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Funding Transportation in California: A History of Crises

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Introduction

There is widespread agreement that California's transportation program is in a state of financial crisis. California roads are badly in need of expensive repair and replacement. A total of 68 percent of the state's roads are in "poor" or "mediocre" condition—the second worst percentage in the nation—and nearly one-quarter of its bridges are structurally deficient. Its interstates rank as the most highly travelled and most congested in the nation (TRIP 2016). The average condition of road pavements has fallen so far that without immediate preventative maintenance, any further deterioration of these "at risk" facilities will vastly increase costs for rehabilitation and reconstruction (Conference Committee on SB4 and AB3 2015).[1]

While annual revenues are only estimated to reach $23 billion, the state requires $57 billion more to correct serious and substantial existing deficiencies in the state's core highway infrastructure and another $78 billion to fix local streets and roads (Lehrer 2016). Californians strongly favor increased spending on road repair, but are split on higher fuel taxes and most do not support an alternative new tax levied per vehicle mile of travel (DiCamillo and Field 2015).

The current funding crisis is widely recognized, but difficult for the legislature and governor to resolve. An examination of the history of transportation finance over a century reveals that the current crisis, while deep and complex, is not at all unprecedented. Indeed, there have been at least six prior crises in California transportation policy and finance, each of which has been addressed in an ad hoc manner suitable to its times. Each crisis occurred in part by the harvesting of seeds sown by the solution to the preceding crisis.

California has historically relied on a combination of bond finance, vehicle fees, and excise and sales taxes on automobile fuel to pay for transportation. Over the years, the revenues generated by each of these finance mechanisms was legislatively dedicated—and in some cases constitutionally restricted—to specific transportation-related uses, and guaranteed to certain political jurisdictions. During times of fiscal distress, however, some of these monies also became prime targets for borrowing or diversion in order to address budget shortfalls or to meet more immediate needs.

[1] On a 100-point scale, the average Pavement Condition Index score for California road is 66, which falls in the "at risk" category (50–70). Roads in this category are typically beyond the half way point in their useful life and require an average of $15–20 per square yard in repair costs, compared to $2-4 for those in the "good" category (71–100). Repair costs increase significantly for roads in the "poor" category (0–49) testifying to the value of preventative maintenance.

This ad hoc approach to funding important and necessary transportation infrastructure is exemplified by the current legislative stalemate over funding backlogged highway maintenance projects. To better understand the political context of this current debate and reflect on California's current choices in moving state transportation finance forward, this paper traces the historical evolution of California's efforts to fund highway and transit systems through several major crisis periods in light of the state's ongoing battles over transportation policy.

History of California Transportation Finance

In the horse and buggy years, streets and roads were traditionally funded through ad valorem local property taxes or special assessments on the theory that adjacent property owners principally benefited from the increased access. This method proved inadequate and inequitable as the growth of automobiles necessitated construction of a comprehensive statewide system of highways. As a result, legislators concluded that the financial responsibility for longer road segments carrying intercity traffic should be borne by the public generally (Zettel 1946). Ever since having established this public-pay principle, policymakers have been unable to find a permanent solution to the state's transportation funding dilemmas.

Crisis I: Building California's First State Highway System

Responding to the deplorable condition of state roads, in 1901, the legislature authorized a continuous and connected state highway system to join county seats and major population centers. The voter-endorsed 1909 State Highway Act (Stats. 1909, c. 383) established a 34-route, 3,000-mile system financed by $18 million in road construction bonds to be redeemed out of general revenues primarily from property and corporate taxes. While no specific funding sources were identified for principal and interest payments, state revenue officials were charged to collect the funds needed. The initial estimates proved inadequate, and the state required additional highway bond measures in 1915 and 1919 (Stats. 1915, c. 404; Stats. 1919, c. 46 (S.C.A. No. 27)) to complete and upgrade the system; the additional bond measures increased total state debt to $73 million.

At the time, highway finance was seen as a public obligation and little thought was given to financing road improvements directly from user fees. It soon became apparent that additional sources of revenue were required for maintenance and upkeep of the newly improved roadways. This created a tension between those who favored sharing the costs among all taxpayers and others who felt that those using the roadways should be primarily responsible for their construction and repair.

Those who supported greater reliance on user fees also disagreed as to whether some users, such as heavy commercial truck operators, should pay more than private car owners. Burdened already by heavy debt, the state shifted toward "pay as you go" funding for highway improvements by adopting various user fees to support ongoing maintenance and road repair. For example, the Motor Vehicle Act of 1913 (Stats. 1913, c. 326) required annual vehicle registration fees that varied based on engine horsepower to reflect roadway damage by larger vehicles.[2]

[2] The fee ranged from $5 for automobiles with engines rated at less than 20 hp up to $30 for those above 60 hp (Stats. 1913, c. 326). The first vehicle registration fee of $2 was imposed in 1905 with the proceeds placed in the state's General Fund for ROW acquisition, and acquisition and construction of the state highway system. Stats. 1905, c. DCXII (612).

Largely due to the continuing impact of heavier trucks using roadways originally designed for lighter loads, California began collecting weight-based vehicle registration fees on commercial vehicles in 1915 (Stats. 1915, c. 188).[3] The funds were earmarked for local road construction, maintenance and repair, and for maintenance, repair, widening, resurfacing, and reconstruction of state roads and highways. Notably, these user fees were not levied to retire highway construction bonds. The state supplemented its commitment to building and maintaining its roadways with federal funds following passage of the Federal Aid Highway Act of 1916 (Pub. L. No. 156, ch. 241, 39 Stat. 355), which provided up to $10,000 per mile over five years to states for constructing rural post roads.

As more families acquired cars and commercial travel grew, state and local governments continued to borrow funds to keep up with rising demand. By 1923, state and county road construction debt reached $114.2 million. This debt translated into annual state bond payments totaling $3.5 million and annual county bond payments comprised more of interest than principal payments ($2.4 million and $2.2 million, respectively) (Zettel 1946). Worse, most of the authorized bonds had repayment periods as long as 40 years, well beyond the useful lifespan of many of the roads being constructed.

Because the state was spending a large share of its revenue to pay off long-term bonds for road construction and highway maintenance while falling further behind on these debts, it emulated Oregon by adopting a motor fuel tax as a "user fee." The two-cent per gallon tax enacted as part of the 1923 California Vehicle Act (Stats. 1923, c. 267) was similar to a toll, the more one drove, the more one paid in fuel taxes. However, the fuel tax was less expensive to administer compared to tolls because it did not require building and staffing tollbooths. At the time, car-owning households and truckers were a minority of all households and businesses, so it seemed fair to charge vehicle users more than the general public to use roads. Fuel taxes were supplemented by fixed license and registration charges, higher variable weight fees, and business taxes on commercial trucks that caused proportionately more damage to road surfaces than passenger vehicles.[4]

Collectively, the three measures—the gasoline excise tax, increased weight-based vehicle registration fees, and a gross receipts tax[5]—represented a comprehensive, if imprecise, system of

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[3] In addition to the registration fee for gasoline powered vehicles of 40 cents per horsepower, an additional charge was levied for commercial vehicles based on weight ranging from $5 for those with nonpneumatic (solid) tires and weighing less than 4,000 lbs to $20 for those over 10,000 lbs. Electric vehicles were charged $5. Stats. 1915, c. 188.

[4] The registration fee for privately owned vehicles was increased to $3 with an extra fee of $10 for electric cars and $50 for electric vehicles for hire. Weight fees for commercial vehicles with nonpneumatic tires, ranged from $10 for vehicles weighing less than 3,000 lbs. unladen to $40 for those over 10,000 lbs. Vehicles with all pneumatic tires (or weighing less than 3000 lbs. with cushion tires) paid one-half the fee as they did less harm to roadways than solid tires. Stats. 1923, c. 266. Collected registration fees were placed in the Motor Vehicle Fund, and the net receipts (after deduction for administration) were split between counties and the state for road construction, maintenance and repair.

[5] Commercial for-hire trucks operating on intercity roads paid a tax equal to 4 percent of their gross receipts with half of the funds collected going to the state and half to counties based on the number of registered vehicles in each county, for maintenance and repair of public highways (Stats. 1923, c. 341). The tax was promoted by the Automobile Club and others as an equitable way to charge commercial users for their impact on roadways, while exempting locally operated trucks and private vehicles. Commercial carriers argued they should be subject to the same rules applicable to common carriers under the jurisdiction of the Railroad Commission and relieved of all other taxes (including weight fees) (Zettel 1946).

user finance designed to shift the fiscal burdens for maintenance and improvement of state and county highways away from property owners and businesses, and to allocate costs in proportion to road usage and wear. In 1927, the state raised the gasoline tax to three cents per gallon (the additional one cent was for highway construction) and established a formula to distribute funds between urban and rural counties (Stats. 1927, c. 795).

