

PROPOSITION 22: SHOULD CALIFORNIA LOCK IN FUNDING FOR LOCAL GOVERNMENTS, REDEVELOPMENT, AND TRANSPORTATION?

Proposition 22, which will appear on the November 2, 2010 ballot, would amend the state Constitution to eliminate the state's ability to borrow or shift local revenues and certain state revenues that provide funding for transportation programs. In addition, Proposition 22 would make a number of other significant changes, including restricting the state's ability to use motor vehicle fuel tax revenues to repay voter-approved transportation bonds. This *Budget Brief* provides an overview of this measure and the policy issues it raises. The California Budget Project (CBP) neither supports nor opposes Proposition 22.

What Would Proposition 22 Do?

Proposition 22, the "Local Taxpayer, Public Safety, and Transportation Protection Act of 2010," would amend the state Constitution to eliminate the state's ability to borrow or shift local revenues and certain state revenues that fund transportation programs. The measure would restrict the state's authority over a broad range of tax revenues, including property taxes allocated to cities, counties, special districts, and redevelopment agencies; the Vehicle License Fee (VLF); state excise taxes on gasoline and diesel fuel; the state sales tax on diesel fuel; and the former state sales tax on gasoline (Appendix A). Proposition 22 also would make a number of other significant changes, including restricting the state's ability to use motor vehicle fuel tax revenues to pay debt service on voter-approved transportation bonds.

Proposition 22 Would Eliminate the State's Authority To Borrow Property Tax Revenues From Local Governments

Currently, the state has limited authority to borrow property tax revenues by temporarily shifting a portion of those revenues from local governments – cities, counties, and special districts – to

school districts and other educational agencies.¹ Such a shift allows the state to reduce General Fund support for schools under the Proposition 98 guarantee and for certain other programs and services – such as health care – on a dollar-for-dollar basis to help close a state budget shortfall.² Proposition 1A of 2004 allows the state to borrow property tax revenues from local governments if the Governor proclaims a severe state fiscal hardship and the Legislature approves the temporary reallocation with a two-thirds vote of each house. Borrowed revenues must be repaid, with interest, within three years.³ In addition, the state may not reallocate property tax revenues for more than two years in a 10-year period. In 2009, the Legislature borrowed 8 percent of each local government's property taxes, the maximum allowed by Proposition 1A. The Legislature used those revenues – a total of \$1.9 billion in 2009-10 – to offset state General Fund costs for health care, trial courts, corrections, and other state-funded programs and services within the same county, as well as to offset the state's costs for K-12 education.⁴

Proposition 22 would eliminate the state's ability to temporarily reallocate property taxes from local governments to schools and other educational agencies. Consequently, the state could no longer borrow local property tax revenues to help close a state budget shortfall.

Proposition 22 Would Prohibit the State From Shifting Property Tax Revenues From Redevelopment Agencies

State law allows cities and counties to establish redevelopment agencies to help eliminate “blight” in a designated area.⁵ Redevelopment agencies receive most of the growth in property tax revenues attributable to property value increases (the “tax increment”) in the project area. A portion of tax increment revenues must be shared with other local agencies, including counties and school districts, and at least 20 percent must be used to preserve, improve, or expand the supply of affordable housing. The state periodically requires redevelopment agencies to shift additional tax increment revenues to school districts.⁶ Such a shift allows the state to reduce General Fund support for schools under the Proposition 98 guarantee and for certain other programs and services – such as health care – on a dollar-for-dollar basis to help close a state budget shortfall. For example, the July 2009 budget agreement required redevelopment agencies to make two such transfers totaling \$2.1 billion – \$1.7 billion in 2009-10 and \$350 million in 2010-11.⁷ The Legislature used those revenues to offset state General Fund costs for health care, trial courts, corrections, and other state-funded programs and services within the same county, as well as to offset the state’s costs for K-12 education.⁸ Redevelopment agencies sued to block these transfers, but a judge allowed the payments to proceed and the case remains on appeal.⁹

Proposition 22 would prohibit the Legislature from reallocating redevelopment agency revenues to schools, counties, or other agencies, except to make payments required as of January 1, 2008 or to increase, improve, or preserve the supply of affordable housing. Consequently, the state could no longer shift redevelopment agency revenues to help close a state budget shortfall.

Proposition 22 Would Eliminate the State’s Authority To Borrow Various State Fuel Tax Revenues

State funding for transportation programs in California primarily comes from revenues raised by three state fuel taxes: the state excise tax on gasoline and the state excise and sales taxes on diesel fuel.¹⁰ As part of a complex “fuel tax swap” enacted in March 2010, the Legislature increased the excise tax on gasoline from \$0.180 per gallon to \$0.353 per gallon and exempted gasoline from the state sales tax effective July 1, 2010 (Appendix B).¹¹ At the same time, the Legislature reduced the excise tax on diesel fuel from \$0.180 per gallon to \$0.136 per gallon and increased the state sales tax on diesel fuel by 1.75 percentage points effective July 1, 2011.¹² Revenues raised by the excise tax on gasoline and diesel fuel are deposited into the Highway Users Tax Account (HUTA), and most of the revenues raised by

the state sales tax on diesel fuel are deposited into the Public Transportation Account (PTA). In addition, a portion of revenues raised by the state sales tax on gasoline, before gasoline was exempted from this tax, was deposited into the state General Fund and transferred to the Transportation Investment Fund (TIF) to be used for state and local transportation purposes as required by Proposition 42 of 2002 – a requirement known as the “Proposition 42 transfer.”¹³

Currently, the state Constitution allows the state to borrow fuel tax revenues for cash-flow purposes – short-term loans that “often total \$1 billion or more,” according to the Legislative Analyst’s Office (LAO).¹⁴ In addition, the state may borrow HUTA and PTA revenues to help close a budget shortfall if the Governor declares a fiscal emergency or if General Fund revenues are projected to decline.¹⁵ The state must repay these funds within three years, but does not have to pay interest. In addition, the state Constitution allows the state to suspend the Proposition 42 transfer from the General Fund to the TIF if the Governor declares that the state faces a severe state fiscal hardship and the Legislature approves the suspension with a two-thirds vote of each house in a stand-alone bill. Proposition 1A of 2006, however, requires the state to repay the full amount suspended, with interest, within three years, and prohibits the transfer from being suspended for more than two years within a 10-year period.¹⁶

Proposition 22 would eliminate the state’s ability to borrow or redirect various fuel tax revenues. Specifically, the measure would prohibit HUTA and PTA revenues from being permanently or temporarily loaned to the state General Fund or any other state fund, including for cash-flow purposes. The measure also would require Proposition 42 revenues – if those revenues are restored – to be deposited directly into the TIF and would prohibit the state from permanently or temporarily redirecting or borrowing those revenues.

Proposition 22 Would Prohibit the State From Borrowing or Taking Other Local Revenues

In general, local governments – including counties, “general law” cities, and special districts – may only impose a tax if the Legislature authorizes them to do so.¹⁷ Only “charter” cities may impose taxes without legislative authorization under the state Constitution’s “municipal affairs” doctrine, which allows such cities to “levy taxes which have not been preempted by the state or federal governments.”¹⁸ Local governments impose a range of taxes, including the local portion of the sales tax, business license taxes, and utility user taxes. Proposition 22 would prohibit the Legislature from reallocating, transferring, borrowing, appropriating, restricting the use of, or otherwise using “the proceeds of any tax imposed or levied by a local government solely for the local government’s purposes.”

Proposition 22 Would Make Other Significant Changes

In addition to the changes outlined above, Proposition 22 would:

- **Restrict the state's – but not local governments' – ability to use fuel tax revenues to repay voter-approved bonds.** Currently, the state Constitution allows the state, cities, and counties to use up to 25 percent of their share of HUTA revenues to pay debt-service costs for transportation bonds approved by the voters. In addition, the state uses a portion of revenues deposited into the PTA to pay debt-service costs for voter-approved rail- and transit-related bonds, subject to court-imposed limitations. Proposition 22 would restrict the state's ability to use HUTA revenues to repay transportation bond debt. The state could use its share of HUTA revenues to pay debt service only if the bonds were “issued” – or sold – by the state “on and after” November 2, 2010 and if the state's voters approved using HUTA funds for such a purpose. In contrast, Proposition 22 would continue to allow a city or county to use up to 25 percent of its share of HUTA revenues to pay debt-service costs for voter-approved transportation bonds issued by the local jurisdiction without seeking subsequent voter approval and regardless of when the bonds were issued. In addition, Proposition 22 would prohibit the state from using PTA funds to repay voter-approved transportation bonds.¹⁹
- **Restrict the state's authority to reallocate:**
 - **VLF revenues among counties and cities.** Proposition 1A of 2004 requires revenues raised by the VLF's 0.65 percent rate to be allocated to cities and counties using a formula determined by the Legislature.²⁰ The Legislature, for example, could shift VLF revenues from cities to counties in order to reimburse counties for the cost of a new program or higher level of service mandated by the state.²¹ Proposition 22 would eliminate the state's ability to reallocate revenues raised by the 0.65 percent VLF rate to reimburse local governments for new or increased program costs.²²
 - **State fuel tax revenues.** Currently, the allocation of HUTA and PTA revenues among the state, local governments, and transit agencies is established by statute, not the state Constitution, and the Legislature may reallocate those revenues by a majority vote.²³ Proposition 22 would prohibit the Legislature from modifying the statutory HUTA allocations in effect on June 30, 2009 unless the California Transportation Commission (CTC) holds public hearings and the Legislature approves the change with a two-thirds vote of each house in a stand-alone bill. In addition, the

measure would place the PTA allocation in the state Constitution and would prohibit the allocation formula from being modified other than through a subsequent ballot measure passed by the voters.²⁴

- **Restrict the state's ability to repeal or reduce certain motor vehicle taxes.** Currently, the Legislature may reduce or repeal state taxes on gasoline and diesel fuel with a majority vote of each house. In fact, as noted above, the Legislature exempted gasoline from the state sales tax and reduced the excise tax on diesel fuel as part of the March 2010 fuel tax swap. Proposition 22 would restrict the state's ability to reduce or eliminate certain motor vehicle fuel taxes, to replace those taxes with alternative taxes, and to change the formula used to allocate the revenues raised by the alternative taxes. Specifically, the measure states that if the Legislature reduces or repeals the excise tax on motor vehicle fuels – revenues that must be deposited into the HUTA – “and adopts an alternative source of revenue to replace the moneys derived from those taxes, the replacement revenue” must be deposited into the HUTA and allocated according to the formula in effect as of June 30, 2009. Proposition 22 – which was drafted before the fuel tax swap was enacted – includes an identical restriction with respect to Proposition 42 sales tax revenues, which had to be deposited into the TIF before gasoline was exempted from the state sales tax and those revenues ceased to exist effective July 1, 2010.²⁵
- **Provide reimbursement if the state violates a provision of the measure.** Proposition 22 would require the state to repay, with interest and within 30 days, any revenues that a court determines to have been “unlawfully taken or diverted.”²⁶ Funds for reimbursement would come from the state's General Fund and would not be subject to legislative approval.
- **Repeal conflicting statutes.** Proposition 22 would repeal “any statute passed by the Legislature” between October 21, 2009 and November 2, 2010 that conflicts with the measure – a provision that could essentially invalidate key provisions of the fuel tax swap enacted in March 2010.

