

**California  
Transportation  
Commission**



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**ANNUAL REPORT**

Issues for 2002



Volume I  
2001 Annual Report  
to the California Legislature  
Adopted December 13, 2001

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**CALIFORNIA TRANSPORTATION COMMISSION**

**2001 ANNUAL REPORT  
TO  
CALIFORNIA LEGISLATURE**

**Volume I**

**Issues for 2002**

**Adopted  
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**STATUTORY REQUIREMENT  
FOR  
ANNUAL REPORT TO THE LEGISLATURE**

(GOVERNMENT CODE)

CHAPTER 3. ANNUAL REPORT

**Commission's Annual Report**

*Amended: Statutes of 1984, Chapter 95 (SB 283)*

14535. The commission shall adopt and submit to the Legislature, by December 15 of each year, an annual report summarizing the commission's prior-year decisions in allocating transportation capital outlay appropriations, and identifying timely and relevant transportation issues facing the State of California.

**Contents of Annual Report**

*Amended: Statutes of 2001, Chapter 113 (AB 438)*

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

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

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

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

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

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



# **CALIFORNIA TRANSPORTATION COMMISSION**

## **2001 ANNUAL REPORT TO CALIFORNIA LEGISLATURE**

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# VOLUME I

## ISSUES FOR 2002

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## I. ISSUES FOR 2002

### A. Transportation Finance - ACA 4

***Overview:*** *Assembly Constitutional Amendment 4 (ACA 4), upon approval of the voters, would, for the 2003-04 fiscal year and each fiscal year thereafter, require all moneys that are collected during the fiscal year under the Sales and Use Tax Law, with respect to the sale or use of motor vehicle fuel to be transferred to the Transportation Investment Fund (TIF). The Commission supported the dedication of state revenue from the sales tax on gasoline and diesel fuel to the TCRP, and strongly supports the continued dedication of these revenues to transportation uses beyond FY 2007-08 through the approval of Proposition 42 (ACA 4).*

Funding for California's transportation programs, considered the best in the nation through the 1950s, declined steadily over the next thirty years until California was ranked 49th among the states in per capita investment in transportation. New transportation revenues were authorized beginning in 1984 through county sales taxes dedicated to transportation uses, and voter approval of the Transportation Blueprint for the Twenty-First Century in June 1990 authorized a nine-cent per gallon increase in state fuel taxes. Even with these revenue increases, California remained near the bottom, just 46<sup>th</sup>, in per capita spending on transportation programs.

**Traffic Congestion Relief Program** - In 2000, the Davis Administration initiated proposals to help relieve traffic congestion, resulting in the Traffic Congestion Relief (TCR) Act of 2000 (AB 2928 and SB 1662). That Act provides, in the period of FY 2000-01 through FY 2007-08, \$6.8 billion in new transportation funding derived from General Fund revenues and state sales tax on gasoline and diesel fuel. The Act directs \$4.9 billion, in specified amounts, to 141 designated transportation projects. It also directs \$0.4 billion to the repair of local streets and roads for FY 2000-01. The remaining \$1.5 billion is divided 40%-40%-20% among the State Transportation Improvement Program (STIP), local street and road maintenance and rehabilitation, and the Public Transportation Account. The new funding for transportation included \$1.5 billion in direct general funds from the FY 2000-01 budget surplus, plus about \$5.3 billion over six years from transferring all remaining state sales taxes on gasoline and diesel fuel from the General Fund to transportation; thus, bringing substantial new funding to transportation without increasing gas taxes, truck weight fees, or the State's bonded indebtedness.

**Assembly Constitutional Amendment 4** - In July 2001, the Legislature approved Assembly Constitutional Amendment 4 (Dutra, Resolution Chapter 87) which would permanently dedicate all moneys collected under the Sales and Use Tax Law, with respect to the sale or use of motor vehicle fuel, to transportation purposes. ACA 4 must be approved by the voters and will appear on the March 2002 ballot as Proposition 42.

ACA 4, upon approval of the voters, would, for the 2003-04 fiscal year and each fiscal year thereafter, require all moneys that are collected during the fiscal year under the Sales and Use Tax Law, with respect to the sale or use of motor vehicle fuel, to be transferred to the Transportation Investment Fund (TIF). Specifically, the measure provides that:

- (1) For the 2003-04 to 2007-08 fiscal years, inclusive, moneys in the TIF shall be allocated, upon appropriation by the Legislature, in accordance with Section 7104 of the Revenue and Taxation Code as that section read on the operative date of this article.
- (2) For the 2008-09 fiscal year and each fiscal year thereafter, moneys in the TIF shall be allocated solely for the following purposes:
  - (a) Public transit and mass transportation.
  - (b) Transportation capital improvement projects, subject to the laws governing the State Transportation Improvement Program (STIP), or any successor to that program.
  - (c) Street and highway maintenance, rehabilitation, reconstruction, or storm damage repair conducted by cities, including a city and county.
  - (d) Street and highway maintenance, rehabilitation, reconstruction, or storm damage repair conducted by counties, including a city and county.
- (3) For the 2008-09 fiscal year and each fiscal year thereafter, moneys in the Transportation Investment Fund shall be allocated, upon appropriation by the Legislature, as follows:
  - (a) Twenty percent for public transit and mass transportation purposes.
  - (b) Forty percent for transportation capital improvement projects, subject to the laws governing the STIP, or any successor to that program.
  - (c) Twenty percent for street and highway maintenance, rehabilitation, reconstruction, or storm damage repair conducted by cities.
  - (d) Twenty percent for street and highway maintenance, rehabilitation, reconstruction, or storm damage repair conducted by counties.
- (4) The transfer of revenues from the General Fund of the State to the TIF may be suspended, in whole or in part, for a fiscal year if both of the following conditions are met:
  - (a) The Governor has issued a proclamation that declares that the transfer of revenues will result in a significant negative fiscal impact on the range of functions of government funded by the General Fund of the State.
  - (b) The Legislature enacts by statute, pursuant to a bill passed in each house of the Legislature by roll call vote entered in the journal, two-thirds of the membership concurring, a suspension for that fiscal year of the transfer of revenues, provided that the bill does not contain any other unrelated provision.
- (5) The Legislature may enact a statute that modifies the percentage shares set forth above by a bill passed in each house of the Legislature by roll call vote entered in the journal, two-thirds of the

