METROPOLITAN
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COMMISSION

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Memorandum

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FR: Rebecca Long

RE: Legislative Update

State Budget
In December, the Democratic leadership in Sacramento proposed a radical package of tax and fee changes that avert the two-thirds vote requirement. The transportation portion of the proposal consists of six key elements:

1. Eliminates the 18-cent per gallon excise taxes on gasoline and diesel fuel. This would go into effect on April 1, 2009.
2. Eliminates the state portion of the sales tax on gasoline, which now goes to Proposition 42, the "spillover" and the Public Transportation Account (PTA). Local sales tax measures would continue to include gasoline and diesel sales, but not the gasoline excise tax portion of those sales.
3. Imposes a new 39-cent per gallon fee on gasoline and a 31-cent per gallon fee on diesel fuel, both of which would be adjusted every three years to keep pace with inflation. This would go into effect on April 1, 2009.
4. Retains the state portion of the sales tax on diesel, which currently goes to the PTA.
5. Caps State Transit Assistance (STA) funding at $150 million annually, less than half of the amount provided in the FY 2008-09 State Budget.
6. Authorizes counties to double their one-quarter percent sales tax increase for transit and local streets and roads under the Transportation Development Act (TDA).

Bottom Line: More Funding Overall, But Less Flexibility and Less Public Transit Funding
The new plan generates approximately $2.4 billion annually in additional funds for transportation in comparison with Proposition 42 and the existing gasoline and diesel excise taxes (we exclude the spillover in this comparison calculation). This estimate is based on the FY 2008-09 Budget and is highly dependent on the price of gasoline, which determines overall Proposition 42 generations.

While the new funding is welcome, particularly funding that is indexed to keep pace with inflation, the plan raises substantial legal uncertainty as a result of shifting from a tax to a fee approach and it seems certain that fewer funds would be available for public transit.

How Would The Funds Be Distributed Compared to Today?
Under current law, all revenue generated by the state's gasoline and diesel excise tax (approximately $3.4 billion per year) is absorbed by cities and counties for local streets and roads and by Caltrans

operations and the cost to maintain and rehabilitate the state highway system through the State Highway Operation and Protection Program (SHOPP).

As a result, the sole source of ongoing funding for highway and transit expansion projects in the State Transportation Improvement Program (STIP) is Proposition 42, which by law can only fund new projects and cannot be committed to the SHOPP program or Caltrans overhead. While Proposition 42 funding is very flexible as it is funded by the sales tax on gasoline, fees would be subject to new legal constraints that could make such revenue much less flexible.

The table below summarizes the key changes in funding levels.

(Dollars in millions)	**Existing Funding[1]**	**Proposed**	**Change**	**Percent Change**
STIP	$572	$640	$68	12%
Local Streets and Roads	$1,790	$2,346	$555	31%
Caltrans SHOPP	$2,175	$2,559	$383	18%
Transportation Funding Stabilization Account	--	$1,564	$1,564	NA
State Transit Assistance[2]	$969	$150	$(819)	-85%
PTA Transit Capital[3]	$588	$246	$(342)	-58%
Spillover – Mass Transportation Fund (for General Fund offsets)	$713	$0	$(713)	-100%
Total	$6,809	$7,504	$695	23%

Amounts may not sum due to rounding

Note that $1.5 billion annually in new revenue would be deposited in a new Transportation Funding Stabilization Account, leaving actual expenditures up to the Legislature to determine in a future statute. This poses some risk, such as the potential for funds to be redirected to offset general obligation bond debt service costs associated with transportation bonds.

Governor's FY 2009-10 Budget

In addition, on December 31, the Governor released his FY 2009-10 State Budget, which proposes to eliminate the remainder of STA funding in the current year ($153 million) and permanently eliminate it beginning in FY 2009-10. The proposal also includes a 1.5 percent sales tax increase, which would increase Proposition 42 funding by approximately $356 million in FY 2009-10.

Federal Economic Stimulus

Activity related to federal economic stimulus is now moving on two tracks, one in Washington, D.C. and one in Sacramento. In Sacramento, Caltrans is trying to develop consensus on legislation that

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[1] Includes estimate of funds generated by existing state gasoline tax revenues and Proposition 42.

[2] Based on statutory requirement, including base funds, Proposition 42 and Spillover funds. The Legislature has overridden these requirements through legislative trailer bills as part of the budget process.

[3] Assumes PTA transit capital would continue to receive 50% of total PTA revenues, with any remainder transferred to Mass Transportation Fund to offset transit-related General Fund expenses.

would be enacted in California in the event that funds come to the state in a lump sum, rather than on the basis of a formula, such as Surface Transportation Program (STP). The proposed draft of the legislation would divide the funds as follows: 33% for local streets and roads, 33% for STP-eligible projects selected by a regional transportation planning agency and 33% to Caltrans for projects on the state highway system.

Meanwhile, in Washington, the sole written proposal comes from Congressman Oberstar, which provides $7.5 billion for transit formula funds ($6.75 billion for 5307 and $750 million for 5311) and $2.5 billion in New Starts funding.

With regard to the formula funds, the proposal would “prioritize” projects that are “ready to go to construction and can be underway” within 90 days. Congressman Oberstar’s proposal would require states to spend 50 percent of the funds within 90 days of enactment and all of the funds to be under contract within one year of enactment but leaves discretion to FTA to select projects. Similarly, the proposal prioritizes New Starts projects that can be underway within 90 days, requiring that 25 percent of the funds be under contract within 90 days and all funds be under contract within one year of enactment. It should be noted that while the summary language uses terms such as “require,” it does not appear likely that there would be strict repayment provisions applied to these funds if the deadlines were not met.

The proposal also supplements the initial transit formula funds with another $2 billion in “transit energy funding” to be distributed according to the 5307 and 5311 formulas (pursuant to H.R. 6052, as passed by the House on June 26, 2008.) According to summary materials, these funds are eligible for meeting increased fuel costs and purchasing clean fuel or alternative fuel vehicles.

The proposal also includes a $5 billion rail component, of which $1.5 billion is for Amtrak and $3.4 billion is for competitive grant programs for high-speed rail (intercity rail traveling at least 110 miles per hour) to be administered by the Department of Transportation, pursuant to the Passenger Rail Investment and Improvement Act of 2008. In order to be eligible for funding, a project must be contained in a State rail plan or under the plan required by the Passenger Rail Investment and Improvement Act of 2008. The remaining $100 million is for short-line railroad capital grants.

It appears likely that Congress and the new President will move quickly to approve a package. To that end, MTC is anticipating a special TIP amendment in January or February to allow sponsors to add new projects or to add new funding to existing projects that would be part of the stimulus package. In addition, FTA is encouraging sponsors to work with their FTA grant representatives as it is highly likely that FTA will allow for more than one grant per operator in FY09 due to the stimulus funding.