

AMENDED IN SENATE JULY 20, 2001

AMENDED IN ASSEMBLY MAY 23, 2001

CALIFORNIA LEGISLATURE—2001-02 REGULAR SESSION

ASSEMBLY BILL

No. 438

Introduced by Committee on Budget

February 20, 2001

~~An act relating to transportation.~~ *An act to amend Sections 14536, 14552.2, 14556.1, and 14556.6 of, and to add and repeal Sections 14556.7, 14556.8, and 14556.9 of, the Government Code, and to amend Sections 7102 and 7104 of the Revenue and Taxation Code, relating to transportation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 438, as amended, Committee on Budget. Transportation: finance.

(1) Existing law continuously appropriates to the Treasurer the amounts identified in the Budget Act as having been deposited in the State Highway Account in the State Transportation Fund from federal transportation funds and pledged by the California Transportation Commission, for the purposes of issuing federal highway grant anticipation notes to fund transportation projects selected by the commission. Projects eligible for this special funding are limited to transportation projects that have been designated for accelerated construction by the commission.

This bill would provide that the category of projects eligible for the special funding includes (a) toll bridge seismic retrofit projects; (b)



projects approved for funding under the Traffic Congestion Relief Act of 2000; and (c) projects programmed under the current adopted State Transportation Improvement Program or the current State Highway Operation and Protection Program.

(2) Existing law establishes the Traffic Congestion Relief Fund (hereafter the TCRF) in the State Treasury and appropriates the money in the TCRF (a) to the Department of Transportation for allocation, as directed by the California Transportation Commission, to the department and certain regional and local transportation entities for certain listed transportation projects, (b) to the Controller for allocation to cities, counties, and cities and counties for street and road maintenance, rehabilitation, and reconstruction, (c) to the commission for the purposes of a funding exchange program, and (d) to the department for rehabilitation and repaving projects on state highways. Existing law, with respect to the list of transportation projects eligible for funding with money from the TCRF referenced above, specifies the lead applicant for each project, and establishes a procedure for the lead applicant to apply to the commission for funds for each project.

Existing law requires the Controller to transfer specified amounts on a quarterly basis from the General Fund to the Transportation Investment Fund (hereafter the TIF) in the State Treasury. The Controller, for each quarter during the period commencing on July 1, 2001, and ending on June 30, 2006, is required to transfer or apportion specified amounts from the TIF to the TCRF, to the Public Transportation Account, a trust fund in the State Transportation Fund, to the Department of Transportation, to the counties, including a city and county, and to the cities, including a city and county, for specified transportation purposes. Funds apportioned to counties, cities, and cities and counties are required to be deposited in certain local accounts in order to avoid the commingling of those funds with other local funds and may be used only for street and highway maintenance, rehabilitation, reconstruction, and storm damage repair, as defined. Cities, counties, and cities and counties are required to maintain their existing commitment of local funds for street and highway maintenance, rehabilitation, reconstruction, and storm damage repair in order to remain eligible for allocation of the specified funds.

This bill would delay the transfers from the General Fund to the TIF by instead requiring the transfers to commence on July 1, 2003, and end on June 30, 2008.



This bill would reduce the total amount to be transferred from the TIF to the TCRF by \$76,100,000.

This bill, for the 2006–07 and 2007–08 fiscal years, would require the transfer from the TIF to the Department of Transportation for transportation capital improvement projects to be 80% of the amount remaining after the transfer to the TCRF for the listed transportation projects and, for that same period, would delete the transfer from the TIF to the cities, counties, and cities and counties. The bill, for each of the 2001–02 and 2002–03 fiscal years, would appropriate from the State Highway Account in the State Transportation Fund to the Controller 40% of the amount obtained by subtracting \$169,500,000 from the amount reported to the Controller for transfer to the TIF during each of those fiscal years. The bill would require the Controller to apportion the appropriated funds to cities, counties, and cities and counties in accordance with provisions in existing law relating to allocation of TIF funds, and those funds would be subject to provisions relating to expenditure of TIF funds.

This bill, until July 1, 2008, would authorize the Department of Transportation, for specified purposes, to transfer funds as short-term loans, as defined, among the State Highway Account in the State Transportation Fund, the TIF, the Public Transportation Account in the State Transportation Fund, and the TCRF, subject to those terms and conditions that the Director of Finance may impose upon those transfers. The bill would require the Director of Transportation to report to the commission on the status of these loans, which would be required to monitor the impact of the loans on transportation projects and other expenditures.

