San Diego County Taxpayers Association
Targeting Waste • Promoting Efficiency
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Local Taxpayer, Public Safety, and Transportation Protection Act of 2010

March 2010

Board Recommendation: **SUPPORT**

Rationale:

On more than one occasion, the State has borrowed from local governments as a means to resolve its own budget problems. Retaining this option may be preventing the State from pursuing serious budgetary reform. The State has capitalized on loopholes within many voter-approved propositions that were intended to guarantee a stream of funding to local governments. For this reason, local governments have had to divert funds from other sources to make up for losses in anticipated revenue from the State.

SDCTA supports this measure as it ensures that funds approved by voters for local government purposes go to local governments and are not diverted to State obligations.

SDCTA supported both Propositions 111 (1990) and 42 (2002), which were intended to provide a revenue stream to local government for transportation projects. Our rationale for supporting Proposition 42 was as follows:

> "The original intent of the sales tax on gasoline was to go directly to transportation. Through the years, it has been directed to the General Fund and used for various purposes. This measure would guarantee the monies collected from gasoline tax would go specifically for transportation purposes."

Background:

California Budgetary Policies

The State of California has been confronted in recent years with fiscal hardships characterized by declining and uncertain tax revenue, inflating expenditures, and a projected budget shortfall totaling $100 billion through fiscal year (FY) 2015.[1] In response to recent budget shortfalls, the State has borrowed funds from local governments and special revenue funds, diverted community redevelopment dollars and deferred payments to state agencies and local governments.

Title: *"Local Taxpayer, Public Safety, and Transportation Protection Act"*
Election: November 2010
Description: Limits the ability of State Legislature to divert local government funds to unrelated state programs.
Jurisdiction: State
Type: Constitutional amendment
Vote: Simple Majority
Fiscal Impact: "Significant constraints on state authority over city, county, special district, and redevelopment agency funds. As a result, higher and more stable local resources, potentially affecting billions of dollars in some years. Commensurate reductions in state resources, resulting in major decreases in state spending and/or increases in state

As part of the State of California's FY 2010 budget, which faced an initial budget deficit of over $40 billion, the State diverted into the State General Fund **$2 billion in property tax revenues** generally appropriated to local governments with a promise of repayment within three years (ABx4 15). Through Prop 1A (2004) the State did provide a mechanism by which cities can securitize the promise of repayment from the State. This allows cities the ability to recover lost revenue and avoid current lapses in funding for operations.

[1] Legislative Analyst's Office

Figure 1: State Property Tax withholdings, FY 2010	
City	**Withholding**
Carlsbad	$4,500,000
Coronado	$1,633,342
Chula Vista	$4,488,610
Del Mar	$350,000
El Cajon	$1,600,000
Encinitas	$2,740,882
Escondido	$2,300,000
La Mesa	$1,037,037
Lemon Grove	$420,000
National City	$950,000
Oceanside	$9,500,000
Poway	$1,272,554
San Diego	$35,815,000
San Marcos	$1,300,000
Santee	$1,208,954
Solana Beach	$573,340
Vista	$1,665,927
Total	$71,355,646
Source: City FY 2009 CAFRs and FY 2010 Budgets	

Assembly Bill x4 26: Community redevelopment agencies[2] are organized to alleviate blight, revitalize neighborhoods, and improve general economic welfare of citizens. Specifically, community redevelopment agencies were established to conduct "planning, development, replanning, redesign, clearance, reconstruction, or rehabilitation" within a given jurisdiction that are "appropriate or necessary in the interest of the general welfare". To fund operations, redevelopment agencies collect property tax increment revenue.[3] Property tax increment is applied to the assessed value of real property in the redevelopment agency's jurisdiction above the value in a fixed historical year.

Example of Property Tax Increment:

Joe's house is located in the City of Happiness. In the year 2000, when the City of Happiness established a Redevelopment Agency, Joe's house had an assessed value of $300,000. In 2010, Joe's house sold for $400,000. The City of Happiness collects a property tax equal to 1% of the assessed value of a home.