What Policy Issues Are Raised by Proposition 22?

Proposition 22 would permanently restrict the state's authority over a broad range of revenues, including eliminating the state's ability to borrow or shift local revenues and certain state revenues. Therefore, the measure raises a number of significant policy issues.

What Would Proposition 22 Mean for the Fuel Tax Swap?

As noted above, the state enacted a complex fuel tax swap in March 2010 (Appendix B). This change allowed the Legislature to create ongoing state General Fund savings by using a substantial share of gasoline excise tax revenues to pay debt service on voter-approved transportation bonds – costs that previously were paid with General Fund dollars. The relationship between Proposition 22 and the fuel tax swap is complicated, partly because proponents drafted the measure before the swap was enacted. Therefore, proponents did not anticipate key components of the fuel tax swap, such as exempting gasoline from the state sales tax and increasing the state's gasoline excise tax. In addition, Proposition 22 would repeal conflicting laws passed on or after October 21, 2009, and it is uncertain how the courts would interpret this provision with respect to the fuel tax swap. Nonetheless, it is clear that Proposition 22 would:

- **Jeopardize the \$650 million loan from fuel tax revenues to the General Fund in 2010-11.** The fuel tax swap set aside \$650 million of revenues raised by the additional excise tax rate on gasoline in 2010-11 “for future appropriation by the Legislature.”²⁷ The Legislature's Budget Conference Committee assumes a loan of that magnitude to help close the state's 2010-11 budget shortfall.²⁸ Proposition 22, however, prohibits the state from borrowing these revenues. Therefore, the loan would be prohibited if Proposition 22 passed. Despite this restriction, the state could potentially borrow a portion of the \$650 million – perhaps in the range of \$200 million – before November 2, the date on which Proposition 22 would take effect.²⁹ Even under this scenario, however, the state would lose approximately \$450 million in budget “solutions” in 2010-11 and would have to fill the resulting gap with alternative actions, such as cutting education, public safety, and health care spending more deeply or raising taxes.
- **Jeopardize the state's ability to use gasoline excise tax revenues to pay \$1 billion in annual debt service on voter-approved transportation bonds.** The fuel tax swap uses a portion of gasoline excise tax revenues to reimburse the state's General fund for all debt-service payments related to Proposition 192 of 1996 – which authorized the state to sell \$2.0 billion in general obligation (GO) bonds – and three-quarters of debt-service payments related to Proposition 1B of 2006 – which authorized the state to sell \$19.9 billion in GO bonds.³⁰ These costs are expected to increase substantially in the near future, rising from \$603 million in 2010-11 to \$1.0 billion in 2013-14 and remaining above \$1 billion for a number of years.³¹ Consequently, the fuel tax swap significantly reduces pressure on the General Fund

by shifting the cost of these payments to a transportation-specific revenue source: the excise tax on gasoline. However, Proposition 22 includes two significant changes that would prevent the state from using gasoline excise tax revenues to pay some, and possibly all, debt service on Proposition 192 bonds and Proposition 1B bonds. As a result, the state would have to make up the difference from the General Fund – a cost that could exceed \$1 billion per year. Specifically, Proposition 22 would:

- **Prohibit the state from using gasoline excise tax revenues to pay debt service on bonds sold before November 2, 2010.** California has sold all of the bonds authorized by Proposition 192 of 1996, with \$1.5 billion in bonds currently outstanding. In addition, nearly \$7.0 billion in Proposition 1B bonds are currently outstanding. If Proposition 22 passes, the state could not use gasoline excise tax revenues to pay annual debt service on the \$1.5 billion of outstanding Proposition 192 bonds and on \$5.2 billion – three-quarters – of the nearly \$7.0 billion of outstanding Proposition 1B bonds and would have to make up the difference from the General Fund.³²
- **Require the state's voters to approve using gasoline excise tax revenues to pay debt service on transportation bonds sold on or after November 2, 2010.** Nearly \$13.0 billion of bonds authorized by Proposition 1B of 2006 have not been issued, but are expected to be sold in coming years, adding to the state's debt-service costs.³³ Proposition 22 would require the state to go back to the voters – who already approved Proposition 1B in November 2006 – and ask to use gasoline excise tax revenues to pay debt service on three-quarters of Proposition 1B bonds sold on or after November 2, 2010. If voters rejected using gasoline excise tax revenues for that purpose, the state would be required to pay – from the General Fund – debt service on all Proposition 1B bonds sold on or after November 2, 2010.
- **Prohibit the state from using PTA funds to repay rail- and transit-related bonds.** The fuel tax swap used \$140 million of PTA funds in 2009-10 and another \$254 million in 2010-11 to pay debt-service costs on three voter-approved rail- and transit-related bonds: Proposition 108 of 1990, Proposition 1A of 2008, and one-quarter of the bonds authorized by Proposition 1B of 2006.³⁴ The fuel tax swap did not use PTA funds to pay debt service on these bonds after 2010-11, although current state law does not explicitly prohibit the state from doing so.³⁵ In contrast, Proposition 22 would prohibit the state from using PTA funds to pay debt

service on any voter-approved bonds. This change not only would jeopardize the use of PTA funds to pay debt-service costs in 2010-11 – as provided by the fuel tax swap – but would eliminate the Legislature’s option to use those funds to pay debt service on voter-approved rail- and transit-related bonds in the future.³⁶

- **Change the allocation of PTA funds established by the fuel tax swap.** Proposition 22 would *reduce* local transit agencies’ share of PTA funds from 75 percent to 50 percent and *increase* the state’s share from 25 percent to 50 percent, relative to current law. This outcome would occur because the state and local transit agencies each received 50 percent of PTA funds at the time that Proposition 22 was drafted, and the measure’s proponents intended to lock that allocation into the state Constitution. However, the Legislature subsequently increased local transit agencies’ share of PTA funds to 75 percent as part of the March 2010 fuel tax swap, a change that was not anticipated by the proponents of Proposition 22.

In addition, Proposition 22 could:

- **Jeopardize a key funding formula established by the fuel tax swap.** The fuel tax swap exempted gasoline from the state sales tax, increased the state excise tax on gasoline, and reallocated the revenues raised by the additional excise tax rate relative to prior law. As part of this transaction, the Legislature made two significant changes to the allocation of fuel tax revenues. First, it dedicated a portion of the new gasoline excise tax revenues to pay debt service on voter-approved transportation bonds and designated these payments as the top priority for the new revenues.³⁷ Second, the Legislature did not explicitly provide a share of the new excise tax revenues for public transportation.³⁸ In contrast, under the prior allocation of gasoline *sales tax* revenues, some of those revenues were directly deposited into the PTA to be used for public transportation, with the remainder transferred from the state’s General Fund to the TIF to be used for a range of transportation purposes – including public transportation – as required by Proposition 42 of 2002. In addition, gasoline sales tax revenues that were deposited into the PTA could be used to pay debt service on voter-approved transportation bonds.³⁹

The fuel tax swap’s reallocation of these funds could conflict with Proposition 22’s provision regarding “replacement revenue” – which applies to gasoline sales tax revenues subject to Proposition 42 – with implications for the state’s General Fund.⁴⁰ The measure states that if the Legislature reduces or repeals the state sales tax on gasoline – which the fuel tax swap did – “and adopts an alternative source of

revenue to replace the moneys derived from those taxes, the replacement revenue” must be allocated according to the formula required by Proposition 42 of 2002. The Legislature did not specifically describe the additional excise tax rate as a *replacement* for the repealed sales tax rate. However, a court could find that a portion of the revenues raised by the new excise tax on gasoline effectively “replaced” the Proposition 42 portion of the forgone revenues from the former sales tax on gasoline, and therefore must be allocated according to the Proposition 42 formula. Such a ruling could require the state to revise the allocation formula established by the fuel tax swap. For example, the state could be required to allocate some of the new gasoline excise tax revenues to public transportation, thereby reducing the amount of those revenues available to pay debt service on voter-approved transportation bonds, such as Proposition 1B of 2006.⁴¹ This, in turn, could require the state to pay a greater share of debt-service costs from the General Fund.