This bill would authorize the Director of Finance to authorize, by executive order and to the extent necessary to provide adequate cash to fund projected expenditures for the listed transportation projects, the transfer of not more than \$100,000,000, as an interest free loan, from the Motor Vehicle Account in the State Transportation Fund to the TCRF, and the transfer of any available funds, as an interest free loan, from the General Fund to the TCRF. Loans from the Motor Vehicle Account would be authorized only beginning July 1, 2004, and would be required to be repaid by July 1, 2007. The bill would also provide for loans of certain maximum cumulative amounts to the TCRF from the Public Transportation Account or the State Highway Account for these purposes through the annual Budget Act, to be repaid on June 30, 2008, and June 30, 2007, respectively. The director would be required to order



the repayment of the loans under certain circumstances. The bill would require the Department of Transportation, upon the request of the commission or the Director of Finance, to provide a report, for these purposes, projecting the cash needs of the listed projects.

This bill would authorize money in the TCRF derived from the General Fund and not currently needed for expenditures on the listed projects to be transferred to the General Fund through the annual Budget Act. The bill would require the Director of Finance, upon making a determination that funds in the TCRF are not adequate to support expected cash expenditures for the listed projects, to require, by executive order, that the funds transferred to the General Fund under this provision be repaid to the TCRF. These loans to the General Fund would be required to be repaid no later than June 30, 2006.

This bill would require that funds transferred to the TCRF under these provisions be used for purposes consistent with any restrictions on uses of those funds imposed under the California Constitution or by statute. The bill would require the Department of Transportation to identify specific projects to which those funds may properly be applied and to propose that application of funds to the commission. The bill would require the commission to designate projects to receive those funds through certain processes established in existing law. The bill would require the Department of Transportation to report periodically to the commission, the Department of Finance, and the Legislature on the expenditure of those funds and or related matters, and would require certain reporting by the commission to the Legislature.

(3) Existing law, amended by Proposition 116 of 1990, requires certain revenues derived from imposition of the Sales and Use Tax Law on certain motor vehicle fuels to be deposited in the Public Transportation Account in the State Transportation Fund, which is designated a trust fund by that initiative statute. Existing law requires that the funds in the account be available, when appropriated by the Legislature, only for transportation planning and mass transportation purposes, as specified by the Legislature, and requires that the funds be allocated for those purposes in accordance with a specified scheme. Existing law authorizes the Legislature to amend these provisions by statute requiring a $\frac{2}{3}$ vote, if the amendments are consistent with and further the purposes of these provisions.

This bill would amend the initiative provisions by limiting the transfer of certain sales and use tax revenues on certain motor vehicle fuels to the account for the 2001–02 fiscal year to not more than



\$81,000,000 plus 1/2 of the amount otherwise to be transferred under these provisions that is in excess of \$81,000,000. For the 2002–03 fiscal year, the transfer would be limited to not more than \$37,000,000 plus 1/2 of the amount otherwise to be transferred under these provisions that is in excess of \$37,000,000.

(4) This bill would enact other related provisions.

(5) This bill would declare that it is to take effect immediately as an urgency statute.

~~Existing law provides for the funding of transportation projects.~~

~~This bill would declare the intent of the Legislature to make the necessary statutory changes to implement the Budget Act of 2001 relative to transportation.~~

Vote: ~~majority~~ 2/3. Appropriation: ~~no~~ yes. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1.—It is the intent of the Legislature in enacting the
2 ~~act adding this section to make the necessary statutory changes to~~
3 ~~implement the Budget Act of 2001 relative to transportation.~~

4 SECTION 1. Section 14536 of the Government Code is
5 amended to read:

6 14536. (a) The annual report shall include an explanation and
7 summary of major policies and decisions adopted by the
8 commission during the previously completed state and federal
9 fiscal year, with an explanation of any changes in policy associated
10 with the performance of its duties and responsibilities over the past
11 year.

12 (b) The annual report may also include a discussion of any
13 significant upcoming transportation issues anticipated to be of
14 concern to the public and the Legislature.

15 (c) *The annual report submitted to the Legislature for the years*
16 *2001 to 2008, inclusive, shall include all of the following:*

17 (1) *A summary and discussion of loans and transfers*
18 *authorized pursuant to Sections 14556.7 and 14556.8.*

19 (2) *A summary and discussion on the cash-flow and project*
20 *delivery impact of those loans and transfers.*

21 (3) *A summary of any guidance provided to the department*
22 *pursuant to Section 14556.7.*



1 SEC. 2. Section 14552.2 of the Government Code is amended
2 to read:

3 14552.2. “Eligible Project” means *the federally funded*
4 *portion of* any highway or other transportation project that has
5 been designated for accelerated construction by the commission,
6 *including, but not limited to, any of the following:*

- 7 (a) *Toll bridge seismic retrofit projects.*
- 8 (b) *Projects approved for funding under the Traffic Congestion*
9 *Relief Act of 2000 (Ch. 4.5 (commencing with Section 14556)).*
- 10 (c) *Projects programmed under the current adopted State*
11 *Transportation Improvement Program or the current State*
12 *Highway Operation and Protection Program.*

13 SEC. 3. Section 14556.1 of the Government Code is amended
14 to read:

15 14556.1. For purposes of this chapter, the following terms
16 shall have the following meanings, unless expressly stated
17 otherwise:

- 18 (a) “Commission” is the California Transportation
19 Commission.
- 20 (b) “Department” is the Department of Transportation.
- 21 (c) “Fund” or “TCRF” is the Traffic Congestion Relief Fund
22 created under this chapter.
- 23 (d) “Program” is the Traffic Congestion Relief Program
24 established under this chapter.