Property tax collected on Joe's house in 2000:
$300,000 x 1% = $3,000

Property tax collected on Joe's house in 2010:
$400,000 x 1% = $4,000

Therefore, the incremental increase in property tax is equal to $4,000 - $3,000 = $1,000. This incremental property tax revenue would be collected by the City of Happiness Redevelopment Agency.

A portion of these tax revenues must be deposited to an associated Educational Revenue Augmentation Fund (ERAF), used to help fund the State's education expenditure obligations mandated by Proposition 98 (1988)[4]. However, in July 2009, Assembly Bill x4 26 established the Supplemental Educational Revenue Augmentation Fund (SERAF), which mandated an additional **$2.05 billion in funding from community redevelopment agencies** during FY's 2010 and 2011. In October 2009, the California Redevelopment Association filed a subsequent lawsuit attempting to stop the transfers required by Assembly Bill x4 26.

Figure 2: SERAF Payments in San Diego County, FY 2010-2011		
Agency	**2010**	**2011**
Carlsbad Redevelopment Agency	$1,350,538	$278,052
City of Chula Vista Redevelopment Agency	$4,160,694	$856,613
Community Development Agency of the City of Coronado	$5,089,157	$1,047,768
Community Development Commission of the City of Escondido	$8,556,226	$1,761,576

[2] California Health and Safety Code, Division 24
[3] Section 16, Article 16 of the California Constitution,
[4] See SDCTA review on Proposition 98.

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Community Development Commission of the City of National City	$5,163,417	$1,063,056
El Cajon Redevelopment Agency	$4,998,557	$1,029,115
Imperial Beach Redevelopment Agency	$2,667,492	$549,189
La Mesa Community Redevelopment Agency	$1,082,107	$222,787
Lemon Grove Redevelopment Agency	$1,025,546	$211,142
Oceanside Community Development Commission	$3,636,676	$748,727
Poway Redevelopment Agency	$13,700,882	$2,820,770
Redevelopment Agency of the City of San Diego	$55,702,957	$11,468,256
San Diego County Redevelopment Agency	$793,345	$163,336
San Marcos Redevelopment Agency	$20,220,665	$4,163,078
Santee Community Development Commission	$3,263,985	$671,997
Solana Beach Redevelopment Agency	$209,941	$43,223
Vista Community Development Commission	$5,433,517	$1,118,665
Total	**$137,055,701**	**$28,217,350**
Source: California Redevelopment Association; Figures are estimated using formulas established in AB x4 26		

Senate Bill x4 16Assembly Bill x3 37: The state of California currently charges an excise tax[5] ($0.18 per gallon) and sales tax[6] (4.75%) on the sales, storage, use, or consumption of vehicle fuels. A portion of vehicle fuel tax revenues is legislatively mandated to fund transportation expenditures. Of the transportation funds, apportionments are made to local government agencies for funding transportation projects. Senate Bill x4 16 (2009) and Assembly Bill x3 37 (2009) deferred payments of these transportation funds to local government agencies for several months during the period July 2009-March 2010.

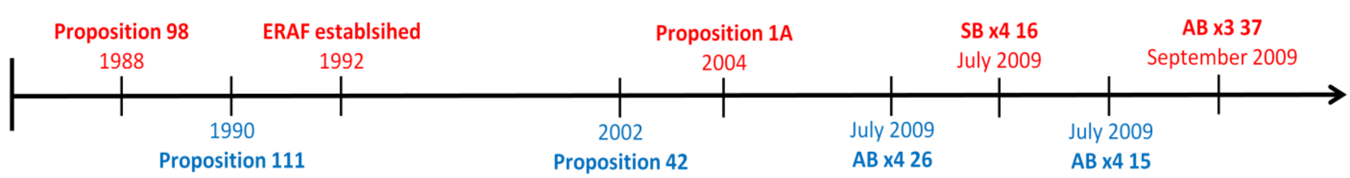
Prop 111 and Prop 42

California Proposition 111 (1990) known as the "Traffic Congestion Relief And Spending Limitation Act Of 1990", approved an eventual $0.09 per gallon increase to California's motor vehicle fuel excise tax (previously at $0.09) for the purpose of funding public transportation projects throughout the state.

