means any anticipated costs associated with
24 the development of or activity on the land under
25 consideration in an application, including associated

1 costs to a contiguous jurisdiction for utilities, public
2 works, public safety, roads, maintenance, and other
3 public service costs.

4 “(8) FINAL DECISION.—The term ‘final deci-
5 sion’ means a decision that is final for the Depart-
6 ment, as determined or defined by the Secretary.

7 “(9) INDIAN TRIBE.—The term ‘Indian tribe’
8 has the meaning given the term in section 4 of the
9 Indian Self-Determination and Education Assistance
10 Act (25 U.S.C. 450b).

11 “(10) SECRETARY.—The term ‘Secretary’
12 means the Secretary of the Interior.

13 “(b) APPLICATIONS.—

14 “(1) IN GENERAL.—An Indian tribe or indi-
15 vidual Indian seeking to have off-reservation fee or
16 restricted land taken into trust for the benefit of
17 that Indian tribe or individual Indian shall submit
18 an application to the Secretary at such time, in such
19 manner, and containing such information as this
20 section and the Secretary require.

21 “(2) REQUIREMENTS.—The Secretary may ap-
22 prove complete applications described in paragraph
23 (1) on a discretionary basis, subject to the condition
24 that the application includes—

1 “(A) a written request for approval of a
2 trust acquisition by the United States for the
3 benefit of the applicant;

4 “(B) the legal name of the applicant, in-
5 cluding, in the case of an applicant that is an
6 Indian tribe, the tribal name of the applicant as
7 the name appears in the list of recognized In-
8 dian tribes published by the Secretary in the
9 Federal Register pursuant to section 104 of the
10 Federally Recognized Indian Tribe List Act of
11 1994 (25 U.S.C. 479a-1);

12 “(C) a legal description of the land to be
13 acquired;

14 “(D) a description of the need for the pro-
15 posed acquisition of the property;

16 “(E) a description of the purpose for which
17 the property is to be used;

18 “(F) a legal instrument to verify current
19 ownership, such as a deed;

20 “(G) statutory authority for the proposed
21 acquisition of the property;

22 “(H) a business plan for management of
23 the land to be acquired, if the application is for
24 business purposes;

1 “(I) the location of the land to be acquired
2 relative to State and reservation boundaries;
3 and

4 “(J) a copy of any cooperative agreement
5 between the applicant and a contiguous juris-
6 diction.

7 “(3) FINAL DECISION.—After considering an
8 application described in this subsection and in ac-
9 cordance with subsection (c) and any other applica-
10 ble Federal law or regulation, a final decision to ap-
11 prove or deny the completed application shall be
12 issued.

13 “(e) STATUTORY NOTICE AND COMMENT REQUIRE-
14 MENTS.—

15 “(1) NOTICE AND COMMENT REQUIREMENTS
16 FOR INITIAL APPLICATIONS.—

17 “(A) NOTICE.—

18 “(i) IN GENERAL.—Not later than 30
19 days after the date on which the Secretary
20 receives an initial application, the Sec-
21 retary shall make that application, whether
22 complete or incomplete, available to the
23 public on the website of the Department,
24 subject to applicable Federal privacy laws.

1 “(ii) ADDITIONAL NOTICE REQUIRE-
2 MENT.—Not later than 30 days after the
3 date on which the Secretary receives an
4 initial application, the Secretary shall pro-
5 vide by certified mail notice of the applica-
6 tion to contiguous jurisdictions.

7 “(B) COMMENT.—Each contiguous juris-
8 diction notified under subparagraph (A)(ii)
9 shall have not fewer than 30 days, beginning on
10 the date that the contiguous jurisdiction re-
11 ceives the notice, to comment on that initial ap-
12 plication.

13 “(2) NOTICE REQUIREMENT FOR ANY APPLICA-
14 TION UPDATE, MODIFICATION, OR WITHDRAWAL.—

15 “(A) IN GENERAL.—If at any time an ap-
16 plication is updated, modified, or withdrawn,
17 not later than 5 days after the date on which
18 the Secretary receives notice of that update,
19 modification, or withdrawal, the Secretary shall
20 make that information available to the public
21 on the website of the Department, subject to
22 any applicable Federal privacy laws.

23 “(B) INCLUSION.—If an application has
24 been updated or modified in any way, the notice
25 described in subparagraph (A) shall include a

1 description of the changes made and the up-
2 dated or modified application, whether complete
3 or incomplete, available on the website of the
4 Department, subject to any applicable Federal
5 privacy laws.

6 “(3) NOTICE AND COMMENT REQUIREMENTS
7 FOR COMPLETED APPLICATIONS.—

8 “(A) NOTICE.—

9 “(i) IN GENERAL.—Not later than 30
10 days after the date on which the Secretary
11 receives a completed application, the Sec-
12 retary shall make that application available
13 to the public on the website of the Depart-
14 ment, subject to any applicable Federal
15 privacy laws.

16 “(ii) ADDITIONAL NOTICE REQUIRE-
17 MENTS.—Not later than 30 days after the
18 date on which the Secretary receives a
19 completed application, the Secretary shall
20 provide by certified mail notice of the ap-
21 plication to contiguous jurisdictions.

22 “(iii) PUBLICATION IN FEDERAL REG-
23 ISTER.—Not later than 5 days after the
24 date on which the Secretary receives a
25 completed application, the Secretary shall

1 publish in the Federal Register notice of
2 the completed application.

3 “(B) COMMENT.—Contiguous jurisdictions
4 shall have not fewer than 30 days, beginning on
5 the date on which the contiguous jurisdiction
6 receives notice under subparagraph (A)(ii), to
7 comment on that completed application.

8 “(4) NOTICE OF DECISION.—

9 “(A) IN GENERAL.—Not later than 5 days
10 after a final decision to approve or deny an ap-
11 plication is issued, the Secretary shall issue a
12 notice of decision and make the notice of deci-
13 sion available to the public on the website of the
14 Department.