25 SEC. 4. Section 14556.6 of the Government Code is amended
26 to read:

27 14556.6. The purpose of this article is to relieve traffic
28 congestion, provide additional funding for local street and road
29 deferred maintenance, and provide additional transportation
30 capacity in high growth areas of the state. The Traffic Congestion
31 Relief Fund is intended to contribute five billion three hundred
32 ~~ninety million dollars (\$5,390,000,000)~~ *thirteen million nine*
33 *hundred thousand dollars (\$5,313,900,000)*, above the traditional
34 transportation funding provided by the state, towards the funding
35 of projects listed in Article 5 (commencing with Section
36 14556.40) and the deferred maintenance program authorized in
37 Section 2182 of the Streets and Highways Code. This funding
38 commitment is intended to be combined with other state, local,
39 federal, and private funds to complete and operate the
40 transportation improvements identified in Article 5 (commencing



1 with Section 14556.40). Funds needed to meet the contribution
2 commitment described in this section are intended to be provided
3 as follows:

4 (a) The sum of one billion five hundred million dollars
5 (\$1,500,000,000) from the General Fund, as appropriated by
6 Section 20 of ~~the act that added this chapter~~ *Chapter 91 of the*
7 *Statutes of 2000*, to the fund.

8 (b) The sum of five hundred million dollars (\$500,000,000)
9 from the transfer of the sales and use tax on motor vehicle fuel
10 during the 2000–01 fiscal year, as required under Section 7102 of
11 the Revenue and Taxation Code, as amended by Section 10 of ~~the~~
12 ~~act that added this section~~ *Chapter 91 of the Statutes of 2000*.

13 (c) The sum of six hundred seventy-eight million dollars
14 (\$678,000,000) is intended to be provided in each of ~~five~~ *four*
15 successive fiscal years, commencing with the ~~2001–02~~ *2003–04*
16 fiscal year, *plus the sum of six hundred one million nine hundred*
17 *thousand dollars (\$601,900,000) in the 2007–08 fiscal year*, from
18 the Transportation Investment Fund.

19 *SEC. 5. Section 14556.7 is added to the Government Code, to*
20 *read:*

21 *14556.7. (a) To provide adequate cash for projects,*
22 *including, but not limited to, projects in the State Transportation*
23 *Improvement Program, the State Highway Operation and*
24 *Protection Program, and the Traffic Congestion Relief Program,*
25 *and for the support of the department, the department may transfer*
26 *funds as short-term loans among and between the State Highway*
27 *Account in the State Transportation Fund, the Transportation*
28 *Investment Fund in the State Treasury, the Public Transportation*
29 *Account in the State Transportation Fund and the Traffic*
30 *Congestion Relief Fund (TCRF), subject to those terms and*
31 *conditions that the Director of Finance may impose upon those*
32 *transfers. When loan balances authorized in this subdivision are*
33 *outstanding, the Director of Transportation shall report the*
34 *amounts of loans outstanding with respect to each fund or account*
35 *as of the last business day of each quarter to the commission. The*
36 *commission shall monitor the cash-flow loan program authorized*
37 *in this section and shall provide guidance to the department to*
38 *ensure that sufficient resources will be available for all projects*
39 *and all other authorized expenditures from each fund or account*
40 *so as to not delay any authorized expenditure.*



1 (b) For the purposes of this section, a “short-term loan” is a
2 transfer that is made subject to the following conditions:

3 (1) That any amount loaned is to be repaid in full to the fund or
4 account from which it was loaned during the same fiscal year in
5 which the loan was made, except that repayment may be delayed
6 until a date not more than 30 days after the date of enactment of
7 the budget bill for the subsequent fiscal year.

8 (2) That loans shall be repaid whenever the funds are needed
9 to meet cash expenditure needs in the loaning fund or account.

10 (c) This section shall become inoperative on July 1, 2008, and,
11 as of January 1, 2009, is repealed, unless a later enacted statute,
12 that becomes operative on or before January 1, 2009, deletes or
13 extends the dates on which it becomes inoperative and is repealed.

