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**AB-130 Health and human services.** (2017-2018)

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Date Published: 09/18/2017 09:00 PM

**Assembly Bill No. 130**

**CHAPTER 251**

An act to amend Sections 12301.61, 12306.16, 13303, 14126.022, 17605, 17605.07, and 17606.10 of the Welfare and Institutions Code, relating to health and human services, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[ Approved by Governor September 16, 2017. Filed with Secretary of State September 16, 2017. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 130, Committee on Budget. Health and human services.

(1) Existing law establishes the county-administered In-Home Supportive Services (IHSS) program, under which qualified aged, blind, and disabled persons are provided with services in order to permit them to remain in their own homes and avoid institutionalization. Under existing law, a county board of supervisors may elect to contract with a nonprofit consortium to provide for the delivery of in-home supportive services, or establish, by ordinance, a public authority to provide for the delivery of in-home supportive services. Existing law requires, until January 1, 2020, a specified mediation process to be held if a public authority or nonprofit consortium fails to reach agreement on a bargaining contract with its in-home supportive services workers by January 1, 2018.

This bill would clarify that the specified mediation process is required if a public authority or nonprofit consortium and the employee organization have not reached an agreement on a bargaining contract with in-home supportive services workers by January 1, 2018.

Existing law requires the state and counties to share the annual cost of providing in-home supportive services and requires all counties to have a County IHSS Maintenance of Effort (MOE) commencing July 1, 2017, as prescribed. Existing law requires that a portion of IHSS costs that are the counties' responsibility to be offset using a combination of General Fund moneys appropriated in the annual Budget Act and redirected 1991 Realignment Vehicle License Fee growth revenues, as specified.

Existing law requires the Controller to deposit into the Caseload Subaccount of the Sales Tax Growth Account of the Local Revenue Fund, from revenues deposited into the Sales Tax Growth Account, an amount determined by the Department of Finance that is sufficient to fund the net cost for the realigned portion of the county or city and county share of growth in social services caseloads and any share of growth from the previous year or years for which sufficient revenues were not available in the Caseload Subaccount, and requires the Controller to allocate funds to counties based on those calculations. Existing law requires the Controller, for the 2015–16 fiscal year and fiscal years thereafter and after satisfying the above-mentioned obligation to deposit revenues into the Caseload Subaccount from the Sales Tax Growth Account, to deposit into the County Medical Services Program Growth Subaccount 4.027% of the amounts remaining and unexpended in the Sales Tax Growth Account, as specified.

This bill, for the 2016–17 fiscal year, would instead require the Controller to allocate to the social services account of each county and city and county the amount that would otherwise have been deposited into the County Medical Services Program Growth Subaccount, as specified.

Existing law requires the Controller, for the 2013–14 fiscal year and every fiscal year thereafter, to allocate a specified amount to the Mental Health Account and health account of each county, city, or city and county from the General Growth Subaccount of the Sales Tax Growth Account based on a schedule provided by the Department of Finance.

This bill, for the 2016–17 fiscal year, would instead require the Controller to allocate to the social services account of each county and city and county the amount that would otherwise have been deposited into the Mental Health Account and health account of each county, or city and county, as specified.

Existing law defines “growth” for purposes of the above-mentioned obligation to deposit revenues into the Caseload Subaccount from the Sales Tax Growth Account to mean the increase in the actual caseload expenditures for the prior fiscal year over the actual caseload expenditures for the fiscal year preceding the prior fiscal year for costs from specified social services programs, including the County IHSS MOE in effect on June 30, 2017. Commencing with the caseload growth calculation for the 2017–18 fiscal year and each fiscal year thereafter, “growth” includes the County IHSS MOE costs to counties commencing on July 1, 2017, for the current fiscal year over the County IHSS MOE costs to counties for the prior fiscal year, less specified amounts.

This bill would revise these factors used to calculate the caseload growth, by changing the definition of “growth” to exclude the County IHSS MOE in effect on June 30, 2017, and by including offsets provided by General Fund moneys and redirected 1991 Realignment Vehicle License Fee growth revenues, and, for the 2016–17 fiscal year, the redirected sales tax growth revenues, as specified above, in the calculation of the County IHSS MOE costs. The bill would also require the State Controller, commencing with the caseload growth calculation for the 2017–18 fiscal year, to annually post on its Internet Web site the total amount of unfunded caseload growth by county.

(2) Existing law requires the State Department of Social Services to provide grants to qualifying nonprofit organizations for purposes of providing services that include, among other things, services relating to the application process for initial or renewal requests of deferred action under the Deferred Action for Childhood Arrivals policy with the United States Citizenship and Immigration Services.

This bill would appropriate \$20,000,000 to the department for immigration services funding to be available for payment to existing entities under contract pursuant to those provisions for work on behalf of clients involved in, applying for, or subject to, federal Deferred Action for Childhood Arrivals status.

(3) Existing law provides for the licensure and regulation of health facilities, including skilled nursing facilities, by the State Department of Public Health. Among other requirements, these provisions generally require skilled nursing facilities to have a minimum number of nursing hours per patient day of 3.2 hours, and effective July 1, 2018, requires skilled nursing facilities, except as specified, to have a minimum number of direct care service hours, as defined, of 3.5 hours per patient day. Existing law requires the department to adopt regulations to create a waiver of the direct care service hour requirements.

Existing law requires the State Department of Health Care Services, in connection with its administration of the Medi-Cal program, to develop the Skilled Nursing Facility Quality and Accountability Supplemental Payment System, and requires the system to be utilized to, among other things, assign quality and accountability payments or penalties relating to direct care staffing levels at a skilled nursing facility, including the nursing hours or direct care service hours per patient per day requirements. Existing law establishes the Skilled Nursing Facility Quality and Accountability Special Fund in the State Treasury, which is a continuously appropriated fund that contains moneys from the assessment of specified administrative penalties and set-asides of General Fund moneys, for the purposes of making the quality and accountability payments.

Existing law, to a specified extent, provides that a skilled nursing facility shall remain eligible to participate in the supplemental payment program so long as the facility meets applicable nursing hours per patient per day requirements that would have applied in the absence of the direct care service hour requirements described above. Existing law, to a specified extent, prohibits using compliance with the direct care service hour requirements to determine facility qualification for supplemental payments and instead requires the department to apply the nursing hour requirements for purposes of administering the supplemental payments until the performance period beginning in the 2019–20 fiscal year.

This bill, instead, would specify that for performance periods in the 2017–18 and 2018–19 fiscal years, a skilled nursing facility shall remain eligible to participate in the supplemental payment program so long as the facility meets applicable nursing hours per patient per day requirements. The bill would, for performance periods beginning in the 2019–20 fiscal year and each fiscal year thereafter, provide that a skilled nursing facility that is granted a waiver of the direct care service hour requirements shall remain eligible to participate in the supplemental payment program so long as the facility meets the applicable nursing hour requirements that would have applied in the absence of the direct care service hour requirements described above for the duration of time for

which the waiver is granted. By expanding the number of facilities that would be eligible to participate in the supplemental payment program and therefore expanding the payments from a continuously appropriated fund, the bill would make an appropriation.

(4) The Budget Act of 2017 appropriated a specified sum to the State Department of Social Services for local assistance relating to the CalWORKs program and other assistance payments.

This bill would require the department to allocate \$5,400,000 from the General Fund moneys in the above-described appropriation to the City of San Jose for purposes of assisting homeless and low-income individuals displaced by the Coyote Creek flooding that occurred in February 2017, and, as a condition of receiving these funds, the bill would require the City of San Jose to provide quarterly reports to the department, as specified.