15 “(B) PUBLICATION IN FEDERAL REG-
16 ISTER.—Not later than 5 days after a final de-
17 cision to approve or deny an application is
18 issued, the Secretary shall publish in the Fed-
19 eral Register the notice of decision described in
20 subparagraph (A).

21 “(d) ENCOURAGING LOCAL COOPERATION.—

22 “(1) IN GENERAL.—The Secretary shall encour-
23 age, but may not require, applicants to enter into co-
24 operative agreements with contiguous jurisdictions.

25 “(2) COOPERATIVE AGREEMENTS.—

1 “(II) if that review process is not
2 applicable, 30 days after the date on
3 which a complete application is re-
4 ceived by the Secretary.

5 “(ii) **TIMELINE.**—Completion of the
6 review process under the National Environ-
7 mental Policy Act of 1969 (42 U.S.C.
8 4321 et seq.) described in clause (i) may
9 refer to—

10 “(I) the issuance of a categorical
11 exclusion determination in accordance
12 with section 6.204 of title 40, Code of
13 Federal Regulations (or successor reg-
14 ulations);

15 “(II) an environmental assess-
16 ment finding of no significant impact
17 in accordance with section 6.206 of
18 title 40, Code of Federal Regulations
19 (or successor regulations); or

20 “(III) the issuance of a record of
21 decision in accordance with section
22 6.208 of title 40, Code of Federal
23 Regulations (or successor regulations).

24 “(iii) **EFFECT OF FAILURE TO ISSUE**
25 **TIMELY FINAL DECISION.**—If the Secretary

1 fails to issue a final decision by the date
2 described in clause (i), the application shall
3 be—

4 “(I) deemed approved on an
5 automatic basis; and

6 “(II) treated as a final decision.

7 “(D) COOPERATIVE AGREEMENT NOT SUB-
8 MITTED.—

9 “(i) IN GENERAL.—If an applicant
10 does not submit to the Secretary a cooper-
11 ative agreement executed between the ap-
12 plicant and contiguous jurisdictions, the
13 Secretary shall issue a written determina-
14 tion of mitigation by the date that is not
15 later than 30 days after a complete appli-
16 cation is received by the Secretary, which
17 shall—

18 “(I) describe whether any eco-
19 nomic impacts on contiguous jurisdic-
20 tions have been mitigated to the ex-
21 tent practicable; and

22 “(II) explain the basis of that de-
23 termination.

24 “(ii) DETERMINATION OF MITIGA-
25 TION.—The Secretary shall consider a de-

1 termination of mitigation in making a final
2 decision to approve or deny an application,
3 but that determination shall not halt or
4 unduly delay the regular processing of an
5 application.

6 “(iii) CONSIDERATIONS.—In making a
7 determination of mitigation described in
8 clause (i), the Secretary shall take into
9 consideration—

10 “(I) the anticipated economic im-
11 pact of approving an application on
12 contiguous jurisdictions; and

13 “(II) whether the absence of a
14 cooperative agreement is attributable
15 to the failure of any contiguous juris-
16 diction to work in good faith to reach
17 an agreement with the applicant.

18 “(iv) NOTICE.—The Secretary shall
19 provide by certified mail a copy of the de-
20 termination of mitigation described in
21 clause (i) to the applicant and contiguous
22 jurisdictions not less than 5 days after a
23 determination of mitigation is issued.

24 “(v) GOOD FAITH PROTECTION.—
25 Failure to submit a cooperative agreement

1 shall not prejudice an application if the
2 Secretary determines that the failure to
3 submit is attributable to the failure of any
4 contiguous jurisdiction to work in good
5 faith to reach an agreement.

6 “(3) RECIPROCAL NOTICE AND COMMENT.—
7 The Secretary shall also encourage contiguous juris-
8 dictions to engage in local cooperation through recip-
9 rocal notice and comment procedures, particularly
10 with regard to changes in land use.

11 “(e) IMPLEMENTATION.—

12 “(1) CONSULTATION.—Not later than 60 days
13 after the date of enactment of this section, the Sec-
14 retary shall initiate consultation with Indian tribes
15 regarding the implementation of this section.

16 “(2) SUMMARY.—Not later than 180 days after
17 the date on which the consultation described in
18 paragraph (1) is initiated, the Secretary shall issue
19 a summary of the consultation and the summary
20 shall be published in the Federal Register.

21 “(3) RULEMAKING.—Not later than 60 days
22 after the date on which the summary described in
23 paragraph (2) is published in the Federal Register,
24 the Secretary shall, through a rulemaking under sec-
25 tion 553 of title 5, United States Code, modify exist-

1 ing regulations, guidance, rules, and policy state-
2 ments, as necessary to carry out this section.

3 “(f) JUDICIAL REVIEW.—

4 “(1) IN GENERAL.—An applicant or contiguous
5 jurisdiction may seek review of a final decision.

6 “(2) ADMINISTRATIVE REVIEW.—An applicant
7 or contiguous jurisdiction may seek review in a
8 United States district court only after exhausting all
9 available administrative remedies.”.

10 **SEC. 4. EFFECT.**

11 (a) OTHER LAND DETERMINATIONS.—Nothing in
12 this Act (or an amendment made by this Act) impacts any
13 other Federal Indian land determination.

14 (b) EFFECT ON OTHER LAWS.—Nothing in this Act
15 (or the amendments made by this Act) affects—

16 (1) the application or effect of any Federal law
17 other than the Act of June 18, 1934 (25 U.S.C. 461
18 et seq.); or

19 (2) any limitation on the authority of the Sec-
20 retary of the Interior under any Federal law or reg-
21 ulation other than the Act of June 18, 1934 (25
22 U.S.C. 461 et seq.).

Attachment Three
CSAC Comprehensive Fee to Trust Reform Proposal



COMPREHENSIVE FEE-TO-TRUST REFORM PROPOSAL

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Section 5 of the Indian Reorganization Act, 25 U.S.C. § 465

The Secretary of the Interior is authorized, in his discretion, to acquire, through purchase, relinquishment, gift, exchange, or assignment, any interest in lands, water rights, or surface rights to lands, within or without existing reservations, including trust or otherwise restricted allotments, whether the allottee be living or deceased, for the purpose of providing land for Indians.