The State Constitution Already Strictly Limits the State’s Authority To Use Fuel and Property Tax Revenues

Previous ballot measures have amended the state Constitution to substantially limit the state’s authority to use fuel and property tax revenues to help close a budget shortfall. Specifically:

- Proposition 2 of 1998 allowed the state to borrow motor vehicle fuel revenues – including those deposited into the HUTA and the PTA – only if state General Fund revenues are projected to decline and the Governor declares a fiscal emergency. Loans must be repaid within three years.⁴²
- Proposition 1A of 2004 allowed the state to borrow property tax revenues from local governments only if the Governor proclaims a severe state fiscal hardship and the Legislature approves the loan with a two-thirds vote of each house. Such a loan may occur no more than twice per decade, and the state must repay the loan, with interest, within three years. In addition, the state may not borrow more than 8 percent of each local government’s property tax revenues.⁴³
- Proposition 42 of 2002, as modified by Proposition 1A of 2006, allowed the state to suspend the transfer of gasoline sales tax revenues from the General Fund to the TIF only if the Governor proclaims a severe state fiscal hardship and the Legislature approves the suspension with a two-thirds vote of each house in a stand-alone bill. In addition, Proposition 1A of 2006 allowed the transfer to be suspended no more than twice per decade and required the state to repay the full amount, with interest, within three years.⁴⁴

In short, the state Constitution already constrains the state's authority over fuel and property tax revenues, while providing the state with a modest degree of flexibility to *borrow* these revenues under limited circumstances to help close a budget shortfall. By prohibiting the state from borrowing these revenues under any conditions, Proposition 22 would enact more stringent restrictions than those of prior measures passed by the voters, including Proposition 98 of 1988, which established a minimum funding level for K-12 schools and community colleges. The Legislature may suspend the Proposition 98 guarantee by a two-thirds vote of each house, and the state does not have to repay amounts lost in years when the guarantee is suspended.⁴⁵

Proposition 22 Would Increase the Likelihood That Budget Shortfalls Would Be Closed With Spending Cuts

Proposition 22 would limit the Legislature's options to address state budget shortfalls by prohibiting the state from borrowing or redirecting various revenues as part of a budget agreement. In 2009, for example, the Legislature borrowed \$1.9 billion in property tax revenues from local governments and shifted \$2.1 billion from redevelopment agencies to help close the state's substantial budget gap. If Proposition 22 had been in effect, the state would have been prohibited from redirecting those funds and would have had to find \$4 billion in alternative "solutions" to close the shortfall, potentially including deeper cuts to state spending and/or additional taxes. In short, Proposition 22 would further constrain the state's already limited options and make it more likely that future budget shortfalls would be closed with spending cuts.

Proposition 22 Would Make It More Difficult for the State To Manage Its Cash Flow

Most state spending occurs in the first half of each fiscal year, while the state receives most of its revenues in the second half. In order to manage this unbalanced cash flow, "the state often borrows funds from various state accounts, including fuel tax funds, on a temporary basis."⁴⁶ Cash-flow borrowing from special funds helps the state meet its spending obligations throughout the year while reducing borrowing costs. Proposition 22's prohibition on short-term borrowing from various transportation accounts, including the HUTA and the PTA, would make it harder for the state to manage its uneven cash flow. If Proposition 22 became law, state officials would have to take alternative – and potentially more costly – actions, such as "borrowing more from private markets," according to the LAO.⁴⁷

Proposition 22 Could Jeopardize the \$2.1 Billion Fund Shift From Redevelopment Agencies

In 2009, redevelopment agencies sued to block the transfer of \$2.1 billion in tax increment revenues to school districts, arguing that the state lacks authority to require such payments.⁴⁸ On May 4, 2010, a Sacramento County Superior Court judge ruled that the shift does not violate the state Constitution, thereby allowing the transfer to proceed.⁴⁹ Redevelopment agencies appealed, and the outcome of the case remains uncertain.⁵⁰ Proposition 22 could shift the balance in favor of redevelopment agencies as the case moves through the judicial system, jeopardizing the \$2.1 billion fund shift. Specifically, the measure declares that "the Legislature has been illegally circumventing Section 16 of Article XVI [of the state Constitution] in recent years by requiring redevelopment agencies to transfer a portion of [their share of property] taxes for purposes other than the financing of redevelopment projects." This declaration clearly is intended to retroactively declare the \$2.1 billion property tax shift to be invalid. "It is possible that this declaration could affect the outcome of the pending litigation regarding these payments," according to the LAO.⁵¹ If California loses this case, the state would have to repay the shifted funds to redevelopment agencies, increasing the state's budget gap by \$2.1 billion.

Proposition 22 Would Lock In the State's Annual Subsidy for Redevelopment

Each year, state General Fund dollars replace property tax dollars that are diverted from school districts to pay for redevelopment.⁵² As recently as 2006-07, the state "paid about \$2.2 billion to school districts to backfill their property tax increment revenue losses."⁵³ About half of that backfill reflects a subsidy to redevelopment agencies. This is because a portion of property tax revenues diverted from school districts is attributable to redevelopment activities, and thus would not be available to schools absent redevelopment. One study, for example, found that redevelopment agencies generated about half of the "tax increment" revenues that they received.⁵⁴ The remainder "resulted from local [growth] trends and would have gone to other jurisdictions in the absence of redevelopment."⁵⁵ Based on that finding, the Senate Local Government Committee concluded that "half of the state General Fund's obligation to backfill school funding [represents] a \$1 billion annual 'involuntary subsidy' to redevelopment agencies."⁵⁶ Moreover, this substantial state subsidy continues for long periods of time, since redevelopment agencies rarely "go out of business." As recently as October

2009, California had more than 400 redevelopment agencies encompassing more than 750 project areas, but only “about two dozen” had been dissolved since 1952, when redevelopment began.⁵⁷ Currently, the Legislature can revise its spending priorities by redirecting the state’s redevelopment subsidy to help close a state budget shortfall – a use that a state court has determined to be consistent with the state Constitution, as noted above. Proposition 22 would constitutionally prohibit such shifts, thereby locking in the state’s substantial subsidy to redevelopment agencies even in tough budget years.⁵⁸

Proposition 22 Would Make It More Difficult for the State To “Realign” Program Responsibilities to Local Governments

The state must reimburse local governments whenever it mandates a new program or a higher level of service.⁵⁹ Currently, the state may provide reimbursement by reallocating VLF revenues raised by the 0.65 percent rate among local governments – for example, by increasing counties’ share and decreasing cities’ share.⁶⁰ Proposition 22, however, would prohibit the state from using VLF revenues raised by the 0.65 percent rate to reimburse local governments for a state mandate. This change would make it more difficult for the Legislature to realign program responsibilities to local governments because the state would no longer have the option to fund realignment by reallocating existing VLF revenues and therefore would have to identify other funding sources, potentially including higher taxes.

Proposition 22 Would Lock In Spending Priorities for Transportation Funds

Proposition 22 would eliminate the Legislature’s ability to change the allocation of HUTA and PTA funds with a majority vote of each house. The Legislature could change the HUTA allocation in effect as of June 30, 2009 only by a two-thirds vote of each house in a stand-alone bill.⁶¹ In addition, the measure would place PTA allocations in the state Constitution and would not allow the Legislature to revise the formula under any circumstances, although the allocation could be changed by the state’s voters through a subsequent ballot measure. These restrictions would make it difficult for the state to change HUTA and PTA allocations in response to changing transportation needs and priorities, effectively locking in current spending priorities.

Proponents Argue

Proponents of Proposition 22, including the League of California Cities and the California Redevelopment Association, argue that state officials “have used loopholes in the law to take billions in taxpayer funds dedicated by the voters to local government and transportation services.... State raids have forced deep cuts to vital local services like 9-1-1 emergency response, police, fire, libraries, senior services, road repairs, and public transportation improvements.... Claims that [Proposition] 22 will hurt school funding are just scare tactics by those who want to continue State raids of local funds.”⁶²

Opponents Argue

Opponents of Proposition 22, including the California Nurses Association and the California Teachers Association, argue that the measure will result in state funding cuts to schools, public safety, and health care. Proposition 22, they argue, “locks protections for redevelopment agencies into the State Constitution forever.... [Those agencies] skim off billions in local property taxes, with much of that money ending up in the hands of local developers.... During the current budget crisis we face throughout our state, why would locking in more budgeting be a smart thing?”⁶³

Conclusion

Observers across the ideological spectrum, including Governor Schwarzenegger, lament the impact of “ballot-box budgeting” on the state’s budget process. Ballot measures have amended the state Constitution to earmark specific revenue sources or set minimum funding levels for specific programs, as well as limited the Legislature’s ability to reallocate revenues to reflect the state’s ever-changing needs and priorities. It is widely recognized that ballot-box budgeting has restricted the Legislature’s flexibility and contributed to the state’s persistent budget shortfalls. Nonetheless, advocates continue to pursue changes at the ballot box in order to shield their programs from the impact of the state’s ongoing budget crisis and, more generally, to reduce the uncertainty of the state budget process by reducing or eliminating the Legislature’s authority over certain revenues. To the extent that this trend continues, the Legislature will be left with extremely limited discretion to address budget shortfalls, and any discretion that remains is likely to be limited to core operations of government, such as tax collection, the court system, and health and human services.

Scott Graves prepared this Budget Brief. The California Budget Project (CBP) neither supports nor opposes Proposition 24. This Budget Brief is designed to help voters reach an informed decision based on the merits of the issues. The CBP was founded in 1994 to provide Californians with a source of timely, objective, and accessible expertise on state fiscal and economic policy issues. The CBP engages in independent fiscal and policy analysis and public education with the goal of improving public policies affecting the economic and social well-being of low- and middle-income Californians. General operating support for the CBP is provided by foundation grants, subscriptions, and individual contributions. Please visit the CBP's website at www.cbp.org.

