

February 22, 2024

The Honorable Gavin Newsom, Governor  
The Honorable Mike McGuire, Senate President Pro Tem  
The Honorable Robert Rivas, Speaker of the Assembly  
State Capitol Building  
Sacramento, CA 95814

**RE: State Budget: Proposition 64 Tier 3 Program Revenues**

Dear Governor Newsom, Senate Pro Tem McGuire, and Assembly Speaker Rivas:

The undersigned organizations respectfully urge you to restore full funding for the Proposition 64 (Adult Use of Marijuana Act Initiative) youth, environmental, and public safety programs (“Tier 3 programs”).

When voters approved Proposition 64, they dedicated significant Cannabis Excise Tax and Cultivation Tax revenues for the Tier 3 programs. These revenues are a significant funding source for childcare for low-income families, youth substance use prevention programs, environmental remediation including restoration of watersheds damaged by cannabis cultivation, and law enforcement programs. Many of our groups worked on the Proposition 64 Tier 3 language and want to ensure the provisions of law and promises made to date are upheld.

Unless corrective action is taken, these programs will suffer from a budgetary shortfall of more than \$150 million collectively over the 2023-24 and 2024-25 budget years as a result of the Legislature’s elimination of the Proposition 64 cultivation tax.

**Promises Made in the 2021-22 Budget (AB 195 Budget Trailer Bill):**

AB 195 eliminated the Proposition 64 Cultivation Tax, among other actions, at the request of the cannabis industry. Our organizations withdrew our opposition when the Legislature and Governor agreed the ultimate outcome of the cultivation tax repeal would be revenue neutral including establishing a \$670 million annual funding target for Tier 3 programs. We greatly appreciate the Legislature and Governor appropriating \$150 million from the General Fund in the 2021-22 budget to help backfill the lost Tier 3 cultivation tax revenues.

Unfortunately, even with the General Fund allocation, Tier 3 revenues will have fallen short of the \$670 million annual target by more than \$50 million in just the 2023-24 budget. This has had real world impacts to Tier 3 programs. For example, Tier 3 funding for children’s programs was \$30 million below the funding target in the 2023-24 budget alone.

The Governor’s optimistic 2024-2025 budget proposal projects \$568.8 million for Tier 3 programs — more than \$100 million below AB 195’s \$670 million annual Tier 3 revenue target. That would mean that Tier 3 programs will have received \$151 million less than the AB 195 target over just two budget years. The shortfall will be even more if the actual Cannabis Excise Tax revenues fall short of the Governor’s optimistic projections. These shortfalls will mean thousands of fewer child care slots for low-income children, fewer youth benefitting from substance abuse prevention programs, continuing environmental degradation of our watersheds, and other harms.

## **Proposition 64 – Voters Guaranteed Tier 3 Revenues**

When voters approved Proposition 64 in 2016, they expressed clear intent they wanted Tier 3 programs to receive significant funding:

*“It is the intent of the People in enacting this Act to accomplish the following: “Generate hundreds of millions of dollars in new state revenue annually for restoring and repairing the environment, youth treatment and prevention, community investment, and law enforcement.” Prop. 64, § 3(t).*

*“The Adult Use of Marijuana Act will crack down on the illegal use of water and punish bad actors, while providing funds to restore lands that have been damaged by illegal marijuana grows.” Prop. 64, § 2.F.*

Furthermore, voters expressly protected allocations to the Tier 3 programs in Proposition 64’s provisions:

*“Prior to July 1, 2028, the Legislature may not change the allocations to programs specified in subdivisions (d) and (f) of this section.” [Subdivision (h) of Section 34019 of the Revenue and Taxation Code, as enacted under Proposition 64, referring to the Tier 3 funding allocations].*

Furthermore, Proposition 64 requires that other amendments must be *“consistent with the purposes and intent of this Act...” (Section 10 of Proposition 64)*

Those statements reflect voters’ clear intent that Proposition 64 provides robust and protected funding for the environmental restoration and remediation programs and youth services at levels contemplated by the voters and those levels must be honored in any legislative alteration to the Act’s tax structure. Therefore, revenue neutrality is a necessary component to any amendment of the initiative. Any reduction of tax revenue for Tier 3 programs creates a risk that the legislation will be deemed invalid.

In other words, unless it results in revenue neutrality, the elimination of the Cannabis Cultivation Tax is legally vulnerable because:

1. It alters the allocation of funding to Tier 3 programs by eliminating one of the two key revenue streams that fund the Tier 3 allocations; and
2. It would be inconsistent with the voter’s intent expressly stated in Proposition 64’s text to provide significant funding to Tier 3 programs.

## **Solutions to Preventing the Loss of Tier 3 Funding as a Result of the Cultivation Tax Repeal:**

We greatly appreciate the Legislature’s intent to establish a program that resulted in revenue neutrality when it eliminated the Proposition 64 Cannabis Cultivation Tax. Unfortunately, the net result will be more than \$150 million in projected Tier 3 revenue losses over the two budget cycles, with significant continuing losses in subsequent years.

Fortunately, you have options on how to fix this problem and achieve the Tier 3 revenue neutrality goal. These options include, among others, the following:

- Reinstatement of the Cannabis Cultivation tax on large cannabis cultivators (outdoor cultivation over one acre and indoor cultivation over 20,000 square feet);
- Appropriate additional General Fund or other revenues, when available; and
- Increase the Cannabis Excise Tax beginning in 2025, consistent with AB 195 (Revenue and Taxation Code Section 34011.2)

We greatly appreciate your commitment to Tier 3 revenue neutrality. We look forward to working with you to correct this shortfall. We will follow-up this letter with a request to meet with your offices.