For the acquisition of such lands, interests in lands, water rights, and surface rights, and for expenses incident to such acquisition, there is authorized to be appropriated, out of any funds in the Treasury not otherwise appropriated, a sum not to exceed \$2,000,000 in any one fiscal year: Provided, that no part of such funds shall be used to acquire additional land outside of the exterior boundaries of Navajo Indian Reservation for the Navajo Indians in Arizona, nor in New Mexico, in the event that legislation to define the exterior boundaries of the Navajo Indian Reservation in New Mexico, and for other purposes, or similar legislation, becomes law.

The unexpended balances of any appropriations made pursuant to this section shall remain available until expended.

Title to any lands or rights acquired pursuant to this Act or the Act of July 28, 1955 (69 Stat. 392), as amended (25 U.S.C. 608 et seq.) shall be taken in the name of the United States in trust for the Indian tribe or individual Indian for which the land is acquired, and such lands or rights shall be exempt from State and local taxation.

The Secretary may acquire land in trust pursuant to this section where the applicant has identified a specific use of the land and:

- (a) the Indian tribe or individual Indian applicant has executed enforceable agreements with each jurisdictional local government addressing the impacts of the proposed trust acquisition; or
- (b) in the absence of the agreements identified in subsection (a):
 - (1) the Indian tribe or individual Indian demonstrates, and the Secretary determines, that:
 - (A) the land will be used for non-economic purposes, including for religious, cultural, tribal housing, or governmental facilities, and the applicant lacks sufficient trust land for that purpose; or
 - (B) the land will be used for economic or gaming purposes and the applicant has not achieved economic self-sufficiency and lacks sufficient trust land for that purpose;

and

- (2) the Secretary determines, after consulting with appropriate state and local officials, that the acquisition would not be detrimental to the surrounding community and that all significant jurisdictional conflicts and impacts, including increased costs of services, lost revenues, and environmental impacts, have been mitigated to the extent practicable.
- (c) notice and a copy of any application, partial or complete, to have land acquired in trust shall be provided by the Secretary to the State and affected local government units within twenty (20) days of receipt of the application, or of any supplement to it. The Secretary shall provide affected local governmental units at least ninety (90) days to submit comments from receipt of notice and a copy of the complete application to have land acquired in trust.
- (d) a material change in use of existing tribal trust land that significantly increases impacts, including gaming or gaming-related uses, shall require approval of the Secretary under this section, and satisfy the requirements of the National Environmental Policy Act, 42 U.S.C. § 4321 et seq., and, if applicable, the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 et seq.;
- (1) the Secretary shall notify the State and affected local government units within twenty (20) days of any change in use in trust land initiated by an applicant under this subsection.
- (2) as soon as practicable following any change in use in trust land initiated prior to review and approval under this section, the Secretary shall take steps to stop the new use, including suit in federal court, upon application by an affected local government;
- (3) any person may file an action under 5 U.S.C. § 701 et seq. to compel the Secretary to enjoin any change in use in trust land initiated prior to review and approval under this section.
- (e) notwithstanding any other provisions of law, the Secretary is authorized to include restrictions on use in the deed transferred to the United States to hold land in trust for the benefit of the Indian tribe or individual Indian and shall consider restricting use in cases involving significant jurisdictional and land use conflicts upon application of governments having jurisdiction over the land;
- (f) any agreement executed pursuant to subsection (a) of this section shall be deemed approved by the Secretary and enforceable according to the terms of the agreement upon acquisition in trust of land by the Secretary;
- (g) the Secretary shall promulgate regulations implementing these amendments within 365 days of enactment.

2016 HLT Legislative Priorities
Attachment Four
HLT Year in Review and 2016 Policy Priorities



December 2, 2015

To: CSAC Housing, Land Use and Transportation Policy Committee

From: Kiana Buss, Legislative Representative
Chris Lee, Legislative Analyst

Re: **Housing, Land Use and Transportation Year in Review and 2016
Legislative Priorities**

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2015 Year in Review

Transportation Funding. The Governor kicked off the 2015 legislative session by making transportation funding a priority in his January Budget proposal, although he did not identify solutions, noting that that task is the primary responsibility of the legislature. Within weeks of the January Budget release, Speaker Toni Atkins and Senator Jim Beall released a transportation funding plan and legislation, respectively. CSAC, working in strong partnership with the League of California Cities, analyzed the impact these funding proposals would have on the condition of local streets and roads. Recall, the 2014 California Statewide Local Streets and Roads Needs Assessment found that the average condition of a local street and road is “at risk.” This means that without maintenance and rehabilitation in the near term the infrastructure will rapidly decline into a poor or failed condition. In fact, without a significant investment of new revenue into the local system, approximately 25% of local roads will be in a “failed” condition in 2024. Analysis based on the report showed that even under Senator Beall’s SB 16, which would have provided counties and cities an additional \$1.5 billion a year, the condition of local roads would remain roughly the same. While the plan would help avoid further deterioration, Californians would not notice any overall improvements in their local streets and roads.

In response to this information, CSAC and the League developed a proposal that would provide \$3 billion a year and raise the average condition of the local system to “good.” Under this proposal, the existing backlog of \$78 billion would be reduced to only \$26 billion and the pavement condition (rated on a scale of 0 or “failed” to 100 or “good”) would increase from 66 to 73. The Secretary of Transportation also identified a \$2.5 to \$3 billion a year need for state highways from the Legislature, which resulted in a combined ask of \$6 billion a year for state and local transportation roadway infrastructure.

