

AMENDED IN ASSEMBLY FEBRUARY 14, 2009

AMENDED IN ASSEMBLY JANUARY 13, 2009

CALIFORNIA LEGISLATURE—2009—10 THIRD EXTRAORDINARY SESSION

**SENATE BILL**

**No. 7**

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**Introduced by Senator Ducheny**

January 5, 2009

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*An act relating to the Budget Act of 2008. An act to amend Section 16965 of, and to add Section 63048.66 to, the Government Code, to amend Sections 99312, 99312.7, and 99315 of the Public Utilities Code, and to amend Sections 7102 and 7104.2 of the Revenue and Taxation Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 7, as amended, Ducheny. ~~Budget Act of 2008.~~ *Transportation finance.*

*(1) Existing law, pursuant to Proposition 116 of 1990, creates the Public Transportation Account as a trust fund in the State Transportation Fund, provides that revenues are to be deposited in the account from specified portions of the sales taxes on gasoline and diesel fuel, and provides that moneys in the account are available for expenditure only for transportation planning and mass transportation purposes. Existing law specifies various transportation programs that are eligible to receive funds from the account, including the State Transit Assistance program that provides grants to local transit operators for operating and capital purposes, and certain transportation planning functions and mass transportation programs administered by state agencies. Certain provisions of Proposition 116 may be amended by*

*the Legislature only by a  $\frac{2}{3}$  vote of both houses and if the amendment is consistent with the purposes of the provision being amended.*

*This bill, for the 2009–10 to 2012–13 fiscal years, would suspend the State Transit Assistance program as an eligible recipient of Public Transportation Account funds, and would provide that certain revenues in the account shall be available only for other specified transportation planning and mass transportation programs. The bill would also revise the authorized uses of Public Transportation Account funds to include regional center transportation and home-to-school transportation.*

*(2) Existing law creates the Mass Transportation Fund in the State Treasury and provides that a portion of gasoline sales tax revenues commonly known as the “spillover” that would otherwise be deposited in the Public Transportation Account shall instead be deposited in the Mass Transportation Fund. Existing law specifies the transportation purposes that may be funded by the fund, including payment of debt service on transportation bonds through transfer of funds to the Transportation Debt Service Fund, regional center transportation of the State Department of Developmental Services, and schoolbus transportation, among other things.*

*This bill, for the 2009–10 to 2012–13 fiscal years, would provide for the transfer of all of those gasoline sales tax revenues commonly known as the “spillover” to the Mass Transportation Fund and eliminate any transfer of those “spillover” revenues to the Public Transportation Account. Because this change would amend a provision contained in Proposition 116, it would require a  $\frac{2}{3}$  vote of both houses of the Legislature for passage.*

*(3) Existing law, pursuant to Article XIX B of the California Constitution, creates the Transportation Investment Fund, which receives another portion of gasoline sales tax revenues that are not designated for deposit into the Public Transportation Account. Moneys in the Transportation Investment Fund are allocated to various transportation purposes, including the state transportation improvement program, local streets and roads, and mass transportation. The portion of moneys designated for mass transportation is, by statute, deposited in the Public Transportation Account, and 75% of these revenues are to be allocated to the State Transit Assistance program, with the remainder to be allocated to mass transportation programs administered by the Department of Transportation.*

*This bill, for the 2009–10 to 2012–13 fiscal years, would suspend the allocations under these provisions to the State Transit Assistance*

*program. The bill would instead provide for allocation of these funds to the other mass transportation programs authorized for funding from the Public Transportation Account. After fiscal year 2012–13, these funds would be available to these programs and the State Transit Assistance program as specified.*

*(4) Existing law creates the Transportation Debt Service Fund in the State Treasury for the purpose, among other things, of using transportation revenues for the payment of debt service on transportation bonds and to reimburse the General Fund for past debt service payments on transportation bonds.*

*This bill would revise the provisions governing the Transportation Debt Service Fund to authorize the Director of Finance, with moneys transferred to that fund pursuant to an annual Budget Act or other statute from the State Highway Account in the State Transportation Fund, to reimburse the General Fund any amount necessary to offset the cost of debt service made in any fiscal year for transportation-related general obligation bond expenditures consistent with Article XIX of the California Constitution.*