(5) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Vote: majority Appropriation: yes Fiscal Committee: yes Local Program: no

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## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** Section 12301.61 of the Welfare and Institutions Code is amended to read:

**12301.61.** (a) If a public authority or nonprofit consortium established pursuant to Section 12301.6, acting as the employer of record, and the employee organization have not reached an agreement on a bargaining contract with in-home supportive services workers by January 1, 2018, either party may request mediation, pursuant to Section 3505.2 of the Government Code, which shall be mandatory. If the parties fail to agree on a mediator, the Public Employment Relations Board shall appoint one from the pool described in subdivision (c). The mediation shall be held no more than 15 business days from the date requested by either party.

(b) If the parties are unable to effect settlement through mediation as described in subdivision (a), the parties shall then submit their differences to factfinding, pursuant to Section 3505 and 3505.4 of the Government Code. Alternatively, if both parties agree, the parties may bypass the mediation process in subdivision (a) and move directly to factfinding.

(1) The factfinding panel shall make findings of fact and recommend terms of settlement, which shall be advisory only, within 30 days after the panel is appointed by the Public Employment Relations Board.

(2) Within 15 days after the factfinding panel has released its findings of fact and recommended settlement terms, either party may request post-factfinding mediation consistent with Section 3505.2 of the Government Code, which shall be mandatory. If the parties fail to agree on a mediator, the Public Employment Relations Board shall appoint one from the pool described in subdivision (c).

(3) If either party elects post-factfinding mediation, the findings of fact and recommended settlement terms, shall not be made public until the mediation has concluded.

(4) Mediation shall be held no more than 15 days from the date requested, and may include, at the mediator's discretion, the factfinding panel and representatives of both parties. The director, or his or her designee, shall be available to provide information and expertise, as necessary.

(c) The Public Employment Relations Board shall designate a pool of no more than five qualified individuals to serve as mediators or on a factfinding panel. The pool shall consist of individuals with relevant subject matter expertise. The board shall select individuals for the pool in consultation with the department and the affected employers and employee organizations. Priority shall be given to individuals with knowledge of the In-Home Supportive Services program. The board may designate the mediator to serve as the neutral member of the factfinding panel.

(d) The costs for the services of the factfinding panel and the mediator shall be equally divided between the parties, and shall include per diem fees, if any, and actual and necessary travel and subsistence expenses.

(e) By April 1, 2018, the department shall report to the fiscal committees of the Legislature on the status of all in-home supportive services bargaining contracts in each county.

(f) If no individual is available to serve as a mediator or factfinder within the timelines specified in this section, the timelines shall be extended until the next mediator or factfinder is available.

(g) This section shall remain in effect only until January 1, 2020, and as of that date is repealed.

**SEC. 2.** Section 12306.16 of the Welfare and Institutions Code is amended to read:

**12306.16.** (a) Commencing July 1, 2017, all counties shall have a County IHSS Maintenance of Effort (MOE).

(b) (1) (A) The statewide total County IHSS MOE base for the 2017–18 fiscal year shall be established at one billion seven hundred sixty-nine million four hundred forty-three thousand dollars (\$1,769,443,000). This amount reflects the estimated county share of IHSS program base costs calculated pursuant to Sections 10101.1 and 12306, as those sections read on June 1, 2017, and reflected in the department's 2017 May Revision local assistance subvention table for the 2017–18 fiscal year.

(B) If actual IHSS program base costs, as determined by the Department of Finance on or before May 14, 2018, attributable to the 2017–18 fiscal year are lower than the costs assumed in the 2017 May Revision local assistance subvention table, the statewide total County IHSS MOE base for the 2017–18 fiscal year shall be adjusted accordingly pursuant to Sections 10101.1 and 12306, as those sections read on June 1, 2017.

(2) The Department of Finance shall consult with the California State Association of Counties to determine each county's share of the statewide total County IHSS MOE base amount. The County IHSS MOE base shall be unique to each individual county.

(3) (A) Administration expenditures are included in the County IHSS MOE and shall include both county administration, including costs associated with the IHSS case management, information, and payrolling system, and public authority administration.

(B) The amount of General Fund moneys available for county administration and public authority administration is limited to the amount of General Fund moneys appropriated for those specific purposes in the annual Budget Act, and increases to this amount do not impact the County IHSS MOE.

(C) To be eligible to receive its share of General Fund moneys appropriated in a fiscal year for county administration and public authority administration costs, the county is only required to expend the full amount of its County IHSS MOE that is attributable to county and public authority administration for that fiscal year and no additional county share of cost shall be required. The department shall consult with the California State Association of Counties to determine the county-by-county distribution of the amount of General Fund moneys appropriated in the annual Budget Act for county administration and public authority administration.

(D) Amounts expended by a county or public authority on administration in excess of the amount described in subparagraphs (A) and (B) shall not be attributed towards the county meeting its County IHSS MOE requirement.

(E) As part of the preparation of the 2018–19 Governor's Budget, the department shall work with the California State Association of Counties, County Welfare Directors Association of California, and the Department of Finance to examine the workload and budget assumptions related to administration of the IHSS program for the 2017–18 and 2018–19 fiscal years.

(c) (1) On July 1, 2018, the County IHSS MOE base as specified in subdivision (b) shall be adjusted by an inflation factor of 5 percent.

(2) Beginning on July 1, 2019, and annually thereafter, the County IHSS MOE from the previous year shall be adjusted by an inflation factor of 7 percent.

(3) (A) Notwithstanding paragraphs (1) and (2), in fiscal years when the total of 1991 realignment revenues received pursuant to Sections 6051.2 and 6201.2 of the Revenue and Taxation Code, for the prior fiscal year is less than the total received for the next prior fiscal year, the inflation factor shall be zero.

(B) Notwithstanding paragraphs (1) and (2), in fiscal years when the total of 1991 realignment revenues received pursuant to Sections 6051.2 and 6201.2 of the Revenue and Taxation Code, for the prior fiscal year is equal to or up to 2 percent greater than the total received for the next prior fiscal year, the inflation factor shall be one-half of the amount specified in either paragraph (1) or (2).

(C) The Department of Finance shall provide notification to the appropriate fiscal committees of the Legislature and the California State Association of Counties by May 14 of each year of the inflation factor that will apply for the following fiscal year, based on the calculation in subparagraph (A) and (B).

(d) In addition to the adjustment in subdivision (c), the County IHSS MOE shall be adjusted for the annualized cost of increases in provider wages or health benefits that are locally negotiated, mediated, or imposed, on or after July 1, 2017, including any increases in provider wages or health benefits adopted by ordinance pursuant to Article 1 (commencing with Section 9100) of Chapter 2 of Division 9 of the Elections Code.

(1) (A) If the department approves an increase in provider wages or health benefits that are locally negotiated, mediated, imposed, or adopted by ordinance pursuant to Section 12306.1, the state shall pay 65 percent, and the affected county shall pay 35 percent, of the nonfederal share of the cost increase in accordance with subparagraph (B).

(B) With respect to any increase in provider wages or health benefits approved on or after July 1, 2017, pursuant to subparagraph (A), the state shall participate in that increase as provided in subparagraph (A) up to the amount specified in paragraphs (1), (2), and (3) of subdivision (d) of Section 12306.1. The county shall pay the entire nonfederal share of any cost increase exceeding the amount specified in paragraphs (1), (2), and (3) of subdivision (d) of Section 12306.1.

(C) With respect to an increase in benefits, other than individual health benefits, locally negotiated, mediated, or imposed by a county, public authority, or nonprofit consortium, or adopted by ordinance, the county's County IHSS MOE shall include a one-time adjustment equal to 35 percent of the nonfederal share of the increased benefit costs.