Appendix A

A Comparison of Key Provisions of Proposition 22 to Current Law

Key Provisions of Proposition 22 Compared to Current Law		
Property Taxes: Redevelopment Agencies		
	Current Law	Proposition 22
Allocation	<p>State law allows cities and counties to establish redevelopment agencies to help eliminate “blight” in a designated area.</p> <p>Redevelopment agencies receive most of the growth in property tax revenues attributable to property value increases (the “tax increment”) in the project area.</p> <p>A portion of tax increment revenues must be shared with other local agencies, including counties and school districts, and at least 20 percent must be used to preserve, improve, or expand the supply of affordable housing.</p> <p>The state periodically requires redevelopment agencies to shift additional tax increment revenues to school districts. Such a shift allows the state to reduce General Fund spending to help close a budget shortfall.</p> <p>The July 2009 budget agreement required redevelopment agencies to make two such transfers totaling \$2.1 billion – \$1.7 billion in 2009-10 and \$350 million in 2010-11. Redevelopment agencies sued to block these transfers. On May 4, 2010, a Sacramento County Superior Court judge ruled that the transfers do not violate the state Constitution. Redevelopment agencies filed an appeal on August 30, 2010, and this appeal was still pending at the time of publication.</p>	<p>Prohibits the Legislature from shifting redevelopment agency revenues to school districts or other agencies, except to make payments required as of January 1, 2008 or to increase, improve, or preserve the supply of affordable housing.</p> <p>Declares that “the Legislature has been illegally circumventing Section 16 of Article XVI [of the state Constitution] in recent years by requiring redevelopment agencies to transfer a portion of [their share of property] taxes for purposes other than the financing of redevelopment projects.” This language is intended to retroactively declare the \$2.1 billion fund shift – which is subject to litigation initiated by redevelopment agencies – to be invalid.</p> <p>It is unclear how these provisions would affect the \$2.1 billion fund shift. Proposition 22’s declaration that such shifts are illegal “could affect the outcome of the pending litigation regarding these payments,” according to the Legislative Analyst’s Office (LAO).</p>

Key Provisions of Proposition 22 Compared to Current Law

Property Taxes: Cities, Counties, and Special Districts

	Current Law	Proposition 22
Allocation	<p>Prior to Proposition 13 of 1978, cities, counties, school districts, and other local agencies had the authority to impose property tax rates. Property owners paid a total rate equal to the sum of the rates of each jurisdiction in which the property was located.</p> <p>Proposition 13 amended the state Constitution to cap the countywide property tax rate at 1 percent and gave the Legislature responsibility for allocating the proceeds of the property tax among local agencies in the county in which a property is located.</p> <p>Proposition 1A of 2004 amended the state Constitution to restrict the state's ability to reallocate property tax revenues in a county. For example, the measure requires a two-thirds vote of each house of the Legislature to reallocate property taxes <i>among</i> local governments – cities, the county government, and special districts – within a county.</p> <p>Proposition 1A also strictly limits the state's ability to reallocate property taxes <i>between</i> local governments and educational agencies – school districts, community colleges, and county offices of education – in a county and requires the state to repay, with interest, any amounts shifted. Reallocating property taxes in this manner allows the state to reduce General Fund spending to help close a budget shortfall.</p> <p>Specifically, the state may temporarily reallocate property taxes from local governments to educational agencies if the Governor proclaims a severe state fiscal hardship and the Legislature approves the shift by a two-thirds vote of each house. Property tax revenues shifted from local governments must be repaid – with interest – within three years, and such a shift may occur no more than twice in a 10-year period.</p> <p>In 2009, the Legislature borrowed 8 percent of each local government's property taxes – the maximum allowed by Proposition 1A – for a total statewide shift of \$1.9 billion in 2009-10.</p>	<p>Eliminates the state's ability to temporarily reallocate property taxes from local governments to educational agencies. Consequently, the state could no longer borrow local property tax revenues to help close a budget gap.</p>

Key Provisions of Proposition 22 Compared to Current Law

State Excise Tax on Gasoline and Diesel Fuel		
	Current Law	Proposition 22
Rate	<p>The Legislature imposes a per-gallon excise tax rate on gasoline and diesel fuel.</p> <p>The Legislature increased the excise tax rate on gasoline from \$0.180 per gallon to \$0.353 per gallon effective July 1, 2010 and exempted gasoline from the General Fund portion of the state sales tax (see below). The additional excise tax rate on gasoline – \$0.173 per gallon in 2010-11 – will be adjusted annually starting in 2011-12 so that revenues raised will equal the revenues that would have been raised by the General Fund portion of the state sales tax on gasoline.</p> <p>The excise tax rate on diesel fuel is currently \$0.180 per gallon. The Legislature decreased this rate to \$0.136 per gallon and increased the state's sales tax rate on diesel fuel by 1.75 percentage points effective July 1, 2011 (see below). The excise tax rate on diesel fuel will be adjusted annually starting in 2012-13 so that the revenue loss will equal the revenue gain attributable to the increased state sales tax on diesel fuel.</p> <p>These changes were enacted in March 2010 as part of a complex "fuel tax swap."</p>	No change.

Key Provisions of Proposition 22 Compared to Current Law

State Excise Tax on Gasoline and Diesel Fuel

	Current Law	Proposition 22
Allocation	<p>All revenues are deposited into the Highway Users Tax Account (HUTA).</p> <p>Revenues from the first \$0.18 per gallon of the excise tax on gasoline and <i>all</i> revenues from the excise tax on diesel fuel are allocated as follows: Two-thirds for state highway maintenance and repairs and one-third to cities and counties for local streets and roads.</p> <p>The portion of the excise tax on gasoline added by the fuel tax swap – \$0.173 per gallon in 2010-11 – is also deposited into the HUTA, but is distributed using a different formula. This portion of the excise tax on gasoline provides ongoing funding for:</p> <ul style="list-style-type: none"> • All annual debt-service payments related to Proposition 192 of 1996 bonds and three-quarters of annual debt-service payments related to Proposition 1B of 2006 bonds; • The State Highway Operation and Protection Program (SHOPP) and the State Transportation Improvement Program (STIP); and • Cities and counties for local streets and roads. <p>The Legislature may amend HUTA allocations by a majority vote of each house.</p> <p>The Legislature may authorize the state, cities, and counties to use up to 25 percent of their share of HUTA funds to pay debt service on voter-approved transportation bonds.</p> <p>The state Constitution allows the state to borrow HUTA funds for cash-flow purposes. In addition, the state may borrow these funds for a longer period if the Governor declares a fiscal emergency or if General Fund revenues are projected to decline after adjusting for inflation and population growth. The state must repay borrowed funds within three years, but does not have to pay interest.</p>	<p>Prohibits revenues deposited into the HUTA from being permanently or temporarily loaned to the state's General Fund or any other state fund, including for cash-flow purposes.</p> <p>Prohibits the Legislature from modifying HUTA allocation formulas in effect as of June 30, 2009 unless the California Transportation Commission (CTC) holds public hearings and the Legislature approves the change by a two-thirds vote of each house in a stand-alone bill.</p> <p>Imposes new restrictions on the state's use of HUTA funds. The state could use its share of HUTA funds to pay debt service on voter-approved transportation bonds only if the bonds were issued by the state "on and after" November 2, 2010 and if voters approved using HUTA funds for such a purpose.</p> <p>Allows a city or county to use up to 25 percent of its share of HUTA funds to pay debt service on voter-approved transportation bonds issued by that jurisdiction without seeking subsequent voter approval and regardless of when the bonds were issued.</p> <p>Declares that if the Legislature reduces or repeals excise taxes on motor vehicle fuels and "adopts an alternative source of revenue to replace the moneys derived from those taxes," the replacement revenue must be deposited into the HUTA and allocated to cities, counties, and the state according to the statutory formula in effect as of June 30, 2009.</p>

Key Provisions of Proposition 22 Compared to Current Law

State Sales Tax on Diesel Fuel		
	Current Law	Proposition 22
Rate	The Legislature imposes and sets a tax on the sale and use of goods, including diesel fuel. The Legislature established an additional sales tax rate of 1.75 percent on diesel fuel effective July 1, 2011 as part of the fuel tax swap.	No change.
Allocation	<p>State law requires most of the revenues raised by the state sales tax on diesel fuel – including the 1.75 percentage point increase effective July 1, 2011 – to be deposited quarterly into the Public Transportation Account (PTA).</p> <p>State law requires PTA funds to be used for “transportation planning and mass transportation purposes, as specified by the Legislature.”</p> <p>Historically, local transit agencies received 50 percent of PTA funds and the state received the remaining 50 percent for intercity rail and other state and regional public transportation projects. However, the Legislature changed the statutory allocation formula as part of the fuel tax swap. Beginning in 2011-12, local transit agencies will receive 75 percent of PTA funds and the state will receive 25 percent.</p> <p>The Legislature may amend PTA allocations by a majority vote of each house, subject to certain court-imposed limitations.</p> <p>The Legislature may use PTA funds to pay debt service on voter-approved rail- and transit-related bonds, subject to certain court-imposed limitations.</p> <p>The state Constitution allows the state to borrow PTA funds for cash-flow purposes. In addition, the state may borrow these funds for a longer period if the Governor declares a fiscal emergency or if state revenues are projected to decline. The state must repay these funds within three years, but does not have to pay interest.</p>	<p>Amends the state Constitution to reflect the current statutory requirement that most diesel fuel sales tax revenues be deposited quarterly into the PTA. However, the measure does not specifically address revenues raised by the additional 1.75 percent sales tax rate on diesel fuel scheduled to take effect on July 1, 2011.</p> <p>Prohibits PTA revenues from being permanently or temporarily loaned to the state’s General Fund or any other state fund, including for cash-flow purposes.</p> <p>Specifies in the state Constitution that PTA funds must be used for “transportation planning and mass transportation purposes,” and defines those terms.</p> <p>Maintains the historical allocation of PTA funds by amending the state Constitution to require 50 percent of PTA funds to go to local transit agencies and 50 percent to the state. This change would reverse the new allocation established as part of the fuel tax swap. Moreover, the allocation required by Proposition 22 could not be changed without voter approval.</p> <p>Prohibits the state from using PTA funds to pay debt service on voter-approved bonds.</p>