membership concurring, provided that the bill does not contain any other unrelated provision and that the moneys described above are expended solely for the purposes specified above.

**Commission Support for ACA 4** - The Commission has long viewed the sales tax on gasoline and diesel fuel as a transportation user fee that should be dedicated to transportation uses. The sales tax revenues can be used for a wider range of transportation uses, particularly for passenger rail and transit projects, than state fuel tax revenues which are constrained by Article XIX of the State Constitution. The flexibility of the sales tax revenue is key to the wide range of projects included in the Traffic Congestion Relief Program. **The Commission supported the dedication of state revenue from the sales tax on gasoline and diesel fuel to the TCRP, and strongly supports the continued dedication of these revenues to transportation uses beyond FY 2007-08 through the approval of Proposition 42 (ACA 4).**





## I. ISSUES FOR 2002

### B. 2002 State Transportation Improvement Program Outlook

***Overview:*** *For the 2002 STIP, total capacity for adding new project funding will be up to \$4.8 billion. However, the Commission will face challenges unprecedented since the enactment of SB 45 in 1997. The greatest challenge is the result of the flexibility that will allow project nominations to exceed capacity, up to \$7 billion. Not all project nominations may be programmed and the Commission will have to decide which projects may advance now and which must wait for a future STIP. A second major challenge is that 2/3 of the new capacity is available only in the 2002 STIP's outer years, Fiscal Year (FY) 2005-06 and FY 2006-07, while many and perhaps most nominations will be for projects that could be delivered earlier. Other likely programming issues include limitations on State-only funding and the need for strategies to complete the funding of projects now programmed only for environmental, design, or right-of-way work.*

The 2002 State Transportation Improvement Program (STIP) will add three new programming years, FY 2004-05 through FY 2006-07, more new years than any STIP since 1990. The total capacity for adding new project funding will be up to \$4.8 billion, while the total of Caltrans and regional project nominations for the STIP could exceed \$7 billion. The Commission will have greater programming flexibility than it has had at any time since the enactment of SB 45, the 1997 landmark legislation that created the state's current programming process.

Yet, with all this capacity and programming flexibility, the Commission will be facing unprecedented challenges, and some STIP project proponents will be left disappointed. The greatest challenge will be the result of the flexibility that allows project nominations to exceed capacity. This will allow the Commission to maximize the overall level of programming, not leaving capacity unprogrammed in large amounts as in recent STIPs. However, it will also mean that not all project nominations may be programmed and that the Commission will have to decide which projects may advance now and which must wait for a future STIP.

The second major challenge is that over 2/3 of new capacity is available only for the STIP's last two years, FY 2005-06 and FY 2006-07, while many and perhaps most nominations will be for projects that could be delivered earlier. Other likely programming issues include limitations on State-only funding and the need for strategies to complete funding for partially funded projects.

The 2002 STIP will cover the five fiscal years from FY 2002-03 through FY 2006-07. In recent years, the period of the biennial STIP has changed with each successive STIP. The 1996 STIP covered seven years (ending FY 2002-03). With the enactment of SB 45, the 1998 STIP covered six years (ending FY 2003-04) and the 2000 STIP covered four years (also ending FY 2003-04). With the enactment of AB 2928 (2000), the 2002 STIP was extended to five years (ending FY 2006-07), with succeeding STIPs also to cover five years. The transition from the four-year

2000 STIP to the five-year 2002 STIP thus yields three years of new programming capacity for the 2002 STIP as an add-on to the 2000 STIP period.

The available 2002 STIP programming capacity includes (in billions):

\$3.612	New base STIP capacity (from the 2002 Fund Estimate)
.194	Unused prior STIP capacity (balance through November 2001)
<u>.063</u>	Capacity recycled from lapsed projects
\$3.869	Total base STIP capacity
<u>.954</u>	Advance Project Development Element (APDE) capacity (2002 Fund Estimate)
\$4.823	Total STIP capacity, including APDE

The availability of these amounts as distributed among the counties and the State's interregional program is detailed in the table at the end of this chapter. The new capacity is distributed by the formula in statute, with 25% for the interregional program and 75% for the regional program, which is further subdivided by formula to county shares. The \$194 million in unused prior capacity represents the net of county share reserves and county share advances, as detailed in the same table. The \$63 million in recycled capacity represents amounts from projects that were previously programmed and then deleted from the STIP because they did not receive allocations by the end of the fiscal year of programming or by the deadline of any time extension granted by the Commission.

The Commission has some flexibility in programming the \$3.869 billion in base capacity. To the extent that some shares are left unprogrammed by regional agencies, the Commission may use the freed-up capacity to make advances in other counties or advances to the interregional program.