(D) The county share of increased expenditures pursuant to subparagraphs (A) to (C), inclusive, shall be included in the County IHSS MOE, in addition to the amount established under subdivisions (b) and (c). For any increase in provider wages or health benefits, or increase in other benefits pursuant to subparagraph (C), that becomes effective on a date other than July 1, the Department of Finance shall adjust the county's County IHSS MOE to reflect the annualized cost of the county's share of the nonfederal cost of the wage or health benefit increase. This adjustment shall be calculated based on the county's 2017–18 paid IHSS hours and the appropriate cost-sharing ratio as grown by the applicable number of inflation factors pursuant to subdivision (c) that have occurred up to and including the fiscal year in which the increase becomes effective.

(2) (A) If the department does not approve the increase in provider wages or health benefits, or increase in other benefits pursuant to subparagraph (C) of paragraph (1), that are locally negotiated, mediated, imposed, or adopted by ordinance pursuant to Section 12306.1 or paragraph (3), the county shall pay the entire nonfederal share of the cost increases.

(B) The county share of increased expenditures pursuant to subparagraph (A) shall be included in the County IHSS MOE, in addition to the amount established under subdivisions (b) and (c). For any increase in provider wages or health benefits that becomes effective on a date other than July 1, the Department of Finance shall adjust the county's County IHSS MOE to reflect the annualized cost of the county's share of the nonfederal cost of the wage or health benefit increase. This adjustment shall be calculated based on the county's 2017–18 paid IHSS hours and the appropriate county sharing ratio as grown by the appropriate number of applicable inflation factors pursuant to subdivision (c) that have occurred up to and including the fiscal year in which the increase becomes effective.

(3) In addition to the rate approval requirements specified in subdivisions (a) to (c), inclusive, of Section 12306.1, it shall be presumed by the department that rates and other economic terms that are locally negotiated, mediated, imposed, or adopted by ordinance are approved.

(4) (A) With respect to any rate increases to existing contracts that a county has already entered into pursuant to Section 12302, the state shall pay 65 percent, and the affected county shall pay 35 percent, of the nonfederal share of the amount of the rate increase up to the maximum amounts established pursuant to Sections 12302.1 and 12303. The county shall pay the entire nonfederal share of any portion of the rate increase exceeding the maximum amount established pursuant to Sections 12302.1 and 12303. This adjustment shall be calculated based on the county's 2017–18 paid IHSS contract hours, or the paid contract hours in the fiscal year in which the contract becomes effective if the contract becomes effective on or after July 1, 2017, using the appropriate cost-sharing ratio as grown by the applicable number of inflation factors pursuant to subdivision (c) that have occurred up to and including the fiscal year in which the increase becomes effective.

(B) With respect to rates for new contracts entered into by a county pursuant to Section 12302 on or after July 1, 2017, the state shall pay 65 percent, and the affected county shall pay 35 percent, of the nonfederal share of the difference between the locally negotiated, mediated, imposed, or adopted by ordinance, provider wage and the contract rate for all of the hours of service to IHSS recipients to be provided under the contract up to the maximum amounts established pursuant to Sections 12302.1 and 12303. The county shall pay the entire nonfederal share of any portion of the contract rate exceeding the maximum amount established pursuant to Sections 12302.1 and 12303. This adjustment shall be calculated based on the county's paid contract hours in the fiscal year in which the contract becomes effective using the appropriate cost-sharing ratio.

(C) The county share of these expenditures shall be included in the County IHSS MOE, in addition to the amounts established under subdivisions (b) and (c). For any rate increases for existing contracts or rates for new contracts, entered into by a county pursuant to Section 12302 on or after July 1, 2017, that become effective on a date other than July 1, the Department of Finance shall adjust the county's County IHSS MOE to reflect the annualized cost of the county's share of the nonfederal cost of the increase or rate for new contracts. This adjustment shall be calculated as follows:

(i) For a contract described in subparagraph (A), the first-year cost of the amount of the rate increase calculated using the pro rata share of the number of hours of service provided in the contract for the fiscal year in which the increase became effective.

(ii) For a contract described in subparagraph (B), the first-year cost of the difference between the locally negotiated, mediated, imposed, or adopted by ordinance, provider wage and the contract rate for all of the hours of service to IHSS recipients calculated using the pro rata share of the number of hours of service provided in the contract for the fiscal year in which the contract became effective.

(5) In the event the state ceases to receive enhanced federal financial participation for the provision of services pursuant to Section 1915(k) of the federal Social Security Act (42 U.S.C. Sec. 1396n(k)), the County IHSS MOE shall be adjusted one time to reflect a 35-percent share of the enhanced federal financial participation that would have been received pursuant to Section 1915(k) of the federal Social Security Act (42 U.S.C. Sec. 1396n(k)) for the fiscal year in which the state ceases to receive the enhanced federal financial participation.

(6) The County IHSS MOE shall not be adjusted for increases in individual provider wages that are locally negotiated pursuant to subdivision (a) of, and paragraphs (1) and (2) of subdivision (d) of, Section 12306.1 when the increase has been specifically negotiated to take effect at the same time as, and to be the same amount as, state minimum wage increases.

(7) (A) A county may negotiate a wage supplement. The first time the wage supplement is applied, the county's County IHSS MOE shall include a one-time adjustment by the amount of the increase, as specified in subparagraphs (A), (B), and (C) of paragraph (1).

(B) A wage supplement negotiated pursuant to subparagraph (A) shall subsequently be applied to the county individual provider wage when the county individual provider wage meets all of the following criteria:

(i) The increase to the county individual provider wage takes effect at the same time as the state minimum wage increase.

(ii) The increase to the county individual provider wage is the same amount as the state minimum wage increase.

(iii) The minimum wage increase exceeds the county individual provider wage prior to applying the minimum wage increase.

(8) The Department of Finance shall consult with the California State Association of Counties to develop the computations for the annualized amounts pursuant to this subdivision.

(e) The County IHSS MOE shall only be adjusted pursuant to subdivisions (c) and (d).

(f) A county's County IHSS MOE costs paid to the state shall be reduced by the amount of any General Fund offset provided to the county pursuant to Section 12306.17.

**SEC. 3.** Section 13303 of the Welfare and Institutions Code is amended to read:

**13303.** (a) Subject to the availability of funding in the act that added this section or the annual Budget Act, the department shall provide grants, as described in subdivision (b), to organizations qualified under Section 13304.

(b) Grants provided in accordance with subdivision (a) shall be for the purpose of providing one or more of the following services, as determined by the department:

(1) Services to persons residing in, or formerly residing in, California, including, but not limited to, any of the following:

(A) Services to assist with the application process for initial or renewal requests of deferred action under the DACA policy with the United States Citizenship and Immigration Services.

(B) Services to obtain other immigration remedies.

(C) Services to assist with the naturalization process and any appeals arising from the process.

(2) Services to provide legal training and technical assistance.

(3) (A) (i) Funds available for the purposes of this section shall not be used to provide legal services to an individual who has been convicted of, or who is currently appealing a conviction for, a violent felony, as defined in subdivision (c) of Section 667.5 of the Penal Code, or a serious felony, as defined in subdivision (c) of Section 1192.7 of the Penal Code.

(ii) For the purposes of this subparagraph, "legal services" does not include activities relating to client intake, which shall be provided regardless of an individual's criminal history.

(B) Notwithstanding subparagraph (A), nothing in this section shall be construed to prohibit eligibility for services pursuant to this section for individuals whose criminal records are shown to be inaccurate.