14 SEC. 6. Section 14556.8 is added to the Government Code, to
15 read:

16 14556.8. (a) (1) To the extent necessary to provide adequate
17 cash to fund projected expenditures under this chapter, the
18 Director of Finance may authorize, by executive order, the transfer
19 of not more than one hundred million dollars (\$100,000,000), as
20 an interest free loan, from the Motor Vehicle Account in the State
21 Transportation Fund to the TCRF, and the transfer of any
22 available funds, as an interest free loan, from the General Fund to
23 the TCRF. Loans from the Motor Vehicle Account may be made no
24 sooner than July 1, 2004, and shall be repaid no later than July 1,
25 2007. The Director of Finance shall not authorize a loan from the
26 Motor Vehicle Account, and shall promptly require the repayment
27 of any outstanding balance owed to that account, if the funds are
28 needed in the account to make expenditures authorized in the
29 annual Budget Act and by any other appropriations made by the
30 Legislature.

31 (2) To provide cash needed for expenditures on projects listed
32 in Section 14556.40, the Legislature may authorize loans from the
33 Public Transportation Account or the State Highway Account to
34 the TCRF through the annual Budget Act. The Legislature may
35 also authorize the State Highway Account to expend funds on
36 behalf of projects listed in Section 14556.40 and those
37 expenditures shall constitute a loan to the TCRF. Loans from the
38 Public Transportation Account shall not exceed a cumulative total
39 of two hundred eighty million dollars (\$280,000,000) and loans



1 from the State Highway Account shall not exceed a cumulative
2 total of one hundred eighty million dollars (\$180,000,000).

3 (b) The Director of Finance shall order the repayment of the
4 loans authorized under this section under those terms and
5 conditions that the director deems appropriate, upon determining
6 that there are adequate funds available for that purpose in the
7 TCRF and that repayment will not jeopardize the availability of
8 money needed to fund approved and projected expenditures under
9 this chapter. All loans from the Public Transportation Account
10 shall be repaid by June 30, 2008, and all loans from the State
11 Highway Account shall be repaid by June 30, 2007. Upon the
12 request of the commission or the Director of Finance, the
13 department shall provide a report, for purposes of this paragraph,
14 projecting the cash needs of the projects approved under this
15 chapter.

16 (c) (1) Money in the TCRF derived from the General Fund and
17 not currently needed for expenditures on the projects listed in
18 Section 14556.40 may be transferred to the General Fund through
19 the annual Budget Act.

20 (2) Upon making a determination that funds in the TCRF are
21 not adequate to support expected cash expenditures for the listed
22 projects, the Director of Finance, by executive order, shall require
23 that funds transferred to the General Fund under paragraph (1) be
24 repaid to the TCRF. All these loans shall be repaid no later than
25 June 30, 2006.

26 (d) Funds transferred to the TCRF under this section shall be
27 used for purposes consistent with any restrictions on uses of those
28 funds imposed under the California Constitution or by statute. The
29 department shall identify specific projects to which those funds
30 may properly be applied and shall propose that application of
31 funds to the commission. The commission shall designate projects
32 to receive those funds through the processes described in Article
33 3 (commencing with Section 14556.10) and Article 4
34 (commencing with Section 14556.25). The department shall report
35 periodically to the commission and the Department of Finance on
36 the expenditure of those funds.

37 (e) This section shall become inoperative on July 1, 2008, and,
38 as of January 1, 2009, is repealed, unless a later enacted statute,
39 that becomes operative on or before January 1, 2009, deletes or
40 extends the dates on which it becomes inoperative and is repealed.



1 SEC. 7. Section 14556.9 is added to the Government Code, to
2 read:

3 14556.9. (a) The department shall submit quarterly and
4 annual reports to the Joint Legislative Budget Committee, and to
5 the fiscal and policy committees of the Legislature that consider
6 transportation issues, on all loans and transfers authorized
7 pursuant to Sections 14556.7 and 14556.8 for the most recent
8 reporting period. The reports shall summarize amounts loaned
9 and repaid during the reporting period and any outstanding
10 balances at the end of the reporting period. The annual report
11 required under this section shall be delivered to the Legislature by
12 March 1 of each year and shall include information on and a
13 discussion of the impact of all loans and transfers on project
14 expenditures for each affected program. Additionally, the annual
15 report shall include the amount of loans outstanding as of the end
16 of the reporting period and any actual or projected impacts of
17 those loan balances on funds projected to be used for projects in
18 the latest State Transportation Improvement Program fund
19 estimate required pursuant to subdivision (a) of Section 14525.

20 (b) This section shall become inoperative on July 1, 2008, and,
21 as of January 1, 2009, is repealed, unless a later enacted statute
22 that is enacted before January 1, 2009, deletes or extends the dates
23 on which it becomes inoperative and is repealed.