California Proposition 42 (2002) known as the "Traffic Congestion Improvement Act" enacted an amendment to the California Constitution which required revenues from sales and use tax on gasoline to be used solely for transportation expenditures. This proposition also established the Transportation Investment Fund.

SDCTA supported both Propositions 111 and 42.

Figure 3: Timeline of important events



[5] California Revenue and Taxation Code, Section 7360
[6] California Revenue and Taxation Code, Section 7102

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Highway Users Tax Account

The Transportation Tax Fund (TTF) is the account to which the proceeds from Motor Vehicle Fuel Tax,Diesel Fuel Tax[7] and Motor Vehicle License fees are deposited. The TTF is divided into several subaccounts, one of which is the Highway Users Tax Account[8] (HUTA). HUTA funds are distributed among various state, county, and city agencies to be used for "research, planning, improvement, maintenance, and operation" of public streets, highways, and mass transit guideways. For FY 2010, the HUTA is budgeted to receive $3.1 billion in revenue of which $2 billion will be deposited to the State Highway Account[9] and $1.06 billion will be appropriated among various county and city agencies.[10]

Public Transportation Account

The Public Transportation Account[11] (PTA) was created to provide funding for transportation planning and research for state and local government projects. Revenue sources for the PTA are revenues from the Prop 111 motor vehicle fuel excise tax increase and a portion of dedicated motor vehicle sales tax revenue from Prop 42, in addition to transfers from the State Highway Account and Aeronautics Account[12]. The projected available balance of the PTA for FY 2010 is $978 million. The most significant budgeted appropriations from the PTA in FY 2010 include: $355 million to the Department of Education for home-to-school programs, $195 million for state projects, and $185 million to local government agencies.[13]

Transportation Investment Fund

The Transportation Investment Fund[14] (TIF) provides funding primarily for local government public road and highway projects and maintenance, as well as public transit projects and transportation capital improvement projects. Motor vehicle fuel sales and use tax provide the revenue source for the TIF. Under current law, revenue dedicated to the TIF is first deposited to the State General Fund and then subsequently transferred to the TIF. In a state of fiscal emergency the transfer from the State General Fund to the TIF can be (an has been) suspended. The projected available balance of the TIF for FY 2010 is $1.9 billion of which $668 million is allocated to local government transportation projects, $334 million to the Public Transportation Account, and $244 million to state transportation projects and operations.[15]

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[7] Constitutes only the original ($0.09) excise tax collected on each gallon of motor vehicle fuel prior to the passage of Prop 111

[8] California Streets and Highways Code, Sections 2100-2157

[9] The State Highway Account is used for the deposit of all money from any source for expenditure for highway purposes including major and minor construction, maintenance, right-of-way acquisition, improvements and equipment, services, investigations, surveys, experiments and reports.

[10] California Department of Transportation, Transportation Financing Summary FY 2009-2010

