An LAO Report

What the New Federal Act Means for California

Transportation Equity Act for the 21st Century

Introduction

On June 9, 1998, President Clinton signed the Transportation Equity Act for the 21st Century (TEA 21) which reauthorized the federal transportation program. The TEA 21 authorized $217 billion to be invested in highway and transit infrastructure in the United States over the next six years.

LAO Findings

- ***The TEA 21 Maintains Same General Transportation Structure as Prior Federal Program, and Provides More Funding.*** California could receive more than $20 billion over the next six years, more than a 40 percent increase in funding above prior levels.
- ***Most of the Funding Is Guaranteed.*** The new federal bill guarantees that all fuel tax revenues will be used for transportation purposes which means $204 billion of the $217 billion is guaranteed. Under prior federal legislation, a portion of the fuel tax revenues were used for federal deficit reduction purposes.
- ***The TEA 21 Provides $25 Billion in Discretionary Funding***. Major discretionary programs for which California may be eligible include transit new starts, border infrastructure program, and bus/bus facility grants.

Issues

- ***Transportation Project Delivery.*** Since most federal funding expires annually, the Department of Transportation (Caltrans) and the regional agencies need to ensure the delivery of projects quickly enough to use California's share of the federal money made available each year.
- ***High Priority Projects.*** The Legislature should determine if the $877 million for "high priority" or demonstration projects should be counted toward the county shares of funding when the federal funds are distributed.
- ***Short Term Lending by State Infrastructure Bank.*** Given the current state highway cash balance, the Legislature could authorize the State Infrastructure Bank to provide short term loans in order to accelerate the delivery of local projects.

Elizabeth G. Hill
Legislative Analyst

August 26, 1998

BACKGROUND

In October 1997, the federal Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) expired. This act had provided federal funding for transportation from 1991 through 1997. Under ISTEA, much of the decision-making power relating to transportation programs was shifted from the federal and state levels to the regional level. The ISTEA also provided regional agencies with significant flexibility in the use of federal funds by consolidating various funding categories and allowing these agencies to move funds from one funding category to another with minimal restrictions. In addition, ISTEA permitted regional agencies to determine the appropriate mix of highway, local road, and transit projects to be undertaken in order to meet the transportation needs of their specific region.

Congress failed to reauthorize a multiyear transportation program in 1997. Instead, it extended ISTEA for six months through May 1998. In June 1998, TEA 21 was enacted to reauthorize the federal transportation program over the six-year period from 1998 through 2004. This report highlights the provisions of the act and the fiscal effect on California.

MAJOR PROVISIONS OF THE TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY

Figure 1 highlights the major provisions of TEA 21 and they are discussed in detail below.

Program Structure Stays Relatively the Same. The federal act provides funding for two major areas—highways (including safety and research programs) and transit. In the highways program, there continues to be six main funding categories—Interstate Maintenance, National Highway System, Congestion Mitigation/Air Quality Improvement (CMAQ), Surface Transportation Program (STP), Bridges, and Minimum Guarantee. As under ISTEA, the transit program continues to include Urban Formula, Fixed Guideway (rail) Modernization, Rail New Starts, and the Bus/Bus Facility funding categories.

Significant Increase in Total Funding Nationwide. The TEA 21 authorizes $217 billion for transportation purposes nationwide over the six-year period. As Figure 2 shows (see page 4), this is an increase of $62 billion, or about 40 percent, over the ISTEA authorization level. Most of the funding increase will be for the highway program.

Funding Flexibility Continues. Similar to ISTEA, the new federal act allows state and regional agencies to move up to 50 percent of funds from one funding category to another under various restrictions. Furthermore, funds provided under STP and Minimum Guarantee—two of the largest funding categories, making up 30 percent of the $217 billion—can be used for a

Figure 1

Transportation Equity Act for the 21st Century Major Provisions

General

- Maintains the same general structure as ISTEA.
- Continues ISTEA's flexibility allowing up to 50 percent of most program funds to be exchanged for other program funds.

Funding

- Provides 40 percent increase in funding authorization. Total authorization of $217 billion includes $175 billion for highways and $42 billion for transit.
- Guarantees that all new fuel tax revenues will be used for transportation over six years; only $13 billion (of the $217 billion) is subject to annual congressional funding.
- Provides about $25 billion in discretionary grant opportunities.

Highways

- Guarantees "donor states"a minimum of 90.5 percent return on a state's gas tax contributions to the federal highway fund.
- Provides $9.3 billion for specified "high priority"projects nationwide.
- Provides incentives to encourage states to lower legal intoxication levels to .08 percent, and to encourage increased seat belt use rates.

