LAO

December 24, 2021

Hon. Rob Bonta
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Anabel Renteria
Initiative Coordinator

Dear Attorney General Bonta:

Pursuant to Elections Code Section 9005, we have reviewed the proposed statutory initiative that would raise personal income taxes for certain households to fund zero-emission vehicle (ZEV) programs and wildfire-related activities (A.G. File No. 21-0037, Amendment #1).

BACKGROUND

State ZEV Programs. The state has several goals related to reducing greenhouse gas (GHG) emissions and local air pollution, including state law that requires statewide GHGs are 40 percent below 1990 levels by 2030. To help achieve these goals, the state has a variety of programs meant to promote the adoption of ZEVs, which are generally defined to include battery-electric vehicles, plug-in hybrid electric vehicles, and hydrogen fuel cell vehicles. This includes programs to promote light-duty ZEVs (such as cars and passenger trucks), medium-duty ZEVs (such as delivery vans), heavy-duty ZEVs (such as large commercial trucks), and off-road equipment (such as agricultural equipment). For example, the California Air Resources Board (CARB) administers programs that provide subsidies for people, businesses, and governments to purchase ZEVs, and the California Energy Commission (CEC) administers programs that provide financial incentives to install ZEV fueling infrastructure, such as electric vehicle charging stations and hydrogen fueling stations. In recent years, state spending for ZEV programs generally has been in the hundreds of millions of dollars annually, though the state's 2021-22 budget included $3.9 billion over three years for these purposes. The state also has established a variety of regulations meant to promote ZEV adoption, such as requiring automobile manufacturers to sell increasing numbers of ZEVs and requiring ride-sharing companies (such as Uber and Lyft) to use more ZEVs.

Wildfire Suppression and Prevention Programs. The California Department of Forestry and Fire Protection (CalFire) is the primary entity responsible for wildfire suppression activities in California. These activities are intended to limit the spread of large wildfires and stop them from damaging communities and residents. Over the past several years, CalFire has spent about $2 billion annually on wildfire suppression activities, with higher amounts in recent years.

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CalFire and other state and local agencies also administer programs intended to help reduce the severity of future wildfires and reduce damages from those fires—also known as wildfire prevention. These prevention activities include undertaking forest resilience projects (such as conducting prescribed fires and thinning overgrown forests) and creating defensible space—generally through the maintenance of areas free from dead and excess vegetation—around buildings and communities. In recent years, the state has spent about $300 million annually on wildfire prevention, which increased to about $1 billion one time in 2021-22.

California Taxes Personal Income. The state collects a personal income tax on income earned within the state. In the most recent fiscal year, the personal income tax raised over $120 billion. Most of the revenue is deposited into the General Fund—the state's main operating account—which pays for education, prisons, health care, and other public services.

PROPOSAL

Increases Income Taxes for High-Income Taxpayers

The measure increases the personal income tax for taxpayers earning more than $2 million. These taxpayers would pay an additional tax of 1.75 percent on their income above $2 million. This tax increase would end the earliest of: (1) January 1, 2043 or (2) beginning January 1, 2030, the January 1 following three consecutive calendar years in which statewide greenhouse gas emissions have been reduced by 80 percent below 1990 levels.

Allocates Additional Revenue to Support ZEVs and Wildfire Activities

The additional revenue generated from the increased income taxes would be deposited in a new fund called the Clean Cars and Clean Air Trust Fund (CCCATF). After allocating a small portion of the funds to support periodic state audits (discussed below), the remaining revenue would be allocated to ZEV programs and wildfire-related activities.

ZEV Incentives and Other Mobility Options (45 Percent). Forty-five percent of revenue would be allocated to CARB for programs to promote the purchase and use of ZEVs, as well as other mobility options intended to reduce GHG emissions and air pollution. For at least the initial five years of the programs, at least two-thirds of the overall funding must be targeted to programs that support the deployment of passenger ZEVs, with the remaining funding available for other types of vehicles and mobility options.

In addition, the measure requires that half of the overall funding for ZEV incentives and mobility go to programs that primarily benefit residents who live in or near low-income and disadvantaged communities. Eligible programs could include those that support (1) zero-emission school and transit buses, medium- and heavy-duty trucks, and off-road equipment; (2) financing assistance for households that cannot secure a loan to buy a new or used ZEV; (3) retirement of old polluting vehicles and replacement with ZEVs; (4) incentives to buy or lease new passenger ZEVs; and (5) other mobility options, such as electric bikes and protected bike lanes.

The other half of the funding must be dedicated to a new program established in the measure that provides incentives to purchase or lease new passenger ZEVs. When providing these incentives, CARB must prioritize applications in the following order: (1) individual residents, (2) businesses and state or local governments that are expected to drive the vehicles at least 25,000 miles annually, and (3) remaining businesses and local governments.

ZEV Fueling Infrastructure (35 Percent). Thirty-five percent would be allocated to CEC for programs to increase the availability of ZEV infrastructure. During the first five years of the program, the measure requires that at least half of the ZEV infrastructure funding be targeted specifically to multifamily dwelling charging stations (20 percent), single-family charging stations (10 percent), fast fueling infrastructure for passenger vehicles (10 percent), and medium- and heavy-duty fueling infrastructure (10 percent). CEC would determine how the rest of the funds would be allocated to support ZEV infrastructure. In addition, the measure requires that at least half of the total ZEV infrastructure funding be dedicated to projects that benefit residents in or near low-income and disadvantaged communities.