[11] California Streets and Highways Code, Sections 194, 194.5

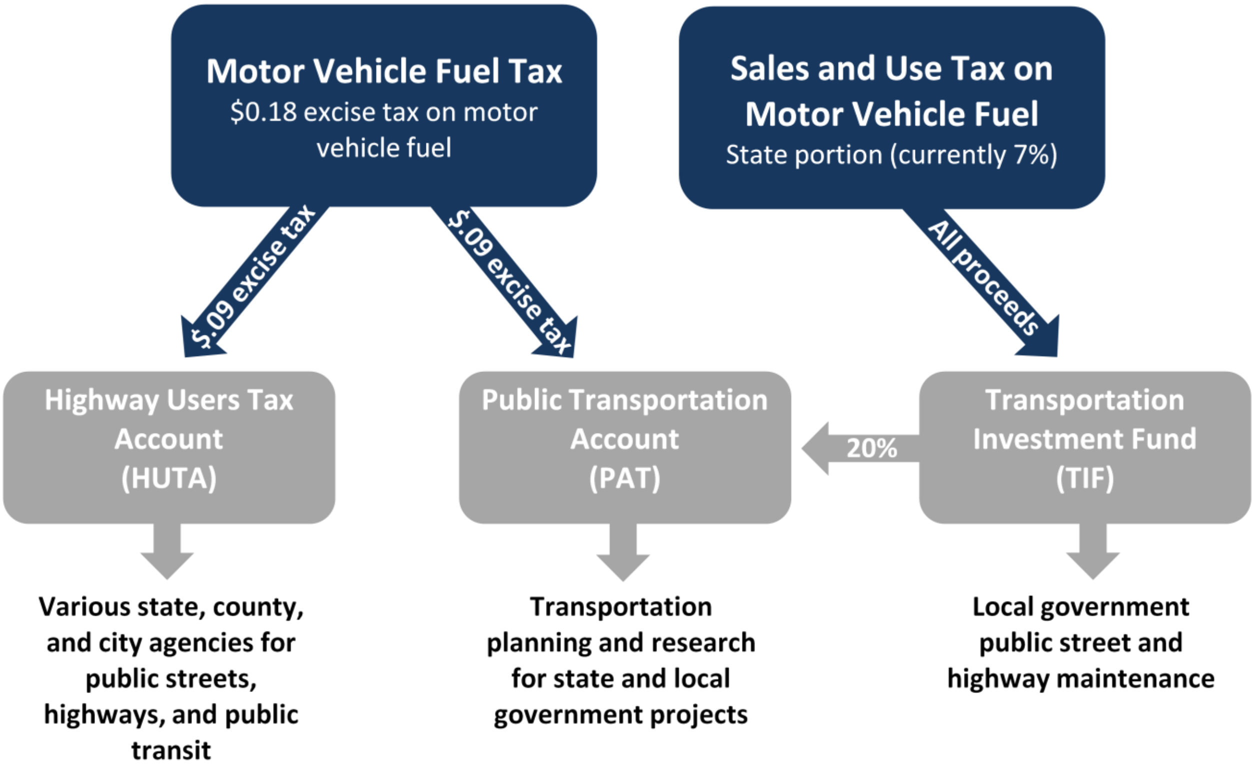
[12] The purpose of the fund is to reserve moneys derived from taxes on aircraft fuel for airport and aviation purposes.

[13] California Department of Transportation, Transportation Financing Summary FY 2009-2010

[14] California Constitution, Article 19 B, Section 7

[15] California Department of Transportation, Transportation Financing Summary FY 2009-2010

Figure 4: Diagram of transportation account funding



Note: The current State Legislative transportation funding proposal for gasoline, known as the gas tax swap, would change the above allocations. For more information see attached.

Proposal:

The "Local Taxpayer, Public Safety, and Transportation Protection Act of 2010" is a voter generated initiative that would amend California's Constitution "in order to maintain local control over local taxpayer funds and protect vital services like local fire protection and 9-1-1 emergency response, law enforcement, emergency room care, public transit, and transportation improvements". Principle components within the initiative are intended to:

- Ban the State Legislature from transferring, diverting, or borrowing proceeds from a tax imposed by a local government for the purpose of funding local government operations or community redevelopment agencies.
- Ban the State Legislature from transferring, diverting, or borrowing funds that are intended to be deposited to various transportation related funding accounts.
- Create more stringent conditions under which the State Legislature can change the allocation of funds out of the HUTA, PAT, or TIF.
- Require funds intended to be deposited to the TIF to go directly to the TIF, as opposed to first being deposited to the General Fund.

The proposal amends Sections 24, 25.5 of Article XIII, Articles XIX, Article XIX A, and Article XIX B and adds Article XIX C to the California Constitution.

Section 24 of Article XIII: Added to this section is a clause which bans the State Legislature from reallocating, transferring, borrowing, or otherwise using revenues from taxes levied by a local government for the purpose of local government operations.