Transit

- Makes preventive maintenance eligible for transit funding.
- Eliminates operational subsidies for urban areas with populations greater than 200,000.

wide variety of projects including transit, highway, local roads, bridge, safety, or transportation enhancement projects.

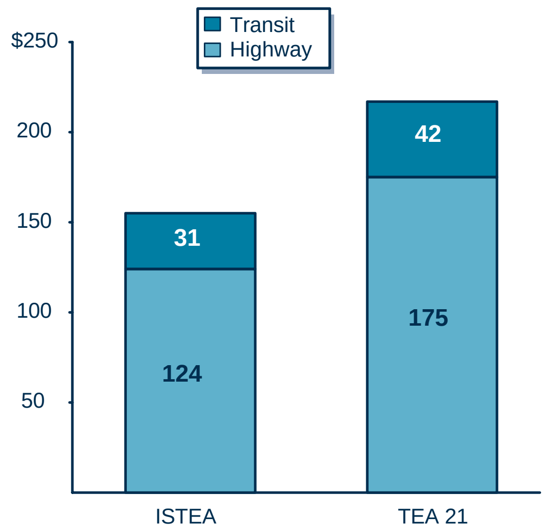
Substantial Portion of Total Funding Is Guaranteed. The TEA 21 requires that all revenues from federal fuel excise taxes—currently 18.3 cents per gallon of gasoline and 24.3 cents per gallon of diesel—collected after the enactment of the bill will be dedicated to transportation purposes, without any portion being used for federal deficit reduction purposes, as under ISTEA. Specifically, as Figure 3 shows (see page 4), 94 percent of the $217 billion authorization is guaranteed to be provided to the states. For highways, the guaranteed amount is about 96 percent of the authorized funding level nationwide, while it is about 86 percent of the authorized level for transit funding. Compared to ISTEA which did not provide any guaranteed funding levels, TEA 21 *greatly enhances the certainty* of annual funding levels, thereby allowing states to better plan their long-term transportation improvements.

Significant Set-Aside for Discretionary Grants and "High Priority" Projects. The TEA 21 sets aside $25 billion for discretionary grants to be allocated on a *competitive* basis. Projects to be funded include new starts for rail, national corridor and border infrastructure programs, bus/bus facility grants, high cost bridge and interstate highways, and Intelligent Transportation Systems projects, as well as highway safety and research projects.

Figure 2

Growth in Total Federal Funding Nationwide (Six Years)

In Billions



In addition, TEA 21 sets aside $9.3 billion for "high priority" projects. Unlike discretionary grant funds that are awarded on a competitive basis, these funds are *earmarked* for specific highway, road, transit, or other transportation projects.

Figure 3

Nationwide Funding Guarantee Under TEA 21

(In Billions)

	TEA 21	
	Authorized	**Guaranteed**
Highway	$175	$168
Transit	42	36
Totals	**$217**	**$204**

IMPLICATIONS OF TEA 21 TO CALIFORNIA

The new federal act will have the following impact on California's ability to meet its transportation demands.

California Will Receive an Estimated $20 Billion Over the Next Six Years. The new federal act will result in significant increases in funding for both highways and transit in California. Figure 4 shows that, based on the federal authorization level, California highways will receive about $15.1 billion over the next six years. This represents an average annual funding increase of more than $800 million over the ISTEA level.

Figure 5 (see page 6) shows how California's share of the highway funds are distributed across programs and how the funding has grown since ISTEA. All programs have seen increases in funding, while CMAQ has experienced the largest growth.

Based on the federal authorization level for transit, California will receive an estimated $5 billion over the six-year period, as shown in Figure 6 (see page 7). Of this amount, an estimated $3.7 billion (about 74 percent) will be allocated by formula. However, the state will have to compete for funds for New Starts and for Bus/Bus Facility

Figure 4

Transportation Equity Act for the 21st Century Highway Program—Authorization Levels

(In Billions)

