

Assembly Bill No. 9

Passed the Assembly March 4, 2010

Chief Clerk of the Assembly

Passed the Senate March 4, 2010

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2010, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 16965 of the Government Code, to amend Sections 99312, 99314.6, and 99315 of the Public Utilities Code, to add Sections 7102.1 and 7104.4 to, to add and repeal Section 7103.1 of, and to repeal Section 7103 of, the Revenue and Taxation Code, and to amend Sections 183.1 and 2103 of the Streets and Highways Code, relating to transportation, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 9, Committee on Budget. Transportation finance.

(1) The Motor Vehicle Fuel Tax Law and the Diesel Fuel Tax Law each impose a tax at the rate of \$0.18 per gallon on the removal, entry, sale, delivery, or specified use of motor vehicle fuel, commonly referred to as gasoline, and including aviation gasoline, and diesel fuel. Article XIX of the California Constitution requires state-imposed excise tax revenues from fuel used in motor vehicles upon public streets and highways to be used solely for highway and mass transit guideway purposes.

This bill would require new revenues from an increase in those taxes to first be used to reimburse the General Fund for the amount needed for debt service on specified general obligation transportation bonds, with 44% of remaining revenues to be transferred to the State Highway Account to fund projects in the state transportation improvement program (STIP), 12% to be transferred to the State Highway Account for the State Highway Operation and Protection Program (SHOPP), and the remaining 44% to be apportioned to cities and counties for local street and road purposes pursuant to a specified formula, thereby resulting in an appropriation. However, in the 2010–11 fiscal year, after the reimbursement of the General Fund for debt service, approximately \$650,000,000 would be retained for future appropriation and 50% of the remaining revenues would be allocated to the STIP and 50% would be allocated to local streets and roads.

(2) Existing law, pursuant to Proposition 116 of 1990, creates the Public Transportation Account as a trust fund, with revenues in the account to be used solely for mass transportation and

transportation planning purposes, and requires revenues from specified portions of the state sales and use tax on the sale of, and the storage, use, or other consumption of, motor vehicle fuel and diesel fuel to be transferred to the account. Existing law also requires revenues deposited in the State Highway Account from various miscellaneous sources that are not subject to Article XIX of the California Constitution to be transferred to the Public Transportation Account.

This bill would eliminate the transfer of miscellaneous revenues from the State Highway Account to the Public Transportation Account in the 2010–11 fiscal year, and would instead transfer those revenues to the Transportation Debt Service Fund for reimbursement of the General Fund for payment of current year debt service for specified general obligation rail and transit bonds. The bill would require the Controller to retransfer to the State Highway Account \$78,903,000 from the Public Transportation Account that was transferred to that account in the 2009–10 fiscal year from the miscellaneous revenues in the State Highway Account, and to transfer those revenues from the State Highway Account to the Transportation Debt Service Fund for reimbursement for current year debt service on specified general obligation rail and transit bonds. The bill would also reduce the amount to be transferred during the 2009–10 fiscal year from the Public Transportation Account to the Transportation Debt Service Fund for reimbursement of the General Fund for specified general obligation rail and transit bonds from \$225,044,000 to \$142,058,000. The bill, in the 2010–11 fiscal year, would transfer \$254,222,000 from the Public Transportation Account to the Transportation Debt Service Fund for reimbursement of the General Fund for payment of current year debt service for specified general obligation rail and transit bonds.

(3) Existing law specifies the authorized expenditures from the Public Transportation Account. Existing law creates the State Transit Assistance Program as one of the eligible transit programs to be funded with 50% of specified revenues in the account. The program provides grants to eligible local agencies under 2 different formulas. Existing law, however, suspends the program for the 2009–10 to 2012–13 fiscal years, inclusive. The remaining funds in the account are allocated to state-level mass transportation and transportation planning programs.

This bill would lift the suspension of the State Transit Assistance Program and appropriate \$400,000,000 from the Public Transportation Account for the program in the 2009–10 fiscal year under the applicable formulas. The bill would provide for no further funding of the State Transit Assistance Program in the 2010–11 fiscal year. For the 2011–12 fiscal year and subsequent fiscal years, the bill would continuously appropriate 75% of specified revenues in the Public Transportation Account under the applicable formulas to the State Transit Assistance Program and would make the revenues in the account transferred from the State Highway Account available, upon appropriation, only for state-level mass transportation and transportation planning programs, except as specified.