Section 25.5 of Article XIII: The authority of the State Legislature to borrow funds from local government tax revenues during a period of fiscal emergency would be removed from this section. Additionally, restricts reallocation or diversion of funds from community redevelopment agencies for purposes not related to increasing or improving the supply of low income housing.

Article XIX, A, B: These articles govern the management of transportation funds appropriated through the HUTA, PAT, and TIF. The proposal would amend these articles to change the management of these funds in the following ways:

- Removes all provisions allowing the State Legislature to borrow, defer, delay deposit of, or reallocate revenues dedicated to these transportation funds
- Mandates the legislature meet the following conditions prior to changing allocation of funds into or out of the HUTA, PAT, and TIF:

    1) The California Transportation Commission must hold no less than four public hearings around the State for public input on transportation priorities in that region, and publish a report describing the input received.
    2) Allow 90 days to pass after the publication of Transportation Commission's report.
    3) Approve a legislative change to the allocation of funds by two-thirds vote of each house of the legislature.

- Defines each of the accounts as a trust fund[16].
- Requires that if the tax supplying a particular fund is repealed and replaced with a new revenue source, the new revenue should continue to be deposited into the associated fund and appropriated in the currently prescribed manner.
- Requires revenues intended for the TIF to be deposited directly to the TIF, as opposed to depositing to the General Fund and transferring to the TIF.

Article XIX C: This section is added to the Constitution to ensure that transportation accounts are compensated in the case of due revenue being diverted to another purpose. This article requires that any money inappropriately taken from the HUTA, PAT, or TIF should be replaced, including interest[17], from the General Fund within 30 days.

Policy Implications:

Shift of Tax Revenues

In FY 2010, the State diverted or reallocated $3.7 billion in funding from local governments to other agencies. This included borrowing $35.8 million from the City of San Diego and diverting $56 million in revenue from San Diego's Redevelopment Agency[18]. In light of these budgetary actions taken by the State, restricting the legislature's ability to

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[16] Designation of an account as a trust fund allows additional legal restrictions to be placed upon the purposes for which funds may be withdrawn from the account.
[17] As calculated using the rate from the Pooled Money Investment Fund
[18] City of San Diego CAFR FY 2009

borrow or redirect funds from local governments and agencies will certainly make future revenue streams for local governments more stable and predictable. However, the opposite will be true for the State; a restricted ability to borrow or reallocate funds from local governments to meet State funding needs may result in decreased funding for State programs. In particular, the sources of funding for education (the recipient of the majority of recent local government revenue diversions) will be tightened as a result of this initiative. Faced with projected budget deficits for at least the next five fiscal years, the State will have to employ alternative budgetary measures to fill the gap created by removing the capacity to borrow funding from local governments.

Secures Transportation Funding

The revenues sources that provide funding for the HUTA, PAT, and TIF were set through voter approved propositions (111 and 42) for the specific purpose of funding various transportation expenditures. Several components of this initiative will stabilize revenues provided to the three transportation funding accounts. On an annual basis, revenues to these funds will be stabilized by the removal of the provision allowing funding to be reallocated or borrowed during a fiscal emergency. In the long term, provisions to require public hearings prior to the reallocation of funds into or out of the transportation accounts will make it more difficult for current appropriations to be changed in the future.