Wildfire Suppression and Prevention (20 Percent). Twenty percent would be allocated for various wildfire-related activities. Of this amount, 75 percent would go to CalFire for such things as (1) hiring and training firefighters; (2) purchasing wildfire detection and monitoring systems; (3) improving fire suppression and safety infrastructure; (4) improving defensible space; (5) retrofitting homes in low-income communities to make them less likely to catch fire (referred to as home hardening); and (6) expanding forest resilience programs, such as prescribed fires and forest thinning. Top priority for CalFire funding must be given to hiring and training firefighters, and no more than 25 percent can be used for defensible space, home hardening, and forest resilience programs in the first six years.

The remaining 25 percent of overall funding for wildfire-related activities would go to the Office of the State Fire Marshal for wildfire suppression and prevention activities.

Other Provisions. The measure includes several other provisions related to CCCATF oversight and spending, including:

- ***Continuous Appropriations.*** The measure continuously appropriates the funding to CARB, CEC, and CalFire—meaning the Legislature would not allocate the funds as part of the state's annual budget process.
- ***Cap on Administrative Costs.*** The measure establishes a 5 percent cap on administrative costs for CARB, CEC, and CalFire. Expenses for public outreach are not counted as administrative costs.
- ***Periodic Audits.*** Requires the California State Auditor to conduct a financial audit every two years and the California State Controller to conduct a performance audit every four years. The measure allocates up to $600,000 per audit.

Fiscal Effects

Increased State Personal Income Tax Revenues Dedicated to ZEVs and Wildfire Activities. The measure's new tax on high-income earners likely would raise $3 billion to $4.5 billion in most years. As discussed above, these new revenues would be dedicated to ZEV incentives and other mobility options (45 percent), ZEV fueling infrastructure (35 percent), and wildfire-related activities (20 percent).

Potential Decrease in State General Fund Revenue. The measure's new tax could have many impacts on the state's economy. One likely impact is that some taxpayers probably would reduce their income in California to avoid paying more taxes. This would reduce existing state General Fund revenues from the personal income tax. The amount of these revenue losses is unknown.

Potential for Additional State Costs for Program Administration. The measure caps the amount of CCCATF monies that can be used for administrative costs at 5 percent. Historically, administrative costs for state ZEV and wildfire programs have been higher than 5 percent of total program costs—exceeding 10 percent in some cases. Actual administrative costs to implement this measure are uncertain, but if, for example, they were 10 percent, the additional costs would have to be covered by other state funds and could be a couple hundred million dollars annually. We estimate the additional state costs for program administration could reach tens of millions to the low hundreds of millions of dollars annually.

Net Decrease in State and Local Revenue From Transportation Taxes and Fees. The state and local governments assess various transportation-related taxes and fees to support transportation programs. The largest source of revenue is the state gasoline excise tax, which generates about $7 billion annually. About two-thirds of these revenues are used to pay for state highway maintenance, rehabilitation, and related administration. The remaining one-third of the revenues are provided to cities and counties to support their streets and roads. The state also assesses a $100 per year fee on ZEVs to raise funds to support state and local transportation infrastructure.

To the extent this measure encourages consumers to purchase ZEVs when they otherwise would have purchased gasoline-powered vehicles, state and local governments would likely generate less overall revenue from transportation-related taxes and fees. The precise magnitude and timing of the decrease is uncertain and would depend on such things as: (1) what other state ZEV policies would be adopted with and without this measure passing and (2) how effective future ZEV programs and policies are at encouraging consumers to purchase ZEVs. We estimate a net decrease in state and local transportation tax revenues that could reach several tens of millions of dollars annually within in the first few years, and potentially grow to a few hundred million dollars annually after several years.

Potential Decreased State and Local Costs for Wildfire-Related Spending. This measure could decrease some future state and local government costs related to wildfires in a couple of ways. First, the additional funding for prevention and suppression activities provided by this measure could help prevent or reduce the severity of damage caused by future wildfires. To the extent this were to occur, it would reduce clean-up and recovery costs. Second, the additional firefighters that would be funded by this measure could reduce costs associated with overtime for fire suppression activities. The magnitude of these potential cost decreases is uncertain, and would depend on the severity of wildfires in a particular year and the effectiveness of the prevention and suppression activities that ultimately are funded by the measure. Cost decreases could range from minor in low-severity fire years, but reach hundreds of millions of dollars in high-severity fire years.

State Appropriations Limits Consideration. The State Constitution limits how much tax revenues the state can spend each year, with exceptions like spending on infrastructure and emergencies. In recent years, the limit has been an important consideration in state budgeting decisions. Because this measure would significantly increase tax collections and some of the spending required by the measure likely would not be excludable from the limit, the measure would somewhat increase the chances that the state would spend revenues in excess of the limit. Revenues in excess of the limit, over a two-year period, trigger a requirement for the state to make taxpayer rebates and additional school payments.

Summary of Major Fiscal Effects. This measure would have the following major fiscal effects:

- Increased annual state tax revenue ranging from $3 billion to $4.5 billion, with the additional revenue used to support zero-emission vehicle programs and wildfire-related activities.
- Potential increased state administrative costs paid from other funding sources that could reach tens of millions to the low hundreds of millions of dollars annually.
- Net decrease in state and local transportation revenue of up to several tens of millions of dollars annually in the initial years, and growing to up to a few hundreds of millions of dollars annually after several years.

Sincerely,

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for Gabriel Petek
Legislative Analyst

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for Keely Martin Bosler
Director of Finance