*(5) Existing federal law, the Indian Gaming Regulatory Act of 1988, provides for the negotiation and execution of tribal-state gaming compacts for the purpose of authorizing certain types of gaming on Indian lands within a state. The California Constitution authorizes the Governor to negotiate and conclude compacts, subject to ratification by the Legislature. Existing law ratifies a number of tribal-state gaming compacts between the State of California and specified Indian tribes. Existing law authorizes the Infrastructure and Economic Development Bank, upon a filing by the Director of Finance with the bank of a list of specified amended tribal compacts and compact assets, to sell for, and on behalf of, the state all or any portion of those compact assets to a special purpose trust. Existing law authorizes the special purpose trust to issue bonds secured by those compact assets.*

*This bill would provide that the portion of the above-described compact assets that are timely deposited or are due for deposit in a specified fund between July 1, 2008, and June 30, 2010, shall not be available for the purpose described above. The bill would require the Director of Finance to determine the portion of those compact assets attributable to each fiscal year. The bill would allow the Director of Finance to direct the Controller, by separate order applicable to the assets for each fiscal year, to transfer the compact assets attributable*

to that fiscal year to the General Fund. This bill would make other related changes.

(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 December 19, 2008.*

*This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on December 19, 2008, pursuant to the California Constitution.*

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

~~This bill would express the intent of the Legislature to make statutory changes relating to the Budget Act of 2008.~~

~~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 December 19, 2008.~~

~~This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on December 19, 2008, pursuant to the California Constitution.~~

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

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

1     SECTION 1. Section 16965 of the Government Code is  
2     amended to read:  
3     16965. (a) The Transportation Debt Service Fund is hereby  
4     created in the State Treasury. Moneys in the fund shall, among  
5     other things, as provided in this section, be dedicated to payment  
6     of debt service on bonds including bonds issued pursuant to the  
7     Clean Air and Transportation Improvement Act of 1990 (Part 11.5  
8     (commencing with Section 99600) of Division 10 of the Public  
9     Utilities Code), the Passenger Rail and Clean Air Bond Act of  
10    1990 (Chapter 17 (commencing with Section ~~2700~~ 2701) of  
11    Division 3 of the Streets and Highways Code), and the Seismic  
12    Retrofit Bond Act of 1996 (Chapter 12.48 (commencing with  
13    Section 8879) of Division 1 of Title 2). If the moneys in the fund

1 are insufficient to pay the balance of the debt consistent with  
2 existing obligations, the General Fund will be used to pay the  
3 balance of any debt service.

4 (b) (1) From moneys transferred to the fund pursuant to  
5 subdivision (b) of Section 7103 of the Revenue and Taxation Code,  
6 the Director of Finance is hereby authorized to reimburse the  
7 General Fund for up to three hundred thirty-nine million two  
8 hundred eighty-nine thousand three hundred forty-five dollars  
9 (\$339,289,345) for the purpose of offsetting the cost of debt service  
10 payments made from the General Fund during the 2007–08 fiscal  
11 year for public transportation-related general obligation bond  
12 expenditures in the following amounts:

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

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

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

22 (2) From moneys transferred to the fund pursuant to subdivision  
23 (b) of Section 7103 of the Revenue and Taxation Code, the Director  
24 of Finance is hereby authorized to reimburse the General Fund in  
25 the 2007–08 fiscal year for two hundred million dollars  
26 (\$200,000,000) for the purpose of offsetting the cost of debt service  
27 payments made in prior fiscal years from the General Fund for  
28 public transportation-related general obligation bond expenditures.

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

35 (d) *From moneys transferred to the fund pursuant to an annual*  
36 *Budget Act or other statute from the State Highway Account in the*  
37 *State Transportation Fund, the Director of Finance is hereby*  
38 *authorized to reimburse the General Fund any amount necessary*  
39 *to offset the cost of debt service payments made from the General*  
40 *Fund during any fiscal year for transportation-related general*

1 obligation bond expenditures consistent with Article XIX of the  
2 California Constitution.