The Advance Project Development Element (APDE), a feature added to STIP programming by AB 1012 (1999), adds to the Commission's potential programming capacity but is available only by fixed county and interregional shares. An APDE share not used for one county may not be used to augment programming in another county. Each county is allowed a share for eligible APDE projects, projects that include only environmental and design work. While APDE projects do count against county shares, their programming is constrained only by the APDE fund estimate. In effect, a county is allowed an advance of its regular county share to the extent that it has programmed APDE projects.

### **2002 STIP Schedule**

The 2002 STIP is being developed according to the following schedule:

Caltrans submits ITIP to the CTC	December 15, 2001
Regions submit RTIPs to CTC and Caltrans	December 15, 2001
CTC holds North STIP hearing	CTC meeting, January 23-24, 2002 (Sacramento)
CTC holds South STIP hearing	January 30, 2002 (Van Nuys)

CTC publishes Staff Recommendations  
CTC adopts 2002 STIP

March 14, 2002  
CTC meeting, April 3-4, 2002 (Sacramento)

Under statute, if the Commission finds any reason why it may not approve an RTIP for inclusion in the STIP, it must notify the regional agency in writing within 60 days after receiving the RTIP. The Commission may reject an RTIP only if it finds that the RTIP is inconsistent with the STIP Guidelines or is not a cost-effective use of state funds. In the past, the Commission has sent letters to regions identifying such RTIP issues and seeking clarification or resolution. To date, these have all been resolved prior to STIP adoption. The Commission expects this practice to continue.

### **Expanded Potential, More Flexibility, for Share Advances**

For the 2002 STIP, regional agencies will have more extensive opportunities than in recent STIPs to propose projects using advances against their county shares, and that will give the Commission the flexibility it needs to put all available programming capacity to use. The lack of flexibility for the 1998 and 2000 STIPs meant that large amounts of STIP capacity went unprogrammed. Over \$260 million was left unprogrammed when the 1998 STIP was adopted, over \$500 million for the 1998 STIP Augmentation in 1999, and over \$350 million at the adoption of the 2000 STIP. Even now, after a year and a half of STIP amendments adding projects, nearly \$200 million remains unprogrammed. These balances remained in spite of aggressive measures taken by Caltrans and the Commission to use capacity left unprogrammed by regions to make over \$200 million in advances to the interregional program.

The lack of flexibility in earlier STIPs came about because of a provision in SB 45 that restricted county share advances to counties in regions with less than one million population. This meant that no advances were permitted in counties representing over 80% of the state's population. For smaller counties, advances were limited to a single large project. Many counties chose to leave large portions of their county shares unprogrammed, knowing that SB 45 guaranteed that unprogrammed shares would remain reserved and available for them at a later date.

For the 2002 STIP, the Commission will be utilizing the added flexibility derived from the fact that county shares apply by fixed four-year share periods, not STIP by STIP. For the 1998 and 2000 STIPs, the final year of the STIP and the final year of the share period were the same (FY 2003-04), leaving the Commission very little programming flexibility. For the 2002 STIP, however, the county share period extends beyond the STIP period. The three years being added by the 2002 STIP are the first three years of a new four-year share period.

As outlined in the Commission's 2002 STIP Guidelines (see Chapter II-B), each region is entitled to its current county share (its proportional share of the statewide capacity for the current STIP). However, each region may also propose programming up to the limit of its county share for the full four-year period. In effect, this means that the Commission may now make advances for any county share in the state. This is in addition to the statutory provision that allows advances exceeding the current four-year share for a larger project in counties in regions under one million. For the 2002 STIP, regions and Caltrans may propose up to \$6.3 billion in projects

for \$3.9 billion in available capacity (see the table at the end of this chapter). Neither of these figures includes the \$954 million in potential capacity for the Advance Project Development Element.

The Commission's expectation is that many counties, as in the past, will propose to leave portions of their current county shares unprogrammed, reserving them for later use. Past experience indicates that this may leave several hundreds of millions of dollars in freed-up capacity that can be used to support county share advances elsewhere. The Commission's intention is to make full use of that capacity.

Since SB 45, so much STIP capacity has remained unprogrammed that there has been no real limit on STIP amendments to add new project funding at any time. If the Commission were to program all available STIP capacity with the original STIP adoption, the ability to add new projects before the next STIP would be severely limited. When the 2002 STIP Guidelines were being developed, several regions asked the Commission to continue allowing STIP amendments for new funding between STIPs. In response, the Commission included in the Guidelines the following provision (added to Section 20):

“A regional agency that intends to request the programming of additional funds from its county share prior to the next STIP should include in its RTIP a statement of its intentions specifying, as much as possible, the size, subject, and timing of the intended STIP amendment(s). The Commission may use this information when adopting the STIP to determine the most appropriate level of statewide programming. The Commission intends to promote the full use of STIP resources while permitting additional programming by STIP amendment.”

### **Current Regional Transportation Plans**

The statutes require each regional transportation planning agency (RTPA) to adopt an updated 20-year regional transportation plan (RTP) every three years for urban areas and every four years for rural areas. The statutes further require that the RTPA consider the relationship between the RTIP and the 20-year plan prior to adopting the RTIP. For urbanized areas, Federal planning regulations also require that each federally funded project be consistent with the plan. Under State law, the plans are to be submitted to Caltrans and to the Commission. To ensure a degree of statewide consistency, the Commission is authorized by statute to prepare RTP Guidelines, in cooperation with the RTPAs and Caltrans.

