<u>Policy and Fiscal Concerns Raised by the Administration's Transportation Proposal</u>

Transportation Bonds

- Except for passenger rail, all transportation projects in the Governor's proposal would be chosen by the state on the basis of state-adopted guidelines; even in the instance of regionally-nominated substitutes, these must be consistent with state guidelines and must obtain Caltrans concurrence. This is contrary to the manner in which the State Transportation Improvement Program (STIP) projects are identified, which is more of a "bottoms-up" procedure.

- The statutory language in the Governor's proposal provides for most funding from the bond proceeds to be reserved for projects on the state highway system, leaving little or no opportunity for investment in local streets and roads or transit systems.

- The Administration has circulated a working list of projects that might be funded under the Governor's proposal. This list was developed in anticipation of guidelines that have yet to be proposed, let alone adopted. While some regional agencies concur that it reflects their local priorities, others are less supportive. Also, does the publication of this list prejudice the eventual identification of bond-funded projects by raising expectations among the affected communities and constituencies?

- Although the Governor's proposal calls for geographic balance in the distribution of bond funds, it does not subject these allocations to the traditional distribution formulas – SB45's interregional/regional balance (25/75), the north/south split and county shares.

- There is a widespread sentiment in various quarters that an initiative that entails tens of billions of dollars of expenditures for transportation purposes should devote more than $1 billion to offset the air quality impacts of those expenditures.

- Language in the Governor's proposal specifying that bond funds may be used for public/private partnership "project revenue debt and equity financing" seems to imply that state money may be used to help pay private developers' debt service.

- The Governor's proposal includes no allocations for commuter transit capital needs, transit and port security, school bus replacement, or vehicle scrappage programs, among other previously proposed legislative priorities.

- The Governor's 2012 transportation revenue bond would be devoted to finishing state highway projects begun under the first two bonds, making no provision for non-highway port projects, environmental mitigation, or other purposes included in the first two bonds.

- The revenue bond would be repaid for 30 years from fuel excise taxes and commercial truck weight fees, thus setting up a deficit in the funding source that supports Caltrans' highway maintenance, rehabilitation, and safety projects and activities.

- Any program that features continuous appropriations detracts from the Legislature's ability to provide oversight and set priorities.

- Should the Governor's proposal for a constitutional 6 percent ceiling on debt service be enacted, any authorized transportation bonding may have to compete against other authorized bond programs, e.g., levees, schools, prisons.

- It is unclear to what extent the projects on the Administration's "working list" of bond-funded projects are fully funded, nor has there been any documentation offered for their cost estimates.

- The port mitigation and goods movement infrastructure allocations in the Governor's proposal require matches of non-state funds of 1:1 and 4:1 respectively. The Administration has thus far not offered any firm evidence that local governments and/or private sources are prepared to make the required matching contributions.

- To what extent is Caltrans, either by itself or with the participation of the consulting industry, prepared to deliver a large program of projects?

- It is unclear whether the Administration has a plan for how highway design work would be divided between state-employed and contract consultants.

- The Governor's proposal assumes there will be a substantial contribution of private funds resulting from the authorization for public/private partnership projects. To date there has been no list made available of the specific projects that are envisioned nor the anticipated level of private funding that might be offered for each of those projects.

- The Governor's proposal requires bond-funded projects to adhere to engineering, environmental, and contracting standards. It is unclear what this means in terms of compliance with existing laws and regulations or policies and guidelines.

- Transportation projects have traditionally been financed on a pay-as-you-go basis, primarily with user fees (fuel excise taxes and truck weight fees) and to a lesser extent with sales tax proceeds. Other than for short-term emergency needs (e.g., seismic retrofit), the use of bond funding for transportation falls outside that model. Coincidentally, the Assembly Republicans recently announced a plan, embodied in ACA 27 (McCarthy), to finance infrastructure improvements through escalating annual set-asides of General Fund revenues beginning in fiscal year 2007-08 at the one percent level.

Design-Build

- Unlike most prior proposals for design-build authority for highway construction projects, the Governor's proposal does not include a limit on number of projects, a dollar threshold for projects, a limitation on the types of projects, or a sunset date.

- Design-build proposals for state highway projects raise sensitive labor concerns since the use of private engineering consultants, as is implicit in the design-build model, reduces employment opportunities for state-employed engineers.

- Recently enacted law, SB 1026 (Kuehl), Chapter 1, Statutes of 2006, authorizes the Los Angeles County Metropolitan Transportation Authority to use the design-build contracting method for one particular project on Interstate 405. The Authority is to make a selection for the contractor based on a "competitive bidding" process. However, the Governor's proposal allows a design-build contractor to be selected based upon "best value."

- For work on the state highway system performed by entities other than Caltrans, it is advisable to identify what agency will be responsible for project oversight, project quality assurance, and project risk management.

Pubic/Private Partnerships

- Prior statutes authorizing privately-developed toll roads allowed the developer to charge tolls for up to 35 years. Under the Governor's proposal, this authority could last for as long as 99 years.

- These prior statutes limited the number of such projects to four (later amended to two), and required that they be franchised by Caltrans. The Governor's proposal allows an unlimited number of public-private partnerships and allows local and regional agencies to award toll road franchises as well.

- Franchises negotiated by Caltrans under the prior statutes included controversial "non-compete" clauses that restricted the ability of public agencies to build highway facilities in the same corridor as a franchised toll road. The Governor's proposal, by way of contrast allows compensation to be paid to the private developer for any public agency project that adversely affects toll revenues.

- Language in the Governor's proposal requiring tolls and fees to pay for all *or some* of the capital outlay costs of public-private partnership projects seems to imply that public funds could be invested in these projects as well. If this is so, it is not clear how the public investment would be repaid.

- As noted above, language in the Governor's proposal specifying that bond funds may be used for public/private partnership "project revenue debt and equity financing" seems to imply that state money may be used to help pay private developers' debt service.