By 1933, California had adopted a 2.5 percent general sales tax but specifically exempted gasoline (though not diesel) because gasoline was already subject to the excise tax (Stats. 1933, c. 1020). Around the same time, the state began collecting an annual vehicle license fee of 1.75 percent of the market value of each motor vehicle in lieu of a property tax. The annual vehicle license fee could be used to pay state highway bonds (Stats. 1935, c. 362).

The gasoline tax was followed in 1937 by an excise tax on diesel fuel, levied at the same three-cent per gallon rate as gasoline (Stats. 1937, c. 352). Significantly, voters approved a constitutional amendment (now Article XIX) in 1938 restricting the use of fuel tax funds and vehicle registration fees to highway purposes (Stats. 1937, res. c. 141 (S.C.A. No. 28)). While only 10 percent of state, county, and city highway revenues came from user taxes in 1920, user taxes comprised 63 percent of revenues by 1945 (Kennedy 1946).[6]

This pay as you go approach served the state well for decades because motor vehicle travel continued to increase and revenue grew with travel. In other words, the growth in revenue paralleled the growth in the need for roads. Motor fuel taxes were administratively simple, inexpensive to collect, relatively fraud-proof, and practically invisible to taxpayers. They were collected at a small number of wholesale fuel distribution facilities and passed along to the motorist. With slight modifications (periodic changes in tax rates and vehicle weight fees including replacing the gross weight surcharge with a fee schedule based on the unladed weight and number of truck axles), this system financed the mass construction of California's extensive freeway system in the postwar period, supported the state's shift toward more multimodal transportation planning beginning in the 1970s, and remained the basic system of highway and road finance in California until the 1990s.

Crisis II: Funding the Postwar Highway Program

Following World War II, the state faced a serious backlog of deferred highway maintenance coupled with added wear and tear on state roads from wartime military activity; however, projected revenues fell nearly $1 billion short of what was needed. To address the situation, Governor Earl Warren called a special session of the legislature to consider a new highway bill. Although there was general agreement on the need for additional spending, considerable controversy emerged over how to pay for it. After several months of difficult negotiations, the legislature finally adopted the Collier-Burns Highway Act of 1947 (Stats. 1947, 1st Ex. Sess., c. 11).

To reach a necessary compromise and enact the legislation, the legislature rejected innovative proposals to tax diesel fuel at a rate 50 percent higher than gasoline on the grounds that diesel is more efficient and thus diesel-powered vehicles paid less than gasoline-powered ones while imposing similar road maintenance costs. Similarly, plans to replace unladed weight fees with a ton-mile tax based on gross vehicle weight and distance travelled were scrapped due to opposition from the trucking industry. Notably, the legislation established the nation's first

[6] Sixty-four percent of county funds came from user taxes and 39 percent of city street and road expenditures (Kennedy 1946). User fees made up an even higher percentage of spending on the State Highway System, 88 percent in 1940 compared to 45 percent in 1920 (Lindman 1946).

highway trust fund, now known as the Highway Users Tax Account (HUTA), to further protect gasoline and diesel taxes from being diverted to nonhighway purposes beyond the existing state constitutional guarantees (Morris, Brown, and Taylor 2016). Eschewing bond financing and tolling to pay the cost of the postwar highway program, legislators opted for a modest increase in existing fuel taxes. The 4.5-cent rate was gradually raised to seven cents per gallon by 1963 (Stats. 1963, c. 1852) and 9 cents in 1983 (Stats. 1981, c. 541), with just over half of gas tax revenues allocated to the state and the remainder distributed to its 58 counties.

While the 1947 act succeeded in increasing funding for highways, protecting highway user fees from diversion, and improving geographic equity between urbanized and rural areas, it failed to fully and fairly allocate costs among different classes of road users. Nor did it consider providing financial support for alternatives to automobile travel such as mass transportation. Many private local transit companies struggled financially throughout the 1950s and 1960s, and many were taken over by local governments to preserve transit service even as the state mass-produced freeways. By the 1970s, growing public dissatisfaction with federal and state highway programs combined with increased awareness of cars' negative environmental impacts, not to mention long lines at the pump following the OPEC oil embargo, spurred efforts to support alternative modes of travel and promote mass transportation in urban areas. With existing fuel tax revenues constitutionally limited to highways, the state legislature finally extended its sales tax to gasoline purchases to finance these efforts.

Crisis III: Reviving Mass Transit

To provide funding for state and local commuter rail and mass transportation, the legislature passed the Transportation Development Act (TDA) in 1971 (Stats. 1971, c. 1400). The TDA marked the beginning of measures to make road users shoulder an increasing share of transportation-related expenditures. The act authorized counties to increase local sales taxes by 0.25 percent to finance local transit operations. To keep the overall sales tax rate constant, the act lowered the state sales tax on all purchases by the same 0.25 percent (from 4 percent to 3.75 percent).

The act extended the sales tax to gasoline to broaden the base and increase the total amount collected. A portion of these funds, known as the spillover, was reserved to support local bus and transit operations and interregional mass transportation. The amount of spillover revenues in any given year depended on the price of gasoline and fuel consumption compared to other goods. In technical terms, the spillover consisted of the amount by which revenues from the 3.75 percent tax on gasoline exceeded the revenue that would have been collected from the eliminated 0.25 percent sales taxes on all other goods.[7]

Under the TDA, taxpayers were protected from a general tax increase to support transit by treating most of the yield from gasoline purchases as general revenue. On the other hand, any excess sales taxes collected from gasoline purchases over the amount needed to make the General Fund whole could be regarded as user fees designed to mitigate the externalities from automobile use. While sales taxes generally better keep pace with inflation compared to excise taxes, sales tax revenues decrease when prices fall. Moreover, sales taxes on gasoline tend to be volatile since the price of fuel fluctuates more than prices in general making advanced financial planning difficult. Finally, the peculiar spillover formula meant that the amounts were not guaranteed; when gas prices were high in a relatively weak economy, substantial additional tax reve-

[7] The base state sales tax rate has since been raised to 4.75 percent.

nues would become available to support mass transportation, while little or no monies would be generated in other years.

When available, spillover funds were deposited into a special account, now known as the Public Transportation Account (PTA) in the state treasury. However, since the uses of spillover sales tax revenues were not constitutionally restricted like fuel excise taxes, the legislature was free to use them for other purposes. In addition to TDA funding for transit, in 1973 the legislature proposed a constitutional amendment (Stats. 1973, res. c. 145 (S.C.A. 15)) that expanded the permitted use of motor fuel excise taxes from authorized highway purposes to building and maintaining exclusive mass transportation guideways and some forms of transit maintenance. The highway lobby and others viewed this as a diversion of existing highway revenues to non-highway purposes. Voters, however, approved the measure (Proposition 5) in the June 1974 state primary election.

Outside of guideway projects, the level of financial support for transit operations still depended on the size of spillover from year to year, which in turn was governed by the price and amount of gasoline sales compared to sales of all other goods. Through the mid-1980s, the spillover generated between $2 million and $159 million per year, making it a highly variable and unpredictable source of funding, Adding to the budgetary uncertainly, it was unclear whether spillover funds were fully committed to transit as, for a time, the legislature capped revenues that could be transferred to the PTA. The temporary cap reflected the state's ad hoc approach to transportation finance.