Programs		Maximum Six-Year Funding Level U.S.	CA[a]
Formula grants		$165.3	$14.3
IM/NHS[b]	• Expands and maintains the nation's 46,000 mile interstate and 163,000 mile highway system.	(52.4)	(4.7)
STP[b]	• Flexible funds that can be used on NHS, bridge, transit capital, or environmental mitigation.	(33.3)	(3.2)
Bridges	• Bridge replacement and rehabilitation program.	(20.4)	(1.6)
CMAQ[b]	• Funds projects in urban areas that do not meet federal clean air standards. Projects must reduce congestion and air pollution.	(8.1)	(1.7)
High priority projects	• Designates funding for 1,850 specific projects; 156 are in California.	(9.3)	(0.9)
Minimum guarantee	• Represents the difference between funding received from the other formula programs and the 90.5 percent guarantee of California's contribution to the federal Highway Trust Fund.	(33.6)	(2.1)
Other formula programs	• Includes: metro planning, recreation trails, federal lands highways, Appalachian Highway, Puerto Rico highways, Woodrow Wilson Bridge.	(8.1)	(0.2)
Discretionary grants	• Includes: border infrastructure, seat belt safety incentive grant, low alcohol intoxication grant, ferry boat projects, magnetic levitation, innovative finance program, and others.	$4.2	$0.8
Other grant programs	• Includes: highway safety ($1.7 billion), motor carrier safety ($644 million), research ($2.9 billion), miscellaneous programs ($545 million).	$5.8	NA[c]
Totals		**$175.3**	**$15.1**

[a] All estimates except for discretionary grants are from the Federal Highway Administration. The estimate for "discretionary grants" is from Caltrans.
[b] IM—Interstate Maintenance Program; NHS—National Highway System; STP—Surface Transportation Program; and CMAQ—Congestion Mitigation/Air Quality Improvement Program.
[c] Estimate not available.

programs on a project-by-project basis. Thus, funds for the discretionary transit programs could be more or less than the $1.3 billion estimated by Caltrans.

Additional Flexible Funds Enhance Regional Ability to Meet Needs. California is expected to receive $5.3 billion over the next six years in STP and Minimum Guarantee funds. This represents a 39 percent increase over ISTEA. These funds can be used for a variety of projects including transit, highway, local roads, or bridge capital improvement projects. Because much of these funds will be allocated directly to regional agencies, the regions will have much greater flexibility to target funds to projects that meet the most important transportation needs of their region.

Urban Areas Will Receive Most of the Transit Funding. About 74 percent ($3.7 billion) of total authorized transit funding will be allocated by formula based on total population, population density, air quality levels, and passenger miles traveled by either bus or fixed guideways (rail). As a consequence, most of the transit funds will go directly to the regional agencies and transit operators in urban areas.

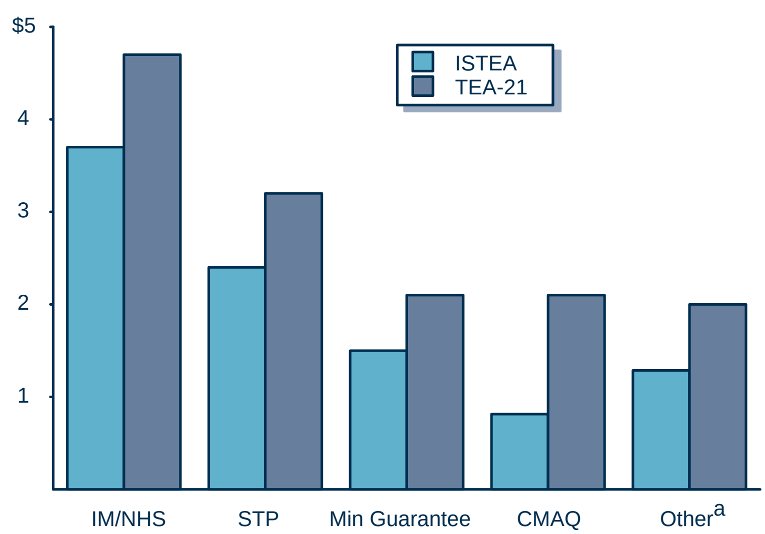
- ***Urban Formula Funds.*** The Urban Formula program distributes funds to all urban areas with populations greater than 50,000. Figure 7 shows (see page 8) the maximum amounts California's *major* urban areas will receive over six years. Los Angeles and the San Francisco/Oakland areas will receive 65 percent of California's Urban Formula funding.

- ***Fixed Guideway Modernization Funds.*** These funds are allocated based on a formula that takes into account miles of existing track and passenger miles traveled. About $690 million will be available to five urban areas in California which have fixed guideways (light rail and commuter rail)—Los Angeles, Sacramento, San Diego, San Francisco/Oakland, and San Jose. As Figure 7 shows, San Francisco/Oakland will receive over half of California's share of these funds since the

Figure 5

Highway Funding Increases Under TEA 21

In Billions



[a] Other includes bridges, high priority/demonstration projects, and planning.

area has the most extensive rail system in the state and serves the most passengers. (A complete list of the authorization levels for the Urban Formula and Fixed Guideway Modernization Grant Programs can be found at our web page www.lao.ca.gov.)