Key Provisions of Proposition 22 Compared to Current Law

State Sales Tax on Gasoline		
	Current Law	Proposition 22
Rate	The Legislature exempted gasoline from the General Fund portion of the state sales tax effective July 1, 2010 as part of the fuel tax swap.	No change.
Allocation – Proposition 42 of 2002	<p>Historically, most revenues raised by the state sales tax on gasoline were deposited into the state General Fund. These revenues funded a range of programs, including education, with only a small share used for transportation purposes. Proposition 42 of 2002 amended the state Constitution to dedicate the portion of gasoline sales tax revenues deposited into the General Fund to transportation purposes. These revenues ceased to exist when the Legislature exempted gasoline from the General Fund portion of the state sales tax.</p> <p>Proposition 42 required gasoline sales tax revenues to be transferred from the General Fund to the Transportation Investment Fund (TIF) and allocated as follows: 40 percent to the STIP, 40 percent to cities and counties for local streets and roads, and 20 percent to the PTA for public transportation. The Legislature could amend these allocations by a two-thirds vote of each house in a stand-alone bill.</p> <p>The state could suspend the transfer to the TIF only if the Governor declared a severe state fiscal hardship and the Legislature approved the suspension by a two-thirds vote of each house in a stand-alone bill.</p> <p>Proposition 1A of 2006 further restricted the state’s ability to suspend the transfer. The measure required the state to repay the full amount suspended – with interest – within three years and prohibited the state from suspending the transfer more than twice in a 10-year period.</p> <p>Proposition 42 revenues were counted as General Fund revenues for the purpose of calculating the Proposition 98 guarantee for K-14 education. These revenues increased the state’s Proposition 98 obligation despite the fact that they were required to be used to fund transportation programs and could not be used to support schools.</p>	<p>Requires Proposition 42 revenues to be deposited directly into the TIF, rather than first being deposited into the state General Fund. This provision would become operative if the General Fund portion of the state sales tax on gasoline were reinstated or if a court determined that the Legislature had adopted an alternative source of revenues to replace the revenues formerly raised by the General Fund portion of the state sales tax on gasoline (see below). It is unclear whether depositing Proposition 42 revenues directly into the TIF would affect calculations of the Proposition 98 funding guarantee for K-14 education.</p> <p>Prohibits the state from permanently or temporarily borrowing or redirecting – including for cash-flow purposes – any revenues that would otherwise be deposited into the TIF.</p> <p>Prohibits the Legislature from modifying the TIF allocation formula unless the CTC holds public hearings and the Legislature approves the change by a two-thirds vote of each house in a stand-alone bill.</p> <p>Declares that if the Legislature reduces or repeals the state sales tax on gasoline and “adopts an alternative source of revenue to replace the moneys derived from those taxes,” the replacement revenue must be deposited into the TIF and allocated as required by the state Constitution.</p>

Key Provisions of Proposition 22 Compared to Current Law

State Sales Tax on Gasoline		
	Current Law	Proposition 22
Allocation – Proposition 111 of 1990	<p>The state sales tax on gasoline was applied to the entire purchase price, including the base price and the per-gallon state excise tax. Proposition 111 of 1990 doubled the state excise tax from \$0.09 per gallon to \$0.18 per gallon, thereby increasing the sales tax revenues raised from each gallon of gasoline sold. State law – but not the state Constitution – requires these additional sales tax revenues to be deposited quarterly into the PTA.</p> <p>These revenues ceased to exist when the Legislature exempted gasoline from the General Fund portion of the state sales tax.</p>	<p>Amends the state Constitution to reflect the current statutory requirement that Proposition 111 revenues be deposited quarterly into the PTA. This provision would become operative if the General Fund portion of the state sales tax on gasoline were reinstated.</p>
Allocation – “Spillover”	<p>State law – but not the state Constitution – requires a certain portion of revenues from the state sales tax on gasoline, when available, to be deposited quarterly into the PTA. This portion – known as “spillover” – reflects “net revenue from [a] 4.75 percent sales tax on gasoline in excess of [a] 0.25 percent sales tax on all other goods,” according to the LAO.</p> <p>These revenues ceased to exist when the Legislature exempted gasoline from the General Fund portion of the state sales tax.</p>	<p>Amends the state Constitution to reflect the current statutory requirement that spillover revenues be deposited quarterly into the PTA. This provision would become operative if the General Fund portion of the state sales tax on gasoline were reinstated.</p>

Key Provisions of Proposition 22 Compared to Current Law

Vehicle License Fee		
	Current Law	Proposition 22
Rate	The Legislature sets the Vehicle License Fee (VLF) rate, which is applied to the depreciated value of cars and trucks. The VLF rate includes a 0.65 percent base rate and a temporary rate of 0.5 percent that expires on June 30, 2011.	No change.
Allocation	<p>The state Constitution requires VLF revenues raised by the 0.65 percent rate to be distributed to cities and counties. The Legislature may reallocate these revenues to reimburse a local government – counties, for example – for the cost of providing a new program or a higher level of service mandated by the state.</p> <p>Approximately one-third of the temporary 0.5 percent VLF rate is allocated to local public safety programs, with the remainder deposited into the state’s General Fund.</p>	Eliminates the state’s ability to reallocate revenues raised by the 0.65 percent rate to reimburse local governments for a new program or a higher level of service mandated by the state.
Other Local Revenues		
	Current Law	Proposition 22
Local Taxes	Local governments – including counties, “general law” cities, and special districts – may only impose a tax if the Legislature authorizes them to do so. Only “charter” cities may impose taxes without legislative authorization under the state Constitution’s “municipal affairs” doctrine. Local governments impose a range of taxes, including the local portion of the sales tax, business license taxes, and utility user taxes.	Prohibits the Legislature from reallocating, transferring, borrowing, appropriating, restricting the use of, or otherwise using “the proceeds of any tax imposed or levied by a local government solely for the local government’s purposes.”

Appendix B

What Is the Fuel Tax Swap?

On March 22, 2010, Governor Schwarzenegger signed ABX8 6 (Committee on Budget) and ABX8 9 (Committee on Budget), which significantly change how California funds state and local transportation programs.⁶⁴ ABX8 6 implemented a complex “fuel tax swap,” and ABX8 9 allocated the new revenues raised as part of the swap among the state, cities, counties, and local transit agencies. In particular, the swap allowed the state to use a larger share of fuel tax revenues to pay debt service on voter-approved transportation bonds, resulting in significant ongoing General Fund savings. The key components of the fuel tax swap and related changes are described below.

The Legislature Increased Two Fuel Tax Rates and Reduced Two Others

ABX8 6 exempted gasoline from the state sales tax and increased the excise tax on gasoline by \$0.173 per gallon – from \$0.180 per gallon to \$0.353 per gallon – effective July 1, 2010 (Table 1).⁶⁵ In addition, this bill increased the state sales tax on diesel fuel by 1.75 percentage points and reduced the diesel fuel excise tax from \$0.180 per gallon to \$0.136 per gallon effective July 1, 2011.⁶⁶ The new tax rates will be adjusted annually in order to ensure that the fuel tax swap remains “revenue neutral,” meaning that total state revenues raised each year will be equal to those that would have been raised under prior law.⁶⁷

Table 1: How Did the Fuel Tax Swap Change Motor Vehicle Fuel Tax Rates?

	State Sales Tax	State Excise Tax
Gasoline	Gasoline was exempted from the General Fund rate effective July 1, 2010.	The rate increased from \$0.180 per gallon to \$0.353 per gallon effective July 1, 2010, subject to annual adjustments.
Diesel Fuel	The General Fund rate will increase by 1.75 percentage points effective July 1, 2011.	The rate will be reduced from \$0.180 per gallon to \$0.136 per gallon effective July 1, 2011, subject to annual adjustments.

Note: The February 2009 budget agreement temporarily increased the General Fund sales tax rate by 1.0 percentage point – from 5.0 percent to 6.0 percent – between April 1, 2009 and June 30, 2011.

Source: ABX8 6 (Committee on Budget, Chapter 11 of 2009-10 Eighth Extraordinary Session)

Exempting gasoline from the state sales tax was the first key component of the fuel tax swap. This is because the Legislature was no longer bound by a number of funding restrictions and requirements – all of which remain in state law or in the state Constitution – that applied to revenues raised by the sales tax on gasoline, including:

- **The Proposition 42 transfer to the Transportation Investment Fund (TIF).** Historically, most revenues raised by the state sales tax on gasoline were deposited into the state’s General Fund. Those revenues funded a range of programs, including education, with only a small share used for transportation purposes. Proposition 42 of 2002 amended the state Constitution to dedicate the portion of gasoline sales tax revenues deposited into the General Fund to transportation.⁶⁸ Specifically, Proposition 42 required those revenues to be transferred from the General Fund to the TIF to be used for highways, streets and roads, and public transportation. In addition, Proposition 1A of 2006 limited the state’s ability to suspend the Proposition 42 transfer and required the state to repay suspended amounts with interest.
- **The Proposition 111 transfer to the Public Transportation Account (PTA).** The state sales tax on gasoline was applied to the entire purchase price, including the base price and the per-gallon state excise tax. Proposition 111 of 1990 doubled the state *excise tax* from \$0.09 per gallon to \$0.18 per gallon, thereby increasing the *sales tax* revenues raised from each gallon of gasoline sold.⁶⁹ State law required most of those additional sales tax revenues to be deposited into the PTA to be used solely for transportation planning and mass transportation purposes.⁷⁰
- **The transfer of “spillover” revenues to the PTA.** State law requires an additional portion of gasoline sales tax revenues, when available, to be deposited into the PTA.⁷¹ This portion – known as “spillover” – reflects “net revenue from [a] 4.75 percent sales tax on gasoline in excess of [a] 0.25 percent sales tax on all other goods,” according to the Legislative Analyst’s Office (LAO).⁷² For example, spillover revenues could occur when the price of gasoline rises faster than the prices of other taxable goods combined. Although spillover revenues were required to be deposited into the PTA, the Legislature periodically used those revenues to offset

state General Fund costs and help close state budget gaps. In 2007-08, for instance, the Legislature used \$1.3 billion in spillover revenues to pay for a number of transportation-related costs that historically had been paid from the General Fund, including transporting students to school and paying debt service on voter-approved transportation bonds.⁷³ The California Transit Association filed a lawsuit challenging the state's use of spillover revenues, and in June 2009 a state appellate court ruled that the Legislature could not divert spillover revenues to offset General Fund spending.⁷⁴

Increasing the excise tax rate on gasoline was the second key component of the fuel tax swap. This increase allowed the state to maintain consistent funding for transportation programs – by offsetting forgone state sales tax revenues – while modifying the allocation of those revenues. In particular, the state used the new revenues raised by the additional excise tax on gasoline to boost funding for highways, streets, and roads and to reimburse the General Fund for annual debt-service costs on voter-approved transportation bonds – costs that are projected to exceed \$1 billion per year in the near future.