3 SEC. 2. Section 63048.66 is added to the Government Code,  
4 to read:

5 63048.66. (a) Notwithstanding Section 63048.65 or any other  
6 provision of this article, compact assets that are subject to  
7 designation by the Director of Finance for sale pursuant to  
8 subdivision (a) of Section 63048.65 and that are timely deposited  
9 or are due for deposit in the Special Deposit Fund on or after July  
10 1, 2008, and on or before June 30, 2010, shall not be available  
11 for the purpose of Section 63048.65.

12 (b) The Director of Finance shall determine the portion of the  
13 compact assets described in subdivision (a) that are attributable  
14 to payments made for each fiscal year. The Director of Finance  
15 may direct the Controller, by separate order applicable to the  
16 assets for each fiscal year, to transfer the compact assets  
17 attributable to that fiscal year from the Special Deposit Fund to  
18 the General Fund.

19 (c) Upon order of the Director of Finance, the Controller shall  
20 transfer the compact assets as provided in subdivision (b).

21 (d) If any legal challenges to the issuance of bonds pursuant to  
22 this article are settled sufficiently for the bonds to be sold, the  
23 following shall occur:

24 (1) Notwithstanding subdivision (a), the tribal assets described  
25 in subdivision (a) that are in the Special Deposit Fund, or are still  
26 due for payment to the Special Deposit Fund, may be made  
27 available for sale pursuant to subdivision (a) of Section 63048.65.

28 (2) The transfer of any compact assets to the General Fund  
29 pursuant to this section shall be suspended until after the bonds  
30 are sold, and any possible future transfers to the General Fund  
31 shall be consistent with the provisions of the bond sale.

32 SEC. 3. Section 99312 of the Public Utilities Code is amended  
33 to read:

34 99312. The funds transferred to the account pursuant to Section  
35 7102 of the Revenue and Taxation Code shall be made available  
36 for the following purposes:

37 (a) ~~To the department, 50~~ Fifty percent for purposes of Section  
38 99315.

39 (b) To the Controller, 25 percent for allocation to transportation  
40 planning agencies, county transportation commissions, and the

1 San Diego Metropolitan Transit Development Board pursuant to  
2 Section 99314.

3 (c) To the Controller, 25 percent for allocation to transportation  
4 agencies, county transportation commissions, and the San Diego  
5 Metropolitan Transit Development Board for purposes of Section  
6 99313.

7 (d) For the 2007–08 fiscal year, notwithstanding any other  
8 provision of this section, or any other provision of law, the  
9 allocations made pursuant to this section shall be adjusted as  
10 follows:

11 (1) From the funds transferred to the account pursuant to  
12 paragraph (1) of subdivision (a) of Section 7102 of the Revenue  
13 and Taxation Code, fifty million dollars (\$50,000,000) is hereby  
14 appropriated to the Controller and shall be allocated pursuant to  
15 subdivision (b); fifty million dollars (\$50,000,000) is hereby  
16 appropriated to the Controller and shall be allocated pursuant to  
17 subdivision (c); and the remainder of revenue shall remain in the  
18 Public Transportation Account to fund other state public  
19 transportation priorities. The Controller shall make these allocations  
20 in four equal quarterly amounts of twelve ~~and one-half million~~  
21 *million five hundred thousand* dollars (\$12,500,000), as achievable  
22 by the receipt of the specified revenue.

23 (2) The amount appropriated in Item 2640-101-0046 of the  
24 Budget Act of 2006 for state transit assistance pursuant to  
25 subdivision (b) and (c) was greater than the amount of revenues  
26 received to support state transit assistance pursuant to Section 7102  
27 of the Revenue and Taxation Code. Therefore, notwithstanding  
28 any other provision of law, the amount that would have otherwise  
29 been available for appropriation to state transit assistance in the  
30 2007–08 fiscal year pursuant to paragraphs (2) and (3) of  
31 subdivision (a) of Section 7102 of the Revenue and Taxation Code,  
32 shall be reduced by the excess amount that was appropriated to  
33 state transit assistance in the Budget Act of 2006, and that excess  
34 amount, as determined by the Department of Finance, shall instead  
35 remain in the Public Transportation Account to fund other state  
36 public transportation priorities. The funding for state transit  
37 assistance as described in this paragraph is hereby appropriated to  
38 the Controller for allocation. The Controller shall attempt to spread  
39 this adjustment equally over four quarterly payments, as achievable  
40 by revenue estimates.