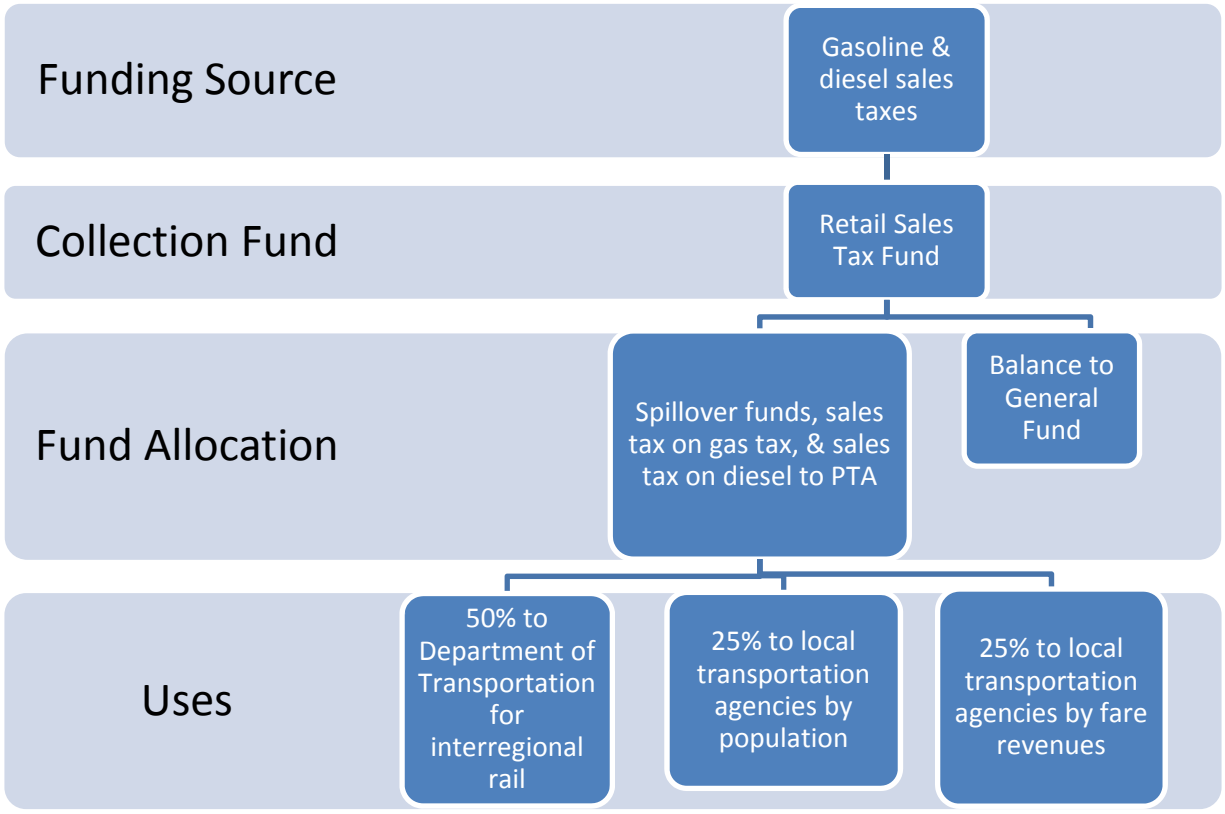
Crisis IV: Rebuilding an Aging Transportation System

In 1989, the state faced a $1.6 billion budget shortfall ($666 million of it in the highway program) and again confronted the challenge of upgrading its aging transportation system. The legislature responded to the shortfall by passing legislation known as the Blueprint for the Twenty-First Century (Stats. 1989, c. 105). By raising taxes, the blueprint provided $18.5 billion over 10 years for capital street and highway improvements as well as intercity and interregional rail projects. The law increased truck weight fees by 55 percent and doubled gasoline and diesel excise tax rates over five years from nine cents per gallon to 18 cents per gallon by 1994. Since voter approval is required to raise state spending limits, the legislation included a constitutional amendment (Stats. 1989, res. c. 66 (S.C.A. 1)), enacted by passage of Proposition 111 (1990), to authorize the tax increases.

As part of the blueprint, transit interests managed to capture a greater portion of fuel sales taxes than they had previously. In addition to the spillover funds, all diesel sales tax revenues, as well as sales taxes collected on the nine-cent increase in the gasoline excise tax (a tax on a tax),[8] were added to the PTA. Figure 1 illustrates the flow of fuel sales tax revenues from collection through the state treasury and the equal distribution between state rail programs and local transit assistance. The law guaranteed that even in years when there was no spillover, transit programs would receive some funds. Given the volatility in spillover revenues, gasoline and diesel sales taxes provided a more stable source of funding for transit, but further blurred the line between treating fuel sales taxes as general revenues or as dedicated user fees to fund transportation projects.

[8] This amount was credited against any spillover funds generated so only the net spillover was transferred. As shown in Figure 3, no spillover funds were generated from FY 1994–05 through FY 2001–02.

Figure 1. Blueprint Plan (1989) Allocations Fuel Sales Tax Revenues.



In a significant reversal of the state's historic pay-as-you-go approach to transportation finance, a centerpiece of the blueprint was raising $3 billion from the sale of general obligation (GO) bonds for intercity rail, commuter rail, and rail transit programs known as the Costa Rail Transportation Act (Stats. 1989, c. 108). Voters approved the first $1 billion authorized in Proposition 108 (1990)—the Passenger Rail and Clean Air Bond Act (Stats. 1989, c. 108)—along with Proposition 111 in the June 1990 election. However, voters later rejected two subsequent rail bond measures in 1992 and 1994 (Propositions 156 and 181, respectively), that would have authorized an additional $1 billion each for the rail program. As a result, state highway funds covered the shortfall of rail program funding (LAO 1995).

Voters also approved an independently-sponsored initiative measure on the same ballot, Proposition 116 (1990), the Clean Air and Transportation Improvement Act, that authorized nearly $2 billion in additional bonds for intercity and commuter rail facilities. Significantly, Proposition 116 also amended state law to declare the PTA a trust fund like the HUTA and specifically limited the use of sales tax funds deposited in the PTA to "transportation planning and mass transportation," and required a two-thirds vote of the legislature for any change to the law governing these monies.

While the blueprint and Proposition 116 increased transportation spending as a share of total state expenditures, the state soon faced additional budget shortfalls in part because of the extensive damage done by the 1994 Northridge earthquake to state transportation infrastructure (LAO

1995). In 1996, voters approved Proposition 192—the Seismic Retrofit Bond Act—that provided another $2 billion in bonds for needed bridge and road repair.[9]

The approval of Propositions 108, 116, and 192 marked an end to reliance on pay as you go and a return to bond financing to fund needed transportation improvements. The money helped jump-start some important projects but imposed long-term obligations on the state treasury that reduced revenues available for other programs and projects. As debt service costs mounted, the legislature eyed additional transit and highway dollars to cover the cost. Voters, however, overwhelmingly favored protecting existing transportation spending, and, in response to the legislature's diversion of state and local transportation funds, approved Proposition 2 (1998), which placed limits on borrowing transportation-related revenues including gasoline excise tax revenues, fees and taxes on motor vehicles, and fuel sales taxes.[10]

Crisis V: Growing Shortages in Transportation Funding

In 1995, California drivers spent 300,000 hours per day in traffic, up 100,000 hours from 1987 (Cunningham 1998). Lower than anticipated revenues and higher than anticipated expenses (including required seismic repair work) meant fewer funds available to meet increasing highway needs generated by population growth and increased travel. Added costs from the aging highway system and needed rehabilitation projects also cut into available funds.

During the 1990s, inflation-adjusted fuel tax revenues generally kept pace with the 20 percent growth in vehicle miles travelled (VMT) due to the 9-cent per gallon excise tax increase. However, by the end of the decade, when the Blueprint program was due to end, real gasoline tax revenues began to decline even as travel continued to grow. Falling gasoline prices (which reduced sales tax revenues), more efficient engines, and increasing use of alternative fuels that were either not taxed or taxed at a lower rate than gasoline or diesel, contributed to the motor fuel tax decline, and put pressure on the state to sustain necessary levels of maintenance and repair while still meeting other transportation needs (LAO 2004).

With the new millennium, once optimistic projections of large surpluses in highway funds began to fade. The California Transportation Commission (CTC) estimated that $100 billion in unfunded but necessary transportation improvements existed throughout the state, including a $700 million deficit in transit operating revenues (California Transportation Commission 1999). Clearly something had to be done. The solution to the problem was to increase investment in

[9] Despite the availability of these funds, in 1997, the legislature authorized the use of $745 million from the State Highway Account and $130 million in PTA funds for seismic repairs. Stats. 1997, c. 327 (SB 60); Stats. 1997 c. 328 (SB 226, Kopp).

[10] Proposition 2 (1998) amended part of Article XIX and added Article XIX A to the state constitution requiring loans of state transportation funds from the PTA to the General Fund to be repaid within one year, or three years if the governor declares a fiscal emergency, and protecting local transit funds from diversion by the state. According to the League of Women Voters, during the severe recession in the early 1990s the legislature and governor borrowed transportation funds to balance the General Fund. Since the constitution did not specify when these funds had to be repaid, some of these temporary loans were, in effect, diverted permanently to the General Fund. In 1995–96, the legislature had also authorized the diversion of $800 million in local transportation funds to mitigate Orange County's bankruptcy and to cover a general funding shortfall in Los Angeles, resulting in a total of almost $1.2 billion in state and local transportation resources diverted since 1991–92 (League of Women Voters of California Education Fund 1998).

transportation from general revenues to fund critical highway and transit projects, but this proved problematic as the state's overall financial picture soon deteriorated.