A Portion of the Additional Excise Tax Rate on Gasoline Will Fund Annual Debt Service on Voter-Approved Transportation Bonds

The first priority for revenues raised by the new excise tax on gasoline – \$0.173 per gallon in 2010-11 – is payment of debt service on voter-approved transportation bonds. These costs would otherwise be repaid from the state's General Fund.⁷⁵ Specifically, these revenues will reimburse the state's General Fund for all debt-service payments related to Proposition 192 of 1996 and three-quarters of debt-service payments related to Proposition 1B of 2006.⁷⁶ These costs are expected to increase substantially in the near future, rising from \$603 million in 2010-11 to \$1.0 billion in 2013-14 and remaining above \$1 billion for a number of years (Table 2).⁷⁷ Consequently, the fuel tax swap significantly reduces pressure on the state's General Fund by shifting the cost of these payments to a transportation-specific revenue source – the excise tax on gasoline.⁷⁸

In addition, the Legislature set aside \$650 million of new gasoline excise tax revenues in 2010-11 for a loan to the General Fund to help close the state's budget shortfall.⁷⁹ Beginning in 2011-12, the remaining revenues raised by the additional excise tax rate on gasoline will be divided among the State Transportation Improvement Program (STIP) for transportation capital improvement projects, the State Highway Operation and Protection Program (SHOPP) for highway maintenance, and cities and counties for streets and roads. Overall, the fuel tax swap is estimated to increase funding for highways, streets, and roads by approximately \$420 million in 2011-12 and by \$3 billion over 10 years.⁸⁰

Table 2: How Will Revenues From the Additional Excise Tax Rate on Gasoline Be Allocated?

	2010-11	2011-12 and Beyond
"First Call" on Revenues Raised by the Additional Excise Tax Rate		
Reimburse General Fund for Debt-Service Payments on Certain Voter-Approved Transportation Bonds*	\$603 million	\$727 million in 2011-12, exceeding \$1 billion by 2013-14
Set Aside for Loan to General Fund	\$650 million	\$0
Allocation of Remaining Revenues Raised by the Additional Excise Tax Rate		
State Transportation Improvement Program (STIP)	50 percent	44 percent
State Highway Operation and Protection Program (SHOPP)	0 percent	12 percent
Cities and Counties for Streets and Roads	50 percent	44 percent

* Reflects all debt-service payments related to Proposition 192 of 1996 and three-quarters of debt-service payments related to Proposition 1B of 2006.

Note: Reflects the allocation of revenues raised by the additional excise tax rate on gasoline that took effect July 1, 2010. The base excise tax rate on gasoline – \$0.180 per gallon – is subject to a different allocation as outlined in the California Streets and Highways Code, Sections 2104 to 2108. The fuel tax swap did not change the allocation of revenues raised by the base excise tax on gasoline.

Source: ABX8 9 (Committee on Budget, Chapter 12 of 2009-10 Eighth Extraordinary Session), Senate Floor analysis of ABX8 9 (March 3, 2010), and Legislative Analyst's Office

The Fuel Tax Swap Increased PTA Funding for Local Transit Agencies

Beginning in 2011-12 – when the state sales tax rate on diesel fuel will increase by 1.75 percentage points – local transit agencies will receive 75 percent of PTA funds, compared to 50 percent under prior law.⁸¹ The state’s share of PTA funds – 25 percent – supports intercity rail and other state and regional transit projects.⁸² In addition, local transit agencies and the state will share other transportation-related revenues that are not subject to Article XIX of the state Constitution – approximately \$72 million per year – in 2011-12 and 2012-13.⁸³ Beginning in 2013-14, the state will receive all of these “non-Article XIX revenues” to support state and regional transit programs. Due to these changes, local transit agencies will receive approximately \$350 million per year between 2011-12 and 2013-14, while the state will receive between \$157 million and \$190 million during this period (Table 3). These funding levels are expected to rise in subsequent years.⁸⁴

	2010-11	2011-12	2012-13	2013-14 and Beyond
Local Transit Agencies	\$400 million*	\$348 million	\$348 million	\$354 million, rising annually thereafter
State and Regional Programs, Including Intercity Rail	\$162 million	\$157 million	\$171 million	\$190 million, rising annually thereafter
Total	\$562 million	\$505 million	\$519 million	\$544 million, rising annually thereafter

* Funding was appropriated from the PTA in 2009-10 for the remainder of 2009-10 as well as for 2010-11.

Note: Starting in 2011-12, funding primarily reflects revenues raised by the state sales tax on diesel fuel. Funding for local transit agencies includes other transportation-related revenues that are not subject to Article XIX of the state Constitution in 2011-12 (\$23 million) and 2012-13 (\$12 million). Funding for the state includes these “non-Article XIX revenues” in 2011-12 (an estimated \$49 million), 2012-13 (an estimated \$60 million), and 2013-14 (an estimated \$72 million). Starting in 2013-14, the state will receive all non-Article XIX revenues to support state and regional transit programs.

Source: ABX8 9 (Committee on Budget, Chapter 12 of 2009-10 Eighth Extraordinary Session), Senate Floor analysis of SB 70 (March 22, 2010), and Suter Wallauch Corbett & Associates Government Relations (March 25, 2010)

ENDNOTES

- ¹ Educational agencies also include county offices of education and community college districts.
- ² For a discussion of the Proposition 98 guarantee, see California Budget Project, *School Finance in California and the Proposition 98 Guarantee* (April 2006).
- ³ Borrowed revenues may not exceed 8 percent of each jurisdiction's total property tax revenues for a fiscal year.
- ⁴ The Legislature required that borrowed property tax revenues be deposited into each county's Supplemental Revenue Augmentation Fund – administered by each county office of education – to be used to offset state General Fund costs for specified programs and services. See ABX4 15 (Gaines, Chapter 14 of 2009-10 Fourth Extraordinary Session); Senate Floor analysis of ABX4 15 (July 23, 2009); and Legislative Analyst's Office, *The July 2009 Budget Package* (July 29, 2009), p. 12.
- ⁵ This discussion of redevelopment agencies is based on Grant Boyken, *Rethinking Redevelopment Oversight: Exploring Possibilities for Increasing Local Input* (California Research Bureau: April 2007), pp. 5-6 and Senate Local Government Committee analysis of SB 1771 (April 10, 2008).
- ⁶ Legislative Analyst's Office, letter to California Attorney General Edmund G. Brown Jr. analyzing the fiscal effects of the proposed constitutional initiative, A.G. File No. 09-0063, Amdt. #1-NS (December 4, 2009), p. 3.
- ⁷ See ABX4 26 (Committee on Budget, Chapter 21 of 2009-10 Fourth Extraordinary Session).
- ⁸ The Legislature required redevelopment agency revenues to be deposited into each county's Supplemental Educational Revenue Augmentation Fund for use by school districts located partially or entirely within a redevelopment project area. In turn, school districts were required to shift an equivalent amount of property tax revenues to each county's Supplemental Revenue Augmentation Fund to offset state General Fund costs for specified programs and services. See ABX4 26 (Committee on Budget, Chapter 21 of 2009-10 Fourth Extraordinary Session), Assembly Floor analysis of ABX4 26, and ABX4 15 (Gaines, Chapter 14 of 2009-10 Fourth Extraordinary Session).
- ⁹ On May 4, 2010, a Sacramento County Superior Court judge ruled – in *California Redevelopment Association v. Genest* – that the transfers do not violate the state Constitution. Redevelopment agencies appealed the ruling on August 30, 2010.
- ¹⁰ “The main uses of state fuel tax revenues are (1) constructing and maintaining highways, streets, and roads and (2) funding transit and intercity rail services.” Legislative Analyst's Office, “Proposition 22: Prohibits the State From Borrowing or Taking Funds Used for Transportation, Redevelopment, or Local Government Projects and Services. Initiative Constitutional Amendment. Analysis by the Legislative Analyst,” in Secretary of State's Office, *California General Election Tuesday, November 2, 2010: Official Voter Information Guide*, p. 32, downloaded from <http://voterguide.sos.ca.gov/pdf/english/complete-vig.pdf> on August 18, 2010.
- ¹¹ The gasoline excise tax rate will be adjusted annually. The Legislature exempted gasoline from the General Fund portion of the state sales tax, which is currently 6.0 percent and is scheduled to drop to 5.0 percent on July 1, 2011. This change did not affect the various additional components of state and local sales tax rates, including the 0.50 percent rate that provides dedicated funding for health and human services programs that were “realigned” to counties in 1991; the 0.50 percent rate that provides dedicated funding to cities and counties for public safety purposes; the 0.25 percent rate that provides dedicated funding for debt service on the Economic Recovery Bonds authorized by Proposition 57 of 2004; the local “Bradley-Burns” rate; and optional local “add-on” rates. See Appendix B for a detailed discussion of the fuel tax swap and related changes to transportation funding.
- ¹² The diesel fuel excise tax rate will be adjusted annually. See Appendix B for a detailed discussion of the fuel tax swap and related changes to transportation funding.
- ¹³ The Proposition 42 transfer remains in the state Constitution despite the fact that the Legislature exempted gasoline from the General Fund portion of the state sales tax – the revenue source that was subject to the transfer.
- ¹⁴ Legislative Analyst's Office, “Proposition 22: Prohibits the State From Borrowing or Taking Funds Used for Transportation, Redevelopment, or Local Government Projects and Services. Initiative Constitutional Amendment. Analysis by the Legislative Analyst,” in Secretary of State's Office, *California General Election Tuesday, November 2, 2010: Official Voter Information Guide*, p. 32, downloaded from <http://voterguide.sos.ca.gov/pdf/english/complete-vig.pdf> on August 18, 2010.
- ¹⁵ See California Constitution, Article XIX, Section 6 for the HUTA and Article XIXA, Section 1 for the PTA.
- ¹⁶ California Constitution, Article XIXB, Section 1(d).
- ¹⁷ Senate Local Government Committee, *Revenues and Responsibilities: An Inventory of Local Tax Powers* (December 2007), pp. 2-3, 5, and 8. According to this report, general law cities “rely on state law for their powers and responsibilities” (p. 5).
- ¹⁸ Senate Local Government Committee, *Revenues and Responsibilities: An Inventory of Local Tax Powers* (December 2007), p. 5. According to this report, charter cities operate under local charters that provide “broad powers over municipal affairs” as allowed by Article XI, Section 5 of the state Constitution (p. 5).
- ¹⁹ Current law restricts the use of PTA funds to “transportation planning” and “mass transportation” purposes, but does not define those phrases (California Public Utilities Code, Section 99310.5). Proposition 22 would add definitions to the state Constitution, but neither one would include payment of debt service on voter-approved public rail- and transit-related bonds as an eligible use of PTA funds.
- ²⁰ California Constitution, Article XI, Section 15. The Legislature sets the VLF rate, which is applied to the market value of cars and trucks. The VLF includes a base rate of 0.65 percent and a temporary rate of 0.5 percent that expires on June 30, 2011.
- ²¹ The state Constitution requires the state to reimburse local governments whenever it “mandates a new program or higher level of service on any local government.” See California Constitution, Article XIII B, Section 6 as enacted by Proposition 4 of 1979, which also imposed limits on state and local spending from the proceeds of taxes. This reimbursement requirement was expanded by Proposition 1A of 2004, which defined a state-imposed “mandate” to include “state actions that transfer to local governments financial responsibility for a required program for which the state previously had complete or partial financial responsibility.” Legislative Analyst's Office, “Proposition 1A: Protection of Local Government Revenues – Analysis by the Legislative Analyst,” in Secretary of State's Office, *Official Voter Information Guide: California General Election November 2, 2004 – Supplemental*, p. 6, downloaded from http://vote2004.sos.ca.gov/voterguide/english_supp.pdf on August 19, 2010.
- ²² Proposition 22 contains a similar restriction regarding local property tax revenues, but the state Constitution – as amended by Proposition 1A of 2004 – already prohibits the Legislature from using property tax revenues to reimburse a local government “for the costs of a new program or higher level of service.” See California Constitution, Article XIII, Section 6(a)(3).
- ²³ See California Constitution, Article XIX, Section 3 for the Legislature's authority over HUTA allocations. HUTA allocations are outlined in Sections 2103 through 2108 of the Streets and Highways Code. PTA allocations are outlined in Sections 99312 through 99315 of the Public Utilities Code.
- ²⁴ Proposition 22 also changes the process for reallocating Proposition 42 revenues. Currently, the Legislature may reallocate those revenues with a two-thirds vote of each house in a stand-alone bill. Proposition 22 would add a new step to the process: The California Transportation Commission would have to hold public hearings before the Legislature could vote to change the allocation. See California Constitution, Article XIXB, Section 1(c) for the current Proposition 42 allocation and Article XIXB, Section 1(e) for the Legislature's authority over that allocation.