1 (e) For the 2008–09 fiscal year and thereafter, notwithstanding  
 2 any other provision of this section; or any other provision of law,  
 3 *and except as provided in subdivision (f)*, the funds transferred to  
 4 the account pursuant to paragraph (1) of subdivision (a) of Section  
 5 7102 of the Revenue and Taxation Code shall be made available  
 6 for the following purposes:

7 (1) ~~To the department, 33.34 percent for~~ *For* purposes of Section  
 8 99315, *33.34 percent*, subject to appropriation by the Legislature.

9 (2) To the Controller, 33.33 percent for allocation to  
 10 transportation planning agencies, county transportation  
 11 commissions, and the San Diego Metropolitan Transit Development  
 12 Board pursuant to Section 99314. These funds are hereby  
 13 continuously appropriated for purposes of this paragraph.

14 (3) To the Controller, 33.33 percent for the allocation to  
 15 transportation agencies, county transportation commissions, and  
 16 the San Diego Metropolitan Transit Development Board for  
 17 purposes of Section 99313. These funds are hereby continuously  
 18 appropriated for purposes of this paragraph.

19 (f) *For the 2009–10 to 2012–13 fiscal years, inclusive,*  
 20 *notwithstanding any other provision of this section or any other*  
 21 *provision of law, the funds transferred to the account pursuant to*  
 22 *Section 7102 of the Revenue and Taxation Code shall be made*  
 23 *available only for purposes of Section 99315, subject to*  
 24 *appropriation by the Legislature.*

25 *SEC. 4. Section 99312.7 of the Public Utilities Code is amended*  
 26 *to read:*

27 99312.7. (a) Not later than each January 31st, the Controller  
 28 shall send to each transportation planning agency and county  
 29 transportation commission, and the San Diego Metropolitan Transit  
 30 Development Board, an estimate of the amount of funds to be  
 31 allocated to it during the next fiscal year pursuant to Sections 99313  
 32 and 99314.

33 (b) Not later than each August 1st, on the basis of the amount  
 34 appropriated in the Budget Act for purposes of Sections 99313  
 35 and 99314, the Controller shall send to each of the entities an  
 36 estimate of the amount of funds to be allocated to it during the  
 37 fiscal year.

38 ~~This section shall become operative on July 1, 1987.~~



1 (c) No notification shall be required for a fiscal year if funding  
2 for Sections 99313 and 99314 allocations is suspended pursuant  
3 to subdivision (f) of Section 99312 or any other provision of law.

4 SEC. 5. Section 99315 of the Public Utilities Code is amended  
5 to read:

6 99315. Funds made available pursuant to subdivision (a) of  
7 Section 99312, shall be available for all of the following purposes:

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

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

15 (c) To the department for its planning activities not payable  
16 from the State Highway Account in the State Transportation Fund,  
17 its mass transportation responsibilities, and its assistance in regional  
18 transportation planning.

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

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

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

29 (g) To the State Department of Developmental Services for  
30 funding of regional center transportation.

31 (h) To the Department of Education for funding of  
32 home-to-school transportation, pursuant to Article 10 (commencing  
33 with Section 41850) of Chapter 5 of, and Small School District  
34 Transportation, pursuant to Article 4.5 (commencing with Section  
35 42290) of Chapter 7 of, Part 24 of Division 3 of Title 2 of the  
36 Education Code.

