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The Honorable Sydney Kamlager  
Chair, Senate Budget Subcommittee No. 4 on State Administration and General Government  
1021 O Street, Suite 6510  
Sacramento, CA 95814

**RE: May Revise – Excess ERAF Trailer Bill Language – OPPOSE**

Dear Chairperson Kamlager,

On behalf of the City of Cupertino, I am writing to express our opposition to a revised proposed trailer bill released in connection with the May Budget Revision currently titled “*Act to Amend Section 97.70 of Revenue and Taxation Code relating to taxation and making an appropriation therefor.*” This proposed trailer bill, like a previous and also unacceptable version, would change current law in a way that would significantly harm cities and counties by permanently “capping” the Education Revenue Augmentation Fund (ERAF) money that would be returned to them after schools have been fully funded and, instead, use such local tax revenues to pay the State’s in-lieu Vehicle License Fee (VLF) obligation.

In 2004, the state permanently lowered the VLF, which reduced funding for cities and counties by approximately \$4.4 billion (in 2004 dollars). To mitigate this impact, the state agreed to backfill the lost VLF revenues dollar-for-dollar by reducing property tax revenues that are required to be shifted from cities, counties, and special districts to the countywide ERAF by the amount of the countywide VLF adjustment amount, known as the VLF Swap. However, in those instances where there are insufficient funds to cover the VLF adjustment, the state has provided annual appropriations to make up for the revenue shortfalls.

The law that codified this compromise and remains in effect, explicitly provides that cities and counties’ excess ERAF monies are not available to pay the state’s VLF obligation. When this compromise was reached, neither local agencies nor the Legislature anticipated that the two funding sources to pay the state’s in-lieu VLF obligation would ever be insufficient to do so. In recent years, however, VLF revenue shortfalls have occurred and, as a result, cities and counties have been required to make special appropriation requests to receive their full amount of VLF in arrears.

The state is now proposing to address this shortfall by taking local agencies' own funds to pay for the state's VLF obligation. Specifically, this bill would amend Revenue & Taxation Code § 97.70(f)(1) to reverse the current statutory restriction on using local agencies' excess ERAF and instead permanently cap it so that future growth can be used to fund the State's VLF obligation. This fundamental change runs counter to the 2004 agreement that resulted in Proposition 1A. It also violates constitutional provisions approved by the voters, including as Proposition 1A and 22, that prohibit the state from raiding local agency funds to pay for its responsibilities. Indeed, the act would penalize local agencies that seek to defend their constitutional rights by including a provision to immediately terminate state funding for shortfalls if its cap on excess ERAF is invalidated in Court.

The City of Cupertino strongly opposes the proposed trailer bill offered in the May Revise. The trailer bill reneges on commitments that the state previously enacted into law regarding the source of VLF funding, violates state constitutional provisions that prohibit such raids of local funds and the 2004 budget compromise between the state and local agencies. The state must fund its VLF obligation without diverting funds from local agencies' budgets. As such, we urge you to reject this trailer bill language so that none of its amendments to Revenue and Taxation Code § 97.70 are enacted into law.

Sincerely,



Darcy Paul  
Mayor  
City of Cupertino

cc: Senator Dave Cortese  
Senator Josh Becker  
Assemblymember Evan Low  
Assemblymember Marc Berman