Governor Gray Davis proposed a six-year, $5.4 billion Transportation Congestion Relief Program (TCRP). The TCRP used existing state funds, and temporarily tapped future "non-spillover" gasoline sales tax revenues, which normally went to the General Fund, to complete a long list of deferred maintenance and road capital improvement projects. The governor's priority projects—some of which required long-term commitments as the costs exceeded the revenues that would normally have been available in a single year—would otherwise have competed for state funding through the State Transportation Improvement Program (STIP).[11] The legislature enacted the governor's program as the Traffic Congestion Relief Act of 2000 (Stats. 2000, c. 91), noting the projected $158 million six-year shortfall in mass transit funding, the 50 percent growth in the state population over the past 20 years, and increasing traffic delay that cost the state upwards of $2.8 million per day.

The declared purpose of the bill was to relieve traffic congestion, fund deferred maintenance on local streets and roads, and provide additional transportation capacity in high growth areas. As passed, the act included additional funds for local streets and roads, as well as highway and rail programs. Table 1 shows the breakdown of the $8.2 billion in planned Transportation Congestion Relief Fund (TRCF) revenue and allocations from FY 2000–01 through FY 2005–06. Two billion dollars would be provided up front from available reserves ($1.6 billion for the TCRP and $400 million for local streets and roads) in line with the governor's initial proposal. Over the next five years, nonspillover gasoline sales tax revenues (about $678 million each year) would be used to complete close to $5 billion in TCRP projects. The remaining sales tax revenues would support neighborhood streets and roads, supplement highway projects in the STIP, and fund transit operations and intercity rail through the PTA (LAO 2000).

As overall fiscal pressures continued to mount, the state began to redirect the transportation money to General Fund relief, which angered proponents of fuel-based revenues exclusively funding current transportation needs. The legislature delayed further funding the Act for two years (to FY 2003-4), then borrowed back nearly $1.4 billion from the $1.6 billion already earmarked for the TCRP as shown on the top line of Table 2, in part to make debt payments on outstanding transportation bonds (LAO 2002). A small portion ($183 million) was later paid back to the TCRP, leaving it with a $1.2 billion balance due. Despite the program's shaky start, the public embraced the idea of earmarking fuel sales taxes for transportation as the legislature moved to extend the program and permanently commit additional fuel sales tax revenues to transportation uses, including mass transportation.

Proposition 42, the Traffic Congestion Improvement Act (Stats. 2001, res. c. 87 (A.C.A. No. 4)), a legislatively referred constitutional amendment (adding Article XIX B) backed by the American Automotive Association (AAA) and overwhelmingly enacted by voters in March 2002, was meant to limit legislative prerogative over gasoline sales taxes by making the congestion relief program part of the state constitution. As shown in Figure 2, Proposition 42 stipulates that all proceeds from nonspillover gasoline sales tax revenues that would otherwise have gone back to the state's general fund at the conclusion of the TCRP, instead be transferred to a special Trans-

[11] The STIP is a five-year list of transportation projects that are eligible for annual state funding, prepared by the California Transportation Commission, and currently updated every two years. Since 1997, county transportation authorities have been able to designate the uses for 75 percent of transportation funds coming from the state in the STIP, and the state the remaining 25 percent. Stats. 1997, c. 622 (SB 45).

Table 1. Transportation Congestion Relief Fund Planned Funding and Allocations by Fiscal Year, FY 2000–01 to 2005–06

$ millions	2000 -01	2001 -02	2002 -03	2003 -04	2004 -05	2005 -06	6-Year Total
Funding Sources							
General Fund	$1,500						$1,500
Gasoline Sales Taxes (est.)	500	$1,105	$1,276	$1,276	$1,276	$1,276	6,710
Total	$2,000	$1,105	$1,276	$1,276	$1,276	$1,276	$8,210
Allocations							
TCRP	*$1,600*	*$678*	*$678*	*$678*	*$678*	*$678*	*$4,990*
Local Streets and Roads	*400*	171	239	239	239	239	1,528
STIP		171	239	239	239	239	1,128
PTA		85	120	120	120	120	564
Total	$2,000	$1,105	$1,276	$1,276	$1,276	$1,276	$8,210

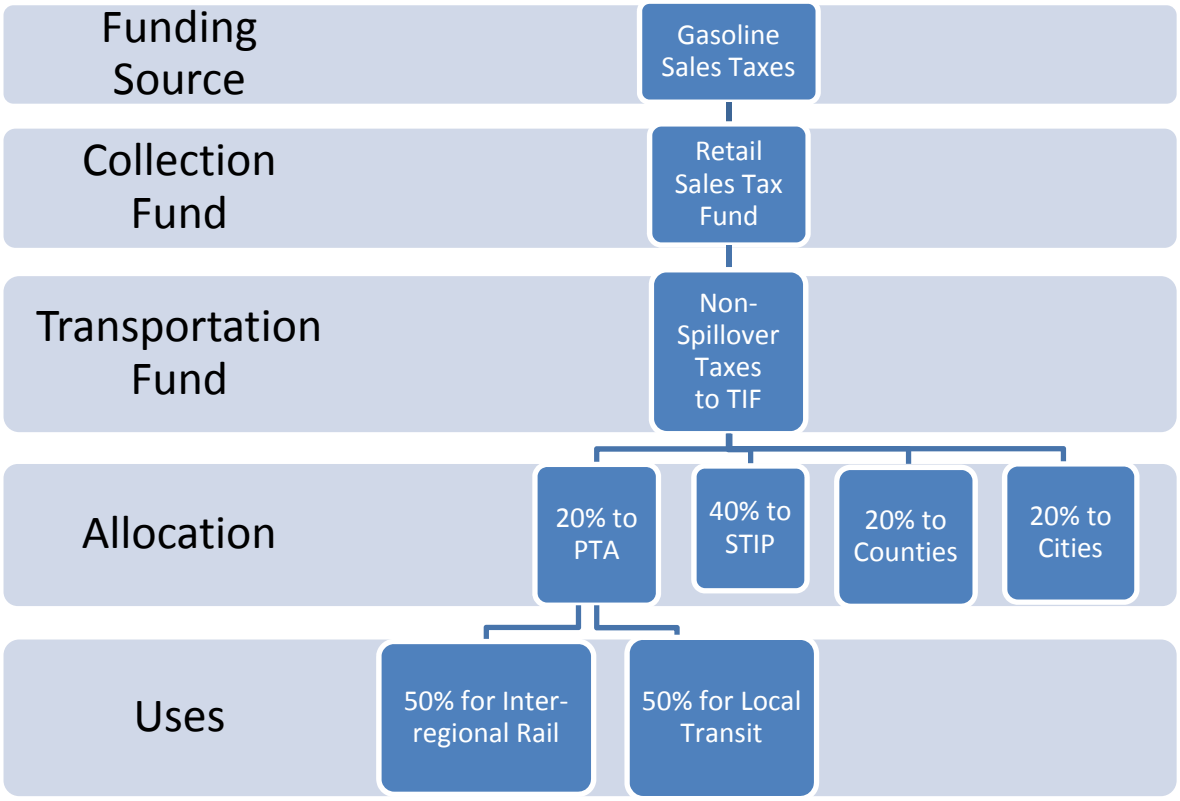
Source: LAO, 2001–02 Budget Analysis, Transportation, A-15, Figure 1 & A-16, Figure 2.
Note: Italicized figures represent the governor's original $5.4 billion proposal.

Table 2. Traffic Congestion Relief Fund Loans and Suspensions, FY 2000-01 to FY 2005-06

$ millions	2000 -01	2001 -02	2002 -03	2003 -04	2004 -05	2005 -06	Total
TCRF Loans							
Loans to GF							$1,383
		$238	$1,145				
Repayment					-$183		-183
Subtotal							1,200
Proposition 42 Suspensions		*All sales tax funding delayed first two years*		$867	1,258		2,125
Total Due							$3,325

Source: FY 2000–01 to FY 2005–06 Transportation Fund Condition Statements

Figure 2. Proceeds of Gasoline Sales Taxes under Proposition 42



portation Improvement Fund (TIF). TIF funds would then be allocated to STIP projects, 40 percent for local street and road improvement and 20 percent to support mass transit. In adopting the measure, voters recognized the need for more secure transportation funding by treating some fuel sales taxes as dedicated user fees.[12] The act did give the legislature flexibility to respond to fiscal crises by granting it power to suspend transfers on a two-thirds vote. This resulted in a degree of uncertainty for future capital projects that depended on a reliable source of continuing financial support.