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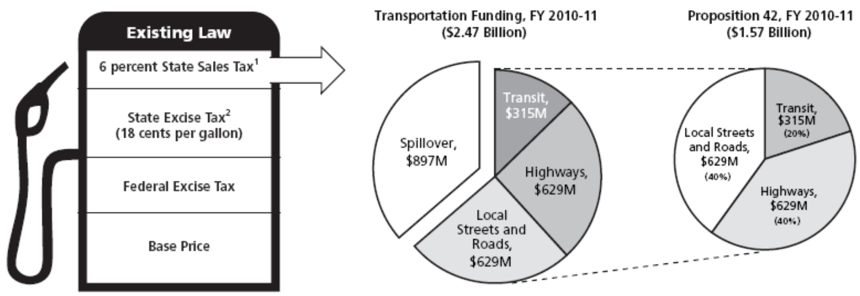
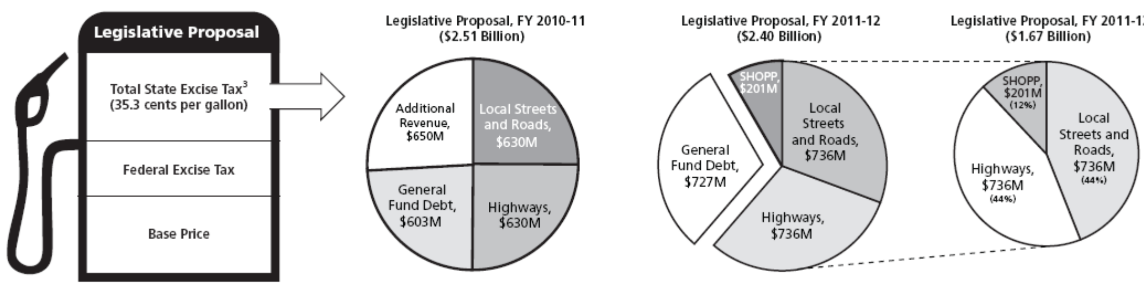
Attachment 1

Legislative Transportation Funding Proposal for Gasoline



[1] Under existing law, the state sales tax on gasoline funds Proposition 42, including Transit, Highways, and Local Streets and Roads, as well as the spillover for public transit.
[2] Under existing law, the state excise tax on gasoline funds the Highway Users Tax Account (HUTA) and State Highway Account (SHA).



[3] The total state excise tax on gasoline of 35.3 cents is composed of 18 cents under existing law, plus 17.3 cents from the new proposal.
[4] Beginning FY 2011-12, the state excise tax on gasoline would fund General Fund Debt first, then would be divided 44% Highways, 44% Local Streets and Roads, and 12% State Highway Operation and Protection Program (SHOPP).

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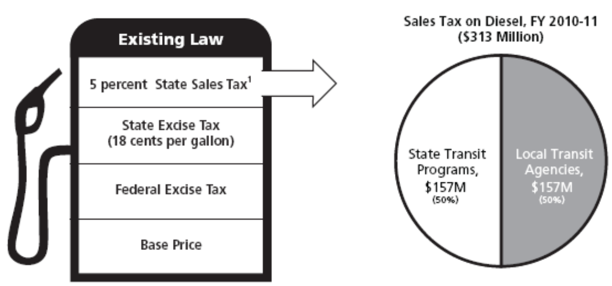
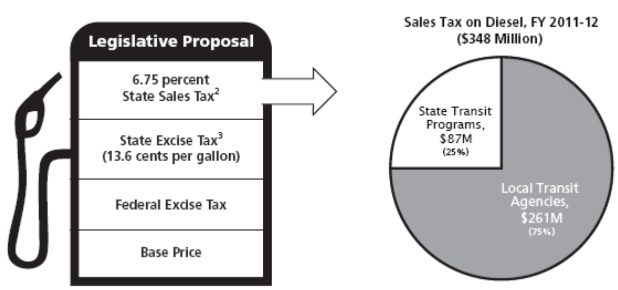
Attachment 2

Legislative Transportation Funding Proposal for Diesel



[1] Under existing law, the state sales tax on diesel is deposited into the Public Transportation Account (PTA) for local transit agencies and state transit programs.



[2] Under the legislative proposal, in FY 2009-10 and FY 2010-11, the PTA would be funded at $400 million. In FY 2011-12, the state sales tax on diesel would be increased from 5 percent to 6.75 percent and would continue to be deposited into the PTA.
[3] On July 1, 2011, the state excise tax on diesel would be decreased from 18 cents to 13.6 cents to offset the increase in the state sales tax on diesel.

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Source: SANDAG April 9, 2010 Executive Committee Meeting Agenda