

PLATINUM | ADVISORS

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TO: Diane Shaw, President, AC Transit Board of Directors
Members of the AC Transit Board of Directors
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RE: **Legislative Update**

End of Session: In order to meet the 72-hour in print rule, this year the legislative session did not end at midnight on September 12th but was extended until late afternoon on September 13th. While it is routine for the last day of session to creep into the wee hours of the next day, several bills, including legislation extending the cap & invest program, were not amended until Wednesday, September 10th. Since the legislature did not adjourn until September 13th, Governor Newsom now has until Monday, October 13th at midnight to sign or veto all measures sent to his office during the final weeks of session.

Fiscal Outlook: With the turmoil clouding the federal budget, California's revenue outlook remains strong. For the month of August, cash revenues totaled \$1.7 billion higher than the June budget forecast. The higher revenues were fueled by personal income tax receipts that were \$1.1 billion higher than expected. Although data collected is only two months into the fiscal year, revenues exceeding projections by nearly \$1.8 billion.

Budget Bill Junior & Trailer Bills: The end of session budget package includes a budget bill junior, AB 105, and 16 budget trailer bills that make the statutory changes to implement the budget agreement. The Governor has signed AB 105 and SB 153 into law.

AB 105 makes numerous amendments to the budget act that was adopted in June to reflect agreements on cap & invest funding for the 2025-26 fiscal year and other changes. This measure amends the budget to appropriate \$368 million in auction revenue to the Transit & Intercity Rail Capital Program (TIRCP). The budget bill language splits this allocation, directing \$188 million to the TIRCP competitive program and \$180 million to the TIRCP formula allocation. AB 105 also appropriates \$38 million in auction revenue to the Energy Commission for charging infrastructure for heavy-duty vehicles.

AB 105 also includes budget bill language stating the Department of Finance and the CalSTA will examine providing loans and other financing options for the large Bay Area transit operators. The expectation is negotiations on loan terms will continue through this fall and be adopted as part of an early budget action item in January or February.

SB 153 is the budget trailer bill related to transportation items. Among the changes included in SB 153 are amendments that allow the allocation of auction revenue to the Low Carbon Transit Operations Program (LCTOP) for the 205-26 fiscal year. LCTOP funds are allocated by formula to all eligible transit operators based in proportion to State Transit Assistance (STA) funds that the operator receives.

Cap & Invest: While the outlook was questionable on the fate of a cap & trade deal, an announcement was made on Tuesday of the last week of session that an agreement was reached on a package of energy bills, including the extension of the cap & invest program.

Governor Newsom has signed into law the cap & invest agreement contained in AB 1207 (Irwin) and SB 840 (Limon). AB 1207 extends the program to January 1, 2046, and changes the name of the program from “cap & trade” to “cap & invest.” AB 1207 also reforms several elements of the program, including but not limited to, the use and accounting of offsets, the distribution of allocated allowances, and the allowable uses of compliance instruments sold at the price ceiling.

SB 840 contains the new expenditure plan for auction revenue. SB 840 sunsets the existing expenditure plan on July 1, 2025, and replaces it with the plan summarized below. The change that raises concerns is this expenditure plan is structured in three tiers. As funds are generated at auctions the funds flow first to the top tier and then to the second and finally to the third tier. If the auction hits historic averages of \$4.2 billion there should be no problem.

If auction revenue falls below \$4.2 billion, the first two tiers are fully funded, and the Department of Finance will proportionally reduce the amounts in the third tier, which is where the transit allocations are located. Over the past three years auction revenues averaged \$4.2 billion, with a high of \$5.1 billion in 2023-24 and a low of \$3.4 billion in 2024-25. While there is optimism that reauthorizing the auction program will stabilize and increase auction revenue, federal challenges on California’s authority could result in depressed revenues until this challenge is settled.

Starting with the 2026-27 Fiscal year cap & invest auction revenue will be allocated as follows:

First Tier Includes:

- Continue to use auction revenue to backfill the State Responsibility Area fire prevention fee, and to backfill the general fund for the green manufacture tax exemption. The amount allocated for these items ranges up to \$240 million.
- \$3,000,000 is allocated for the establishment of the Legislative Counsel Climate Bureau. The purpose is to provide advice and investigation services to the Legislature.

After the amounts specified above are fully allocated, as determined by the Department of Finance, the remaining money in the fund shall be allocated for second-tier priorities as follows:

- \$1 billion continuously appropriated to the High-Speed Rail Authority for the following components of the initial operating segment and Phase I Blended System:
 - Acquisition and construction costs of the project.
 - Environmental review and design costs of the project.
 - Other capital costs of the project.
 - Repayment of any loans made to the authority to fund the project.
- \$1 billion is reserved for appropriation by the Legislature in the annual Budget Act or other statute. SB 840 includes legislative intent language to allocate these funds in the 2026-27 budget for the following:
 - \$125 million for transit passes.
 - \$25 million for seed funding for a University of California Climate Research Center.
 - \$15 million for rebuilding Topanga Park.
 - \$85 million for an entity chosen by the Legislature to support climate-focused technological innovation, related research, and the deployment of climate solutions identified in the scoping plan.

After the funds above are fully allocated, third-tier funding priorities are continuously appropriated as follows:

- \$800 million to the Strategic Growth Council for the Affordable Housing and Sustainable Communities Program. No less than 10 percent of these funds shall be expended for affordable housing, consistent with the provisions of that program.
- \$400 million to the Transportation Agency for the Transit and Intercity Rail Capital Program
- \$250 million to the State Air Resources Board for community air protection programs, also known as AB 617 programs. AB 617 directs funds for financial incentives to reduce mobile and stationary sources of criteria air pollutants or toxic air contaminants consistent with community emissions reduction programs. This does not include funding for HVIP rebates. Under SB 840 CARB would receive a continuous appropriation for the first time.
- \$200 million to the Transportation Agency for the Low Carbon Transit Operations Program which will be allocated by the State Controller pursuant to the STA formula shares.
- \$200 million to the Department of Forestry and Fire Protection and allocated as follows:
 - 82.5%, or \$165 million, for healthy forest and fire prevention programs and projects that improve forest health and reduce emissions of greenhouse gases caused by uncontrolled wildfires.
 - 17.5%, or \$35 million, for the completion of prescribed fire and other fuel reduction projects
- \$135 million is transferred to the Safe and Affordable Drinking Water Fund