When the Commission last updated the Guidelines, in December 1999, it adopted a policy that, beginning with the 2002 STIP, every RTPA would have a current RTP that addresses the requirements in the RTP Guidelines before the Commission approves an RTIP for inclusion in the STIP. A “current RTP” was defined as an RTP adopted within three years of the date of STIP adoption in urban regions and four years in non-urban regions. According to Caltrans, at least seven counties are not expected to have a current RTP in place before the end of the 2001 calendar year: Amador, El Dorado, Lake, Mendocino, San Luis Obispo, Stanislaus, and Tuolumne.

## **Project Evaluation and Selection Criteria**

SB 45 required that the STIP guidelines include “objective criteria for measuring system performance and cost-effectiveness of candidate projects.” This requirement is taking full effect only now, with the 2002 STIP. As authorized by SB 45, the 1998 STIP and the 1998 STIP Augmentation (March 1999) were adopted under interim guidelines designed to carry out SB 45 “to the maximum extent feasible” within a short time frame. When new permanent guidelines were first adopted, in July 1999, they included a new section (Section 19) that calls for Caltrans and each region to evaluate the RTIP and each RTIP “for performance and cost effectiveness at the system or project level as appropriate.” Beginning with the 2002 STIP, Caltrans and each region is to submit to the Commission a report on the performance and cost-effectiveness of its RTIP or ITIP, which the Commission will consider in approving the RTIP or including ITIP projects in the STIP. Each evaluation report is to demonstrate the effectiveness of the RTIP or ITIP in meeting the goals, objectives, and standards in the regional transportation plan or the Caltrans Interregional Transportation Strategic Plan (ITSP). Regions and Caltrans are responsible for determining the evaluation methodology to be used. The guidelines suggest seven criteria that regions and Caltrans should consider, while leaving it to the regions to select the most applicable criteria:

1. Change in vehicle occupant, freight and goods travel time or delay.
2. Change in accidents and fatalities.
3. Change in vehicle and system operating costs.
4. Change in access to jobs, markets, and commerce.
5. Change in frequency and reliability of rail/transit service.
6. Change in air pollution emissions.
7. Change in passenger, freight and goods miles carried.

Under statute, the Commission must incorporate all RTIP projects nominated for the current county share into the STIP unless the Commission finds that the RTIP is not consistent with the STIP Guidelines or is not a cost-effective expenditure of state funds. The guidelines specify that, in making its finding, the Commission will consider the cost-effectiveness evaluation described in Section 19 and that the Commission may also make its own evaluation based on the criteria in Section 19.

With the prospect of the Commission needing to select projects from among those proposed for funding beyond the current county share, the 2002 STIP Guidelines state the Commission’s intent “to consider regional agency priorities and the extent to which each RTIP includes:

- projects that implement a cost-effective RTIP, giving consideration to the evaluation submitted as required by Section 19 of these guidelines,
- projects that complete or fund further components of projects included in the prior STIP,
- projects that implement the Traffic Congestion Relief Program;
- projects that leverage federal discretionary funds; and
- projects that provide regional funding for interregional partnership projects.”

**Funding Spread Issue**

The Commission’s second major challenge for the 2002 STIP is that the capacity for new project funding is primarily in the outer years being added to the STIP, while many and perhaps most new project nominations will be for projects that can be delivered earlier. The statutes specify that the total amount programmed in each fiscal year of the STIP shall not exceed the amount specified in the adopted Fund Estimate. According to the adopted Fund Estimate, the STIP’s basic programming capacity (excluding APDE programming) is spread as follows (dollars in millions):

	FY 03	FY 04	FY 05	FY 06	FY 07	Total
Total Fund Estimate (August)	\$102	\$375	\$592	\$945	\$1,931	\$3,945
Less STIP Amendments	69	7				76
Net Available (December)	\$ 33	\$368	\$592	\$945	\$1,931	\$3,869

This represents a return to the pattern that was once the norm, but has not been seen since prior to SB 45. The normative pattern was that new programming capacity was available primarily in the year(s) being added to the STIP.

During each of the three STIP cycles since SB 45, new capacity has been relatively “front-loaded,” that is, available in relatively large amounts in the first year or two of the STIP, each time due to unusual circumstances surrounding that particular STIP cycle. Compare this cycle’s spread with the fund estimate spread for the last three cycles:

Fund Estimate	Adopted	Year 1	Spread by Fiscal Year (\$ in millions)						Total
			Yr 1	Yr 2	Yr 3	Yr 4	Yr 5	Yr 6	
<b>1998 STIP</b>	Jan-98	1998-99	\$417	\$403	\$700	\$679	\$1,170	\$1,254	\$4,623
			9%	9%	15%	15%	25%	27%	
<b>1998 STIP</b>	Jan-99	1999-00	\$783	\$12	\$98	\$194	\$602		\$1,689
<b>Augmentation</b>			46%	1%	6%	11%	36%		
<b>2000 STIP</b>	Aug-99	2000-01	\$545	\$231	\$218	\$155			\$1,149
			47%	20%	19%	13%			
<b>2002 STIP</b>	Aug-01	2002-03	\$33	\$368	\$592	\$945	\$1,931		\$3,869
			1%	10%	15%	24%	50%		

The 1998 STIP was not only the first STIP under SB 45, but also the first since the approval of Proposition 192 in March 1996. The 1996 STIP had added no new programming and had, in fact, delayed 1994 STIP projects and deleted about \$0.5 billion in programming. At the time, it had been assumed that STIP resources would be lost to pay for seismic repair and retrofit work following the January 1994 Northridge earthquake. Proposition 192 provided an infusion of about \$1.35 billion to the 1998 STIP by using bond revenues to pay for seismic work that would

otherwise have been covered by the State Highway Account, thus making new capacity available even in the STIP's early years. The 1998 STIP Augmentation, a special STIP cycle conducted in 1999, was based primarily on a revised Fund Estimate to program previously unanticipated revenue from the Federal Transportation Equity Act for the 21st Century (TEA-21), plus an updating of State revenue projections. These revenues too were heavily weighted toward the STIP's early years. The 2000 STIP, which revisited the same fiscal years already programmed in the 1998 STIP, included new capacity by assuming "contingency resources" from local assistance programs, primarily RSTP and CMAQ, which have been going unspent. These resources too were available primarily in the early years.