37 SEC. 6. Section 7102 of the Revenue and Taxation Code is  
38 amended to read:

39 7102. The money in the fund shall, upon order of the Controller,  
40 be drawn therefrom for refunds under this part, credits or refunds

1 pursuant to Section 60202, and refunds pursuant to Section 1793.25  
2 of the Civil Code, or be transferred in the following manner:

3 (a) (1) All revenues, less refunds, derived under this part at the  
4  $4\frac{3}{4}$ -percent rate, including the imposition of sales and use taxes  
5 with respect to the sale, storage, use, or other consumption of motor  
6 vehicle fuel which would not have been received if the sales and  
7 use tax rate had been 5 percent and if motor vehicle fuel, as defined  
8 for purposes of the Motor Vehicle Fuel License Tax Law (Part 2  
9 (commencing with Section 7301)), had been exempt from sales  
10 and use taxes, shall be estimated by the State Board of  
11 Equalization, with the concurrence of the Department of Finance,  
12 and shall be transferred quarterly to the Public Transportation  
13 Account, a trust fund in the State Transportation Fund, except as  
14 modified as follows:

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

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

23 (C) For the 2003–04 fiscal year, no transfers shall be made  
24 pursuant to this paragraph, except that if the amount to be otherwise  
25 transferred pursuant to this paragraph is in excess of eighty-seven  
26 million four hundred fifty thousand dollars (\$87,450,000), then  
27 the amount of that excess shall be transferred.

28 (D) For the 2004–05 fiscal year, no transfers shall be made  
29 pursuant to this paragraph, and of the amount that would otherwise  
30 have been transferred, one hundred forty million dollars  
31 (\$140,000,000) shall instead be transferred to the Traffic  
32 Congestion Relief Fund as partial repayment of amounts owed by  
33 the General Fund pursuant to Item 2600-011-3007 of the Budget  
34 Act of 2002 (Chapter 379 of the Statutes of 2002).

35 (E) For the 2005–06 fiscal year, no transfers shall be made  
36 pursuant to this paragraph.

37 (F) For the 2006–07 fiscal year, the revenues estimated pursuant  
38 to this paragraph shall, notwithstanding any other provision of this  
39 paragraph or any other provision of law, be transferred and  
40 allocated as follows:

1 (i) The first two hundred million dollars (\$200,000,000) shall  
2 be transferred to the Transportation Deferred Investment Fund as  
3 partial repayment of the amounts owed by the General Fund to  
4 that fund pursuant to Section 7106.

5 (ii) The next one hundred twenty-five million dollars  
6 (\$125,000,000) shall be transferred to the Bay Area Toll Account  
7 for expenditure pursuant to Section 188.6 of the Streets and  
8 Highways Code.

9 (iii) Of the remaining revenues, thirty-three million dollars  
10 (\$33,000,000) shall be transferred to the Public Transportation  
11 Account to support appropriations from that account in the Budget  
12 Act of 2006.

13 (iv) The remaining revenues shall be transferred to the Public  
14 Transportation Account for allocation as follows:

15 (I) Twenty percent to the Department of Transportation for  
16 purposes of Section 99315 of the Public Utilities Code.

17 (II) Forty percent to the Controller, for allocation pursuant to  
18 Section 99314 of the Public Utilities Code.

19 (III) Forty percent to the Controller, for allocation pursuant to  
20 Section 99313 of the Public Utilities Code.

21 (G) For the 2007–08 fiscal year, the first one hundred fifty-five  
22 million four hundred ninety-one thousand eight hundred  
23 thirty-seven dollars (\$155,491,837) in revenue estimated pursuant  
24 to this paragraph each quarter shall, notwithstanding any other  
25 provision of this paragraph or any other provision of law, be  
26 transferred quarterly to the Mass Transportation Fund. If revenue  
27 in any quarter is less than that amount, the transfer in the  
28 subsequent quarter or quarters shall be increased so that the total  
29 transferred for the fiscal year is six hundred twenty-one million  
30 nine hundred sixty-seven thousand three hundred forty-eight dollars  
31 (\$621,967,348).

32 (H) For the 2008–09 fiscal year and every fiscal year thereafter,  
33 50 percent of the revenue estimated pursuant to this paragraph  
34 each quarter shall, notwithstanding any other provision of this  
35 paragraph or any other provision of law, *and except as provided*  
36 *in subparagraph (I)*, be transferred to the Mass Transportation  
37 Fund. Notwithstanding this requirement, for the 2008–09 fiscal  
38 year, the amount of two hundred thirty-four million eight hundred  
39 fifty-two thousand dollars (\$234,852,000) each quarter shall be  
40 transferred to the Mass Transportation Fund. If revenue for any

1 quarter is less than that amount, the transfer in the subsequent  
2 quarter or quarters shall be increased so that the total transfer for  
3 the fiscal year is nine hundred thirty-nine million four hundred  
4 eight thousand dollars (\$939,408,000).