Less than a year later, in light of a record $34.6 billion budget shortfall, Governor Davis proposed using $1.7 billion in TCRF revenues for General Fund relief.[13] Even though these steps

[12] At the time the total state sales tax was 7.25 percent, of which 0.5 percent went to the Local Revenue Fund for Health and Social Services, 0.25 percent to the Economic Uncertainty Fund, 0.5 percent to the Public Safety Fund, and 1.25 percent to localities under the Bradley-Burns Uniform Sales and Use Tax Law. Only the remaining 4.75 percent of the sales tax on gasoline purchases was pledged to transportation purposes.

[13] The governor wanted to (a) suspend the entire $1.1 billion transfer to the General Fund (of which $678 million would go to the TCRP), (b) forgive a $500 million scheduled loan repayment from the GF to the TCRF, and (c) transfer $100 million from the TCRF to the GF for FY 2003–04 to repay loans from the State Highway Account used to finance TCRP projects in the STIP.

threatened efforts to relieve traffic congestion and boost the economy during the recession by moving transportation projects forward, the legislature agreed to suspend the bulk of the planned Proposition 42 fund transfers ($867 million) for one year (see bottom line of Table 2).

Using transportation funds to ameliorate immediate budget problems raised questions as to whether dedicating sales tax revenues to funding specific transportation projects was good policy if revenues could, despite the supermajority vote requirement, so easily be diverted for other purposes. Instead of continuing a piecemeal approach the Legislative Analyst's Office (LAO), which monitors state spending, urged the legislature to consider a permanent tax increase to address the state's $100 billion 10-year funding shortfall previously identified by the CTC (LAO 2003).

As the crisis continued, newly elected Governor Arnold Schwarzenegger proposed a nearly $1 billion package of additional mid-year transportation budget cuts that included transferring previously budgeted TCRF funds back to the General Fund, redirecting miscellaneous income that would typically fund mass transit programs, retaining additional spillover monies originally pledged to the PTA, and suspending all Proposition 42 transfers for the coming fiscal year. The legislature agreed to the package; in sum, the amount temporarily diverted from the program to the General Fund totaled around $3.5 billion and included funds that could have been used for local street and highway maintenance, rehabilitation, and reconstruction, as well as public transportation (LAO 2005a, 2005b).

While these ad hoc actions helped prop up the General Fund, they made financing transportation projects far less predictable. Many projects require long-term funding commitments without which they may be delayed or even cancelled. Some projects need state monies as matching funds and risk losing federal funding unless sponsors can secure other revenue sources. In addition, cancelling approved projects can generate additional close-out costs. The uncertainty of loan repayments to the TCRF and the possibility of additional suspensions jeopardized some projects and increased the likelihood of future budget shortfalls when those loans came due.

From FY 1998–99 through FY 2000–01, nominal state and local transportation spending increased due to programmed highway improvements and seismic repairs, with help of the $400 million boost from the TCRF. Due to Proposition 42 transfer suspensions, spending plateaued through FY 2003–04. As the backlog of transportation projects continued to grow, no additional capital or repair and maintenance projects were programmed. In fact, the governor proposed to defund all 141 TCRP projects, which would require them to compete for state funding directly with other STIP projects, and rescind promises made to local agencies to reimburse them for advancing their own money on local projects. In response, the LAO urged an end to "stop-and-go" transportation funding and suggested a number of short- and long-term financing options. More critically, the LAO noted that over the long run, state transportation funding was unable to keep pace with need.

Between FY 1998–99 and FY 2004–05, inflation-adjusted revenues fell eight percent while VMT increased by 16 percent. If Proposition 42 could not reliably support transportation projects, the LAO recommended that the legislature ask voters to either repeal the TCRP entirely—which would save about $1-billion per year and provide more fiscal certainty—or else raise the gasoline excise tax and index it to the rate of inflation (LAO 2004).

Governor Schwarzenegger did attempt to restore some transportation funding in a subsequent budget and prohibit any further diversions beginning in FY 2007–08. However, he also planned to delay repayment of some existing Proposition 42 loans and suspensions over the next 15 years. While this was meant to improve stability for transportation funding, it would postpone some

projects well into the future. The legislature, in line with the governor's request, agreed to both restore most of the suspended transportation funds from general revenues and gradually repay the remainder (LAO 2006). To pay off the $1.2 million loan balance the General Fund still owed to the TCRF, the state planned to use the net proceeds from the sale of bonds backed by the state's share of Indian tribal casino gaming revenues (Stats. 2004, c. 91 (AB 687, Nuñez)). Although pending lawsuits from several tribes and other groups prevented the bond sales, some of the casino revenue-backed bonds have been used to pay down a portion of the debt.

Noting that the uncertainty of Proposition 42 revenues "makes long-term planning based on this funding source impossible," the LAO again recommended that the legislature repeal Proposition 42 and replace it with a six-cent increase in the gasoline excise tax, adjusted for inflation (LAO 2005b). Owing to an improved fiscal climate, no further Proposition 42 suspensions were enacted, and Congress passed the Safe Accountable Flexible Efficient Transportation Equity Act —A Legacy for Users, which restored federal transportation funds to the states and increased transportation spending in the state significantly. However, even as the crisis subsided, transit funding remained vulnerable to mounting fiscal pressures as new bond measures once again committed the state General Fund to making unbudgeted bond principal and interest payments. At the same time, the ease with which the legislature could divert funds prompted new efforts to protect transportation revenues from future diversion.

Crisis VI: Unmanageable Debt

With the Traffic Congestion Relief Program winding down, the governor's FY 2006–07 budget set forth a 10-year, $233 billion Strategic Growth Plan to improve state infrastructure. The plan included bond sales to finance $107 billion of identified transportation needs. Following the governor's lead, the legislature proposed and voters approved Proposition 1B (2006)—the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act—authorizing nearly $20 billion in new GO bonds for various capital improvements to state highways, local roads, ports, harbors, ferry terminals, mass transportation, and intercity rail projects. The measure did not increase taxes nor identify any mechanism for collecting the revenue to make the bond payments.

In the same November 2006 election, voters also approved Proposition 1A (2006)—the Transportation Funding Protection Act—a constitutional amendment to Article XIX B designed to further protect fuel-related sales tax revenues from diversion and guarantee repayment of all outstanding balances (Stats. 2006, res. c. 49 (S.C.A. 7)). While the measure did not entirely secure funds available to expand local transit, it did limit future Proposition 42 suspensions to two in any 10-year period and only after the current balance had been paid in full. The proposition, which passed overwhelmingly with 77 percent of the vote, laid out a repayment schedule through 2016. As the LAO noted, this measure improved the stability of transportation funding, but limited the state's ability to balance its budget in times of need.

To address that issue, the LAO recommended that the state gasoline excise tax generate the bulk of state transportation funding and again for an increase in the tax to replace Proposition 42 sales taxes and provide relief to the General Fund (LAO 2006). Despite the overall improving financial picture, the emphasis on capacity expansion to reduce congestion overshadowed road maintenance and repair needs. Many roadways had already surpassed their design life, and the costs of remediation were growing faster than revenues.

According to the California Department of Transportation (Caltrans) 2007 Five-Year Maintenance Plan, the state would need to increase maintenance funding by $589 million each

year to erase the backlog of projects (Caltrans 2007). In addition, the 2007 10-year State Highway Operations and Protection Program (SHOPP) identified a total of $55 billion in highway rehabilitation needs; or twice the amount then being set aside, leaving a $2 billion annual gap (LAO 2008). Existing revenues could not cover these costs. Gasoline excise taxes and truck weight fees, which also funded the bulk of capacity expansion, provided the sole funding source for highway maintenance.

Despite large project commitments, the gasoline tax rate had not increased since 1994, even though tax revenues per VMT fell by over 20 percent due to inflation and growing fuel efficiency. The LAO estimated the 18 cent per gallon tax enacted in 1994 was worth only about 13 cents in 2007 dollars; it therefore recommended raising the gasoline excise tax by at least 10 cents per gallon and indexing it to the rate of inflation. In addition, the LAO suggested the legislature consider mileage-based fees and tolls that would be stable in the face of improved fuel economy or shifts to alternative fuels and would match road use (LAO 2008). As costs mounted, the legislature ignored LAO recommendations and began to look to transit monies from fuel sales taxes for General Fund relief.