Changes in Transit Funds Will Both Help and Hurt Transit Agencies' Ability to Meet Needs. The TEA 21 made two major changes in the use of federal transit funds. First, Urban Formula and Fixed Guideway funds can now be used to support preventive maintenance of transit equipment and

Figure 6

Transportation Equity Act for the 21st Century Transit—Authorization Levels

(In Billions)

Programs		Maximum Six-Year Funding Level U.S.	CA
Formula grants		$26.6	$3.7
Urban areas formula	• Distributed directly to regional agencies based on population and other factors. Used for transit capital improvements.	(18.0)	(2.9)
Nonurban formula	• Transit money for rural areas.	(1.2)	—[a]
Fixed guideway modernization	• Funding for capital improvements on existing guideways.	(6.6)	(0.7)
Other programs	• Includes: clean fuels, elderly and disabled transportation, and rural transportation accessibility.	(0.8)	—[b]
Discretionary grants		$15.4	$1.3[c]
New starts	• Partially funds major transit capital improvements. • Lists 227 projects that are eligible to compete for funds.	(9.2)	NA[d]
Bus/bus facilities	• Provides funding for major capital improvements to bus/bus facilities. • California has 18 of the 156 earmarked projects, but $3 billion not earmarked.	(3.5)	NA[d]
Other transit	• Includes job access, transit planning, transit research, and administration	(2.7)	NA[d]
Totals		**$42.0**	**$5.0**[c]

a California will receive $55 million for rural areas of state.

b California will receive $43 million for elderly and disabled transportation. This amount does not include clean fuels or rural transportation accessibility funds.

c An initial estimate by Caltrans.

d Estimates not available.

facilities. This will help transit agencies to extend the life of their vehicles, tracks, and facilities. However, these grant funds can no longer be used for operational assistance for urban areas with populations greater than 200,000. Small urban areas, however, can continue to use funds for operational subsidies. As a consequence, transit operators in large urban areas will have to rely more on state assistance, such as the State Transit Assistance program, as well as local funding sources for operational assistance. In 1997-98, large urban areas received $9 million in federal funds for operational subsidies.

Figure 7

TEA 21—California Urban Areas[a] Transit Formula Funding

(In Millions)

Urban Formula	Maximum Six-Year Funding Level
Area	
Los Angeles	$1,210.7
San Francisco/Oakland	699.5
33 other urban areas	438.8
San Diego	247.5
San Jose	184.7
Sacramento	82.9
Rural areas	54.7
Total	**$2,918.6**

Fixed Guideway Modernization	Maximum Six-Year Funding Level
Area	
San Francisco/Oakland	$389.2
Los Angeles	165.5
San Jose	71.8
San Diego	45.3
Sacramento	19.0
Total	**$690.8**

[a] Excludes funding for clean fuels, elderly and disabled transportation, and rural transportation accessibility.

Regions Will Need to Decide Funding Preferences for "High Priority" Projects. Of the $9.3 billion set aside for "high priority" projects nationwide, $877 million is dedicated for 156 projects in California. These projects range from seismic retrofitting the Golden Gate Bridge, to building a parking lot in Los Angeles, to constructing a bike path in Santa Maria, although most of the projects (122 of the 156) are for highway and road improvements. Figure 8 lists those projects with $15 million or more in earmarked funds. (For a complete list of high priority projects in California, please go to our web page www.lao.ca.gov.)

Funding set aside by TEA 21, however, will not cover the total costs of these projects. In fact, set-aside funds represent on average only 10 percent of the total cost of the projects for which we have cost estimates. For 18 projects, many with estimated total project costs of over $100 million, the set-aside funds will cover less than 10 percent of these costs. For 69 projects, the set-aside funds would cover more than 60 percent of the estimated project costs.

Consequently, regional agencies will have to determine whether they want to use local funds or their shares of state and other federal transportation funds to carry out these projects, or forgo the federal set-aside funds. Many of the "high priority" projects are not in the current 20-year regional plans. Thus, it is not clear what the regions' priority for these projects are, and it is uncertain whether regional agencies will undertake many of these projects by diverting funds from projects which have been given higher priority in the regions' long-term plans.