5 *(1) For the 2009–10 to 2012–13 fiscal years, inclusive, all*  
6 *revenue estimated pursuant to this paragraph shall,*  
7 *notwithstanding any other provision of this paragraph or any other*  
8 *provision of law, be transferred quarterly to the Mass*  
9 *Transportation Fund.*

10 (2) All revenues, less refunds, derived under this part at the  
11  $4\frac{3}{4}$ -percent rate, resulting from increasing, after December 31,  
12 1989, the rate of tax imposed pursuant to the Motor Vehicle Fuel  
13 License Tax Law on motor vehicle fuel, as defined for purposes  
14 of that law, shall be transferred quarterly to the Public  
15 Transportation Account, a trust fund in the State Transportation  
16 Fund.

17 (3) All revenues, less refunds, derived under this part at the  
18  $4\frac{3}{4}$ -percent rate from the imposition of sales and use taxes on fuel,  
19 as defined for purposes of the Use Fuel Tax Law (Part 3  
20 (commencing with Section 8601)) and the Diesel Fuel Tax Law  
21 (Part 31 (commencing with Section 60001)), shall be estimated  
22 by the State Board of Equalization, with the concurrence of the  
23 Department of Finance, and shall be transferred quarterly to the  
24 Public Transportation Account, a trust fund in the State  
25 Transportation Fund.

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

30 (5) All revenues, less refunds, derived from the taxes imposed  
31 pursuant to Section 35 of Article XIII of the California Constitution  
32 shall be transferred to the Public Safety Account in the Local Public  
33 Safety Fund created in Section 30051 of the Government Code  
34 for allocation to counties as prescribed by statute.

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

36 (c) The estimates required by subdivision (a) shall be based on  
37 taxable transactions occurring during a calendar year, and the  
38 transfers required by subdivision (a) shall be made during the fiscal  
39 year that commences during that same calendar year. Transfers  
40 required by paragraphs (1), (2), and (3) of subdivision (a) shall be

1 estimated by the State Board of Equalization, with the concurrence  
2 of the Department of Finance, and shall be made quarterly.

3 (d) Notwithstanding the designation of the Public Transportation  
4 Account as a trust fund pursuant to subdivision (a), the Controller  
5 may use the Public Transportation Account for loans to the General  
6 Fund as provided in Sections 16310 and 16381 of the Government  
7 Code. The loans shall be repaid with interest from the General  
8 Fund at the Pooled Money Investment Account rate.

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

13 *SEC. 7. Section 7104.2 of the Revenue and Taxation Code is*  
14 *amended to read:*

15 7104.2. (a) The Transportation Investment Fund (hereafter  
16 the fund) in the State Treasury is hereby continued in existence.  
17 All revenues transferred to the fund pursuant to Article XIX B of  
18 the California Constitution beginning with the 2008–09 fiscal year  
19 shall be available for expenditure as provided in this section.  
20 Notwithstanding Section 13340 of the Government Code or any  
21 other provision of law, moneys in the fund are continuously  
22 appropriated without regard to fiscal years for disbursement in the  
23 manner and for the purposes set forth in this section.

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

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

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

33 (3) Commencing with the 2008–09 fiscal year, the Controller  
34 shall transfer the amount estimated under paragraph (1) from the  
35 General Fund to the fund.

36 (c) For each quarter, commencing with the 2008–09 fiscal year,  
37 the Controller shall make all of the following transfers and  
38 apportionments from the fund:

39 (1) To the Public Transportation Account, a trust fund in the  
40 State Transportation Fund, 20 percent of the revenues deposited

1 in the fund. Funds transferred under this paragraph shall be made  
2 available as follows:

3 (A) ~~Twenty-five percent to the Department of Transportation~~  
4 ~~for purposes of subdivision (a) and (b) of Section 99315 of the~~  
5 ~~Public Utilities Code, subject to appropriation by the Legislature.~~

6 (B) Thirty-seven and one-half percent to the Controller, for  
7 allocation pursuant to Section 99314 of the Public Utilities Code.  
8 Funds allocated under this subparagraph shall be subject to all of  
9 the provisions governing funds allocated under Section 99314 of  
10 the Public Utilities Code. These funds are continuously  
11 appropriated to the Controller for purposes of this subparagraph.