The shift away from front-loading for the 2002 STIP was reinforced by this year's transportation refinancing plan (AB 438), enacted as a trailer to the State Budget for FY 2001-02. Without AB 438, the creation of the Transportation Investment Fund (TIF) by AB 2928 (2000) would have meant another front-loaded STIP in 2002. The TIF was created to receive revenues derived from the State sales tax on gasoline. After fixed amounts were transferred from the TIF each year to support the TCR program, the remainder was to be divided, with 20% to the Public Transportation Account (with half of that supporting the STIP), 40% directly to the STIP, and 40% for a subvention program to cities and counties for local road maintenance and rehabilitation. Under AB 438's refinancing plan, all transfers of sales tax revenue to the TIF were suspended for two years (FY 2001-02 and FY 2002-03). During this suspension period, the funding of the TCR program is being covered through loans from the Public Transportation Account and the State Highway Account, while the TIF local subvention program is being picked up by the State Highway Account. Altogether, AB 438 meant a loss of \$1.116 billion for the STIP's first year, with repayments of \$873 million in FY 2006-07 (the 2002 STIP's last year) and \$539 million in FY 2007-08 (one year beyond the STIP period). While the refinancing plan was designed to assure that there was no net loss to the STIP, it did mean the loss of front-loaded capacity for the 2002 STIP.

Over the past three STIP cycles, many regional and local agencies have taken advantage of the flexibility provided by SB 45 to program local road and transit projects, very often projects that could be delivered in the first year or two of the STIP. Prior to SB 45, the STIP had consisted primarily of State highway and urban rail projects. In the 1998 STIP, added regional program projects were 70% State highways, 16% rail, and 10% local roads and transit. In the 1998 STIP Augmentation, the figures were 50% State highways, 4% rail, and 44% local roads and transit. In the 2000 STIP, it was 50% State highways, 16% rail, and 34% local roads and transit. Over the past two cycles, over 2/3 of the programming on local roads has been for rehabilitation work.

As long as STIP capacity was front-loaded and a lot of capacity remained unprogrammed, county shares were available to regions virtually on demand for any eligible STIP purpose. An agency could request a STIP amendment and immediately proceed to have the funds allocated. Since SB 45, some agencies may have come to expect or even depend on this. With the 2002 STIP cycle, however, such easy and ready access to STIP funding is coming to an end, and programming will once again call for advance planning and scheduling. This will present a challenge for the Commission, as well as for Caltrans, regional agencies, and local implementing agencies.

The STIP Guidelines and the Fund Estimate did not restrict RTIP and ITIP project nominations by fiscal year. The Guidelines do provide, however, that the Commission may respread project programming if it finds it necessary to do so to insure the total amount programmed in each fiscal year does not exceed the amount specified in the fund estimate. "In that case, the Commission will compare all projects nominated for the year(s) from which projects will be postponed, giving consideration to the leveling of regional shares across the STIP period and, in consultation with Caltrans, to the need to balance Caltrans' workload by district and fiscal year."

### **State-Only Funding**

The 2002 STIP may face greater restrictions on the use of state-only funding, particularly with the loss of TIF revenues and diversion of SHA revenues in the STIP's early years. State-only funding refers to the funding of projects without using Federal funds. State transportation revenues are used first to fund operations, maintenance, and other non-capital work that does not qualify for Federal funding, and then to match all Federal funds used for STIP or SHOPP work, usually at a rate of 88.5% Federal to 11.5% State funds. When these needs have been met and all available Federal funds are being used, any remaining balance of State revenue may be used for State-only purposes. These may include STIP projects that cannot qualify for Federal funding, STIP projects that in themselves serve as match for non-STIP Federal funds (e.g., RSTP, CMAQ, or Federal transit funds apportioned directly to regions), or other projects, especially smaller projects, that can benefit most from avoiding Federal procedural requirements.

After reviewing its state-only policy with Caltrans and regional agencies, the Commission resolved, in adopting the 2002 STIP Fund Estimate, that it expects most STIP projects to qualify for Federal funding and will approve the allocation of state-only funding for new projects only in accordance with the criteria in its revised policy. That policy generally gives blanket approval to (1) projects with a total cost of \$750,000 or less; (2) planning, programming, and monitoring activities; (3) regional rideshare and traffic demand management activities; and (4) match for local Federal funds. Other projects may be approved by the Commission for state-only funding, but only after a review and determination of the project's need for state-only funding, based on an exception request submitted to Caltrans, and verification that sufficient funds are available. The Commission stated its intent to consider advance approvals for state-only funding in the 2002 STIP when RTIPs designate the projects for state only, the projects are consistent with the policy, and the responsible agency submits an appropriate exception request to Caltrans by December 15, 2001. **The Commission's state-only policy also notes that even advance approval in the STIP cannot assure that State-only funds will be available when an agency requests an allocation.** The Commission has charged Caltrans with monitoring the use and availability of State-only funds and reporting to the Commission annually with any recommendations for modification of the state-only policy.

