December 19, 2005

Hon. Bill Lockyer
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Tricia Knight
Initiative Coordinator

Dear Attorney General Lockyer:

Pursuant to Elections Code Section 9005, we have reviewed the proposed initiative regarding transportation funding (File No. SA2005RF0123).

Background

Fuel Taxes and Motor Vehicle Fees and Taxes. Under Article XIX of the State Constitution, the use of revenue from certain motor vehicle related fees and taxes is restricted to transportation purposes only. These taxes and fees include primarily an excise tax of 18 cents per gallon on gasoline and diesel fuel used by motor vehicles, weight fees on commercial vehicles (trucks), driver license fees, and vehicle registration fees. The Constitution, however, allows these revenues to be loaned to the General Fund for nontransportation uses if the amount is repaid in full within the same fiscal year, except that the repayment may be delayed up to 30 days after the enactment of the budget for the following fiscal year. Additionally, under specified conditions, the Constitution allows these revenues to be loaned to the General Fund for up to three fiscal years.

Public Transportation Account (PTA). The state also imposes a 5 percent sales tax on gasoline and diesel fuel. Under state law, a portion of this sales tax revenue is deposited in the PTA for public transportation and planning purposes. The Constitution allows funds in the PTA to be loaned to the General Fund if the full amount of the loan is repaid within the same fiscal year, except that the repayment may be delayed up to 30 days after the enactment of the budget for the following fiscal year. Additionally, under specified conditions, the Constitution allows PTA funds to be loaned to the General Fund for up to three fiscal years.

Proposition 42—Transportation Investment Fund (TIF). Until 2002, the portion of the state gasoline sales tax revenue not deposited in the PTA was deposited in the General Fund for general purpose uses. In 2002, voters approved Proposition 42 which constitutionally requires this revenue to be transferred from the General Fund to the TIF for transportation purposes exclusively. Proposition 42 allows the transfer to be suspended under specified conditions. The Proposition 42 transfer was partially suspended in 2003-04 and fully suspended in 2004-05.

Proposal

This measure amends the Constitution in the following ways.

Loaning of Transportation Funds. The measure limits to no more than one year the length of time that Article XIX and Proposition 42 transportation funds can be loaned to the General Fund. This means that loans have to be repaid within the same fiscal year, except the repayment may be delayed up to 30 days after the enactment of the budget for the following year. The measure also requires that these short-term loans not impede the transportation purposes for which these revenues were generated. Finally, the measure deletes the authority to make loans to the General Fund from the PTA.

Proposition 42 Transfer. The measure allows the Proposition 42 transfer to be suspended only in years preceding 2007-08. Thereafter, the suspension authority is deleted.

In addition, the measure requires that any suspended amount as of July 1, 2007, be repaid by June 30, 2017, at a specified minimum annual rate of repayment. The measure also allows the Legislature to authorize the state and local governments to issue bonds secured by the repayments.

Fiscal Effect

This measure would have no revenue or cost effect. The measure deletes the authority to suspend Proposition 42 beginning in 2007-08. This, together with requiring repayment of previously suspended transfers on a specified schedule and limiting to one year the loan of transportation funds for nontransportation uses, would increase transportation funding stability in 2007-08 and thereafter. Conversely, the state's flexibility to direct available state funds to other priority (nontransportation) activities in the event the state faces fiscal difficulties would be somewhat reduced.

Fiscal Summary. This measure would have the following fiscal impact:

- No revenue or cost effects.
- Increases stability of funding to transportation in 2007-08 and thereafter; reduces somewhat the state's flexibility to use specified transportation funds for other (nontransportation) activities.

Sincerely,

Elizabeth G. Hill
Legislative Analyst

Michael C. Genest
Director of Finance