Under the State Transit Assistance Program, funds may not be allocated to a transit operator for operating purposes unless the operator meets one of 2 specified efficiency standards, subject to certain exceptions.

This bill would suspend those restrictions with respect to allocations for operating purposes made to those transit operators after January 1, 2010, through the 2011–12 fiscal year.

(4) Existing law requires certain motor vehicle fuel sales tax revenues commonly known as the “spillover” that would otherwise be deposited in the Public Transportation Account to instead be deposited in the Mass Transportation Fund, for expenditure on various programs and for transfer to the Transportation Debt Service Fund.

This bill would repeal the provisions governing the expenditures from the Mass Transportation Fund and transfer any remaining moneys in the fund to the Public Transportation Account.

(5) Existing law, pursuant to Article XIX B of the California Constitution, requires a portion of the revenues from the sales and use tax on motor vehicle fuel to be deposited in the Transportation Investment Fund to be used for specified highway, local street and road, and mass transportation purposes.

This bill would, on and after July 1, 2010, transfer any remaining obligations of the Transportation Investment Fund that cannot be funded with revenues in that fund, to the State Highway Account.

(6) The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation

declaring a fiscal emergency, and calling a special session for this purpose, on January 8, 2010.

This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on January 8, 2010, pursuant to the California Constitution.

Appropriation: yes.

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

SECTION 1. Section 16965 of the Government Code is amended to read:

16965. (a) The Transportation Debt Service Fund is hereby created in the State Treasury. Moneys in the fund shall, among other things, as provided in this section, be dedicated to payment of debt service on bonds including bonds issued pursuant to the Clean Air and Transportation Improvement Act of 1990 (Part 11.5 (commencing with Section 99600) of Division 10 of the Public Utilities Code), the Passenger Rail and Clean Air Bond Act of 1990 (Chapter 17 (commencing with Section 2701) of Division 3 of the Streets and Highways Code), the Seismic Retrofit Bond Act of 1996 (Chapter 12.48 (commencing with Section 8879) of Division 1 of Title 2), the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Chapter 12.49 (commencing with Section 8879.20) of Division 1 of Title 2), and the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century (Chapter 20 (commencing with Section 2704) of Division 3 of the Streets and Highways Code). If the moneys in the fund are insufficient to pay the balance of the debt consistent with existing obligations, the General Fund will be used to pay the balance of any debt service.

(b) (1) From moneys transferred to the fund pursuant to subdivision (b) of Section 7103 of the Revenue and Taxation Code, the Director of Finance is hereby authorized to reimburse the General Fund for up to three hundred thirty-nine million two hundred eighty-nine thousand three hundred forty-five dollars (\$339,289,345) for the purpose of offsetting the cost of debt service payments made from the General Fund during the 2007–08 fiscal year for public transportation-related general obligation bond expenditures in the following amounts:

(A) Clean Air and Transportation Improvement Act of 1990, one hundred twenty-three million nine hundred seventy-three thousand four hundred ninety-three dollars (\$123,973,493).

(B) Passenger Rail and Clean Air Bond Act of 1990, seventy million nine hundred eighty-three thousand three hundred sixty-three dollars (\$70,983,363).

(C) Seismic Retrofit Bond Act of 1996, one hundred forty-four million three hundred thirty-two thousand four hundred eighty-nine dollars (\$144,332,489).

(2) From moneys transferred to the fund pursuant to subdivision (b) of Section 7103 of the Revenue and Taxation Code, the Director of Finance is hereby authorized to reimburse the General Fund in the 2007–08 fiscal year for two hundred million dollars (\$200,000,000) for the purpose of offsetting the cost of debt service payments made in prior fiscal years from the General Fund for public transportation-related general obligation bond expenditures.

(c) From moneys transferred to the fund pursuant to subdivisions (c) and (d) of Section 7103 of the Revenue and Taxation Code, the Director of Finance is hereby authorized to reimburse the General Fund any amount necessary to offset the cost of debt service payments made from the General Fund during any fiscal year for transportation-related general obligation bond expenditures.