Discretionary Grants for Highways and Transit Programs Offer Opportunities for California. There are various opportunities for California to secure part of the $25 billion in discretionary and other grant programs for highways and transit. Some of the programs which are of particular relevance to California are outlined in Figure 9 (see page 10) and discussed below.

- ***New Starts.*** The TEA 21 provides $9.3 billion nationwide for rail New Starts. These funds will be allocated on a competitive basis to eligible projects. The highest funding priority will most likely be for projects that have "full-funding grant agreements" with the Federal Transit Authority. California has four such projects—Metro Red Line in Los Angeles, BART airport extension in San Francisco, Tasman Light Rail in San Jose, and South Corridor in Sacramento. Additionally, TEA 21 lists 23 other California projects as eligible for New Starts funds. Of these, two projects have guaranteed funding levels—Mission Valley East Corridor in San Diego ($325 million) and

Figure 8

TEA 21—High Priority Projects California Projects

(In Millions)

Project/Location	Amount
• Improve grade crossings in the Alameda Corridor, Los Angeles	$100.0
• Route 905 between I-805 and Mexican border in San Diego County	54.5[a]
• Golden Gate Bridge Seismic Retrofit, San Francisco	26.8[b]
• Exposition Park Intermodal Urban Access Project, Los Angeles	19.5
• I-15 widening in San Bernardino	18.0
• Traffic lights upgrade in the Alameda Corridor East, Los Angeles	17.3
• Santa Monica Transit Parkway	17.0
• Port Hueneme Intermodal Corridor, Ventura	16.8
• Centennial Transportation Corridor, Kern County	15.8
• I-5 grade crossing between I-605 and SR 91 in Los Angeles and Orange Counties	15.1
• Ocean Blvd. and Terminal Island Freeway, Long Beach	15.0
• 146 projects (each with less than $15 million in funding)	561.5
Total	**$877.3**

a This amount combines two high priority earmarks for the same project.
b An additional $25 million is set aside for the Golden Gate Bridge under the Highway Bridge Program.

the San Joaquin Regional Intermodal Corridor ($14 million). Except for these two projects, all other projects must compete for funding. (For a complete list of projects, please go to our web page at www.lao.ca.gov.)

- ***National Corridor and Border Infrastructure Program***. The purpose of this program is to improve transportation facilities in corridors which facilitate the international movement of people and goods. Projects like the I-905 corridor in San Diego County will be eligible for funding through this program. However, these projects must compete against other projects along the Mexican and Canadian borders, so their funding share is uncertain. Ports are also eligible for this program.

- ***Bus/Bus Facilities.*** Of the $3.5 billion available for bus/bus facilities, $465 million is earmarked for specific projects, including $32 million for California projects. The remainder is available for projects on a competitive basis. Unlike other transit money which mainly goes to large urban areas, funding to purchase buses or construct bus facilities is available to cities and towns of any size. (For a complete list of California bus earmarked

Figure 9

Discretionary Funding Opportunities for California

(Amounts Are Six-Year Nationwide Totals)

Highway Programs

- Intelligent Transportation Systems—$1.3 billion, mainly for integration of infrastructure.
- National Corridor and Border Infrastructure Program—$700 million to plan, design, and construct corridors aiding international trade.
- High-cost Interstate Maintenance projects—$550 million.
- High-cost bridge projects (including seismic retrofitting)—$525 million.
- Incentive grants for higher seat belt usage rates—$500 million in block grants depending on state's seat belt usage rate.
- Transportation and Community and System Preservation pilot—$120 million to improve the efficiency of a transportation system meeting communities needs.
- Value pricing pilot program—$99 million to implement "costs of use pricing" projects (for example, high occupancy toll lanes).
- Direct federal credit—offers direct loans, loan guarantees, and lines of credit to support public-private transportation projects ($530 million start-up funding).
- State Infrastructure Bank—California is one of a four state pilot facilitating loan guarantees to support public-private transportation projects.

Transit Programs

- Rail New Starts—$9.3 billion to fund major rail capital improvements.
- Buses/Bus Facilities—$3.5 billion for bus/bus facility improvements.
- Clean Fuels Grants—$1 billion for clean fuel buses, and development of clean fuel technology.
- Magnetic Levitation (Maglev) train system—$60 million for planning and $950 million for construction of a Maglev train system.
- Access to Jobs—$750 million, available for welfare-to-work transit projects.
- Ferry boat program—$220 million for vessel purchases or terminal construction.
- High speed rail development—$40 million.

Note: Dollar amounts are nationwide for the six-year TEA 21 authorization period.

projects, please go to our web page at www.lao.ca.gov.)