### **Future Funding Needs for Partially Funded Projects**

Since SB 45, the law has permitted, and the Commission has encouraged, the sequential programming of a project's four components: (1) environmental and permits, (2) plans,

specifications, and estimates, (3) right-of-way, and (4) construction. A project may be programmed for one or more components without being programmed for construction.

In looking ahead to the 2002 STIP process, the Commission has expressed its concern for how future funding demands for partially funded projects (that is, projects programmed for some but not all components) may affect future programming. The concern has been whether sufficient STIP capacity will be available either within a given county's projected county share or within the interregional program to complete the partially funded projects and how the current projects might affect the capacity to program other projects.

In response to a Commission request, Caltrans staff reported in October that they had identified about \$7 billion in additional future funding needs over the next 10 years. The report concluded that, "while this might initially seem like a very large number, the actual demand for new funds at each STIP cycle can be managed." The report cited the need for Caltrans and local agencies "to develop and continually update financial plans for all STIP projects, particularly larger projects with total costs above \$60 or \$70 million."

In November, Commission staff followed with an analysis of these funding needs broken down by county and interregional share. That analysis identified future funding needs for the interregional program about 4.5 times greater than the interregional share for the 2002 STIP. This suggests that it would take about five STIP cycles (i.e., ten add-on years of additional STIP programming--through FY 2014-15) to complete the funding of all existing partially funded projects, even if no new projects were added. Within the interregional program, the analysis indicated a slightly higher ratio for projects within north urbanized areas. Under statute, no more than 16% of the interregional program may be expended on projects within north urbanized areas or on other projects within the 45 counties of the north that are not on interregional road system routes or for intercity rail or grade separations. The analysis calculated a similar ratio for each county share and found seven that had higher ratios than the interregional program: Yuba, Merced, El Dorado, Stanislaus, Napa, Placer, and Nevada.

The analysis concluded that the need to evaluate project financial plans and future funding arrangements appears to be greatest in the interregional program, especially for projects within north urbanized areas, and in the higher ratio counties. Without mutual agreement on future funding arrangements, regions should not assume in their RTIPs that the interregional program will pick up future costs, nor should Caltrans in its ITIP assume that a region will necessarily provide a given share of a project's future costs. The analysis suggested that the Commission might want to consider future funding viability as a factor when approving RTIPs or programming ITIP projects.

### **Summary and Conclusion**

The potential exists for the Commission to program more new funding in the 2002 STIP than at any time since 1990. At the same time, however, the Commission will face the greatest array of challenges and issues seen since the restructuring of state programming by SB 45 in 1997. The process of selecting 2002 STIP projects for funding begins with the submittal of the Caltrans

ITIP and the regional RTIPs by December 15, 2001. Among the questions and challenges facing the Commission are the following:

- To what extent will RTIP and ITIP proposals exceed the statewide capacity for the 2002 STIP? To what extent will regions leave unprogrammed reserves of county shares? To what extent will the Commission be able to program advances to other counties or to the interregional share?
- To what extent will regions state their intent to request later STIP amendments and for what purposes? To what extent should the Commission leave STIP capacity unprogrammed to
- Allow for amendments?
- How much will the RTIPs and ITIP propose in Advance Project Development Element (APDE) programming? Will there be other projects that qualify for the APDE if a requested advance to cover right-of-way or construction is not programmed?
- How will RTIP and ITIP proposals be spread across fiscal years? To what extent will it be necessary for the Commission to respread projects to later fiscal years? How will potential APDE projects be spread across fiscal years and how might this affect the availability of funds for other projects?
- After STIP adoption, what should be the Commission's policy for approving the allocation of funds earlier than the year of programming? How might the level of APDE programming affect this?
- Which counties should receive priority for county share advances? To what extent will each RTIP include projects that:
  - implement a cost-effective program (considering the regional evaluation submitted with the RTIP),
  - fund further components of partially funded projects,
  - match TCR program funding,
  - leverage federal discretionary funding, and
  - match proposed ITIP funding.
- To what extent will the RTIPs have issues that, if unresolved, could result in rejection by the Commission for any reason? To what extent will the RTIPs be supported by current regional transportation plans?
- For each RTIP and the ITIP, what would be the status of future funding needs for partially programmed projects? Would the needs be reasonable in relationship to the likely funding available? Will there be reasonable and viable financial plans for major projects? Where future needs are high, will there be other projects proposed that might compromise funding viability?
- How much will be proposed for State-only funding and over which fiscal years? To what extent will these projects meet standard criteria and to what extent will they require approval of an exception request?

## **County and Interregional Shares**

The table on the following two pages identifies STIP county and interregional shares, updated to include STIP amendments and Commission allocations through November 2001. The individual columns in the tables are described below:

### **Carryover Balances**

Unprogrammed Balance (Balance Advanced). These 2 columns identify the current county share balance to be carried forward. All programmed APDE projects have been deducted from the county share in arriving at this balance.

Projects Lapsed. This is the amount that has been deducted from each share for projects that were deleted from the STIP because they were not allocated before the end of the fiscal year programmed or by the time of any extension granted. This amount is to be added back into the balance available for the new county share period.

### **2002 STIP Share**

Formula 3-Year Share. This is each county's distribution of the 2002 STIP's new programming capacity.