(c) For purposes of this chapter, the following terms shall have the following meanings:

(1) "DACA" refers to Deferred Action for Childhood Arrivals status as described in guidelines issued by the United States Department of Homeland Security.

(2) "Services to assist" includes, but is not limited to, outreach, workshop presentations, document review, Freedom of Information Act requests, and screening services that seek to assist individuals with the services described in subdivision (b).

(3) "Legal training and technical assistance" includes, but is not limited to, educational and capacity building activities that will augment the competent provision of legal services to immigrants, including for organizations located in and serving underserved communities.

(4) "Immigration remedies" include, but shall not be limited to, U-visas, T-visas, special immigrant juvenile status, Violence Against Women Act self-petitions, family-based petitions, cancellation of removal, and asylum, or other remedies that may also include remedies necessary to enable pursuit of immigration protections.

(d) No more than 40 percent of grant funds awarded to an organization qualified under Section 13304 shall be advanced to that organization.

(e) The department shall update the Legislature on the following information in the course of budget hearings:

(1) The timeline for implementation and administration of this section, including important upcoming dates.

(2) The participating organizations awarded contracts or grants, and the aggregate amounts awarded for each service described in subdivision (b).

(3) The number of applications submitted, and the aggregate amounts requested for each service described in subdivision (b).

(4) The number of clients served.

(5) The types of services provided and in what language or languages.

(6) The regions served.

(7) The ethnic communities served.

(8) The identification of further barriers and challenges to the provision of services described in subdivision (b).

(f) In accordance with Section 1621(d) of Title 8 of the United States Code, this section provides services for undocumented persons.

(g) The sum of twenty million dollars (\$20,000,000) is hereby appropriated to the Department of Social Services in the 2017–18 fiscal year for immigration services funding to be available for payment to existing entities under contract pursuant to this section for work on behalf of clients involved in, applying for, or subject to, federal Deferred Action for Childhood Arrivals status.

(h) Notwithstanding any other law, payments shall be made by the Controller to existing entities under contract pursuant to this chapter upon receipt of written notification from the State Department of Social Services of the amounts, contractors, and timing of the payments.

**SEC. 4.** Section 14126.022 of the Welfare and Institutions Code is amended to read:

**14126.022.** (a) (1) By August 1, 2011, the department shall develop the Skilled Nursing Facility Quality and Accountability Supplemental Payment System, subject to approval by the federal Centers for Medicare and Medicaid Services, and the availability of federal, state, or other funds.

(2) (A) The system shall be utilized to provide supplemental payments to skilled nursing facilities that improve the quality and accountability of care rendered to residents in skilled nursing facilities, as defined in subdivision (c) of Section 1250 of the Health and Safety Code, and to penalize those facilities that do not meet measurable standards.

(B) A freestanding pediatric subacute care facility, as defined in Section 51215.8 of Title 22 of the California Code of Regulations, shall be exempt from the Skilled Nursing Facility Quality and Accountability Supplemental Payment System.

(3) The system shall be phased in, beginning with the 2010–11 rate year.

(4) The department may utilize the system to do all of the following:

(A) Assess overall facility quality of care and quality of care improvement, and assign quality and accountability payments to skilled nursing facilities pursuant to performance measures described in subdivision (i).

(B) Assign quality and accountability payments or penalties relating to quality of care, or direct care staffing levels, wages, and benefits, or both.

(C) Limit the reimbursement of legal fees incurred by skilled nursing facilities engaged in the defense of governmental legal actions filed against the facilities.

(D) Publish each facility's quality assessment and quality and accountability payments in a manner and form determined by the director, or his or her designee.

(E) Beginning with the 2011–12 fiscal year, establish a base year to collect performance measures described in subdivision (i).

(F) Beginning with the 2011–12 fiscal year, in coordination with the State Department of Public Health, publish the direct care staffing level data and the performance measures required pursuant to subdivision (i).

(5) The department, in coordination with the State Department of Public Health, shall report to the relevant Assembly and Senate budget subcommittees by May 1, 2016, information regarding the quality and accountability supplemental payments, including, but not limited to, its assessment of whether the payments are adequate to incentivize quality care and to sustain the program.

(b) (1) There is hereby created in the State Treasury, the Skilled Nursing Facility Quality and Accountability Special Fund. The fund shall contain moneys deposited pursuant to subdivisions (g) and (j) to (m), inclusive. Notwithstanding Section 16305.7 of the Government Code, the fund shall contain all interest and dividends earned on moneys in the fund.

(2) Notwithstanding Section 13340 of the Government Code, the fund shall be continuously appropriated without regard to fiscal year to the department for making quality and accountability payments, in accordance with subdivision (n), to facilities that meet or exceed predefined measures as established by this section.

(3) Upon appropriation by the Legislature, moneys in the fund may also be used for any of the following purposes:

(A) To cover the administrative costs incurred by the State Department of Public Health for positions and contract funding required to implement this section.

(B) To cover the administrative costs incurred by the State Department of Health Care Services for positions and contract funding required to implement this section.

(C) To provide funding assistance for the Long-Term Care Ombudsman Program activities pursuant to Chapter 11 (commencing with Section 9700) of Division 8.5.

(c) No appropriation associated with Chapter 717 of the Statutes of 2010 is intended to implement the provisions of Section 1276.65 of the Health and Safety Code.

(d) (1) There is hereby appropriated for the 2010–11 fiscal year, one million nine hundred thousand dollars (\$1,900,000) from the Skilled Nursing Facility Quality and Accountability Special Fund to the California Department of Aging for the Long-Term Care Ombudsman Program activities pursuant to Chapter 11 (commencing with Section 9700) of Division 8.5. It is the intent of the Legislature for the one million nine hundred thousand dollars (\$1,900,000) from the fund to be in addition to the four million one hundred sixty-eight thousand dollars (\$4,168,000) proposed in the Governor's May Revision for the 2010–11 Budget. It is further the intent of the Legislature to increase this level of appropriation in subsequent years to provide support sufficient to carry out the mandates and activities pursuant to Chapter 11 (commencing with Section 9700) of Division 8.5.

(2) The department, in partnership with the California Department of Aging, shall seek approval from the federal Centers for Medicare and Medicaid Services to obtain federal Medicaid reimbursement for activities conducted by the Long-Term Care Ombudsman Program. The department shall report to the fiscal committees of the Legislature during budget hearings on progress being made and any unresolved issues during the 2011–12 budget deliberations.

(e) There is hereby created in the Special Deposit Fund established pursuant to Section 16370 of the Government Code, the Skilled Nursing Facility Minimum Staffing Penalty Account. The account shall contain all moneys deposited pursuant to subdivision (f).

(f) (1) Beginning with the 2010–11 fiscal year, the State Department of Public Health shall use the direct care staffing level data it collects to determine whether a skilled nursing facility has met the nursing hours or direct care service hours per patient per day requirements pursuant to Section 1276.5 or 1276.65, as applicable, of the Health and Safety Code.



(2) (A) Beginning with the 2010–11 fiscal year, the State Department of Public Health shall assess a skilled nursing facility, licensed pursuant to subdivision (c) of Section 1250 of the Health and Safety Code, an administrative penalty if the State Department of Public Health determines that the skilled nursing facility fails to meet the nursing hours or direct care service hours per patient per day requirements pursuant to Section 1276.5 or 1276.65, as applicable, of the Health and Safety Code, as follows:

(i) Fifteen thousand dollars (\$15,000) if the facility fails to meet the requirements for 5 percent or more of the audited days up to 49 percent.

(ii) Thirty thousand dollars (\$30,000) if the facility fails to meet the requirements for over 49 percent or more of the audited days.