(d) From moneys transferred to the fund pursuant to an annual Budget Act or other statute from the State Highway Account in the State Transportation Fund, the Director of Finance is hereby authorized to reimburse the General Fund any amount necessary to offset the cost of debt service payments made from the General Fund during any fiscal year for transportation-related general obligation bond expenditures consistent with Article XIX of the California Constitution.

(e) From moneys transferred to the fund pursuant to Section 2103 of the Streets and Highways Code, the Director of Finance is hereby authorized to reimburse the General Fund any amount necessary to offset the cost of current year debt service payments made from the General Fund on any bonds issued pursuant to Proposition 192 (1996) and three-quarters of the amount of current year debt service payments made from the General Fund on any bonds issued pursuant to Proposition 1B (2006).

(f) From moneys transferred to the fund pursuant to Section 183.1 of the Streets and Highways Code, the Director of Finance is hereby authorized to reimburse the General Fund any amount necessary to offset the cost of current year debt service payments made from the General Fund on any bonds issued pursuant to Proposition 116 (1990).

(g) From moneys transferred to the fund pursuant to Section 99315 of the Public Utilities Code, the Director of Finance is hereby authorized to reimburse the General Fund any amount necessary to offset the cost of current year debt service payments made from the General Fund on any bonds issued pursuant to Proposition 108 (1990) and Proposition 1A (2008), and one-quarter of the amount of current year debt service payments made from the General Fund on any bonds issued pursuant to Proposition 1B (2006).

SEC. 2. Section 99312 of the Public Utilities Code is amended to read:

99312. Except as provided in Sections 99311 and 99311.5, and except as otherwise provided in subdivisions (d) and (e), the funds in the account shall be made available for the following purposes:

(a) Twenty-five percent for purposes of Section 99315, subject to appropriation by the Legislature.

(b) To the Controller, 37.5 percent for allocation to transportation planning agencies, county transportation commissions, and the San Diego Metropolitan Transit Development Board pursuant to Section 99314. Commencing with the 2011–12 fiscal year, these funds are hereby continuously appropriated for purposes of this subdivision.

(c) To the Controller, 37.5 percent for allocation to transportation agencies, county transportation commissions, and the San Diego Metropolitan Transit Development Board for purposes of Section 99313. Commencing with the 2011–12 fiscal year, these funds are hereby continuously appropriated for purposes of this subdivision.

(d) (1) For the 2009–10 fiscal year, notwithstanding any other provision of this section or any other provision of law, the sum of four hundred million dollars (\$400,000,000) is hereby appropriated from the account to the Controller for immediate allocation pursuant to paragraph (2). These funds are intended to cover the two-year period of the 2009–10 and 2010–11 fiscal years. The

remaining funds in the account subject to this section shall be available for the purposes of Section 99315, subject to appropriation by the Legislature.

(2) (A) Fifty percent of the amount appropriated to the Controller pursuant to paragraph (1) shall be allocated to transportation planning agencies, county transportation commissions, and the San Diego Metropolitan Transit Development Board pursuant to Section 99314.

(B) Fifty percent of the amount appropriated to the Controller pursuant to paragraph (1) shall be allocated to transportation planning agencies, county transportation commissions, and the San Diego Metropolitan Transit Development Board pursuant to Section 99313.

(e) For the 2010–11 fiscal year, notwithstanding any other provision of this section or any other provision of law, the funds in the account subject to this section shall be made available only for purposes of Section 99315, subject to appropriation by the Legislature.

SEC. 3. Section 99314.6 of the Public Utilities Code is amended to read:

99314.6. (a) Except as provided in Section 99314.7, the following eligibility standards apply:

(1) Except as provided in paragraph (2), funds shall not be allocated for operating purposes pursuant to Sections 99313 and 99314 to an operator unless the operator meets either of the following efficiency standards:

(A) The operator's total operating cost per revenue vehicle hour in the latest year for which audited data are available does not exceed the sum of the preceding year's total operating cost per revenue vehicle hour and an amount equal to the product of the percentage change in the Consumer Price Index for the same period multiplied by the preceding year's total operating cost per revenue vehicle hour.

(B) The operator's average total operating cost per revenue vehicle hour in the latest three years for which audited data are available does not exceed the sum of the average of the total operating cost per revenue vehicle hour in the three years preceding the latest year for which audited data are available and an amount equal to the product of the average percentage change in the Consumer Price Index for the same period multiplied by the

average total operating cost per revenue vehicle hour in the same three years.