Total Available (Advances Remaining). This is the sum of the carryover balance, the return of lapsed funds, and the new 3-year formula share. It represents the amount guaranteed to be available for programming from each share. It assumes that all currently programmed APDE projects are deducted from the county share. If any current APDE project will remain an APDE project in the 2002 STIP (for example, the project will not be programmed for right-of-way or construction), the amount for that APDE project may be added back to the Total Current Share.

### **Potential Advance of County Share**

4th Year Share. This is each county's distribution of the Fund Estimate amount for FY 2007/08, which is the fourth year of the 4-year county share period defined in statute and the first year beyond the 2002 STIP period. This amount is guaranteed within the 4-year county share period and is potentially available, though not guaranteed, in the 2002 STIP. RTIPs may identify projects for current programming from this amount, identifying such projects separately.

Potential Total. This is the sum of the Total Current Share Available and the 4th Year Formula Share. It represents the maximum that may be programmed in a county in a region with over 1 million population (excluding APDE programming). Smaller regions may, in addition, propose an advance for a single larger project, provided that the advance does not exceed 200% of the county share for the current 4-year period (that is, 200% of the sum of the New 3-Year Formula Share and 4th Year Formula Share).

### **Advance Project Development Element Shares**

2002 STIP Total. This represents the maximum that may be programmed for APDE projects in the 2002 STIP. This is a new total, replacing (not adding to) the APDE share for the 2000 STIP. Any carryover 2000 STIP APDE project that will remain in the 2002 STIP (that is, no right-of-way or construction is being programmed) is to be deducted from this share.

Current APDE. This is the total of all APDE projects currently programmed, regardless of whether the projects will or will not remain APDE projects in the 2002 STIP.

Net Available. This is the 2002 STIP APDE share less the total of all APDE projects currently programmed

**ADOPTED 2002 STIP FUND ESTIMATE, COUNTY AND INTERREGIONAL SHARES**  
**Includes STIP Amendments and Allocations Through November 2001**

(\$1,000's)

<u>County</u>	<u>Carryover Balances</u>		<u>Projects Lapsed</u>	<u>2002 STIP Balances</u>		<u>Advances Remaining</u>
	<u>Unprogr'd Balance</u>	<u>Balance Advanced</u>		<u>Formula 3-Yr Share</u>	<u>Total Available</u>	
Alameda	0	19	4,031	98,345	102,357	0
Alpine/Amador/Calaveras	12,974	0		16,648	29,622	0
Butte	1,483	0	1,615	18,807	21,905	0
Colusa	1,015	0		4,958	5,973	0
Contra Costa	9,667	0	420	63,743	73,830	0
Del Norte	0	2,691		4,743	2,052	0
El Dorado LTC	4,067	0		12,036	16,103	0
Fresno	0	85,479	731	67,957	0	16,791
Glenn	0	126	177	5,293	5,344	0
Humboldt	14,912	0	204	19,034	34,150	0
Imperial	22,393	0		31,799	54,192	0
Inyo	2,877	0	144	25,811	28,832	0
Kern	1,163	0		88,948	90,111	0
Kings	7,082	0		13,340	20,422	0
Lake	7,383	0	201	8,147	15,731	0
Lassen	0	1,168	28	12,101	10,961	0
Los Angeles	45,555	0	8,842	602,827	657,224	0
Madera	393	0		12,077	12,470	0
Marin	619	0	181	18,626	19,426	0
Mariposa	141	0		4,928	5,069	0
Mendocino	449	0	21	17,966	18,436	0
Merced	0	217	542	21,703	22,028	0
Modoc	0	0		6,426	6,426	0
Mono	0	2,957		19,112	16,155	0
Monterey	0	816	13	34,914	34,111	0
Napa	4,039	0		11,542	15,581	0
Nevada	6,742	0	1	10,078	16,821	0
Orange	129,566	0		181,767	311,333	0
Placer TPA	0	8,331	2	19,198	10,869	0
Plumas	956	0	159	7,284	8,399	0
Riverside	18,528	0	8,300	130,115	156,943	0
Sacramento	0	202	507	84,801	85,106	0
San Benito	2,604	0	74	6,328	9,006	0
San Bernardino	33,034	0	13,798	169,337	216,169	0
San Diego	52,736	0		198,196	250,932	0
San Francisco	5	0	391	50,254	50,650	0
San Joaquin	25,095	0	500	44,208	69,803	0
San Luis Obispo	2,446	0		35,536	37,982	0
San Mateo	3,677	0	1,297	51,753	56,727	0
Santa Barbara	20,981	0	418	40,600	61,999	0
Santa Clara	1,825	0	3,326	115,142	120,293	0
Santa Cruz	1,007	0	205	20,228	21,440	0
Shasta	9,384	0		20,555	29,939	0
Sierra	1,413	0	277	3,429	5,119	0
Siskiyou	0	901	1	14,275	13,375	0
Solano	2,969	0	5,012	30,183	38,164	0
Sonoma	6,621	0	455	36,843	43,919	0
Stanislaus	20,221	0	85	34,236	54,542	0
Sutter	4,037	0		7,740	11,777	0
Tahoe RPA	5,311	0	1,158	5,150	11,619	0
Tehama	0	2,745	173	10,318	7,746	0
Trinity	6	0	424	7,419	7,849	0
Tulare	44,250	0	5,802	41,790	91,842	0
Tuolumne	0	5,333		8,433	3,100	0
Ventura	0	13,056		59,562	46,506	0
Yolo	0	2	66	16,485	16,549	0
Yuba	0	0		5,926	5,926	0
<b>Statewide Regional</b>	<b>529,626</b>	<b>124,043</b>	<b>59,581</b>	<b>2,709,000</b>	<b>3,190,955</b>	<b>16,791</b>
<b>Interregional</b>	<b>0</b>	<b>229,516</b>	<b>3,426</b>	<b>903,000</b>	<b>676,910</b>	<b>0</b>
<b>Statewide Total</b>	<b>529,626</b>	<b>353,559</b>	<b>63,007</b>	<b>3,612,000</b>	<b>3,867,865</b>	<b>16,791</b>