12 (C) Thirty-seven and one-half percent to the Controller, for  
13 allocation pursuant to Section 99313 of the Public Utilities Code.  
14 Funds allocated under this subparagraph shall be subject to all of  
15 the provisions governing funds allocated under Section 99313 of  
16 the Public Utilities Code. These funds are continuously  
17 appropriated to the Controller for purposes of this subparagraph.

18 (D) *Notwithstanding subparagraphs (A), (B), and (C), for the*  
19 *2009–10 to 2012–13 fiscal years, inclusive, all funds transferred*  
20 *under this paragraph shall be made available only for purposes*  
21 *of Section 99315 of the Public Utilities Code, subject to*  
22 *appropriation by the Legislature.*

23 (2) To the Department of Transportation for expenditure for  
24 transportation capital improvement projects subject to all of the  
25 rules governing the State Transportation Improvement Program,  
26 40 percent of the revenues deposited in the fund.

27 (3) To the Controller for apportionment pursuant to paragraphs  
28 (A) and (B), 40 percent of the revenues deposited in the fund.

29 (A) Of the amount available under this paragraph, 50 percent  
30 shall be apportioned by the Controller to the counties, including  
31 a city and county, in accordance with the following formulas:

32 (i) Seventy-five percent of the funds payable under this  
33 subparagraph shall be apportioned among the counties in the  
34 proportion that the number of fee-paid and exempt vehicles that  
35 are registered in the county bears to the number of fee-paid and  
36 exempt vehicles registered in the state.

37 (ii) Twenty-five percent of the funds payable under this  
38 subparagraph shall be apportioned among the counties in the  
39 proportion that the number of miles of maintained county roads  
40 in each county bears to the total number of miles of maintained

1 county roads in the state. For the purposes of apportioning funds  
2 under this subparagraph, any roads within the boundaries of a city  
3 and county that are not state highways shall be deemed to be county  
4 roads.

5 (B) Of the amount available under this paragraph, 50 percent  
6 shall be apportioned by the Controller to cities, including a city  
7 and county, in the proportion that the total population of the city  
8 bears to the total population of all the cities in the state.

9 (d) Funds received under subparagraph (A) or (B) of paragraph  
10 (3) of subdivision (c) shall be deposited as follows in order to avoid  
11 the commingling of those funds with other local funds:

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

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

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

18 (e) Funds allocated to a city, county, or city and county under  
19 subparagraph (A) or (B) of paragraph (3) of subdivision (c) shall  
20 be used only for street and highway maintenance, rehabilitation,  
21 reconstruction, and storm damage repair. For purposes of this  
22 section, the following terms have the following meanings:

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

24 (A) Patching.

25 (B) Overlay and sealing.

26 (2) “Reconstruction” includes any overlay, sealing, or widening  
27 of the roadway, if the widening is necessary to bring the roadway  
28 width to the desirable minimum width consistent with the  
29 geometric design criteria of the department for 3R (reconstruction,  
30 resurfacing, and rehabilitation) projects that are not on a freeway,  
31 but does not include widening for the purpose of increasing the  
32 traffic capacity of a street or highway.

33 (3) “Storm damage repair” is repair or reconstruction of local  
34 streets and highways and related drainage improvements that have  
35 been damaged due to winter storms and flooding, and construction  
36 of drainage improvements to mitigate future roadway flooding and  
37 damage problems, in those jurisdictions that have been declared  
38 disaster areas by the President of the United States, where the costs  
39 of those repairs are ineligible for emergency funding with Federal

1 Emergency Relief (ER) funds or Federal Emergency Management  
2 Administration (FEMA) funds.

3 (f) (1) Cities and counties shall maintain their existing  
4 commitment of local funds for street and highway maintenance,  
5 rehabilitation, reconstruction, and storm damage repair in order to  
6 remain eligible for the allocation of funds pursuant to subparagraph  
7 (A) or (B) of paragraph (3) of subdivision (c).