Achieving the two-thirds vote required to enact any tax increase posed a significant challenge this year; perhaps more so than in previous decades when the gas tax has been increased. Republican leaders in both houses made it clear that any new funding plan should be completely, or at least substantially, funded from the state’s general fund – a nonstarter with the Governor and many Democratic members. Additionally, the Republican caucuses introduced a number of related proposals that sought to do more with existing revenues and any new funding through environmental and project delivery streamlining and other reforms. For our part, CSAC tried to find consensus points among the houses and parties to build support for a funding package with a *non-general fund* source of new revenue sufficient to make a dent in the \$136 billion combined maintenance and rehabilitation need (\$79 billion for local streets and roads and \$57 billion for state highways).

With momentum waning into the summer, Governor Brown called a Special Session on Transportation and Infrastructure Development to provide special focus and attention on the

issue. In the final week of session, the Administration released a plan that would provide \$3.6 billion in funding with over a billion dollars for local streets and roads. Unfortunately, it did not appear that the Administration's plan would have sufficient bipartisan support, so it was not taken up prior to the end of the regular session. This, along with the Senate proposals, will likely serve as the starting point for the Legislature's conference committee within the special session.

It's currently unclear whether we will find success on a new funding package in the special session, but counties and CSAC played a critical role in pushing the agenda this far. Individual counties answered multiple requests from CSAC staff to contact their legislative delegations, passed resolutions in support of new transportation revenues and reforms, testified at legislative hearings around the state, participated in press conferences, and engaged local media. At the start of the year, attention was singularly focused on the state highway system, but through the tremendous efforts of counties and our coalition partners, the Legislature, Administration and media are all well aware of the local transportation needs. CSAC even had very strong commitments from a number of key decision-makers that the local system deserved a fair share of any funding package. While the work is not over, CSAC staff still considers our collective efforts a noteworthy success.

Cap and Trade Implementation. The Strategic Growth Council (SGC) oversaw the first round of Affordable Housing and Sustainable Communities (AHSC) Program grants funded by cap and trade auction proceeds. The AHSC Program is intended to fund greenhouse gas emission (GHG) reducing land-use, transportation, housing, and land preservation projects that support infill and compact development. Moreover, projects must be consistent with a Sustainable Communities Strategy (SCS) – the regional planning documents that integrate transportation, housing and land use pursuant to SB 375 (Chapter No. 728, Statutes of 2008) – or another similar GHG reducing plan. The SGC awarded a total of 28 grants within 21 cities and 19 counties that will result in 723,286 metric tons in avoided GHG emissions (the equivalent of taking 140,000 cars off the road for one year). The investment into affordable housing will result in 2,003 units in new housing that is affordable to low-, very low-, and extremely low income households. The grants will also be used for transportation related investments into transit and active transportation improvements.

The Legislature has continuously appropriated 20 percent of ongoing revenues from the cap and trade program for the AHSC Program. At the time of this writing, it's estimated that the FY 2015-16 grant program could be as much as \$400 million, although the Legislature has yet to finalize a cap and trade program appropriation for FY 2015-16. The SGC is currently reviewing public comment on their recently released Draft Guidelines for the second round of grants. Among other issues, CSAC advocated for changes to make transportation projects more competitive, as nearly 75 percent of the FY 2014-15 grant funds went towards housing projects. While affordable housing projects are an important component to SCSs and statewide housing needs generally, the cap on fuels acts like a gas tax, which is the traditional source used to fund transportation improvements in California.

Native American Affairs. Governor Brown executed and the Legislature ratified three Tribal-State Gaming Compacts that met CSAC's priorities for any new or renegotiated compacts. The compacts require judicially-enforceable local mitigation agreements to ensure the impacts of casinos on local government services and the environment are addressed. The compacts also help counties indirectly by increasing financial support for economic development for non-gaming and limited-gaming tribe services through the Revenue Sharing Trust Fund (RSTF),

which frees up additional funding in the Special Distribution Fund (SDF), which is used to address gaming impacts on local governments and is especially important for counties without local agreements with tribes operating casinos. Without a doubt, the continuation of these critical provisions is a direct result of CSAC's continued advocacy efforts.

At the federal level, Senator Barrasso, Chairman of the Senate Indian Affairs Committee, introduced S.1879. The bill is the result of years of advocacy by CSAC to reform the current fee-to-trust process, which has been criticized as lacking transparency and standards. This historic measure would address the inequities between tribes created by the Supreme Court's decision in *Carcieri v. Salazar* while also includes a majority of CSAC's long-sought fee-to-trust reforms.

Supporting Affordable Housing. Recognizing the significant shortage of housing affordable to people and families at all income levels, CSAC actively supported legislative efforts to create a permanent source for affordable housing, and to maximize investment of existing state and federal funds. These efforts, including a new fee to support a permanent source for affordable housing, and increased appropriations in tax credits to maximize federal investment in the state, suffered similar fates as new taxes and fees for transportation.

2016 Legislative Preview

Transportation Funding. While the chances of seeing a robust new revenue package passed in 2016 are slim, especially considering that the November 2016 election will have a number of contested races, CSAC staff and our coalition partners intend to keep the pressure on the Legislature and Governor via a public education and outreach campaign. While counties are perhaps victims of their own success – public works departments manage to make infrastructure work regardless of funding challenges – CSAC staff will work closely with the County Engineers Association of California (CEAC) and this committee to highlight the significant infrastructure challenges on the local street and road system. We must be innovative in how we deliver the content of our messages to be able to grab the attention of the public and our state officials. We must make the messages themselves easy to digest and yet grab the attention of our communities and their legislative representatives. With a meaningful effort in 2016, we hope to be poised to take the funding issue back on in 2017.

CSAC invested significant time and effort to pass legislation in 2015 to bring more stability to transportation tax swap rate setting process. Unfortunately, this issue was caught up in the larger transportation funding debate and was held hostage during the remaining weeks of the regular session to be retained as leverage for future negotiations. Recall that the provisions of the gas tax swap require a complicated rate-setting process to ensure that the new excise tax on gasoline raises an equivalent amount of revenue as the former sales tax would have generated. While the former sales tax revenues naturally adjusted to real-time changes in the price of gasoline, the excise rate is currently adjusted only annually. Accordingly, when there are significant fluctuations in gas prices during a single fiscal year, the excise rate must be significantly raised or lowered in one fell swoop. SB 321 (Beall) would have help remedy the potentially jarring increases or decreases in the excise tax by incorporating recent historical price data into the rate-setting calculation and allowing a semi-annual adjustment if actual prices vary drastically from prior estimates. We are now exploring ways to work with Board of Equalization to improve the rate setting process administratively.