(B) (i) If the skilled nursing facility does not dispute the determination or assessment, the penalties shall be paid in full by the licensee to the State Department of Public Health within 30 days of the facility's receipt of the notice of penalty and deposited into the Skilled Nursing Facility Minimum Staffing Penalty Account.

(ii) The State Department of Public Health may, upon written notification to the licensee, request that the department offset any moneys owed to the licensee by the Medi-Cal program or any other payment program administered by the department to recoup the penalty provided for in this section.

(C) (i) If a facility disputes the determination or assessment made pursuant to this paragraph, the facility shall, within 15 days of the facility's receipt of the determination and assessment, simultaneously submit a request for appeal to both the department and the State Department of Public Health. The request shall include a detailed statement describing the reason for appeal and include all supporting documents the facility will present at the hearing.

(ii) Within 10 days of the State Department of Public Health's receipt of the facility's request for appeal, the State Department of Public Health shall submit, to both the facility and the department, all supporting documents that will be presented at the hearing.

(D) The department shall hear a timely appeal and issue a decision as follows:

(i) The hearing shall commence within 60 days from the date of receipt by the department of the facility's timely request for appeal.

(ii) The department shall issue a decision within 120 days from the date of receipt by the department of the facility's timely request for appeal.

(iii) The decision of the department's hearing officer, when issued, shall be the final decision of the State Department of Public Health.

(E) The appeals process set forth in this paragraph shall be exempt from Chapter 4.5 (commencing with Section 11400) and Chapter 5 (commencing with Section 11500), of Part 1 of Division 3 of Title 2 of the Government Code. The provisions of Sections 100171 and 131071 of the Health and Safety Code do not apply to appeals under this paragraph.

(F) If a hearing decision issued pursuant to subparagraph (D) is in favor of the State Department of Public Health, the skilled nursing facility shall pay the penalties to the State Department of Public Health within 30 days of the facility's receipt of the decision. The penalties collected shall be deposited into the Skilled Nursing Facility Minimum Staffing Penalty Account.

(G) The assessment of a penalty under this subdivision does not supplant the State Department of Public Health's investigation process or issuance of deficiencies or citations under Chapter 2.4 (commencing with Section 1417) of Division 2 of the Health and Safety Code.

(g) The State Department of Public Health shall transfer, on a monthly basis, all penalty payments collected pursuant to subdivision (f) into the Skilled Nursing Facility Quality and Accountability Special Fund.

(h) This section does not impact the effectiveness or utilization of Section 1278.5 or 1432 of the Health and Safety Code relating to whistleblower protections, or Section 1420 of the Health and Safety Code relating to complaints.

(i) (1) Beginning in the 2010–11 fiscal year, the department, in consultation with representatives from the long-term care industry, organized labor, and consumers, shall establish and publish quality and accountability measures, benchmarks, and data submission deadlines by November 30, 2010.

(2) The methodology developed pursuant to this section shall include, but not be limited to, the following requirements and performance measures:

(A) Beginning in the 2011–12 fiscal year:

- (i) Immunization rates.
- (ii) Facility acquired pressure ulcer incidence.
- (iii) The use of physical restraints.
- (iv) Compliance with the nursing hours or direct care service hours per patient per day requirements pursuant to Section 1276.5 or 1276.65, as applicable, of the Health and Safety Code.
- (v) Resident and family satisfaction.
- (vi) Direct care staff retention, if sufficient data is available.

(B) If this act is extended beyond the dates on which it becomes inoperative and is repealed, in accordance with Section 14126.033, the department, in consultation with representatives from the long-term care industry, organized labor, and consumers, beginning in the 2013–14 rate year, shall incorporate additional measures into the system, including, but not limited to, quality and accountability measures required by federal health care reform that are identified by the federal Centers for Medicare and Medicaid Services.

(C) The department, in consultation with representatives from the long-term care industry, organized labor, and consumers, may incorporate additional performance measures, including, but not limited to, the following:

- (i) Compliance with state policy associated with the United States Supreme Court decision in *Olmstead v. L.C.* ex rel. *Zimring* (1999) 527 U.S. 581.
- (ii) Direct care staff retention, if not addressed in the 2012–13 rate year.
- (iii) The use of chemical restraints.

(D) Beginning with the 2015–16 fiscal year, the department, in consultation with representatives from the long-term care industry, organized labor, and consumers, shall incorporate direct care staff retention as a performance measure in the methodology developed pursuant to this section.

(j) (1) Beginning with the 2010–11 rate year, and pursuant to subparagraph (B) of paragraph (5) of subdivision (a) of Section 14126.023, the department shall set aside savings achieved from setting the professional liability insurance cost category, including any insurance deductible costs paid by the facility, at the 75th percentile. From this amount, the department shall transfer the General Fund portion into the Skilled Nursing Facility Quality and Accountability Special Fund. A skilled nursing facility shall provide supplemental data on insurance deductible costs to facilitate this adjustment, in the format and by the deadlines determined by the department. If this data is not provided, a facility's insurance deductible costs will remain in the administrative costs category.

(2) Notwithstanding paragraph (1), for the 2012–13 rate year only, savings from capping the professional liability insurance cost category pursuant to paragraph (1) shall remain in the General Fund and shall not be transferred to the Skilled Nursing Facility Quality and Accountability Special Fund.

(k) For the 2013–14 rate year, if there is a rate increase in the weighted average Medi-Cal reimbursement rate, the department shall set aside the first 1 percent of the weighted average Medi-Cal reimbursement rate increase for the Skilled Nursing Facility Quality and Accountability Special Fund.

(l) If this act is extended beyond the dates on which it becomes inoperative and is repealed, for the 2014–15 rate year, in addition to the amount set aside pursuant to subdivision (k), if there is a rate increase in the weighted average Medi-Cal reimbursement rate, the department shall set aside at least one-third of the weighted average Medi-Cal reimbursement rate increase, up to a maximum of 1 percent, from which the department shall transfer the General Fund portion of this amount into the Skilled Nursing Facility Quality and Accountability Special Fund.

(m) Beginning with the 2015–16 rate year, and each subsequent rate year thereafter for which this article is operative, an amount equal to the amount deposited in the fund pursuant to subdivisions (k) and (l) for the 2014–15 rate year shall be deposited into the Skilled Nursing Facility Quality and Accountability Special Fund, for the purposes specified in this section.

(n) (1) (A) Beginning with the 2013–14 rate year, the department shall pay a supplemental payment, by April 30, 2014, to skilled nursing facilities based on all of the criteria in subdivision (i), as published by the department, and according to performance measure benchmarks determined by the department in consultation with stakeholders.

(B) (i) The department may convene a diverse stakeholder group, including, but not limited to, representatives from consumer groups and organizations, labor, nursing home providers, advocacy organizations involved with the aging community, staff from the Legislature, and other interested parties, to discuss and analyze alternative mechanisms to implement the quality and accountability payments provided to nursing homes for reimbursement.

(ii) The department shall articulate in a report to the fiscal and appropriate policy committees of the Legislature the implementation of an alternative mechanism as described in clause (i) at least 90 days prior to any policy or budgetary changes, and seek subsequent legislation in order to enact the proposed changes.

(2) Skilled nursing facilities that do not submit required performance data by the department's specified data submission deadlines pursuant to subdivision (i) are not eligible to receive supplemental payments.

(3) Notwithstanding paragraph (1), if a facility appeals the performance measure of compliance with the nursing hours or direct care service hours per patient per day requirements, pursuant to Section 1276.5 or 1276.65, as applicable, of the Health and Safety Code, to the State Department of Public Health, and it is unresolved by the department's published due date, the department shall not use that performance measure when determining the facility's supplemental payment.