Thank you for considering these concerns.

Sincerely,

Jim Keddy  
Executive Director  
Youth Forward



Matt Baker  
Policy Director  
Planning and  
Conservation League



Mary Ignatius  
Executive Director  
Parent Voices California



Dr. Lynn Silver  
Principal Investigator  
Getting It Right from  
the Start



Courtney Armstrong  
Director of  
Government Affairs  
First 5 Association of  
California



Benita Ramsey  
Executive Director  
Rainbow Pride Youth  
Alliance



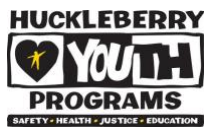
Pam Flick  
California Program  
Director  
Defenders of Wildlife



Diane Ortiz  
CEO  
Youth Alliance



Douglas Styles  
Executive Director  
Huckleberry Youth  
Programs, Inc.



Adriane Armstrong  
CEO  
Juma Ventures



Judi Strang  
Program Manager  
San Dieguito Alliance



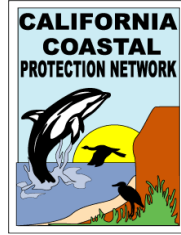
Jennifer Singer  
Executive Director  
Bright Futures for  
Youth



Linette Lomeli  
Executive Director  
Madera Coalition for  
Community Justice



Susan Jordan  
Executive Director  
California Coastal  
Protection Network



Ishmael Pruitt  
CEO  
Project Optimism



Colin Ford  
Director of Policy  
Fresh Lifelines for  
Youth



Matt Clifford  
California Director of  
Law and Policy  
Trout Unlimited



Nick Jensen  
Conservation Program  
Director  
California Native Plant  
Society



John Aguirre  
CEO  
Central California  
LGBTQ+ Collaborative



David Kakishiba  
Executive Director  
East Bay Asian Youth  
Center



Kao Ye Thao  
Director of Policy &  
Partnerships  
Hmong Innovating  
Politics



Ivan Hernandez  
Director of Movement  
Building  
Gente Organizada



Redgie Collins  
Legal and Policy  
Director  
California Trout



Tom Wheeler  
Executive Director  
Environmental  
Protection  
Information Center



Christian Green  
Policy and Advocacy  
Director  
Sanctuary of Hope



Paul Mason  
V.P., Policy & Incentives  
Pacific Forest Trust



Jackee Riccio  
Executive Director  
Cannabis for  
Conservation



Nane Alejandrez  
Executive Director  
Santa Cruz Barrios  
Unidos



Raquel Shipp  
Executive Director  
Sacramento Youth  
Center



Ruben Rodriguez  
Executive Director  
Pueblo y Salud, Inc.



Maryjane Puffer  
Executive Director  
The Los Angeles Trust  
for Children's Health



Leticia Aguilar  
CEO  
Native Sisters Circle



Derrel Roberts  
Executive Director  
Roberts Family  
Development Center



Jeff Farber  
Executive Director  
Helpline Youth  
Counseling



K.C. Strang  
Executive Director  
San Marcos Prevention  
Coalition



Heidi Anderson Swan  
Founder  
Hermosa Coalition for  
Drug-Free Kids



Melissa Flores  
Director  
Mending Fences At JM  
Ranch



Rachel Minnick  
Chief Collaboration  
Officer  
PRO Youth & Families



Vince Leus  
Associate Program  
Manager  
Prevention Institute



Don Carney  
Executive Director  
Youth Transforming  
Justice



Michelle Miranda  
CEO & Founder  
Alliance for Community  
Empowerment



Adrienne Shilton  
Vice President of Public  
Policy & Strategy  
The California Alliance  
of Child and Family  
Services



Ryan Cesena  
Program Coordinator  
Tarzana Treatment  
Centers PEP



Layhearn Tep  
Development Director  
Future Leaders of  
America



Lisa Fraser  
Executive Director  
Center for Family  
Strengthening



Fernanda Lucas  
Program Director  
Promotores  
Collaborative Of San  
Luis Obispo County



Dr. Tammé Shinshuri  
Executive Director  
Oracles of Truth  
Academy



Uniting Communities  
for Equitable Health  
Policies Coalition  
(UCEHP)



John Kindred  
Co-Founder  
Long Beach  
Environmental Alliance



Lucy Herrera  
Executive Director  
Legacy LA



Carly Lopez  
Prevention Programs  
Coordinator  
Day One



Margaret Brodtkin  
Director  
Funding The Next  
Generation



Felicia Carbajal  
Executive Director  
The Social Impact  
Center



Ethel Fimbres  
Program Director  
Youth Business Alliance



Heather Williams  
Director, Policy &  
Outreach  
California AfterSchool  
Network



Kristan Culbert  
Associate Director  
California River Conservation  
American Rivers



- cc:
- The Honorable Scott Wiener, Chair, Senate Budget and Fiscal Review Committee
  - The Honorable Jesse Gabriel, Chair, Assembly Budget Committee
  - The Honorable Caroline Menjivar, Chair, Senate Budget and Fiscal Review Subcommittee #3
  - The Honorable Josh Becker, Chair, Senate Budget and Fiscal Subcommittee #2
  - The Honorable Corey Jackson, Chair, Assembly Budget Subcommittee # 2
  - The Honorable Steve Bennett, Assembly Budget Subcommittee #4
  - The Honorable Steve Glazer, Chair, Senate Governance and Finance Committee
  - The Honorable Jacqui Irwin, Chair, Assembly Revenue and Taxation Committee