Cap and Trade. CSAC will continue to engage the SGC to ensure that the AHSC program funds transportation and housing projects that result in significant GHG reductions while not being overly proscriptive and thereby limiting innovative projects. Moreover, in the context of the transportation funding discussion, CSAC staff will advocate for an increased share of cap and trade auction proceeds for transportation programs including low carbon street and road improvements, active transportation and transit.

Native American Affairs. At the state level, CSAC will continue to work with counties and the Governor's office to ensure new and renegotiated tribal state gaming compacts continue to include judicially enforceable local agreements and the other aforementioned positive components to mitigate the impacts of casinos on local government services and the environment. Furthermore, the compacts the Governor signed in 2015 continue the Special Distribution Fund (SDF) program which provides grants to local communities to mitigate impacts from gaming. Over the years, counties have found the program to be difficult to implement when funded (the last two budgets have not included an appropriation as the fund has a structural imbalance). This is especially true as the Legislature has continued to apply new and more onerous requirements in order to use the funds. CSAC will dedicate time in 2016 to exploring ways to improve the SDF local grant program.

Affordable Housing. The Governor, in his veto message of AB 35 (Chiu) which would have increased state's affordable housing tax credit program, noted that with state general fund impacts it needed to be considered in the context of overall state budget discussions. As such, CSAC will continue to support this and other affordable housing efforts in 2016.

In addition to new funding efforts, CSAC is currently working with the League of California Cities and the American Planning Association, California Chapter to develop potential legislative or administrative proposals that will result in the actual construction of new affordable housing, by cutting through red tape, streamlining the environmental review process, and related improvements.

Federal Priorities

Federal Transportation Reauthorization. If Congress does not finalize a MAP-21 reauthorization bill in 2015 - as is anticipated - CSAC will continue to promote the association's key transportation priorities in 2016. Among other issues, the association strongly supports a dedicated federal funding stream for local bridges, both on- and off-system. Additionally, CSAC is seeking opportunities to: further streamline the regulatory and project delivery processes; promote programs that increase safety on the existing transportation system; and, advocate for initiatives that protect previous and future investments via system maintenance and preservation. Should Congress pass a long-term reauthorization bill, CSAC staff will be required to dedicate significant time to implementation efforts at the state level working with our partners at the California Department of Transportation, regional transportation planning agencies, and other stakeholders such as bicycle and pedestrian advocates.

Fee-to-Trust Reform. CSAC will continue to lead local government opposition to any legislative effort that would overturn the Supreme Court's *Carcieri v. Salazar* decision without also enacting reforms in the tribal land into trust process; likewise, the association will continue to promote its comprehensive legislative reform proposal (many of CSAC's primary reforms are reflected in pending Senate legislation, S.1879).

Land Use Planning and Housing Policy Update
Attachment Five
CSAC Comment Letter on Affordable Housing and Sustainable
Communities Program Guidelines

TRANSMITTED ELECTRONICALLY



October 30, 2015

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Mr. Ken Alex, Chairman
Strategic Growth Council
1400 10th Street,
Sacramento, CA 95814

RE: Comments on 2015-16 Affordable Housing and Sustainable Communities Program Public Review Draft Guidelines

Dear Chairman Alex:

The California State Association of Counties appreciates the opportunity to comment on the draft guidelines for the Affordable Housing and Sustainable Communities program. CSAC is the unified voice of California's 58 counties before the state legislature and administration and the federal government. Local governments are charged with planning for housing affordable for all income levels and also maintain over eighty percent of the road mileage in the state of California. These local streets and roads provide mobility to cars, but they are also the primary right of way for alternative transportation, including buses, bicycles and pedestrians. Accordingly, counties have a vested interest in programs that support the development of affordable housing and the retrofit of local streets and roads to better accommodate the full range of users and encourage mode shift to transit and active transportation.

CSAC is encouraged by changes made to the draft guidelines as a result of lessons learned in the preliminary funding round. Counties feel that there is still room for additional flexibility and slight tweaks to the guidelines that will promote investments in complete streets with features appropriate to urban, suburban and rural communities. Accordingly, we offer the following comments of the draft guidelines:

Support Inclusion of Rural Innovation Project Areas

CSAC supports the addition of a target of 10% of total funding to be allocated to Rural Innovation Project Areas. This target is warranted both as a matter of fairness, given that AHSC revenues are supported by cap and trade auction proceeds that indirectly impact consumers in all parts of the state, and as a means of illustrating the potential for GHG-reducing transportation and housing investments in rural areas.

Remove Unnecessary Restrictions on Project Types

CSAC supports the additional flexibility offered in the draft guidelines to TOD projects, which may happen to be located in areas that have already made significant investments in transportation and transit infrastructure, and therefore might not need to incorporate additional investments in these facilities. We reiterate the concern we expressed last year, however, with restrictions that would not allow transportation projects in areas served by qualifying high-quality transit unless they are accompanied by an affordable housing development. On the other hand, Integrated Connectivity Projects outside of TOD areas cannot include an affordable housing component unless they also make corresponding investment in sustainable transportation infrastructure.

While the latter prohibited scenario is much less likely to be problematic than the prohibition on transportation-only investments in TOD areas, there are examples of relatively dense and walkable rural communities with some transit to nearby urban or rural job centers where additional investments in affordable housing – even without corresponding transportation improvements – could allow workers to live much closer to their jobs. In any case, CSAC continues to advocate for maximum flexibility and worries that these restrictions could unnecessarily constrain the number of GHG-reducing projects that will be eligible for grant funds.