(4) Notwithstanding paragraph (1), if the department is unable to pay the supplemental payments by April 30, 2014, then on May 1, 2014, the department shall use the funds available in the Skilled Nursing Facility Quality and Accountability Special Fund as a result of savings identified in subdivisions (k) and (l), less the administrative costs required to implement subparagraphs (A) and (B) of paragraph (3) of subdivision (b), in addition to any Medicaid funds that are available as of December 31, 2013, to increase provider rates retroactively to August 1, 2013.

(o) The department shall seek necessary approvals from the federal Centers for Medicare and Medicaid Services to implement this section. The department shall implement this section only in a manner that is consistent with federal Medicaid law and regulations, and only to the extent that approval is obtained from the federal Centers for Medicare and Medicaid Services and federal financial participation is available.

(p) In implementing this section, the department and the State Department of Public Health may contract as necessary, with California's Medicare Quality Improvement Organization, or other entities deemed qualified by the department or the State Department of Public Health, not associated with a skilled nursing facility, to assist with development, collection, analysis, and reporting of the performance data pursuant to subdivision (i), and with demonstrated expertise in long-term care quality, data collection or analysis, and accountability performance measurement models pursuant to subdivision (i). This subdivision establishes an accelerated process for issuing any contract pursuant to this section. Any contract entered into pursuant to this subdivision is exempt from the requirements of the Public Contract Code, through December 31, 2020.

(q) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the following apply:

(1) The director shall implement this section, in whole or in part, by means of provider bulletins, or other similar instructions without taking regulatory action.

(2) The State Public Health Officer may implement this section by means of all-facility letters, or other similar instructions without taking regulatory action.

(r) Notwithstanding paragraph (1) of subdivision (n), if a final judicial determination is made by any state or federal court that is not appealed, in any action by any party, or a final determination is made by the administrator of the federal Centers for Medicare and Medicaid Services, that any payments pursuant to subdivisions (a) and (n), are invalid, unlawful, or contrary to any provision of federal law or regulations, or of state law, these subdivisions shall become inoperative, and for the 2011–12 rate year, the rate increase provided under subparagraph (A) of paragraph (4) of subdivision (c) of Section 14126.033 shall be reduced by the amounts described in subdivision (j). For the 2013–14 and 2014–15 rate years, any rate increase shall be reduced by the amounts described in subdivisions (j) to (l), inclusive.

(s) Notwithstanding any other provision of this section, but only to the extent the department determines federal financial participation is available and not otherwise jeopardized, for performance periods in the 2017–18 and 2018–19 fiscal years, a skilled nursing facility shall remain eligible to participate in the supplemental payment program pursuant to this section so long as the facility meets the applicable nursing hours per patient per day requirements pursuant to Section 1276.5 of the Health and Safety Code.

(t) Notwithstanding any provision of this section, but only to the extent the department determines federal financial participation is available and not otherwise jeopardized, compliance with the provisions of subdivision (c) of Section 1276.65 of the Health and Safety Code, as amended by Chapter 52 of the Statutes of 2017, shall not be used to determine facility qualification for the supplemental payments provided for in this section until the performance period beginning in the 2019–20 fiscal year. This

limitation shall also apply to the issuance of citations pursuant to subdivisions (c) and (d) of Section 1424 of the Health and Safety Code based upon the failure to comply with the provisions of subdivision (c) of Section 1276.65 of the Health and Safety Code as amended by Chapter 52 of the Statutes of 2017. Until the performance period beginning in the 2019–20 fiscal year, the department shall apply the provisions of Section 1276.5 of the Health and Safety Code for purposes of administering the supplemental payments pursuant to this section. For performance periods beginning in the 2019–20 fiscal year and each fiscal year thereafter, a skilled nursing facility that is granted a waiver pursuant to subdivision (l) of Section 1276.65 of the Health and Safety Code shall remain eligible to participate in the supplemental payment program pursuant to this section so long as the facility meets the applicable nursing hours per patient per day requirement pursuant to Section 1276.5 of the Health and Safety Code that would have applied in the absence of Chapter 52 of the Statutes of 2017 for the duration of the time for which the waiver is granted.

**SEC. 5.** Section 17605 of the Welfare and Institutions Code is amended to read:

**17605.** (a) For the 1992–93 fiscal year, the Controller shall deposit into the Caseload Subaccount of the Sales Tax Growth Account of the Local Revenue Fund, from revenues deposited into the Sales Tax Growth Account, an amount to be determined by the Department of Finance, that represents the sum of the shortfalls between the actual realignment revenues received by each county and each city and county from the Social Services Subaccount of the Local Revenue Fund in the 1991–92 fiscal year and the net costs incurred by each of those counties and cities and counties in the fiscal year for the programs described in Sections 10101, 10101.1, 11322.2, 12306, 15200, 15204.2, and 18906.5, and former Section 11322. The Department of Finance shall provide the Controller with an allocation schedule on or before August 15, 1993, that shall be used by the Controller to allocate funds deposited to the Caseload Subaccount under this subdivision. The Controller shall allocate these funds no later than August 27, 1993.

(b) (1) (A) For the 1993–94 fiscal year and fiscal years thereafter, the Controller shall deposit into the Caseload Subaccount of the Sales Tax Growth Account of the Local Revenue Fund, from revenues deposited into the Sales Tax Growth Account, an amount determined by the Department of Finance, in consultation with the appropriate state departments and the California State Association of Counties, that is sufficient to fund the net cost for the realigned portion of the county or city and county share of growth in social services caseloads, as specified in paragraph (2), and any share of growth from the previous year or years for which sufficient revenues were not available in the Caseload Subaccount. The Department of Finance shall provide the Controller with an allocations schedule on or before March 15 of each year. The schedule shall be used by the Controller to allocate funds deposited into the Caseload Subaccount under this subdivision.

(B) It is the intent of the Legislature that counties shall receive allocations from the Caseload Subaccount as soon as possible after funds are received in the Sales Tax Growth Account. The Department of Finance shall recommend to the Legislature, by January 10, 2005, a procedure to expedite the preparation and provision of the allocations schedule described in subparagraph (A) and the allocation of funds by the Controller.

(2) (A) (i) For the 1992–93 fiscal year through the caseload growth calculation for the 2017–18 fiscal year, “growth” means, for purposes of this subdivision, the increase in the actual caseload expenditures for the prior fiscal year over the actual caseload expenditures for the fiscal year preceding the prior fiscal year for the programs described in Sections 10101, 12306, 15200, 15204.2, and 18906.5, and for which funds are allocated pursuant to subdivision (b) of Section 123940 of the Health and Safety Code.

(ii) Commencing with the caseload growth calculation for the 2018–19 fiscal year and each fiscal year thereafter, for purposes of this subdivision, “growth” means the increase in the actual caseload expenditures for the prior fiscal year over the actual caseload expenditures for the fiscal year preceding the prior fiscal year for the programs described in Sections 10101, 15200, 15204.2, and 18906.5, and for which funds are allocated pursuant to subdivision (b) of Section 123940 of the Health and Safety Code.

(B) Commencing with the caseload growth calculation for the 2017–18 fiscal year and each fiscal year thereafter, in addition to subparagraph (A), “growth” shall also include the following:

(i) The additional County IHSS MOE costs to counties pursuant to Sections 12306.16 and 12306.17 for the current fiscal year over the County IHSS MOE costs to counties for the prior fiscal year, less the amount of sales tax revenues received pursuant to subdivision (g) of Section 17600.15 to fund the amount specified in subparagraph (B) of paragraph (3) of subdivision (f) of Section 17600.15 and the amount of vehicle license fee revenues received pursuant to subdivision (c) of Section 17606.20, and, for the 2016–17 fiscal year, the amount of sales tax revenues received pursuant to subdivision (c) of Section 17605.07 and subdivision (g) of Section 17606.10.