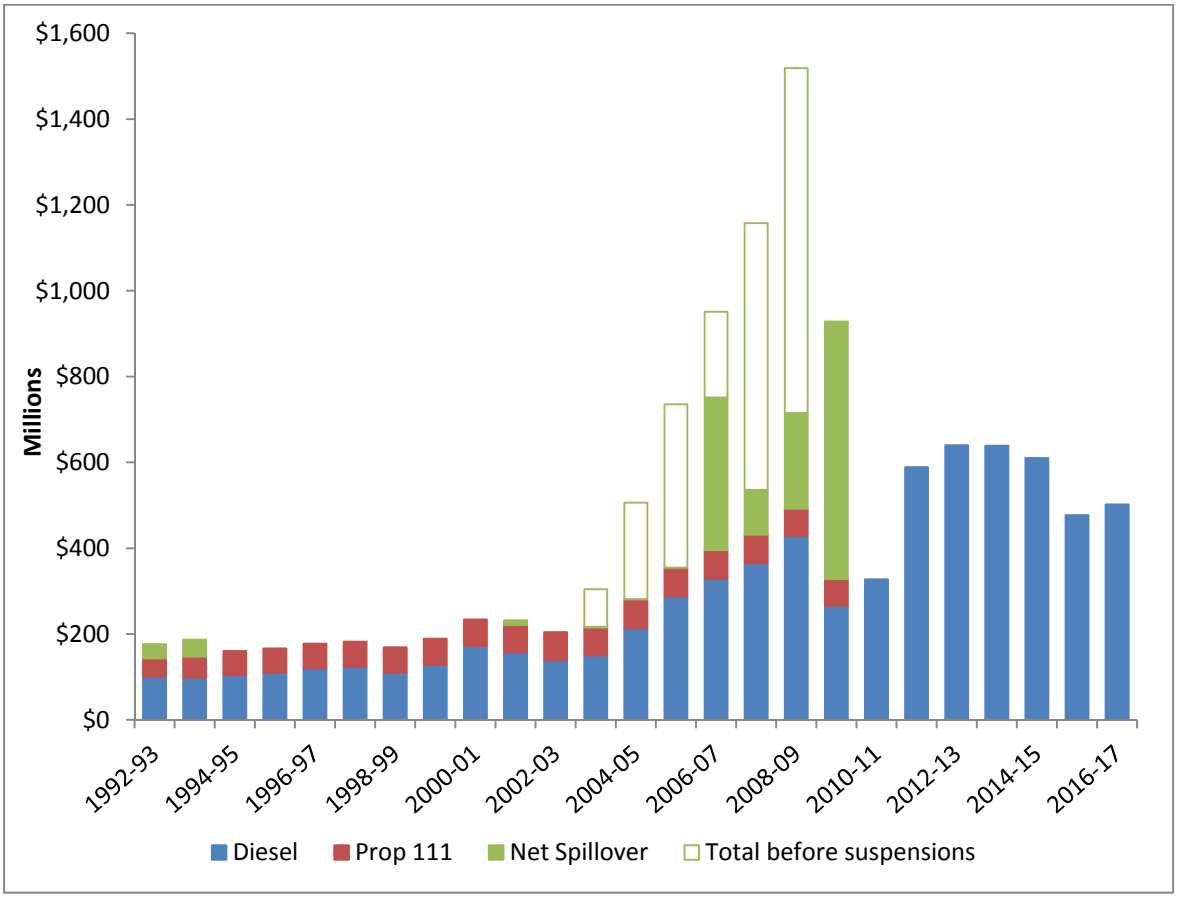
Although Proposition 1A limited the use of non-spillover gasoline sales tax revenues, those restrictions did not apply to spillover funds. Because the size of the spillover depended on the amount of gasoline sales compared to sales of other goods, spillover funds produced little additional revenue for transportation between 1985 and 2000 (LAO 2007). State funding for transit programs from diesel sales taxes proved far more predictable and substantial over this time period, amounting to about two-thirds of all revenue. After 2000, gasoline sales began to climb and the state anticipated significant increases in spillover revenues.

The legislature began to exploit the situation by conducting what some called annual raids on spillover funds for General Fund relief, which included loan payments from the TCRF. To the consternation of transit advocates—who saw those sales taxes as belonging to mass transportation—about $900 million in spillover transfers were suspended through FY 2006–07, leaving transit programs funded largely by diesel sales taxes. Figure 3 breaks down the components of PTA funding: diesel sales taxes, Proposition 111 sales tax on part of the gas tax, and spillover taxes including suspended amounts. These budget actions resulted in significant funding reductions for mass transportation over those years (LAO 2007).

In FY 2007–08, the state began using spillover revenues to pay current and past debt service on transportation bonds and restore Proposition 42 suspensions. It also started tapping PTA transit funds directly to fund other transportation-related programs that typically had been paid out of general revenues such as school bus programs and paratransit services for disabled job trainees. In all, a total of $1.3 billion in transit funds were diverted in FY 2006–07 to provide General Fund relief, and another $1.2 billion were diverted during FY 2008–09. In addition, the state planned to permanently halve transit funding from spillover revenues to pay debt service on Proposition 108, 116 and 192 bonds (Stats. 2007, c. 173 (SB 79)).[14] Meanwhile, voters approved yet another bond measure, Proposition 1A (2008)—The High Speed Passenger Train Bond Act (Stats. 2008, c. 267)—which authorized the sale of an additional $9.95 billion in GO bonds for a high speed rail system from San Francisco to Los Angeles, further extending the state's debt obligations for transportation programs. The passage of Propositions 108, 116, 192, 1B, and 1A

[14] This was later changed to direct all spillover funds to be used for debt service for five years (FY 2009–10 to FY 2012–13). Stats. 2009-2010, 3rd Ex. Sess., c. 14 (SBX3 7, Ducheny). In addition, for the same five years funding for local transit from the PTA was suspended and to be used to fund regional center and home to school transportation.

Figure 3. Public Transportation Account Fuel Tax Revenues, FY 1992–99 to FY 2016–17



Source: Department of Finance Annual PTA Funding Summaries

summarized in Table 3 combined to constitute the largest commitment to transportation bond financing since the early 1900s, almost $35 billion.

Bonds were clearly financing a larger share of expenditures than in the past. A key part of efforts to balance the state budget relied on using bond proceeds to avoid spending general tax revenues on transportation capital projects. Due mainly to redirecting resources for General Fund relief, bond-financed projects increased after FY 2006–07 while nonbond projects declined. In all, bonds comprised 30 percent of all state expenditures for transportation in FY 2008–09 budget, while nonbond expenditures dropped by 8 percent (LAO 2008).

In response to a legal challenge to the legislature's actions brought by the California Transit Association (CTA), the state's professional transit association, the California Court of Appeal ruled in *Shaw v. Chiang* (175 Cal. App. 4th 577, 96 Cal. Rptr. 3d 379 (2009), review denied Sept. 30, 2009 S175357, Cal. LEXIS 10118 (Cal. Sept 30, 2009)), that under Proposition 116, PTA funds could be used only for "transportation planning or mass transportation purposes." The ruling specifically held that reimbursing the General Fund for past bond payments and paying for school children and job trainee transport did not serve either purpose. In siding with transit interests and essentially treating spillover gasoline sales taxes as dedicated user fees, the *Shaw* court

Table 3. Summary of California Transportation Bond Acts

Year	Prop	Amount (billions)	Title
1990	116	$2	Clean Air Transportation Improvement Act
1990	108	$1	Passenger Rail and Clean Air Bond Act
1996	192	$2	Seismic Retrofit Bond Act
2006	1B	$20	Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act
2008	1A	$9.95	Safe, Reliable, High-Speed Passenger Train Bond Act for the 21st Century

directly rejected the state's arguments that it should have flexibility to address fluctuations in revenues and spending needs. In a severe economic downturn, the ruling meant that a significant portion of state revenue would have to be spent on mass transportation even when the state budget was seriously imbalanced and other important state programs were desperate for funding.

Unable to use gasoline sales tax revenues for General Fund relief, legislators focused on finding a new way to bail out the state treasury; at the same time, legislators still hoped to capture some of the value of higher gasoline prices for state highway and road projects. The key to doing so lay in finding a source of more flexible transportation revenues in place of gasoline sales taxes. Perhaps surprisingly, they turned again to fuel excise taxes and chose to swap the existing gasoline sales tax—which could no longer be used for General Fund relief—for a new gasoline excise tax that legally could be. This move unleashed a battle with transit supporters, who still wanted to see gasoline tax revenues used solely as originally intended.