- ***High-Cost Bridge Projects.*** The TEA 21 sets aside $525 million for high cost bridge projects, with special provision to use $150 million for seismic retrofit of bridges. The San Francisco-Oakland Bay Bridge and the Golden Gate Bridge retrofits could qualify for some of these set aside funds.

ISSUES FOR THE LEGISLATURE TO CONSIDER

There are several issues that the Legislature should consider in implementing the new federal act.

Monitor Caltrans and the Regional Agencies to Ensure That California Receives the Maximum Federal Funds. With the substantial infusion of federal dollars, the state and regional agencies need to have projects ready for construction in order to annually obligate all of the federal funds that will be available to the state. Beyond that, the state should have additional projects that are ready for construction in order to bid for funds that are not obligated by other states.

The 1998 budget provides a significant increase in Caltrans staff to deliver projects scheduled for construction in the 1998 State Transportation Improvement Program (STIP) (which covers the six-year period from 1998-99 through 2003-04). While the 1998 STIP programmed a substantial increase in new projects, it did not fully anticipate all the new federal funds that will be available under TEA 21. As a result, Caltrans staffing is likely to need further expansion in subsequent years beyond 1998-99 in order to ensure timely project delivery. Similarly, regional agencies also need to enhance their ability to deliver local projects.

Qualify Larger Projects for Federal Funds. Currently, the state supports some projects—for example, the replacement of the east span of the San Francisco-Oakland Bay Bridge—exclusively with state and local funds. One approach to ensure that California uses all of its federal funds would be to qualify a few large state and locally funded projects for federal funds. If the state chooses to use federal funds for one or more of these projects (subject to federal requirements), it would enhance the state's ability to obligate all the federal funds the state will receive under TEA 21.

Determine if Part of the Minimum Guarantee Should Go to Regional Agencies. Under ISTEA, several federal funding categories including Minimum Allocation and Donor Bonus helped to ensure that each state received a "fair" share of its contribution to the federal Highway Trust Fund. State law implementing ISTEA provided regional agencies with about 27 percent of California's allocation under these programs. The TEA 21 combined these equalization programs into the minimum guarantee funding category. With this change, the allocation mechanism established by state law for the previous programs will no longer apply. The Legislature should determine whether a part of the minimum guarantee money should continue to go to the regional agencies. To the extent regional agencies receive these funds, one approach would be to allocate a portion of the minimum guarantee funds to those regional agencies who have used all other federal funds for the fiscal year. This approach would create an incentive which rewards local project delivery.

Determine How to Allocate High Priority Projects. The state will have to decide how to handle the "high priority" project funds in allocating the new federal funds across the counties. The "high priority" funds could either be counted as funds coming to the state and, therefore, treated as part of the county shares in the STIP distribution process, or counted as local assistance funds which pass through directly to the locals. Senate Bill 45 (Kopp, Chapter 622, Statutes of 1997) discouraged federal funds from being obligated to specific high priority projects, if those same funds could have come to the state in some other form (that is, Interstate Maintenance, National Highway System, STP, or Minimum Guarantee). However, there is some uncertainty as to how the exact language of SB 45 applies to "high priority" funds available under TEA 21. The Legislature should clarify its intent in this regard. One approach is currently being considered as part of AB 2035 (Cardenas) which clarifies that the "high priority" funds should not count against county shares.

Consider the Provision of Short-Term Loans by the State Infrastructure Bank. Currently the State Infrastructure Bank (SIB) is authorized to make loan guarantees to back locally financed transportation projects. At the federal level, TEA 21 created a federal finance bank to make loans and loan guarantees to capital projects costing over $100 million. The Legislature could expand SIB's authorization to make short term "bridge" loans to regional agencies for projects under $100 million. Given the significant cash balance in the State Highway Account (currently at almost $2 billion), the state could help to *accelerate* local projects with such loans without affecting the delivery of state projects. Furthermore, by charging a rate between the public fund rate and market rate, the state could actually increase the amount that is returned to the State Highway Account while still benefitting the regional agencies.

Acknowledgments

This report was prepared by Robert Manwaring, under the supervision of Dana Curry. The Legislative Analyst's Office (LAO) is a nonpartisan office which provides fiscal and policy information and advice to the Legislature.

LAO Publications

To request publications call (916) 445-2375.

This report and others, as well as an E-mail subscription service, are available on the LAO's World Wide Web site at http://www.lao.ca.gov. The LAO is located at 925 L Street, Suite 1000, Sacramento, CA 95814.