Address Concerns for Projects with Sustainable Transportation Infrastructure Components

CSAC reiterates the concerns we expressed last year that some of the grant requirements may disadvantage transportation infrastructure projects broadly. We feel that this disadvantage was reflected in the overwhelmingly housing-focused projects that were selected for funding in the initial round of grants.

1. Greenhouse Gas Emissions Reduction Modeling: We incorporate by reference the comment expressed by the California Association of Councils of Government (CALCOG) that differing treatments of factors affecting GHG emissions reductions as modeled by CMAQ and CalEEMod, including assumptions related to the longevity of a particular transportation investment and the GHG-reducing benefits of transit oriented development for transit dependent individuals, could tend to disadvantage the transportation components of projects under the AHSC program. CSAC supports refinements to the application scoring framework, such as those suggested by CALCOG, to ensure that this unintentional bias is addressed.
2. Non-Supplant Language: CSAC also reiterates our concerns expressed last year regarding non-supplant language as it may related to sustainable transportation infrastructure projects. Specifically, the draft guidelines require that the application demonstrate that “Capital Project or Planning and Program Costs are infeasible without AHSC Program funds, and other committed funds are not being supplanted by AHSC Program funds.” As we commented on last year’s initial draft guidelines, we trust that this requirement will be implemented fairly, and not serve as a rationale for limiting funding allocated to transportation infrastructure. While there are indeed some highly-flexible sources of transportation funding, including Highway User Tax Account revenues, local governments have huge maintenance backlogs to simply maintain existing facilities in their current condition. Flexible local transportation dollars will almost certainly be used to match AHSC funds for complete streets projects that support active modes and transit, but the fact that agencies cannot devote all of their flexible funding to such uses given their massive maintenance obligations should not disadvantage these components of projects under the AHSC guidelines.
3. Environmental Review: CSAC appreciates the addition of provisions allowing applicants who submit evidence to demonstrate a Lead Agency has prepared a Negative Declaration (ND) or Mitigated Negative Declaration (MND) which is currently under review, or where the Project

is eligible for a categorical exemption, to not be required to submit evidence of completion of environmental review. We continue to be concerned that due to the way transportation projects are planned and programmed, the requirement that projects which are neither exempt nor eligible for a ND or MND must have a complete CEQA and NEPA review may disadvantage projects with a Sustainable Transportation Infrastructure capital component.

4. Public Works Department Certification: Finally, CSAC continues to be concerned with language that requires projects that need approval by a local public works department, or other responsible local agency to include a statement from that department indicating that the Sustainable Transportation Infrastructure and/or Transportation-Related Amenities Capital Project(s) is consistent with all applicable local rules, regulations, codes, policies and plans enforced or implemented by that department. While the requirement is clearly intended to prevent cost-overruns or inconsistent projects from applying, lead agencies are concerned that public agencies may be unwilling to sign such as statement before there has been final design of the infrastructure to be built. A commitment to review and ensure that the finished project will be consistent with applicable standards would be more consistent with typical infrastructure grant assurance language.

CSAC appreciates the opportunity to submit these comments on the public review draft guidelines for the 2015-16 Affordable Housing and Sustainable Communities program. Please do not hesitate to contact me at kbuss@counties.org or (916) 327-7500 ext. 566 with any questions about our comments.

Sincerely,



Kiana Buss
Legislative Representative

Land Use Planning and Housing Policy Update

Attachment Six

Summary of Comments Received on Office of Planning and Research's
Preliminary Discussion Draft Updating Transportation Impacts Analysis
under CEQA



EDMUND G. BROWN JR.
GOVERNOR

STATE OF CALIFORNIA
GOVERNOR'S OFFICE *of* PLANNING AND RESEARCH



KEN ALEX
DIRECTOR

May 1, 2015

On August 6, 2014, the Governor's Office of Planning and Research released a [preliminary discussion draft](#) of changes to the CEQA Guidelines that will change the way that transportation impacts are analyzed under CEQA. Since the release of the draft, OPR staff has conducted extensive outreach on the proposal. That outreach included, among other things:

- Participation in statewide conferences for local governments, planners, environmental professionals, and attorneys
- Presentations to local chapters of the Association of Environmental Professionals and American Planning Association
- A webcast public workshop
- Multidisciplinary regional convenings conducted in several California locations
- A webinar
- One-on-one conversations with interested stakeholders

OPR sought input on the draft over an extended comment period, ending on November 21, 2014. The comments that OPR received demonstrate an active interest, and in many cases, a sophisticated understanding of the complex issues involved in this update. OPR thanks all of those who contributed their expertise and insight in this effort.

Having reviewed all of the written comments submitted during the comment period (available [here](#)), and participated in the outreach described above, OPR is now developing a revised draft which will be released for additional public review in the near term. The following briefly summarizes the major themes that emerged in the input that OPR received.

Comments Supporting the Proposal

Many comments were submitted in support of the proposal to replace level of service as a measure of environmental impact with vehicle miles traveled. Support came from a variety of sectors, including local governments, transportation agencies, metropolitan planning organizations, developers and individuals. Reasons for support included, among others:

- The shift removes a serious impediment to infill development, transit and active transportation projects.
- The shift advances local, regional and statewide climate goals, consistent with SB 375.
- The proposal maintains flexibility for local governments and strengthens local control over transportation planning.

Comments Raising Concerns

Multiple sectors also raised broad concerns about the proposal, including:

- The public may view traffic congestion as a quality of life issue, even if it is not considered an environmental issue under CEQA. Some comments noted that level of service requirements are already embedded in general plans and local fee programs.
- Other comments suggested that the public is not familiar with vehicle miles traveled as a measure of impact.
- Some comments suggested that changes in CEQA analysis may become an issue in future litigation, and that the proposal should reduce litigation risk to the extent possible.

Comments about Models and Data Availability

Some comments reveal a sophisticated level of understanding of the different tools and data available to estimate vehicle miles traveled from new development. Those comments raised questions addressing, among other things:

- Which models (i.e., sketch models, regional travel demand models, etc.) should be used for which types of projects?
- What are the best sources of trip length data for various land use types?
- What is the potential role for the California Statewide Travel Demand Model? Or for the metropolitan planning organization models?