24 SEC. 8. Section 7102 of the Revenue and Taxation Code, as
25 added by Section 11 of Chapter 91 of the Statutes of 2000, is
26 amended to read:

27 7102. The money in the fund shall, upon order of the
28 Controller, be drawn therefrom for refunds under this part, credits
29 or refunds pursuant to Section 60202, and refunds pursuant to
30 Section 1793.25 of the Civil Code, or be transferred in the
31 following manner:

32 (a) (1) All revenues, less refunds, derived under this part at the
33 $4\frac{3}{4}$ -percent rate, including the imposition of sales and use taxes
34 with respect to the sale, storage, use, or other consumption of
35 motor vehicle fuel which would not have been received if the sales
36 and use tax rate had been 5 percent and if motor vehicle fuel, as
37 defined for purposes of the Motor Vehicle Fuel License Tax Law
38 (Part 2 (commencing with Section 7301)), had been exempt from
39 sales and use taxes, shall be estimated by the State Board of
40 Equalization, with the concurrence of the Department of Finance,



1 and shall be transferred quarterly to the ~~Transportation Planning~~
2 ~~and Development~~ *Public Transportation* Account, a trust fund in
3 the State Transportation Fund.

4 (A) *For the 2001–02 fiscal year, those transfers may not be*
5 *more than eighty-one million dollars (\$81,000,000) plus one-half*
6 *of the amount computed pursuant to this paragraph that exceeds*
7 *eighty-one million dollars (\$81,000,000).*

8 (B) *For the 2002–03 fiscal year, those transfers may not be*
9 *more than thirty-seven million dollars (\$37,000,000) plus one-half*
10 *of the amount computed pursuant to this paragraph that exceeds*
11 *thirty-seven million dollars (\$37,000,000).*

12 (2) All revenues, less refunds, derived under this part at the
13 $4\frac{3}{4}$ -percent rate, resulting from increasing, after December 31,
14 1989, the rate of tax imposed pursuant to the Motor Vehicle Fuel
15 License Tax Law on motor vehicle fuel, as defined for purposes of
16 that law, shall be transferred quarterly to the ~~Transportation~~
17 ~~Planning and Development~~ *Public Transportation* Account, a trust
18 fund in the State Transportation Fund.

19 (3) All revenues, less refunds, derived under this part at the
20 $4\frac{3}{4}$ -percent rate from the imposition of sales and use taxes on fuel,
21 as defined for purposes of the Use Fuel Tax Law (Part 3
22 (commencing with Section 8601)) and the Diesel Fuel Tax Law
23 (Part 31 (commencing with Section 60001)), shall be estimated by
24 the State Board of Equalization, with the concurrence of the
25 Department of Finance, and shall be transferred quarterly to the
26 ~~Transportation Planning and Development~~ *Public Transportation*
27 Account, a trust fund in the State Transportation Fund.

28 (4) All revenues, less refunds, derived under this part from a
29 rate of more than $4\frac{3}{4}$ percent pursuant to Sections 6051.1 and
30 6201.1 for the period December 1, 1989, to June 5, 1990,
31 inclusive, shall be transferred to the Disaster Relief Fund created
32 by Section 16419 of the Government Code.

33 (5) All revenues, less refunds, derived under this part from a
34 rate of more than $4\frac{3}{4}$ percent pursuant to Sections 6051.1 and
35 6201.1 for the period June 6, 1990, to December 31, 1990,
36 inclusive, which is attributable to the imposition of sales and use
37 taxes with respect to the sale, storage, use, or other consumption
38 of tangible personal property other than fuel, as defined for
39 purposes of the Use Fuel Tax Law (Part 3 (commencing with



1 Section 8601)), shall be transferred to the Disaster Relief Fund
2 created by Section 16419 of the Government Code.

3 (6) All revenues, less refunds, derived under this part from a
4 rate of more than $4\frac{3}{4}$ percent pursuant to Sections 6051.1 and
5 6201.1 for the period June 6, 1990, to December 31, 1990,
6 inclusive, which is attributable to the imposition of sales and use
7 taxes with respect to the sale, storage, use, or other consumption
8 of fuel, as defined for purposes of the Use Fuel Tax Law (Part 3
9 (commencing with Section 8601)), shall be transferred to the
10 Disaster Relief Fund created by Section 16419 of the Government
11 Code.

12 (7) All revenues, less refunds, derived under this part from the
13 taxes imposed pursuant to Sections 6051.2 and 6201.2 shall be
14 transferred to the Sales Tax Account of the Local Revenue Fund
15 for allocation to cities and counties as prescribed by statute.

16 (8) All revenues, less refunds, derived under this part from the
17 taxes imposed pursuant to Sections 6051.6 and 6201.6 shall be
18 transferred to the Interim Public Safety Account in the Local
19 Public Safety Fund created in Section 30051 of the Government
20 Code for allocation to counties as prescribed by statute.