(2) The transportation planning agency, county transportation commission, or the San Diego Metropolitan Transit Development Board, as the case may be, shall adjust the calculation of operating costs and revenue vehicle hours pursuant to paragraph (1) to account for either or both of the following factors:

(A) Exclusion of costs increases beyond the change in the Consumer Price Index for fuel; alternative fuel programs; power, including electricity; insurance premiums and payments in settlement of claims arising out of the operator's liability; or state or federal mandates, including the additional operating costs required to provide comparable complementary paratransit service as required by Section 37.121 of Title 49 of the Code of Federal Regulations, pursuant to the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), as identified in the operator's paratransit plan pursuant to Section 37.139 of Title 49 of the Code of Federal Regulations.

(B) Exclusion of startup costs for new services for a period of not more than two years.

(3) Funds withheld from allocation to an operator pursuant to paragraph (1) shall be retained by the transportation planning agency, county transportation commission, or the San Diego Metropolitan Transit Development Board, as the case may be, for reallocation to that operator for two years following the year of ineligibility. In a year in which an operator's funds are allocated pursuant to paragraph (1), funds withheld from allocation during a preceding year shall also be allocated. Funds not allocated before the commencement of the third year following the year of ineligibility shall be reallocated to cost effective high priority regional transit activities, as determined by the transportation planning agency, county transportation commission, or the San Diego Metropolitan Transit Development Board, as the case may be. If that agency or commission, or the board, determines that no cost effective high priority regional transit activity exists, the unallocated funds shall revert to the Controller for reallocation.

(b) As used in this section, the following terms have the following meanings:

(1) "Operating cost" means the total operating cost as reported by the operator under the Uniform System of Accounts and

Records, pursuant to Section 99243 and subdivision (a) of Section 99247.

(2) “Revenue vehicle hours” has the same meaning as “vehicle service hours,” as defined in subdivision (h) of Section 99247.

(3) “Consumer Price Index,” as applied to an operator, is the regional Consumer Price Index for that operator’s region, as published by the United States Bureau of Labor Statistics. If a regional index is not published, the index for the State of California applies.

(4) “New service” has the same meaning as “extension of public transportation services” as defined in Section 99268.8.

(c) The restrictions in this section do not apply to allocations made for capital purposes.

(d) The exclusion of costs increases described in paragraph (2) of subdivision (a) applies solely for the purpose of calculating an operator’s eligibility to claim funds pursuant to this section and does not authorize an operator to report an operating cost per revenue vehicle hour other than as described in this section and in Section 99247, to any of the following entities:

(1) The Controller pursuant to Section 99243.

(2) The entity conducting the fiscal audit pursuant to Section 99245.

(3) The entity conducting the performance audit pursuant to Section 99246.

(e) The restrictions in this section shall not apply to the allocation of funds made pursuant to Sections 99313 and 99314 after January 1, 2010, and through the 2011–12 fiscal year.

SEC. 4. Section 99315 of the Public Utilities Code is amended to read:

99315. Funds made available pursuant to subdivision (a) of Section 99312 shall be available for all of the following purposes:

(a) To the department for bus and passenger rail services pursuant to Sections 14035, 14035.5, and 14038 of the Government Code.

(b) To the department for funding of public transit capital improvement projects in the state transportation improvement program, pursuant to Section 14529 of the Government Code.

(c) To the department for its planning activities not payable from the State Highway Account in the State Transportation Fund,

its mass transportation responsibilities, and its assistance in regional transportation planning.

(d) To the department for allocation by the director to the Institute of Transportation Studies of the University of California for training and research in public transportation systems engineering and management and coordination with other transportation modes.

(e) To the commission for its activities not payable from the State Highway Account.

(f) To the Public Utilities Commission for its passenger rail safety responsibilities specified in statute on commuter rail, intercity rail, and urban rail transit lines.

(g) For transfer to the Transportation Debt Service Fund created by Section 16965 of the Government Code to reimburse the General Fund for current year debt service payments on rail and transit-related general obligation bonds other than those issued pursuant to the Clean Air and Transportation Improvement Act of 1990 (Part 11.5 (commencing with Section 99600)), as follows:

(1) For the 2009–10 fiscal year, the Controller shall transfer up to one hundred forty-two million fifty-eight thousand dollars (\$142,058,000) to the fund upon order of the Director of Finance for debt service paid or payable within that fiscal year.