Comments Related to Thresholds of Significance

Senate Bill 743 did not direct OPR to develop thresholds of significance, though it did require the proposed guidelines to give direction regarding the determination of significance. As a placeholder, the preliminary discussion draft suggested “regional average” vehicle miles traveled as a potential threshold. Comments raised competing concerns. For example:

- Some suggested that regional average would be too difficult a threshold for suburbs and rural areas.
- Others suggested that regional average would be too lenient for urban areas.
- Still other comments recommended that any recommended thresholds should be tied to SB 375 targets and California’s long-term climate goals.

Comments Related to Transportation Projects

Several comments focused in on the evaluation of transportation projects:

- Several transit agencies expressed support for the proposal, noting that level of service has tended to penalize transit and active transportation projects.
- Some comments asked for additional detail regarding the analysis of induced travel, specifically regarding projects involving intersection and local street improvements (i.e., turn pockets, etc.).
- Even though there was no real disagreement that highway infrastructure may create environmental impacts, some transportation agencies expressed concern about the effect of new analysis on project delivery.

Comments Related to Safety

Comments raised various perspectives on safety:

- Some sectors appreciated that the proposal raised the profile of pedestrian and bicyclist safety.
- Other comments indicated that the analysis of safety requires nuance, and is not particularly well-suited for a CEQA analysis.
- Still others raised concerns that a safety analysis may inappropriately focus on congestion, and thereby create the same problems caused by level of service analyses.

Comments Related to Mitigation

Several comments focused on mitigation of vehicle miles traveled:

- Some comments praised the shift to vehicle miles traveled because mitigation would focus on changes to the project, instead of changes to the surrounding environment (i.e., additional roadway infrastructure).
- Some expressed concern, however, that the list of example mitigation measures proposed might be misconstrued as mandatory for all projects.
- Some comments suggested that the list of examples was too focused on urban conditions.
- Other comments asked how best to quantify the reduction in vehicle miles traveled that may result from the listed measures.

Comments Related to Timing

Many comments addressed the timing of implementation:

- Some communities expressed a desire to move ahead immediately with the shift to vehicle miles travel.
- Many other comments, however, indicated that stakeholders would benefit from additional time to adjust to the change.

Next Steps

As indicated above, OPR is developing a revised draft for further review and comment. Notice of all future CEQA Guidelines activity will be distributed through the [CEQA Guidelines listserv](#).

Land Use Planning and Housing Policy Update
Attachment Seven
UC Davis Center on Sustainable Transportation
Induced Demand White Paper



Increasing Highway Capacity Unlikely to Relieve Traffic Congestion

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University of California, Davis

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Issue

Reducing traffic congestion is often proposed as a solution for improving fuel efficiency and reducing greenhouse gas (GHG) emissions. Traffic congestion has traditionally been addressed by adding additional roadway capacity via constructing entirely new roadways, adding additional lanes to existing roadways, or upgrading existing highways to controlled-access freeways. Numerous studies have examined the effectiveness of this approach and consistently show that adding capacity to roadways fails to alleviate congestion for long because it actually increases vehicle miles traveled (VMT).

An increase in VMT attributable to increases in roadway capacity where congestion is present is called “induced travel”. The basic economic principles of supply and demand explain this phenomenon: adding capacity decreases travel time, in effect lowering the “price” of driving; and when prices go down, the quantity of driving goes up.¹ Induced travel counteracts the effectiveness of capacity expansion as a strategy for alleviating traffic congestion and offsets in part or in whole reductions in GHG emissions that would result from reduced congestion.

Key Research Findings

The quality of the evidence linking highway capacity expansion to increased VMT is high. All studies reviewed used time-series data and sophisticated econometric techniques to estimate the effect of increased capacity on congestion and VMT. All studies also controlled for other factors that might also affect VMT, including population growth, increases in income, other demographic factors, and changes in transit service.²

Increased roadway capacity induces additional VMT in the short-run and even more VMT in the long-run. A capacity expansion of 10% is likely to increase VMT by 3% to 6% in the short-run and 6% to 10% in the long-run. Increased capacity can lead to increased VMT in the short-run in several ways: if people shift from other modes to driving, if drivers make longer trips (by choosing longer routes and/or more distant destinations), or if drivers make more frequent trips.^{3,4,5} Longer-term effects may also occur if households and businesses move to more distant locations or if development patterns become more dispersed in response to the capacity increase. One study concludes that the full impact of capacity expansion on VMT materializes within five years⁶ and another concludes that the full effect takes as long as 10 years.⁷

Capacity expansion leads to a net increase in VMT, not simply a shifting of VMT from one road to another. Some argue that increased capacity does not generate new VMT but rather that drivers simply shift from slower and more congested roads to the new or newly expanded roadway. Evidence does not support this argument. One study found “no conclusive evidence that increases in state highway lane-miles have affected traffic on other roads”⁸ while a more recent study concluded that “increasing lane kilometers for one type of road diverts little traffic from other types of roads”.⁹

Increases in GHG emissions attributable to capacity expansion are substantial. One study predicted that the growth in VMT attributable to increased lane miles would produce an additional 43 million metric tons of CO₂ emissions in 2012 nationwide.¹⁰

Capacity expansion does not increase employment or other economic activity. Economic development and job creation are often cited as compelling reasons for expanding the capacity of roadways. However, most studies of the impact of capacity expansion on development in a metropolitan region find no net increase in employment or other economic activity, though investments do influence where within a region development occurs.^{11, 12}

Conversely, reductions in roadway capacity tend to produce social and economic benefits without worsening traffic congestion. The removal of elevated freeway segments in San Francisco coupled with improvements to the at-grade Embarcadero and Octavia Boulevards has sparked an on-going revitalization of the surrounding areas while producing a significant drop in traffic.¹³ Many cities in Europe have adopted the strategy of closing streets

in the central business district to vehicle traffic as an approach to economic revitalization,¹⁴ and this strategy is increasingly being adopted in cities the U.S., from New York City to San Francisco.