The revenue-neutral legislative compromise known as the California Gas Tax Swap of 2010 (Stats. 2009-2010, 8th Ex. Sess., c. 11 & 12) emerged from a special session of the legislature, eliminated the state sales tax on gasoline only, and replaced it with a new 17.3 cent per gallon excise tax. The new excise tax would be adjusted annually by the Board of Equalization (BOE) to generate the same amount of revenues that would have been collected by the sales tax based on future estimates of gasoline prices and sales. To help stabilize transit funding, the Swap guaranteed local transit a larger share of PTA funds from a 1.75 percent increase in the diesel sales tax; the percentage increase in diesel sales tax occurred alongside a reduction in the diesel excise tax from 18 to 13.6 cents (also adjusted annually by the BOE to maintain revenue neutrality).

By using the new user fees to make state bond payments, the Swap, in effect allowed a portion of the state debt incurred for transportation programs—about $1 billion annually—to be off-budget and thus freed general funds for other nontransportation purposes, such as public health, safety, and education. Supplemental highway and road funds from Proposition 42 were also lost from eliminating the gasoline sales tax, but were replaced by revenues from the new gasoline excise tax.[15]

[15] While the swap did provide more stable funding for local transit operations compared to previously (Figure 3 above shows how the eliminated gasoline sales tax and increased diesel sales tax in the revised bill affected PTA revenues after FY 2010–11), diesel sales have performed poorly compared to the gen-

Voters rejected the Swap by passing Proposition 26 (2010), which negated the Swap legislation and required a two-thirds vote of the legislature to adopt any future changes to the gas tax structure. In addition, Proposition 22 was intended to close legislative loopholes that had permitted borrowing and diversion of funds dedicated to transportation improvement projects and services. As a result, the legislature was forced to re-enact the Swap by supermajority vote and to instead use weight fees, which were not restricted by Proposition 22, for transportation debt service. The legislature agreed to reimburse weight fees with the new gasoline excise tax revenues.[16] Since the weight fee reimbursement comes off the top of gasoline tax collections, those losses primarily affect highway and street programs.

By eliminating the gasoline sales tax, the opportunistic Gas Tax Swap resolved the tension that has long existed in the state between competing interests.[17] Some held that all sales taxes should be treated as general revenues, part of which had only temporarily been earmarked for transportation uses. On the other side, groups representing automotive interests such as the state's automobile clubs, the trucking industry, and transit proponents, asserted that all sales and excise taxes on fuels should be treated as user fees and devoted strictly to transportation. The legislature has waffled on these opposing views, dedicating the funds to transportation and redirecting them to other uses when politically expedient. Over time, the legislature's vacillation between the two stances has created significant uncertainly in state transportation funding.

Because the Swap by design was revenue neutral, like a sales tax, it was susceptible to rises and falls in gasoline prices and affected by changing fuel economy. As a result, it did not address the periodic gaps in transportation funding, particularly in light of the growing deterioration of state streets, highways, and bridges. The commitment to revenue neutrality locked in city and county road spending to what would have been collected had the Swap not been enacted.

Revenues are based on projections of future gasoline prices and consumption. These estimates may be extremely volatile from year to year and are largely insufficient to meet the state's infrastructure needs, particularly in light of the unanticipated global collapse in crude oil prices. Indeed, the BOE's very public yearly decisions to raise or lower the gasoline tax—for example, when the BOE lowered the per gallon variable excise tax from 18 cents to 12 cents for FY 2015–16—have become politically charged events, and the volatility in those annual adjustments has created pressure to end the Swap altogether (Runner 2014; U-T San Diego Editorial Board 2015).

Crisis VII: Crumbling Infrastructure

Despite the warnings issued a decade earlier, little has been done to increase funding for highway and road maintenance, and the Gas Tax Swap did not ameliorate the large revenue

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eral increase in prices. As a result, future revenues may not keep pace with inflation, which could potentially jeopardize transit funding.

[16] Proposed Senate Constitutional Amendment No. 1 (Huff), 2015–16 1st Ex. Sess., would close this Proposition 42 "loophole" by prohibiting transportation taxes and fees, including vehicle registration and weight fees, from paying for the cost of general obligation bonds and ensure any future funds are used only for transportation purposes.

[17] The resolution was only partial, since the decision to retain and increase sales taxes on diesel fuel meant that a greater burden for funding mass transportation operations now falls on the commercial trucking industry, which is responsible for most diesel fuel purchases, despite the tenuous connection between the degree of road use by trucks and the need for increased mass transportation. Should the state ever reinstate the sales tax on gasoline, under Proposition 22 the revenues would have to be used for highway and public transit purposes.

swings that have impeded state and local agencies' ability to dependably finance multi-year repair projects. For example, the STIP, which funds capital improvements, and SHOPP, which funds major state highway repair and rehabilitation, both rely on variable excise tax revenues. Under the Swap, revenues for each of these programs fluctuated widely between FY 2010–11 and FY 2015–16 as shown in Figure 4. The variations in STIP and SHOPP revenues are exacerbated by the variable gasoline excise tax allocation structure, which, as noted above, dedicates the first $1 billion of revenue to reimburse weight fees used for debt service. It then divides the remaining funds between the STIP (44 percent), cities and counties (44 percent), and the SHOPP (12 percent).

While this system generates reliable funds to reimburse weight fees, it creates dramatic revenue fluctuations. For example, in FY 2014–15, the variable excise tax generated about $2.5 billion, which left about $1.5 billion to be divided between the STIP, cities and counties, and the SHOPP. However, projected revenue fell to about $1.7 billion in FY 2015–16, effectively halving the amount that each received. Operations funded by the SHOPP, in particular, suffered from dramatic revenue swings ranging from a high of about $246 million in FY 2013–14 to only $88 million in FY 2015–16. While Department of Finance staff estimate that different stakeholders have received funding similar to what they would have received under the sales tax, revenue volatility remains problematic for planning future investments (Brown, Garrett, and Wachs 2016).

According to the governor's office, annual highway maintenance and repair needs alone are significantly more than can be funded with existing resources, with a current identified gap in the SHOPP of nearly $6 billion annually. The state highway system has deteriorated over time; today, about 70 percent the state's transportation budget is devoted to local roads, transit, debt service, and capacity expansions (Brown 2015). While some hoped in early 2015 that the legislature would finally reach an agreement on sustainable transportation funding (Dawid 2015a, 2015b; Calefati 2015),[18] last year's budget failed to address the issue. Governor Brown called a special session to deal with the problem; the special session likewise failed to fashion a solution (Lehrer 2016).[19] A number of options to provide more predictable transportation funding have been considered and could still be adopted, including: raising fuel excise taxes, additional vehicle license and registration fees, higher weight fees, increased local sales taxes, new general taxes, and additional borrowing. Like current financing strategies, each has drawbacks (Conference Committee on SB4 and AB3 2015).[20]

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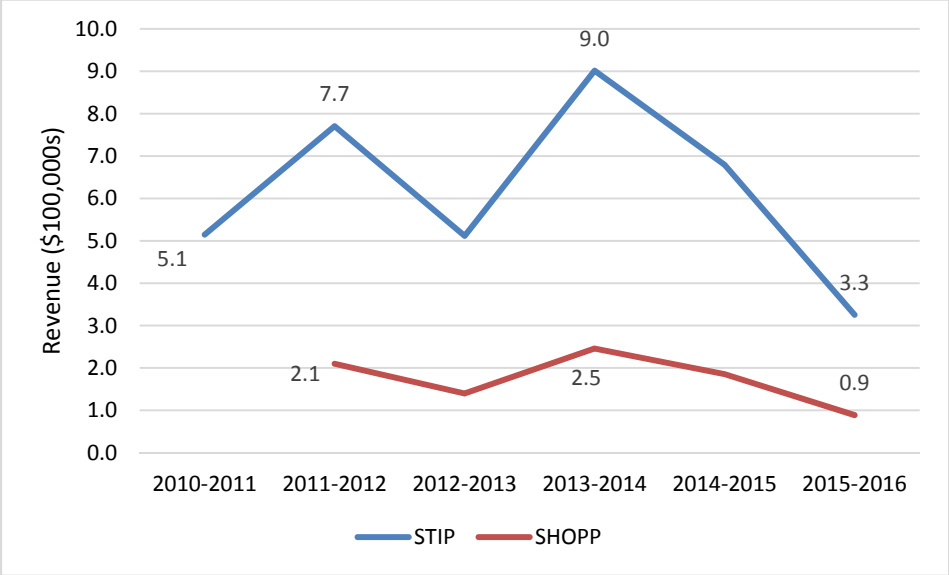
[18] One major bill put forth including during the regular session but not acted on was SB 16 (Beall) that would have created a Road Maintenance and Rehabilitation Account to address a $59 billion backlog of deferred highway and bridge maintenance and $40 billion in city and county road repairs with revenues from a 10-cent per gallon increase in the gasoline excise tax, a 12-cent per gallon increase in the diesel excise tax, a $35 increase in the annual vehicle registration fee, a new $100 annual vehicle registration fee for zero-emission vehicles, and an increase in the vehicle license fee from the current 0.65 percent to 1 percent (with the increase to be used for transportation general obligation bond debt service in place of weight fees).