21 (9) All revenues, less refunds, derived from the taxes imposed
22 pursuant to Section 35 of Article XIII of the California
23 Constitution shall be transferred to the Public Safety Account in
24 the Local Public Safety Fund created in Section 30051 of the
25 Government Code for allocation to counties as prescribed by
26 statute.

27 (10) An amount equal to all revenues, less refunds, derived
28 under this part at a $4\frac{3}{4}$ percent rate for the period between January
29 1, 1994, and July 1, 1994, from the increase in sales and use tax
30 revenue attributable to the increase in the rate of the federal motor
31 vehicle fuel tax between January 1, 1993, and the rate in effect on
32 January 1, 1994, shall be estimated by the State Board of
33 Equalization, with the concurrence of the Department of Finance,
34 and an amount equal to that amount, but not exceeding seven
35 million five hundred thousand dollars (\$7,500,000) shall be
36 transferred from the Retail Sales Tax Fund to the Small Business
37 Expansion Fund created by Article 5 (commencing with Section
38 14030) of Chapter 1 of Part 5 of Division 3 of Title I of the
39 Corporations Code.

40 (b) The balance shall be transferred to the General Fund.



1 (c) The estimates required by subdivision (a) shall be based on
2 taxable transactions occurring during a calendar year, and the
3 transfers required by subdivision (a) shall be made during the
4 fiscal year that commences during that same calendar year.
5 Transfers required by paragraphs (1), (2), and (3) of subdivision
6 (a) shall be estimated by the State Board of Equalization, with the
7 concurrence of the Department of Finance, and shall be made
8 quarterly.

9 (d) Notwithstanding the designation of the ~~Transportation~~
10 ~~Planning and Development~~ *Public Transportation* Account as a
11 trust fund pursuant to subdivision (a), the Controller may use the
12 ~~Transportation Planning and Development~~ *Public Transportation*
13 Account for loans to the General Fund as provided in Sections
14 16310 and 16381 of the Government Code. The loans shall be
15 repaid with interest from the General Fund at the Pooled Money
16 Investment Account rate.

17 (e) The Legislature may amend this section, by statute passed
18 in each house of the Legislature by rollcall vote entered in the
19 journal, two-thirds of the membership concurring, if the statute is
20 consistent with, and furthers the purposes of this section.

21 (f) This section shall become operative on June 30, 2001.

22 *SEC. 9. Section 7104 of the Revenue and Taxation Code is*
23 *amended to read:*

24 7104. (a) The Transportation Investment Fund (hereafter the
25 fund) is hereby created in the State Treasury. Notwithstanding
26 Section 13340 of the Government Code, the money in the fund is
27 continuously appropriated without regard to fiscal years for
28 disbursement in the manner and for the purposes set forth in this
29 section.

30 (b) All of the following shall occur on a quarterly basis:

31 (1) The State Board of Equalization, in consultation with the
32 Department of Finance, shall estimate the amount that is
33 transferred to the General Fund under subdivision (b) of Section
34 7102 that is attributable to revenue collected for the sale, storage,
35 use, or other consumption in this state of motor vehicle fuel, as
36 defined in Section 7304.

37 (2) The State Board of Equalization shall inform the
38 Controller, in writing, of the amount estimated under paragraph
39 (1).



1 (3) ~~The~~ Commencing with the 2003–04 fiscal year, the
 2 Controller shall transfer the amount estimated under paragraph (1)
 3 from the General Fund to the fund.

4 (c) For each quarter during the period commencing on July 1,
 5 ~~2004~~ 2003, and ending on June 30, ~~2006~~ 2008, the Controller shall
 6 make all of the following transfers and apportionments from the
 7 funds identified for transfer under paragraph (2) of subdivision (b)
 8 in the following order:

9 (1) To the Traffic Congestion Relief Fund created in the State
 10 Treasury by Section 14556.5 of the Government Code, the sum of
 11 one hundred sixty-nine million five hundred thousand dollars
 12 (\$169,500,000), *except that the transfer for the final quarter shall*
 13 *be ninety-three million four hundred thousand dollars*
 14 *(\$93,400,000), for a total transfer of three billion three hundred*
 15 ~~ninety million dollars (\$3,390,000,000)~~ *thirteen million nine*
 16 *hundred thousand dollars (\$3,313,900,000).*

17 (2) To the Public Transportation Account, a trust fund in the
 18 State Transportation Fund, 20 percent of the amount remaining
 19 after the transfer required under paragraph (1). Funds transferred
 20 under this paragraph shall be appropriated by the Legislature as
 21 follows:

22 (A) To the Department of Transportation, 50 percent for
 23 purposes of subdivision (a) or (b) of Section 99315 of the Public
 24 Utilities Code.

25 (B) To the Controller, 25 percent for allocation pursuant to
 26 Section 99314 of the Public Utilities Code. Funds allocated under
 27 this subparagraph shall be subject to all of the provisions
 28 governing funds allocated under Section 99314 of the Public
 29 Utilities Code.