8 (2) In order to receive any allocation pursuant to subparagraph  
9 (A) or (B) of paragraph (3) of subdivision (c), the city or county  
10 shall annually expend from its general fund for street, road, and  
11 highway purposes an amount not less than the annual average of  
12 its expenditures from its general fund during the 1996–97,  
13 1997–98, and 1998–99 fiscal years, as reported to the Controller  
14 pursuant to Section 2151 of the Streets and Highways Code. For  
15 purposes of this paragraph, in calculating a city’s or county’s  
16 annual general fund expenditures and its average general fund  
17 expenditures for the 1996–97, 1997–98, and 1998–99 fiscal years,  
18 any unrestricted funds that the city or county may expend at its  
19 discretion, including vehicle in-lieu tax revenues and revenues  
20 from fines and forfeitures, expended for street and highway  
21 purposes shall be considered expenditures from the general fund.  
22 One-time allocations that have been expended for street and  
23 highway purposes, but which may not be available on an ongoing  
24 basis, including revenue provided under the Teeter Plan Bond Law  
25 of 1994 (Chapter 6.6 (commencing with Section 54773) of Part 1  
26 of Division 2 of Title 5 of the Government Code, may not be  
27 considered when calculating a city’s or county’s annual general  
28 fund expenditures.

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

33 (4) For purposes of paragraph (2), the Controller may request  
34 fiscal data from cities and counties in addition to data provided  
35 pursuant to Section 2151, for the 1996–97, 1997–98, and 1998–99  
36 fiscal years. Each city and county shall furnish the data to the  
37 Controller not later than 120 days after receiving the request. The  
38 Controller may withhold payment to cities and counties that do  
39 not comply with the request for information or that provide  
40 incomplete data.



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

8 (6) If a city or county fails to comply with the requirements of  
9 paragraph (2) in a particular fiscal year, the city or county may  
10 expend during that fiscal year and the following fiscal year a total  
11 amount that is not less than the total amount required to be  
12 expended for those fiscal years for purposes of complying with  
13 paragraph (2).

14 (7) The allocation made under subparagraph (A) or (B) of  
15 paragraph (3) of subdivision (c) shall be expended not later than  
16 the end of the fiscal year following the fiscal year in which the  
17 allocation was made, and any funds not expended within that period  
18 shall be returned to the Controller and shall be reallocated to the  
19 other cities and counties pursuant to the allocation formulas set  
20 forth in subparagraph (A) or (B) of paragraph (3) of subdivision  
21 (c).

22 (g) For the purpose of allocating funds under subparagraph (A)  
23 or (B) of paragraph (3) of subdivision (c) to counties, cities, and  
24 a city and county, the Controller shall use the most recent  
25 population estimates prepared by the Demographic Research Unit  
26 of the Department of Finance. For a city that incorporated after  
27 January 1, 2008, that does not appear on the most recent population  
28 estimates prepared by the Demographic Research Unit, the  
29 Controller shall use the population determined for that city under  
30 Section 11005.3.

31 *SEC. 8. This act addresses the fiscal emergency declared by*  
32 *the Governor by proclamation on December 19, 2008, pursuant*  
33 *to subdivision (f) of Section 10 of Article IV of the California*  
34 *Constitution.*

35 *SEC. 9. This act is an urgency statute necessary for the*  
36 *immediate preservation of the public peace, health, or safety within*  
37 *the meaning of Article IV of the Constitution and shall go into*  
38 *immediate effect. The facts constituting the necessity are:*

1 *In order to make statutory changes to provisions governing*  
2 *transportation funds that are necessary to address the state’s fiscal*  
3 *emergency, it is necessary that this act take effect immediately.*

4 ~~SECTION 1. It is the intent of the Legislature to make statutory~~  
5 ~~changes relating to the Budget Act of 2008.~~

6 ~~SEC. 2. This act addresses the fiscal emergency declared by~~  
7 ~~the Governor by proclamation on December 19, 2008, pursuant~~  
8 ~~to subdivision (f) of Section 10 of Article IV of the California~~  
9 ~~Constitution.~~

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