[19] Senate Bill 4 (Beall) and Assembly Bill 3 (Frazier) containing placeholder language expressing the intent of the legislature were meant to provide the legislative vehicle to enact changes to current law, but each were rejected by the opposite house and sent to Conference Committee.

[20] Other bills introduced in the special session but referred to Conference Committee for additional consideration included AB X1 1 (Alejo) and AB X1 18 (Linder) prohibiting the use of weight fees for bond repayment; SB X1 8 (Hill) and AB X1 7 (Nazarian) doubling Cap and Trade Funding for public transit; AB X1 13 (Grove) and AB X1 17 (Linder) dedicating Cap and Trade funds to SHOPP projects and cities and counties; AB X1 8 (Chiu and Bloom) and SB X1 7 (Allen) increasing the variable diesel

Figure 4. STIP and SHOPP Revenues under the Gas Tax Swap



Source: Governor's Revised Budget, FY 2010–11 to FY 2015–16.

Some transportation proponents like the former director of Caltrans, Will Kempton, have called for additional maintenance spending, suggesting that maintenance investment saves everyone money, even drivers who spend nearly $800 extra per year on vehicle repair and maintenance due to bad roads (Kempton 2016a). Kempton (2016b) stresses that before asking voters for a tax increase, the state must assure the public the funds will be dedicated, protected, and efficiently spent on road maintenance. The California State Association of Counties, the League of California Cities, and the California Alliance for Jobs have urged immediate action including increasing fees and taxes and streamlining the project permitting process (Cate, McKenzie, and Quigley 2016). Others argue the state should first eliminate waste and inefficiency in its highway department (Coupal 2016a) and prioritize highway projects while restoring funds for road maintenance and repair (Coupal 2016b).

Complaints about Caltrans are rife. The LAO concluded the agency is overstaffed, though staffing is at a 20-year low. Caltrans recently adopted a five-year Strategic Management Plan endorsing real performance measures and streamlined environmental processes to deliver projects more efficiently. The Brown administration has pledged to improve staffing flexibility and provide more innovative procurement authority (Kelly 2016).

To partly close the gap in annual maintenance needs for core highway infrastructure, this year Governor Brown proposed a 10-year transportation funding and reform package to address the most urgent state and local transportation needs, focused on "fix-it-first" investments to repair and improve neighborhood roads and state highways and bridges. The $36 billion plan calls for key investments in highways and trade corridors to support economic growth. The plan in-

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tax to 5.75 percent; and SB X1 11 (Berryhill) streamlining environmental review for certain transportation projects.

cludes higher fuel taxes and fees, additional investment from the state Cap and Trade auction proceeds,[21] accelerated loan repayments, Caltrans efficiency and accountability measures, and constitutional protections for the new revenues. Funds would be split evenly between state and local transportation, with significant investment in public transit. Specifically, Brown has proposed: $16.2 billion for highway repairs and maintenance, $2.3 billion in trade corridor investments, $13.5 billion for local roads, and $4 billion for transit and intercity rail.

Funding would come from a $65 road improvement fee on all vehicles and changes to gasoline and diesel excise taxes. The Gas Tax Swap rate adjustment process would be eliminated and the gasoline excise tax would be set at a starting rate of 36 cents per gallon and adjusted annually for inflation; diesel excise tax would be increased by 11 cents (to 24 cents per gallon) and also adjusted for inflation (Brown 2016).

The governor's proposal would only partially fill the current gap in funding needs. It would provide about $1.6 billion for major repairs to highway pavement, bridges, and culverts in good or fair condition, and rehabilitate or reconstruct highways already in distressed condition. The LAO estimates the state requires $3.6 billion annually in ongoing funding on top of a $12 billion backlog in current projects.[22]

The governor's new transit capital funding plan more than doubles the state's current transit investment from the state Cap and Trade program. The CTA has endorsed the plan to address the public transit system's approximately $72 billion shortfall over the next decade (California Transit Association 2015).

The legislature's action on the governor's plan did increase vehicle registration fees by $10 per year. However, the modest additional funds generated (about $500 million annually) are set aside to fund operations of the Department of Motor Vehicles and the Highway Patrol (Watts 2016; Adler 2016). The continuing legislative gridlock stems in part from Republican objections to higher taxes and demands for California Environmental Quality Act (CEQA) reforms and the Democrat's refusal to consider changes to the state's major environmental regulatory program (Walters 2016).

Conclusion

For much of the previous century, California relied on a pay-as-you-go approach to transportation finance. Over the past few decades, the state has turned increasingly to long-term bond finance in light of serious backlogs in roadway maintenance and repair and growing traffic congestion. Due to legislative and voter-initiated limits on the use of fuel-based sales and excise tax

[21] The cap and trade program requires refineries and other industries to purchase emission allowances as part of a state plan to reduce greenhouse gas emissions. About $2 billion is generated annually from transportation fuels, which has added an estimated 10 cents to the pump price of a gallon of gasoline, leading opponents to dub this a "hidden tax." By law, 60 percent of the proceeds are continuously appropriated to various purposes: 15 percent of cap and trade revenues to public transit through the Transit and Intercity Rail Capital Program and the Low Carbon Transportation Operations Program; 20 percent to the Affordable Housing and Sustainable Communities Program, and 25 percent to the High-Speed Rail Authority.

[22] The governor's proposal would increase annual spending on state highways by $1.4 billion to roughly $3 billion a year. Nearly all of the increase would be allocated to rehabilitate and replace highway, bridges, and culverts,

revenues, the state now relies on a complicated system of fund swaps to service transportation debt and pay for ongoing highway and transit programs. Above all, despite their early success, motor fuel taxes—the state's primary finance mechanism—is declining at an accelerating rate due to:

- Rising fuel prices that make legislators reluctant to increase per gallon tax rates
- More fuel efficient cars that produce less tax revenue per mile of driving
- Inflation that has lowered the fuel tax's purchasing power over time

The fiscal crisis of the past decade accentuated the state's transportation funding gap and made the public increasingly aware of it. California saw a huge decrease in other revenue streams and faced expanding fiscal obligations outside of transportation. As a result, the state sought to use transportation revenue not clearly earmarked or otherwise protected to cover other ongoing expenses. Transportation stakeholders—who had become dependent on these sources of support—raised objections to this "diversion" of transportation revenues derived ostensibly from user fees. While these objections were partially successful in further limiting diversion, the restrictions put additional pressure on other state resources to service massive highway and transit bond debt the voters had approved, and motivated the legislature to find a way around the voter-imposed limits.

The debate over the state's aging transportation infrastructure is hardly new. Throughout its history California has faced periodic transportation finance crises and been forced to confront difficult questions of how to pay for needed transportation improvements in ways judged effective and fair to both users and taxpayers. It has also struggled to balance the distribution of limited resources between competing interests such as the state, counties, and cities; urban and rural areas; different classes of road users including private and commercial automobiles and trucks; and highway versus transit interests. The Gas Tax Swap was just the latest in this long-running struggle for control over state transportation funding.

Two future possibilities exist that may help bolster transportation revenues and ensure more stable funding for transportation. One is Governor Brown's 10-year transportation funding and reform package which is currently stalled in the legislature. Another alternative that would likewise revolutionize California transportation finance is a statewide pilot test of mileage-based user fees that began on July 1, 2016. Ultimately, if the test is successful, fuel excise taxes could be replaced with mileage-based user fees, though a number of technical, administrative, and privacy concerns would have to be resolved.

As costs have soared, priorities have shifted, and the negative impacts of automobile use have become more apparent, the question of who should pay for streets and highways has pitted those who believe that road user fees should be used solely for road purposes against those they accuse of wanting to divert those funds to nontransportation uses. The battles between the various sides in this ongoing war over transportation finance seem vicious and unresolvable. But they also reflect California's continuing struggle to accommodate conflicting stakeholder interests.

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