- ²⁵ Specifically, Proposition 22 states that if the Legislature reduces or repeals the state sales tax on gasoline “and adopts an alternative source of revenue to replace the moneys derived from those taxes, the replacement revenue” must be deposited into the TIF and allocated according to the formula required by the measure.
- ²⁶ Repayment would also be required if a challenge were resolved through a settlement or by administrative or legislative action.
- ²⁷ ABX8 9 (Committee on Budget, Chapter 12 of 2009-10 Eighth Extraordinary Session).
- ²⁸ The 2010-11 budget agreement had not been enacted at the time this analysis was prepared.
- ²⁹ This scenario assumes that the state enacts the 2010-11 budget agreement before November 2, 2010. ABX8 9 (Committee on Budget, Chapter 12 of 2009-10 Eighth Extraordinary Session) – enacted in March 2010 – required that \$54.2 million in revenues raised by the additional excise tax rate on gasoline be held in the HUTA each month in 2010-11. By October 31, 2010, approximately \$217 million – 33.4 percent of the \$650 million – will have been set aside in the HUTA for a loan to the General Fund. Therefore, if the state enacts the 2010-11 budget agreement before November 2, 2010, lawmakers could borrow the funds that have accumulated in the HUTA. However, if Proposition 22 passes on November 2, the state would be prohibited from borrowing more of these HUTA funds in 2010-11. In addition, if a lawsuit were filed challenging the partial loan, a court could interpret Proposition 22 to require the state to repay any amounts borrowed.
- ³⁰ Proposition 192, the “Seismic Retrofit Bond Act of 1996,” authorized the state to sell GO bonds to retrofit state-owned toll and highway bridges. Proposition 1B, the “Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006,” authorized the state to sell GO bonds for a number of transportation purposes, including improving highways, roads, and public transit. Approximately three-quarters of Proposition 1B bonds provide funding for highways and roads.
- ³¹ Legislative Analyst’s Office, *Governor’s Transportation Funding Proposal* (January 21, 2010), p. 3 and personal communication with the LAO (August 25, 2010). The LAO’s estimates reflect total debt-service payments related to Proposition 192 and three-quarters of debt-service payments related to Proposition 1B.
- ³² As noted above, the fuel tax swap uses gasoline excise tax revenues to pay three-quarters of debt-service payments on Proposition 1B bonds, which equals \$5.2 billion of the nearly \$7.0 billion in outstanding Proposition 1B bonds. See California Treasurer’s Office, *Authorized and Outstanding General Obligation Bonds* (August 1, 2010), downloaded from <http://www.treasurer.ca.gov/bonds/debt.asp> on August 25, 2010.
- ³³ California Treasurer’s Office, *Authorized and Outstanding General Obligation Bonds* (August 1, 2010), downloaded from <http://www.treasurer.ca.gov/bonds/debt.asp> on August 25, 2010.
- ³⁴ Proposition 108, the “Passenger Rail and Clean Air Bond Act of 1990,” authorized the state to sell \$1.0 billion of GO bonds for intercity rail, commuter rail, and rail transit programs. Proposition 1A of 2008, the “Safe, Reliable High-Speed Passenger Train Bond Act,” authorized the state to sell \$10.0 billion of GO bonds to establish a high-speed train service in California.
- ³⁵ In *Shaw v. Chiang* (June 30, 2009), the California Court of Appeal, Third Appellate District ruled that the state may use PTA funds to pay current-year debt service on Proposition 108 of 1990 bonds, and implied that the state could use PTA funds to pay current-year debt service on other bonds related to mass transportation, which the state has interpreted to include all debt-service payments on Proposition 1A of 2008 bonds and one-quarter of debt-service payments on Proposition 1B of 2006 bonds.
- ³⁶ The state has already paid debt service on Proposition 108 of 1990, Proposition 1A of 2008, and Proposition 1B of 2006 bonds with PTA funds in 2009-10 and is currently paying debt service on these bonds on a monthly basis in 2010-11 as required by ABX8 9 (Committee on Budget, Chapter 12 of 2009-10 Eighth Extraordinary Session). If Proposition 22 passes on November 2, the state would be prohibited from using additional PTA funds to pay debt service on these bonds during the remainder of 2010-11. In addition, if a lawsuit were filed challenging these transactions, a court could interpret Proposition 22 to require the state to repay PTA funds used for debt service in 2009-10 and 2010-11 because the measure repeals conflicting statutes passed on or after October 21, 2009.
- ³⁷ See Appendix B.
- ³⁸ However, public transportation capital projects are funded through the State Transportation Improvement Program, which also received a share of the revenues raised by the additional excise tax rate on gasoline, as described in Appendix B.
- ³⁹ In *Shaw v. Chiang* (June 30, 2009), the California Court of Appeal, Third Appellate District ruled that the state could use PTA funds to pay current-year debt service on certain rail- and transit-related bonds.
- ⁴⁰ Proposition 22 does not include a “replacement revenue” provision with respect to gasoline sales tax revenues that were deposited directly into the PTA.
- ⁴¹ Under this scenario, the state would not be able to offset this reduction by increasing the share of PTA funds used to pay debt service on voter-approved rail- and transit-related bonds because Proposition 22 would prohibit the state from using PTA funds for that purpose.
- ⁴² California Constitution, Articles XIX and XIXA.
- ⁴³ California Constitution, Article XIII, Section 25.5.
- ⁴⁴ California Constitution, Article XIXB.
- ⁴⁵ Proposition 98 requires future funding to be restored to where it would have been absent a suspension, but does not require the state to repay funding that was lost due to the suspension. For a discussion of the Proposition 98 guarantee, see California Budget Project, *School Finance in California and the Proposition 98 Guarantee* (April 2006).
- ⁴⁶ Legislative Analyst’s Office, “Proposition 22: Prohibits the State From Borrowing or Taking Funds Used for Transportation, Redevelopment, or Local Government Projects and Services. Initiative Constitutional Amendment. Analysis by the Legislative Analyst,” in Secretary of State’s Office, *California General Election Tuesday, November 2, 2010: Official Voter Information Guide*, p. 32, downloaded from <http://voterguide.sos.ca.gov/pdf/english/complete-vig.pdf> on August 18, 2010.
- ⁴⁷ The LAO also suggests that the state could slow state spending “to accumulate larger reserves” or speed up tax revenue collections to address its short-term borrowing needs if Proposition 22 were to pass. Legislative Analyst’s Office, “Proposition 22: Prohibits the State From Borrowing or Taking Funds Used for Transportation, Redevelopment, or Local Government Projects and Services. Initiative Constitutional Amendment. Analysis by the Legislative Analyst,” in Secretary of State’s Office, *California General Election Tuesday, November 2, 2010: Official Voter Information Guide*, p. 32, downloaded from <http://voterguide.sos.ca.gov/pdf/english/complete-vig.pdf> on August 18, 2010.
- ⁴⁸ California Redevelopment Association, *Redevelopment Agencies File Lawsuit Challenging Unconstitutional \$2.05 Billion State Raid of Local Redevelopment Funds* (October 20, 2009).
- ⁴⁹ Sacramento County Superior Court, *California Redevelopment Association v. Genest* (May 4, 2010).
- ⁵⁰ California Redevelopment Association, *California Redevelopment Association Files Appeal To Fight \$2.05 Billion State Raid of Redevelopment Funds* (August 30, 2010).
- ⁵¹ Legislative Analyst’s Office, letter to California Attorney General Edmund G. Brown Jr. analyzing the fiscal effects of the proposed constitutional, A.G. File No. 09-0063, Amdt. #1-NS (December 4, 2009), p. 5.
- ⁵² Redevelopment agencies also divert property tax revenues from local governments, including counties, but these entities do not receive state funding to replace the