(2) For the 2010–11 fiscal year, the Controller shall transfer up to two hundred fifty-four million two hundred twenty-two thousand dollars (\$254,222,000) to the fund, as follows:

(A) By the 15th of every month, the Treasurer, in consultation with the Director of Finance, shall notify the Controller of the amount of debt service that will be paid on each transportation bond during that month.

(B) Within two business days following the 28th of every month, the Controller shall transfer from the account to the Transportation Debt Service Fund an amount equal to monthly debt service paid by the General Fund on any bonds issued pursuant to Proposition 108 (1990) and Proposition 1A (2008), and one-quarter of the monthly debt service paid by the General Fund on any bonds issued pursuant to Proposition 1B (2006).

SEC. 5. Section 7102.1 is added to the Revenue and Taxation Code, to read:

7102.1. Notwithstanding subdivision (b) of Section 7102, the revenues, less refunds, derived from the tax in Sections 6051.8

and 6201.8 shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, and shall be transferred quarterly to the Public Transportation Account in the State Transportation Fund.

SEC. 6. Section 7103 of the Revenue and Taxation Code is repealed.

SEC. 7. Section 7103.1 is added to the Revenue and Taxation Code, to read:

7103.1. (a) All moneys in the Mass Transportation Fund shall be transferred to the Public Transportation Account on the date that fund ceases to exist pursuant to the repeal of Section 7103.

(b) This section shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2011, deletes or extends that date.

SEC. 8. Section 7104.4 is added to the Revenue and Taxation Code, to read:

7104.4. All remaining obligations of the Transportation Investment Fund as of July 1, 2010, that cannot be funded with resources in that fund shall become obligations of the State Highway Account.

SEC. 9. Section 183.1 of the Streets and Highways Code is amended to read:

183.1. (a) Notwithstanding subdivision (a) of Section 182 or any other provision of law, money deposited into the account that is not subject to Article XIX of the California Constitution, including, but not limited to, money that is derived from the sale of documents, charges for miscellaneous services to the public, condemnation deposits fund investments, rental of state property, or any other miscellaneous uses of property or money, may be used for any transportation purpose authorized by statute, upon appropriation by the Legislature or, after transfer to another fund, upon appropriation by the Legislature from that fund.

(b) (1) Not later than November 1 of each year, except as otherwise provided in subdivision (c), based on prior year financial statements, the Controller shall transfer the funds identified in subdivision (a) for the prior fiscal year to the Public Transportation Account in the State Transportation Fund.

(2) From the funds transferred to the Public Transportation Account pursuant to this subdivision in the 2009–10 fiscal year, the Controller shall retransfer to the State Highway Account the

sum of seventy-eight million nine hundred three thousand dollars (\$78,903,000). Notwithstanding paragraph (1), the Controller shall then transfer these funds from the State Highway Account to the Transportation Debt Service Fund in the State Transportation Fund for debt service paid or payable within that fiscal year.

(c) Notwithstanding subdivision (b), in the 2010–11 fiscal year, and not later than November 1, 2010, based on prior year financial statements, the Controller shall transfer the funds identified in subdivision (a) for the prior fiscal year to the Transportation Debt Service Fund in the State Transportation Fund.

(d) Notwithstanding Section 99312 of the Public Utilities Code, commencing with the 2011–12 fiscal year, the funds transferred to the Public Transportation Account pursuant to subdivision (b) shall be made available only for the purposes of Section 99315 of the Public Utilities Code, subject to appropriation by the Legislature, except as provided in paragraphs (1) and (2).

(1) For the 2011–12 fiscal year, eleven million five hundred thousand dollars (\$11,500,000) shall, subject to appropriation by the Legislature, be allocated pursuant to subdivision (b) of Section 99312 of the Public Utilities Code, and eleven million five hundred thousand dollars (\$11,500,000) shall, subject to appropriation by the Legislature, be allocated pursuant to subdivision (c) of Section 99312 of the Public Utilities Code.