30 (C) To the Controller, 25 percent for allocation pursuant to
 31 Section 99313 of the Public Utilities Code. Funds allocated under
 32 this subparagraph shall be subject to all of the provisions
 33 governing funds allocated under Section 99313 of the Public
 34 Utilities Code.

35 (3) To the Department of Transportation for expenditure for
 36 programming for transportation capital improvement projects
 37 subject to all of the provisions governing the State Transportation
 38 Improvement Program, 40 percent of the amount remaining after
 39 the transfer required under paragraph (1), *except that in the*
 40 *2006–07 and 2007–08 fiscal years, the transfer shall be 80 percent*



1 of the amount remaining after the transfer required under
2 paragraph (1).

3 (4) To the Controller for apportionment to the counties,
4 including a city and county, 20 percent of the amount remaining
5 after the transfer required under paragraph (1), *except that in the*
6 *2006–07 and 2007–08 fiscal years, no transfer may be made under*
7 *this paragraph. Funds transferred under this paragraph shall be*
8 *allocated* in accordance with the following formulas:

9 (A) Seventy-five percent of the funds payable under this
10 paragraph shall be apportioned among the counties in the
11 proportion that the number of fee-paid and exempt vehicles that
12 are registered in the county bears to the number of fee-paid and
13 exempt vehicles registered in the state.

14 (B) Twenty-five percent of the funds payable under this
15 paragraph shall be apportioned among the counties in the
16 proportion that the number of miles of maintained county roads in
17 each county bears to the total number of miles of maintained
18 county roads in the state. For the purposes of apportioning funds
19 under this subparagraph, any roads within the boundaries of a city
20 and county that are not state highways shall be deemed to be
21 county roads.

22 (5) To the Controller for apportionment to cities, including a
23 city and county, 20 percent of the amount remaining after the
24 transfer required under paragraph (1), *except that in the 2006–07*
25 *and 2007–08 fiscal years, no transfer may be made under this*
26 *paragraph. Funds transferred under this paragraph shall be*
27 *apportioned among the cities in the proportion that the total*
28 *population of the city bears to the total population of all the cities*
29 *in the state.*

30 (d) Funds received under ~~paragraphs (4) and~~ *paragraph (4) or*
31 *(5) of subdivision (c) shall be deposited as follows in order to avoid*
32 *the commingling of those funds with other local funds:*

33 (1) In the case of a city, into the city account that is designated
34 for the receipt of state funds allocated for transportation purposes.

35 (2) In the case of a county, into the county road fund.

36 (3) In the case of a city and county, into a local account that is
37 designated for the receipt of state funds allocated for
38 transportation purposes.

39 (e) Funds allocated to a city, county, or city and county under
40 ~~this section~~ *paragraph (4) or (5) of subdivision (c) shall be used*



1 only for street and highway maintenance, rehabilitation,
2 reconstruction, and storm damage repair. For purposes of this
3 section, the following terms have the following meanings:

4 (1) “Maintenance” means either or both of the following:

5 (A) Patching.

6 (B) Overlay and sealing.

7 (2) “Reconstruction” includes any overlay, sealing, or
8 widening of the roadway, if the widening is necessary to bring the
9 roadway width to the desirable minimum width consistent with the
10 geometric design criteria of the department for 3R (reconstruction,
11 resurfacing, and rehabilitation) projects that are not on a freeway,
12 but does not include widening for the purpose of increasing the
13 traffic capacity of a street or highway.

14 (3) “Storm damage repair” is repair or reconstruction of local
15 streets and highways and related drainage improvements that have
16 been damaged due to winter storms and flooding, and construction
17 of drainage improvements to mitigate future roadway flooding
18 and damage problems, in those jurisdictions that have been
19 declared disaster areas by the President of the United States, where
20 the costs of those repairs are ineligible for emergency funding with
21 Federal Emergency Relief (ER) funds or Federal Emergency
22 Management Administration (FEMA) funds.

23 (f) (1) Cities and counties shall maintain their existing
24 commitment of local funds for street and highway maintenance,
25 rehabilitation, reconstruction, and storm damage repair in order to
26 remain eligible for the allocation of funds pursuant to paragraph
27 (4) or (5) of subdivision (c).

