April 19, 2011

Hon. Kamala D. Harris
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Krystal Paris
Initiative Coordinator

Dear Attorney General Harris:

Pursuant to Elections Code Section 9005, we have reviewed the proposed initiative on oil extraction charges for education funding (A.G. File No. 11-0004).

Background

Oil-Related Taxation in California. Oil producers pay the state corporate income tax on profits earned in California. Oil producers also pay a regulatory charge assessed on production, with the exception of production in federal offshore waters. Additionally, property owners in California pay local property taxes on the value of both oil extraction equipment (such as drills and pipelines) as well as the value of any recoverable oil in the ground.

Proposal

New Charge on Oil Companies to Fund Education. The measure imposes a 15 percent charge on the value of each barrel of oil extracted from California. The revenues raised and placed in a new state account (the Competitiveness Education Fund) would be distributed monthly for non-capital purposes to: public school districts (30 percent), community college districts (48 percent), the California State University system (11 percent), and the University of California system (11 percent).

Restrictions on Oil Companies. The measure makes it illegal for oil companies to increase the prices they charge—to refineries, gasoline stations, and consumers—in order to have revenues from sales to those parties cover the oil companies' proposed charge obligations.

Fines and Rebates. If the state finds an oil company increased its prices to cover the company's charge obligation, this measure states that the company would be subject to a fine equal to the amount of obligations so covered. The state would distribute collected fines equally to each Californian at the end of each year. The measure requires the Attorney General to "examine the books of oil companies operating in the state of California, if they appear to be breaking this law."

Requirements for Funding Education. The measure prohibits reductions in the state's education funding that would offset the new education funding generated by the measure's extraction charge.

Fiscal Effects

New Revenues. The 15 percent charge would likely generate between $2 billion and $3 billion annually in its first years. The exact level of revenue the charge would generate is uncertain for several reasons:

- Future oil prices and oil production in California are uncertain.
- California's authority to levy a charge on production on federal property, or for use outside of California, is uncertain. We assumed California would not levy a charge on production on federal property.
- The measure could be interpreted to allow different determinations of the value of oil produced.
- The measure could be interpreted to allow different determinations of which parties have obligations to pay the charge.

Effects on Educational Funding Levels. Proposition 98's required minimum level of state and local funding for school and the community college districts would not be affected by this measure. The funding provided by the oil extraction charge would be separate from Proposition 98 funding requirements. In general, both for these districts and the state's university systems, it is unclear how the prohibition on reductions in state education funding would be enforceable.

Other Effects on the Economy and on State and Local Finances. The measure could have various additional effects on the economy and additional fiscal impacts for state and local governments.

Summary of Fiscal Effect

The measure would have the following major fiscal effect:

- Increased state revenues from a new charge on oil extraction of around $2 billion to $3 billion per year, dedicated to education.

Sincerely,

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Mac Taylor
Legislative Analyst

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Ana J. Matosantos
Director of Finance