Further Reading

This policy brief is drawn from the “Impact of Highway Capacity and Induced Travel on Passenger Vehicle Use and Greenhouse Gas Emissions” policy brief and technical background memo prepared for the California Air Resources Board (CARB) by Susan Handy (University of California, Davis) and Marlon Boarnet (University of Southern California), which can be found on CARB’s website along with briefs and memos on 22 other land use and transportation strategies that impact vehicle use and GHG emissions. Website link: <http://arb.ca.gov/cc/sb375/policies/policies.htm>

¹ Noland, R.B. and L.L. Lem. (2002). A review of the evidence for induced travel and changes in transportation and environmental policy in the US and the UK. *Transportation Research D*, 7, 1-26. <http://bit.ly/1jZbl1E>

² Noland, R.B. and L.L. Lem. (2002).

³ Noland, R.B. and L.L. Lem. (2002).

⁴ Gorham, R. (2009). Demystifying Induced Travel Demand. Sustainable Urban Transport Document #1. Transport Policy Advisory Services on behalf of the Federal Ministry of Economic Cooperation and Development, Bonn, Germany. <http://bit.ly/1MsZHfg>

⁵ Litman, T. (2010). Generated Traffic and Induced Travel: Implications for Transport Planning. Victoria Transport Policy Institute. <http://bit.ly/1WXC258>

⁶ Hansen, M. and Y. Huang. (1997). Road Supply and Traffic in California Urban Areas. *Transportation Research A*, 31(3), 205-218. <http://bit.ly/1ZvLOOK>

⁷ Duranton, G. and M.A. Turner. (2011). The Fundamental Law of Road Congestion: Evidence from US Cities. *American Economic Review*, 101, 2616-2652. <http://bit.ly/1MsZTeD>

⁸ Hansen and Huang. (1997).

⁹ Duranton and Turner. (2011).

¹⁰ Handy, S. (2005). Smart Growth and the Transportation-Land Use Connection: What Does the Research Tell us? *International Regional Science Review*, 28(2): 1-22. <http://bit.ly/1NCeeSP>

¹¹ Handy, S. (2005).

¹² Funderberg, R., H. Nixon, M. Boarnet, and G. Ferguson. (2010). New Highways and Land Use Change: Results From a Quasi-Experimental Research Design. *Transportation Research A*, 44(2): 76-98. <http://bit.ly/1LqYhfD>

¹³ Cervero, R., J. Kang, and K. Shively. (2009). From Elevated Freeways to Surface Boulevards: Neighborhood and Housing Price Impacts in San Francisco. *Journal of Urbanism*, 2(1), 31-50. <http://bit.ly/1LF8eSq>

¹⁴ Hajdu, J.C. (1988). Pedestrian Malls in West Germany: Perceptions of their Role and Stages in their Development. *Journal of the American Planning Association*, 54(3). 325-335. <http://bit.ly/1LqYnUy>

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Land Use Planning and Housing Policy Update

Attachment Eight

Summary of Department of Housing and Community Development Survey
on Housing Policy and Practices



Housing Policy and Practices Survey

April 2015

Survey Overview

Total Surveys Sent: over 700

Survey Recipients: city and county planning directors, MPO and COG staff, housing and special needs advocates, for- and non-profit builders, consultants, interested individuals, internal staff, partner government agencies, legislative staff, and HCD's housing policy list serve. It also was picked up by a few local community organizations which resulted in citizen participation.

Total Respondents: 285

Total Respondents Wishing to be informed of the Advisory Group Process: 127

Total Number of Comments Received: 595

Results:

Section One RHNA

Topic	Average Score	Major Issues Identified by respondents
Increasing Opportunities for Regional Strategies and Planning	3.75	<ul style="list-style-type: none">• Changes in RHNA Methodology• Jobs/Housing Balance• Joint Powers Agreements
SB 375 RHNA Determination and Implementation and SCS Integration	3.36	<ul style="list-style-type: none">• Consideration of Transit• Consistency with SB 375• Scheduling Alignment
Technical RHNA, General Clean-up	3.27	<ul style="list-style-type: none">• Calculation Methodology• Foreclosures in RHNA Methodology

Section Two Housing Elements

Topic	Average Score	Major Issues Identified by respondents
Facilitating Housing Affordable to Lower-Income Households	3.92	<ul style="list-style-type: none"> • Site Suitability and Criteria • Site Identification Alternatives • Displacement
Housing Element Implementation, Enforcement, and Incentives for Compliance	3.91	<ul style="list-style-type: none"> • Greater Enforcement • HCD Review Practices • Incentives for Compliance
SB 375 Provisions, Clarification, and Linkage of SCS Planning & Housing Element Requirements	3.72	<ul style="list-style-type: none"> • Default Densities • Additional Site Criteria to Implement Goals of the Sustainable Community Strategies.
Public Participation Requirement	3.46	<ul style="list-style-type: none"> • Timeframes • Criteria • HCD Review Practices

Section Three: Other Issues

Major Issues Identified by respondents
• Constraints
• Drought
• Fair Housing
• HCD Review Practices
• Housing Element Preparation
• Inclusionary Policy

Top Five Topics that Generated the Most Comments

- 1) Modifications to RHNA Distribution Methodology – (Per Question A)
- 2) Public Participation Criteria and Timing (Per Question G)
- 3) Density including “Default Densities” (Per Question F)
- 4) Additional Sites Criteria to Align with SCS and SB 375 (Per Question F)
- 5) Site Suitability for Accommodating RHNA (Per Question D)
- 6) Underutilized and Non-Vacant Sites Criteria (Per Question D)
- 7) Joint Powers Agreements (Per Question A)
- 8) Technical Changes to RHNA Determination Methodology – (Per Question C)
- 9) Adequate Sites Alternative Including Use of Second Units – (Per Question D)
- 10) Displacement Issues (Per Question D)