(2) For the 2012–13 fiscal year, six million dollars (\$6,000,000) shall, subject to appropriation by the Legislature, be allocated pursuant to subdivision (b) of Section 99312 of the Public Utilities Code, and six million dollars (\$6,000,000) shall, subject to appropriation by the Legislature, be allocated pursuant to subdivision (c) of Section 99312 of the Public Utilities Code.

SEC. 10. Section 2103 of the Streets and Highways Code is amended to read:

2103. (a) Of the net revenues deposited to the credit of the Highway Users Tax Account that are derived from the increases in the rates of taxes that are imposed pursuant to subdivision (b) of Section 7360 and Section 7361.1 of the Revenue and Taxation Code, all of the following shall occur on a monthly basis:

(1) (A) By the 15th day of every month, the Treasurer’s office, in consultation with the Department of Finance, shall notify the Controller of the amount of debt service that will be paid on each transportation bond during that month.

(B) Within two business days following the 28th day of each month, the Controller shall transfer to the Transportation Debt Service Fund an amount equal to the amount of monthly debt service paid by the General Fund on any bonds issued pursuant to the Seismic Retrofit Bond Act of 1996 (Chapter 12.48 (commencing with Section 8879) of Division 1 of Title 2 of the Government Code) or any other highway bonds, and three-quarters of the amount of monthly debt service paid on any bonds issued pursuant to the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Chapter 12.49 (commencing with Section 8879.20) of Division 1 of Title 2) for reimbursement of the General Fund for these costs. If revenues available pursuant to this subdivision in any given month are insufficient to fully reimburse the General Fund for the debt service payments made, the first revenues available pursuant to this subdivision in the following month or months shall be transferred to the Transportation Debt Service Fund so that all debt service payments made on these bonds from the General Fund in a given fiscal year are fully reimbursed.

(2) In the 2010–11 fiscal year, after the monthly transfer made pursuant to paragraph (1), the sum of fifty-four million one hundred sixty-seven thousand dollars (\$54,167,000) per month shall be held in the account for future appropriation by the Legislature.

(3) The Controller shall transfer any remaining net revenues subject to this subdivision as follows:

(A) Forty-four percent shall be transferred to the State Highway Account to fund projects in the State Transportation Improvement Program that are consistent with Section 1 of Article XIX of the California Constitution, except in the 2010–11 fiscal year, 50 percent shall be transferred for purposes of this subparagraph.

(B) Twelve percent shall be transferred to the State Highway Account to fund projects in the State Highway Operation and Protection Program, except in the 2010–11 fiscal year, no revenues shall be transferred for purposes of this subparagraph.

(C) Forty-four percent shall be apportioned by the Controller for local street and road purposes, except in the 2010–11 fiscal year, 50 percent shall be transferred for purposes of this subparagraph as follows:

(i) Fifty percent shall be apportioned by the Controller to cities, including a city and county, in the proportion that the total

population of the city bears to the total population of all the cities in the state.

(ii) Fifty percent shall be apportioned by the Controller to counties, including a city and county, in accordance with the following formulas:

(I) Seventy-five percent shall be apportioned among the counties in the proportion that the number of fee-paid and exempt vehicles that are registered in the county bear to the number of fee-paid and exempt vehicles registered in the state.

(II) Twenty-five percent shall be apportioned among the counties in the proportion that the number of miles of maintained county roads in each county bear to the total number of miles of maintained county roads in the state. For the purposes of apportioning funds under this subparagraph, any roads within the boundaries of a city and county that are not state highways shall be deemed to be county roads.

(b) After the transfers or other actions pursuant to subdivision (a), at least 90 percent of the balance deposited to the credit of the Highway Users Tax Account in the Transportation Tax Fund by the 28th day of each month shall be apportioned or transferred, as applicable, by the Controller by the second working day thereafter, except for June, in which case the apportionment or transfer shall be made the same day. These apportionments or transfers shall be made as provided for in Sections 2104 to 2122, inclusive. If information is not available to make the apportionment or transfer as required, the apportionment or transfer shall be made on the basis of the information of the previous month. Amounts not apportioned or transferred shall be included in the apportionment or transfer of the subsequent month.

SEC. 11. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 12. This act addresses the fiscal emergency declared by the Governor by proclamation on January 8, 2010, pursuant to subdivision (f) of Section 10 of Article IV of the California Constitution.

Approved _____, 2010

Governor