- forgone property tax revenues.
- ⁵³ Senate Local Government Committee analysis of SB 1771 (April 10, 2008).
- ⁵⁴ Michael Dardia, *Subsidizing Redevelopment in California* (Public Policy Institute of California: January 1998), p. xiii. This report notes that redevelopment “has aggressively broadened from the traditional role of redeveloping blighted, inner-city areas to include the generation of tax revenues for city governments” (p. iv).
- ⁵⁵ Michael Dardia, *Subsidizing Redevelopment in California* (Public Policy Institute of California: January 1998), p. iv.
- ⁵⁶ Senate Local Government Committee, *Winding Down: Preparing for the End of Older Redevelopment Projects – A Briefing Paper for the Informational Hearing* (February 20, 2008), p. 7.
- ⁵⁷ Senate Local Government Committee, *Redevelopment Agency Fact Sheet* (October 2009). The Legislature imposed statutory time limits on redevelopment agencies in the 1990s, although “local officials have successfully persuaded legislators to give them five types of extensions from these time deadlines.” See Senate Local Government Committee, *Winding Down: Preparing for the End of Older Redevelopment Projects – A Briefing Paper for the Informational Hearing* (February 20, 2008), pp. 8-9.
- ⁵⁸ However, the Legislature could continue to require redevelopment agencies to make payments to other local agencies if those payments were in effect as of January 1, 2008 and to dedicate a portion of their tax increment revenues to increase, improve, or preserve the supply of affordable housing.
- ⁵⁹ California Constitution, Article XIII B, Section 6.
- ⁶⁰ As noted above, the VLF includes a permanent rate of 0.65 percent and a temporary rate of 0.5 percent that expires on June 30, 2011.
- ⁶¹ In addition, as noted above, the CTC would have to conduct public hearings before the HUTA allocation formula could be revised.
- ⁶² “Argument in Favor of Proposition 22,” in Secretary of State’s Office, *California General Election Tuesday, November 2, 2010: Official Voter Information Guide*, p. 36, downloaded from <http://www.voterguide.sos.ca.gov/> on August 16, 2010.
- ⁶³ “Argument Against Proposition 22,” in Secretary of State’s Office, *California General Election Tuesday, November 2, 2010: Official Voter Information Guide*, p. 37, downloaded from <http://www.voterguide.sos.ca.gov/> on August 16, 2010.
- ⁶⁴ ABX8 6 was enacted as Chapter 11 and ABX8 9 was enacted as Chapter 12, Statutes of 2009-10 Eighth Extraordinary Session. In addition, on March 23, 2010, the Governor signed SB 70 (Committee on Budget and Fiscal Review, Chapter 9 of 2010), which revised the provisions of ABX8 6 so that “special users,” including railroad companies and purchasers of aviation fuel, would not lose tax breaks due to the fuel tax swap. See Senate Committee on Budget and Fiscal Review analysis of SB 70 (March 22, 2010).
- ⁶⁵ ABX8 6 exempted gasoline from the General Fund portion of the state sales tax, which is currently 6.0 percent and is scheduled to drop to 5.0 percent on July 1, 2011. ABX8 6 did not affect the various additional components of state and local sales tax rates, including the 0.50 percent rate that provides dedicated funding for health and human services programs that were “realigned” to counties in 1991; the 0.50 percent rate that provides dedicated funding to cities and counties for public safety purposes; the 0.25 percent rate that provides dedicated funding for debt service on the Economic Recovery Bonds authorized by Proposition 57 of 2004; the local “Bradley-Burns” rate; and optional local “add-on” rates.
- ⁶⁶ The increase in the state sales tax on diesel fuel applies to the General Fund portion of the state sales tax rate, which is currently 6.0 percent and is scheduled to drop to 5.0 percent on July 1, 2011. Therefore, the 1.75 percentage point increase will boost the General Fund portion of the state sales tax on diesel fuel to 6.75 percent effective July 1, 2011.
- ⁶⁷ “There is a small tax decrease annually through 2011-12. Thereafter, this bill is revenue neutral.” Senate Committee on Budget and Fiscal Review analysis of SB 70 (March 22, 2010), p. 2. The additional excise tax rate on gasoline will be adjusted annually starting in 2011-12 so that revenues will equal the revenues that would have been raised by the General Fund portion of the sales tax rate on gasoline. The excise tax rate on diesel fuel will be adjusted annually starting in 2012-13 so that the revenue loss will equal the revenue gain attributable to the increased state sales tax on diesel fuel.
- ⁶⁸ California Constitution, Article XIX B.
- ⁶⁹ Proposition 111, the “Traffic Congestion Relief and Spending Limitation Act of 1990,” increased revenues for transportation, modified the state’s spending limit, and changed the formula used to calculate the state’s school funding guarantee.
- ⁷⁰ California Revenue and Taxation Code, Section 7102(a)(2) and California Public Utilities Code, Section 99310.5.
- ⁷¹ The spillover calculation is outlined in California Revenue and Taxation Code, Section 7102(a)(1).
- ⁷² Legislative Analyst’s Office, *Funding for Transportation Programs: Issues and Challenges* (April 2, 2008), p. 1.
- ⁷³ California Court of Appeal, Third Appellate District, *Shaw v. Chiang* (June 30, 2009), pp. 12-13. Of the \$1.3 billion, \$622 million was deposited into a new Mass Transportation Fund, with most of the funds used to pay debt service on voter-approved transportation bonds. An additional \$637 million was transferred from the PTA and used for debt-service payments on voter-approved transportation bonds as well as for Regional Center and school bus transportation.
- ⁷⁴ The state Supreme Court declined to hear the state’s appeal in *Shaw v. Chiang*, thereby allowing the appellate court ruling to stand.
- ⁷⁵ The fuel tax swap did not change the allocation of revenues raised by the base excise tax on gasoline of \$0.180 per gallon.
- ⁷⁶ Proposition 192, the “Seismic Retrofit Bond Act of 1996,” authorized the state to sell \$2.0 billion in general obligation (GO) bonds to retrofit state-owned toll and highway bridges. Proposition 1B, the “Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006,” authorized the state to sell \$19.9 billion in GO bonds for a number of transportation purposes, including improving highways, roads, and public transit. Approximately three-quarters of Proposition 1B bonds provide funding for highways and roads.
- ⁷⁷ Senate Floor analysis of ABX8 9 (March 3, 2010); Legislative Analyst’s Office, *Governor’s Transportation Funding Proposal* (January 21, 2010), p. 3; and personal communication with the LAO (August 25, 2010). The LAO’s estimates reflect total debt-service payments related to Proposition 192 and three-quarters of debt-service payments related to Proposition 1B.
- ⁷⁸ In addition to gasoline excise tax revenues, the Legislature used other transportation-related revenues to reimburse the General Fund in 2009-10 and 2010-11 for debt-service costs related to voter-approved rail- and transit-related bonds. Specifically, the state used \$140 million of PTA funds in 2009-10 and will use \$254 million of PTA funds in 2010-11 to reimburse the General Fund for all debt-service payments related to Proposition 108 of 1990 and Proposition 1A of 2008, as well as one-quarter of debt-service payments related to Proposition 1B of 2006. In addition, the state used “non-Article XIX revenues” – \$79 million in 2009-10 and \$72 million in 2010-11 – to reimburse the General Fund for debt-service payments related to Proposition 116 of 1990. Non-Article XIX revenues include “money that is derived from the sale of documents, charges for miscellaneous services to the public ... and rental of state property.” See California Streets and Highways Code, Section 183.1(a).
- ⁷⁹ Article XIX, Section 6 of the state Constitution allows the state to borrow these excise tax revenues if the Governor declares a fiscal emergency or if General Fund

revenues are projected to decline after adjusting for inflation and population growth. The state must repay these funds within three years, but does not have to pay interest.

⁸⁰ Senate Floor analysis of ABX8 9 (March 3, 2010).

⁸¹ As a result of the fuel tax swap, PTA funds are now derived primarily from revenues raised by the state sales tax on diesel fuel. As noted above, three other major revenue streams that previously flowed into the PTA – “spillover,” Proposition 111, and Proposition 42 revenues – ceased to exist when the Legislature repealed the state sales tax on gasoline.

⁸² The state received 50 percent of PTA funds under prior law.

⁸³ Non-Article XIX revenues include “money that is derived from the sale of documents, charges for miscellaneous services to the public . . . and rental of state property.” See California Streets and Highways Code, Section 183.1(a).

⁸⁴ Senate Floor analysis of ABX8 9 (March 3, 2010).