28 (2) In order to receive any allocation pursuant to paragraph (4)
29 or (5) of subdivision (c), the city or county shall annually expend
30 from its general fund for street, road, and highway purposes an
31 amount not less than the annual average of its expenditures from
32 its general fund during the 1996–97, 1997–98, and 1998–99 fiscal
33 years, as reported to the Controller pursuant to Section 2151 of the
34 Streets and Highways Code. For purposes of this paragraph, in
35 calculating a city’s or county’s annual general fund expenditures
36 and its average general fund expenditures for the 1996–97,
37 1997–98, and 1998–99 fiscal years, any unrestricted funds that the
38 city or county may expend at its discretion, including vehicle
39 in-lieu tax revenues and revenues from fines and forfeitures,
40 expended for street and highway purposes shall be considered



1 expenditures from the general fund. One-time allocations that
2 have been expended for street and highway purposes, but which
3 may not be available on an ongoing basis, including revenue
4 provided under the Teeter Plan Bond Law of 1994 (Chapter 6.6
5 (commencing with Section 54773) of Part 1 of Division 2 of Title
6 5 of the Government Code, may not be considered when
7 calculating a city's or county's annual general fund expenditures.

8 (3) For any city incorporated after July 1, 1996, the Controller
9 shall calculate an annual average of expenditure for the period
10 between July 1, 1996, and December 31, 2000, that the city was
11 incorporated.

12 (4) For purposes of paragraph (2), the Controller may request
13 fiscal data from cities and counties in addition to data provided
14 pursuant to Section 2151, for the 1996-97, 1997-98, and 1998-99
15 fiscal years. Each city and county shall furnish the data to the
16 Controller not later than 120 days after receiving the request. The
17 Controller may withhold payment to cities and counties that do not
18 comply with the request for information or that provide
19 incomplete data.

20 (5) The Controller may perform audits to ensure compliance
21 with paragraph (2) when deemed necessary. Any city or county
22 that has not complied with paragraph (2) shall reimburse the state
23 for the funds it received during that fiscal year. Any funds withheld
24 or returned as a result of a failure to comply with paragraph (2)
25 shall be reallocated to the other counties and cities whose
26 expenditures are in compliance.

27 (6) If a city or county fails to comply with the requirements of
28 paragraph (2) in a particular fiscal year, the city or county may
29 expend during that fiscal year and the following fiscal year a total
30 amount that is not less than the total amount required to be
31 expended for those fiscal years for purposes of complying with
32 paragraph (2).

33 (7) The allocation made under paragraph (4) or (5) of
34 subdivision (c) shall be expended not later than the end of the fiscal
35 year following the fiscal year in which the allocation was made,
36 and any funds not expended within that period shall be returned to
37 the Controller and shall be reallocated to the other cities and
38 counties pursuant to the allocation formulas set forth in paragraph
39 (4) or (5) of subdivision (c).



1 (g) The Los Angeles County Metropolitan Transportation
2 Authority shall give first priority for using its share of the funds
3 made available under subparagraphs (B) and (C) of paragraph (2)
4 of subdivision (c) to providing the levels of bus service mandated
5 under the consent decree entered into by the authority on October
6 29, 1996, in the case of Labor/Community Strategy Center, et al.
7 v. Los Angeles County Metropolitan Transportation Authority.

8 (h) For the purpose of allocating funds under ~~this section~~
9 *paragraph (4) or (5) of subdivision (c)* to counties, cities, and a city
10 and county, the Controller shall use the most recent population
11 estimates prepared by the Demographic Research Unit of the
12 Department of Finance. For a city that incorporated after January
13 1, 1998, that does not appear on the most recent population
14 estimates prepared by the Demographic Research Unit, the
15 Controller shall use the population determined for that city under
16 Section 11005.3 of the Revenue and Taxation Code.

17 (i) This section shall become inoperative on the date that all
18 encumbrances incurred for the projects funded under paragraph
19 (3) of subdivision (c) have been liquidated or on June 30, ~~2006~~
20 2008, whichever date is later, and as of the January 1 immediately
21 following that date is repealed.

22 *SEC. 10. (a) For each of the 2001–02 and 2002–03 fiscal*
23 *years, there is hereby appropriated from the State Highway*
24 *Account in the State Transportation Fund to the Controller 40*
25 *percent of the amount obtained by subtracting one hundred*
26 *sixty-nine million five hundred thousand dollars (\$169,500,000)*
27 *from the amount reported to the Controller under paragraph (2)*
28 *of subdivision (b) of Section 7104 of the Revenue and Taxation*
29 *Code during each of those fiscal years.*

30 *(b) The Controller shall apportion the funds appropriated*
31 *under this section to cities, counties, and cities and counties in*
32 *accordance with paragraphs (4) and (5) of subdivision (c) of*
33 *Section 7104 of the Revenue and Taxation Code.*

34 *(c) Funds received by a city, county, or city and county under*
35 *this section are subject to the requirements imposed under*
36 *subdivisions (d), (e), (f), and (h) of Section 7104 of the Revenue*
37 *and Taxation Code.*

38 *SEC. 11. If this act is enacted and becomes operative prior to*
39 *June 30, 2001, Section 8 shall not become operative until June 30,*
40 *2001.*