(ii) Any additional County IHSS MOE costs to counties pursuant to Sections 12306.16 and 12306.17 for the prior fiscal year over the County IHSS MOE costs to counties for the preceding prior fiscal year that were not included in caseload growth calculation pursuant to clause (i) from the prior caseload growth calculation.

(3) (A) For the 1993–94 fiscal year through the 2016–17 fiscal year, the difference in caseload expenditures between the fiscal years shall be multiplied by the factors that represent the change in county or city and county shares of the realigned programs. These products shall then be added or subtracted, taking into account whether the county's or city and county's share of costs was increased or decreased as a result of realignment, to yield each county's or city and county's allocation for caseload growth. Allocations for counties or cities and counties with allocations of less than zero shall be set at zero.

(B) For the caseload growth calculation for the 2017–18 fiscal year the difference in caseload expenditures between the fiscal years as determined by clause (i) of subparagraph (A) of paragraph (2) shall be multiplied by the factors that represent the change in county or city and county shares of the realignment programs. These products shall then be added or subtracted, taking into account whether the county's or city and county's share of costs was increased or decreased as a result of realignment, and added to the amounts determined pursuant to subparagraph (B) of paragraph (2) to yield each county's or city and county's allocation for caseload growth. Allocations for counties or cities and counties with allocations of less than zero shall be set at zero.

(C) Commencing with the caseload growth calculation for the 2018–19 fiscal year and each fiscal year thereafter, the difference in caseload expenditures between the fiscal years as determined by clause (ii) of subparagraph (A) of paragraph (2) shall be multiplied by the factors that represent the change in county or city and county shares of the realignment programs. These products shall then be added or subtracted, taking into account whether the county's or city and county's share of costs was increased or decreased as a result of realignment, and added to the amounts determined pursuant to subparagraph (B) of paragraph (2) to yield each county's or city and county's allocation for caseload growth. Allocations for counties or cities and counties with allocations of less than zero shall be set at zero.

(c) Annually, the Controller shall allocate, to the local health and welfare trust fund social services account, the amounts deposited and remaining unexpended and unreserved in the Caseload Subaccount, pursuant to the schedules of allocations of caseload growth described in subdivision (b), within 45 days of receiving those schedules from the Department of Finance. If there are insufficient funds to fully satisfy all caseload growth obligations, each county's or city and county's allocation for each program specified in subdivision (d) shall be prorated.

(d) Prior to allocating funds pursuant to subdivision (b), to the extent that funds are available from funds deposited in the Caseload Subaccount in the Sales Tax Growth Account in the Local Revenue Fund, the Controller shall allocate moneys to counties or cities and counties to correct any inequity or inequities in the computation of the child welfare services portion of the schedule required by subdivision (a) of Section 17602.

(e) (1) For the 2003–04 fiscal year, no Sales Tax Growth Account funds shall be allocated pursuant to this chapter until the caseload portion of the base of each county's social services account in the county's health and welfare trust fund is funded to the level of the 2001–02 fiscal year. Funds to meet this requirement shall be allocated from the Sales Tax Account of the Local Revenue Fund. If sufficient funds are not available in the Sales Tax Account of the Local Revenue Fund to achieve that funding level in the 2003–04 fiscal year, this requirement shall be funded in each succeeding fiscal year in which there are sufficient funds in the Sales Tax Account of the Local Revenue Fund until the caseload base funding level for which each county would have otherwise been eligible in accordance with subdivision (e) of Section 17602 for that year.

(2) The caseload portion of each county's social services account base shall be determined by subtracting its noncaseload portion of the base, as determined by the Department of Finance in its annual calculation of General Growth Account allocations, from the total base of each county's social services account for the 2001–02 fiscal year.

(f) Commencing with the caseload growth calculation for the 2017–18 fiscal year and each fiscal year thereafter, the Controller shall annually post on his or her Internet Web site the total amount of unfunded caseload growth by county.

**SEC. 6.** Section 17605.07 of the Welfare and Institutions Code is amended to read:

**17605.07.** (a) (1) For the 1992–93 fiscal year through the 2014–15 fiscal year, inclusive, after satisfying the obligations set forth in Section 17605, the Controller shall deposit into the County Medical Services Program Subaccount 4.027 percent of the amounts remaining and unexpended in the Sales Tax Growth Account of the Local Revenue Fund.

(2) If the amount deposited to the Caseload Subaccount of the Sales Tax Growth Account pursuant to subdivision (b) of Section 17605 exceeds twenty million dollars (\$20,000,000) for any fiscal year, then an additional amount equal to 4.027 percent of the amount deposited to the Caseload Subaccount shall be deposited to the County Medical Services Program Subaccount of the Sales Tax Growth Account.

(b) (1) For the 2015–16 fiscal year and fiscal years thereafter, after satisfying the obligations set forth in Section 17605, the Controller shall deposit into the County Medical Services Program Growth Subaccount 4.027 percent of the amounts remaining and unexpended in the Sales Tax Growth Account of the Local Revenue Fund.

(2) If the amount deposited to the Caseload Subaccount of the Sales Tax Growth Account pursuant to subdivision (b) of Section 17605 exceeds twenty million dollars (\$20,000,000) for any fiscal year, then an additional amount equal to 4.027 percent of the amount deposited to the Caseload Subaccount shall be deposited to the County Medical Services Program Growth Subaccount of the Sales Tax Growth Account.

(c) (1) Notwithstanding subdivision (b), for the 2016–17 fiscal year, the Controller shall allocate to the social services account of each county and city and county the amount that would otherwise have been deposited into the County Medical Services Program Growth Subaccount pursuant to subdivision (b), except for the amount of funds to be redirected pursuant to Section 17600.50, based on a schedule provided by the Department of Finance developed in consultation with the California State Association of Counties.

(2) The funding allocated pursuant to paragraph (1) shall only be available for allocation to the counties that participate in the County Medical Services Program in the 2016–17 fiscal year.

**SEC. 7.** Section 17606.10 of the Welfare and Institutions Code is amended to read:

**17606.10.** (a) For the 1992–93 fiscal year and subsequent fiscal years, the Controller shall allocate funds, on an annual basis from the General Growth Subaccount in the Sales Tax Growth Account to the appropriate accounts in the local health and welfare trust fund of each county, city, and city and county in accordance with a schedule setting forth the percentage of total state resources received in the 1990–91 fiscal year, including State Legalization Impact Assistance Grants distributed by the state under former Part 4.5 (commencing with Section 16700), funding provided for purposes of implementation of Division 5 (commencing with Section 5000), for the organization and financing of community mental health services, including the Cigarette and Tobacco Products Surtax proceeds that are allocated to county mental health programs pursuant to Chapter 1331 of the Statutes of 1989, Chapter 51 of the Statutes of 1990, and Chapter 1323 of the Statutes of 1990, and state hospital funding and funding distributed for programs administered under Sections 1794, 10101.1, and 11322.2, as annually adjusted by the Department of Finance, in conjunction with the appropriate state department to reflect changes in equity status from the base percentages. However, for the 1992–93 fiscal year, the allocation for community mental health services shall be based on the following schedule:

Jurisdiction	Percentage of Statewide Resource Base
Alameda .....	4.3693
Alpine .....	0.0128
Amador .....	0.0941
Butte .....	0.7797
Calaveras .....	0.1157
Colusa .....	0.0847
Contra Costa .....	2.3115
Del Norte .....	0.1237
El Dorado .....	0.3966
Fresno .....	3.1419
Glenn .....	0.1304
Humboldt .....	0.6175
Imperial .....	0.5425
Inyo .....	0.1217
Kern .....	1.8574
Kings .....	0.4229
Lake .....	0.2362
Lassen .....	0.1183
Los Angeles .....	27.9666
Madera .....	0.3552

Marin .....	0.9180
Mariposa .....	0.0792
Mendocino .....	0.4099
Merced .....	0.8831
Modoc .....	0.0561
Mono .....	0.0511
Monterey .....	1.1663
Napa .....	0.3856
Nevada .....	0.2129
Orange .....	5.3423
Placer .....	0.5034
Plumas .....	0.1134
Riverside .....	3.6179
Sacramento .....	4.1872
San Benito .....	0.1010
San Bernardino .....	4.5494
San Diego .....	7.8773
San Francisco .....	3.5335
San Joaquin .....	2.4690
San Luis Obispo .....	0.6652
San Mateo .....	2.5169
Santa Barbara .....	1.0745
Santa Clara .....	5.0488
Santa Cruz .....	0.7960
Shasta .....	0.5493
Sierra .....	0.0345
Siskiyou .....	0.2051
Solano .....	0.6694
Sonoma .....	1.1486
Stanislaus .....	1.4701
Sutter/Yuba .....	0.6294
Tehama .....	0.2384
Trinity .....	0.0826
Tulare .....	1.4704
Tuolumne .....	0.1666
Ventura .....	1.9311
Yolo .....	0.5443
Berkeley .....	0.2688
Tri-City .....	0.2347

(b) The Department of Finance shall recalculate the resource base used in determining the General Growth Subaccount allocations to the Health Account, Mental Health Account, and Social Services Account of the local health and welfare trust fund of each city, county, and city and county for the 1994–95 fiscal year general growth allocations according to subdivisions (c) and

(d). For the 1995–96 fiscal year and annually until the end of the 2012–13 fiscal year, the Department of Finance shall prepare the schedule of allocations of growth based upon the recalculation of the resource base as provided by subdivision (c).

(c) For the Mental Health Account, the Department of Finance shall do all of the following:

(1) Use the following sources as reported by the State Department of Health Care Services:

(A) The final December 1992 distribution of resources associated with Institutes for Mental Disease.

(B) The 1990–91 fiscal year state hospitals and community mental health allocations.

(C) Allocations for services provided for under Chapter 1294 of the Statutes of 1989.

(2) Expand the resource base with the following nonrealigned funding sources as allocated among the counties:

(A) Tobacco surtax allocations made under Chapter 1331 of the Statutes of 1989 and Chapter 51 of the Statutes of 1990.

(B) For the 1994–95 allocation year only, Chapter 1323 of the Statutes of 1990.

(C) 1993–94 fiscal year federal homeless block grant allocation.

(D) 1993–94 fiscal year Mental Health Special Education allocations.

(E) 1993–94 fiscal year allocations for the system of care for children, in accordance with Chapter 1229 of the Statutes of 1992.

(F) 1993–94 fiscal year federal Substance Abuse and Mental Health Services Administration block grant allocations pursuant to Subchapter 1 (commencing with Section 10801) of Chapter 114 of Title 42 of the United States Code.

(d) For the Health Account, the Department of Finance shall use the historical resource base of state funds as allocated among the counties, cities, and city and county as reported by the former State Department of Health Services in a September 17, 1991, report of Indigent and Community Health Resources.

(e) The Department of Finance shall use these adjusted resource bases for the Health Account and Mental Health Account to calculate what the 1994–95 fiscal year General Growth Subaccount allocations would have been, and together with 1994–95 fiscal year Base Restoration Subaccount allocations, CMSP subaccount allocations, equity allocations to the Health Account and Mental Health Account as adjusted by subparagraph (E) of paragraph (2) of subdivision (c) of Section 17606.05, as that subparagraph read on January 1, 2015, and special equity allocations to the Health Account and Mental Health Account as adjusted by subdivision (e) of Section 17606.15 reconstruct the 1994–95 fiscal year General Growth Subaccount resource base for the 1995–96 allocation year for each county, city, and city and county. Notwithstanding any other law, the actual 1994–95 general growth allocations shall not become part of the realignment base allocations to each county, city, and city and county. The total amounts distributed by the Controller for general growth for the 1994–95 allocation year shall be reallocated among the counties, cities, and city and county in the 1995–96 allocation year according to this paragraph, and shall be included in the general growth resource base for the 1996–97 allocation year and each fiscal year thereafter. For the 1996–97 allocation year and fiscal years thereafter, the Department of Finance shall update the base with actual growth allocations to the Health Account, Mental Health Account, and Social Services Account of each county, city, and city and county local health and welfare trust fund in the prior year, and adjust for actual changes in nonrealigned funds specified in subdivision (c) in the year prior to the allocation year.

(f) For the 2013–14 fiscal year and every fiscal year thereafter, the Controller shall do all of the following:

(1) Allocate to the Mental Health Account of each county, city, or city and county based on a schedule provided by the Department of Finance. The Department of Finance shall recalculate the resource base used in determining the General Growth Subaccount allocations to the Mental Health Account in accordance with subdivision (c) and allocate based on that recalculation.

(2) Allocate 18.4545 percent of the total General Growth Subaccount to the health account of each county, city, or city and county based on a schedule provided by the Department of Finance in accordance with subdivision (d).

(3) Allocate the remainder of the funds in the General Growth Subaccount to the family support account of each county or city and county based on a schedule provided by the Department of Finance. These funds shall be expended in accordance with Section 17601.50.

(g) (1) Notwithstanding subdivision (f), for the 2016–17 fiscal year, the Controller shall allocate funds in the following amounts from the General Growth Subaccount of the Sales Tax Account to the social services account of each county and city and county



based on a schedule provided by the Department of Finance developed in consultation with the California State Association of Counties:

(A) The funding that would have been allocated to the Mental Health Account of each county or city and county pursuant to the calculations specified in paragraph (1) of subdivision (f).

(B) The funding that would have been allocated to the health account of each county or city and county pursuant to paragraph (2) of subdivision (f), except for the amount of funds to be redirected pursuant to Section 17600.50, Article 12 (commencing with Section 17612.1), and Article 13 (commencing with 17613.1).

(2) The allocation of funds from the General Growth Subaccount of the Sales Tax Account to the social services account as described in paragraph (1) shall not apply to the amount of funds available for allocation to the Mental Health Accounts and health accounts of the Cities of Berkeley, Pasadena, Tri-City, and Long Beach.

(h) The amounts deposited and remaining unexpended and unreserved in the General Growth Subaccount shall be allocated on an annual basis by the Controller, as described in subdivisions (f) and (g), within 45 days of receiving the General Growth Subaccount allocation schedule from the Department of Finance.

**SEC. 8.** (a) Notwithstanding any other law, from the General Fund moneys appropriated to the State Department of Social Services in Item 5180-101-0001 of Section 2.00 of the Budget Act of 2017, the department shall allocate five million four hundred thousand dollars (\$5,400,000), in a single payment by the Controller, to the City of San Jose for purposes of assisting homeless and low-income individuals displaced by the Coyote Creek flooding that occurred in February 2017.

(b) As a condition of receiving these funds, the City of San Jose shall provide quarterly reports to the department regarding the number of families served and the types of services they received, until all funds have been expended.

**SEC. 9.** This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.