**ADOPTED 2002 STIP FUND ESTIMATE, COUNTY AND INTERREGIONAL SHARES  
Includes STIP Amendments and Allocations Through November 2001**

(\$1,000's)

<b>County</b>	<b>Potential Advance of County Share (For Share Period FY 04/05-07/08)</b>		<b>Advance Project Development Element Shares</b>		
	<b>4th Year Share</b>	<b>Potential Total</b>	<b>2002 STIP Total</b>	<b>Current APDE</b>	<b>Net Available</b>
Alameda	64,229	166,586	25,975	3,000	22,975
Alpine/Amador/Calaveras	10,873	40,495	4,397		4,397
Butte	12,283	34,188	4,967	500	4,467
Colusa	3,237	9,210	1,309		1,309
Contra Costa	41,631	115,461	16,836		16,836
Del Norte	3,097	5,149	1,253		1,253
El Dorado LTC	7,860	23,963	3,179		3,179
Fresno	44,383	27,592	17,949		17,949
Glenn	3,458	8,802	1,398		1,398
Humboldt	12,431	46,581	5,027		5,027
Imperial	20,767	74,959	8,399		8,399
Inyo	16,857	45,689	6,817		6,817
Kern	58,092	148,203	23,493		23,493
Kings	8,712	29,134	3,523		3,523
Lake	5,322	21,053	2,152		2,152
Lassen	7,904	18,865	3,196	1,168	2,028
Los Angeles	393,707	1,050,931	159,219	11,623	147,596
Madera	7,887	20,357	3,190		3,190
Marin	12,164	31,590	4,919		4,919
Mariposa	3,218	8,287	1,302		1,302
Mendocino	11,734	30,170	4,745		4,745
Merced	14,175	36,203	5,732		5,732
Modoc	4,197	10,623	1,697		1,697
Mono	12,482	28,637	5,048		5,048
Monterey	22,803	56,914	9,222	2,683	6,539
Napa	7,538	23,119	3,049		3,049
Nevada	6,581	23,402	2,662		2,662
Orange	118,713	430,046	48,008		48,008
Placer TPA	12,539	23,408	5,071	685	4,386
Plumas	4,757	13,156	1,924		1,924
Riverside	84,977	241,920	34,366		34,366
Sacramento	55,383	140,489	22,398		22,398
San Benito	4,133	13,139	1,671		1,671
San Bernardino	110,594	326,763	44,725		44,725
San Diego	129,442	380,374	52,347		52,347
San Francisco	32,821	83,471	13,273		13,273
San Joaquin	28,873	98,676	11,676		11,676
San Luis Obispo	23,209	61,191	9,386	200	9,186
San Mateo	33,800	90,527	13,669		13,669
Santa Barbara	26,516	88,515	10,723		10,723
Santa Clara	75,200	195,493	30,411		30,411
Santa Cruz	13,211	34,651	5,343		5,343
Shasta	13,425	43,364	5,429		5,429
Sierra	2,239	7,358	906		906
Siskiyou	9,323	22,698	3,770		3,770
Solano	19,713	57,877	7,972	2,250	5,722
Sonoma	24,062	67,981	9,731		9,731
Stanislaus	22,360	76,902	9,042		9,042
Sutter	5,054	16,831	2,044		2,044
Tahoe RPA	3,363	14,982	1,360		1,360
Tehama	6,738	14,484	2,725	1,000	1,725
Trinity	4,845	12,694	1,959		1,959
Tulare	27,294	119,136	11,038		11,038
Tuolumne	5,507	8,607	2,227		2,227
Ventura	38,901	85,407	15,732		15,732
Yolo	10,766	27,315	4,354		4,354
Yuba	3,870	9,796	1,565		1,565
<b>Statewide Regional</b>	<b>1,769,250</b>	<b>4,943,414</b>	<b>715,500</b>	<b>23,109</b>	<b>692,391</b>
<b>Interregional</b>	<b>589,750</b>	<b>1,266,660</b>	<b>238,500</b>	<b>5,895</b>	<b>232,605</b>
<b>Statewide Total</b>	<b>2,359,000</b>	<b>6,210,074</b>	<b>954,000</b>	<b>29,004</b>	<b>924,996</b>





## I. ISSUES FOR 2002

### C. Traffic Congestion Relief Program – Outlook for 2002

***Overview:*** *In 2000, the Davis Administration initiated proposals to help relieve traffic congestion, resulting in the Traffic Congestion Relief (TCR) Act of 2000. The Act provided \$6.8 billion in new transportation funding derived from state sales tax on gasoline and diesel fuel. The Act directed \$4.9 billion of the \$6.8 billion to 141 designated transportation projects to the TCR Program. The Act also directed \$0.4 billion to the repair of local streets and roads for Fiscal Year (FY) 2000-01. The remaining \$1.5 billion was directed to the State Transportation Improvement Program, local streets and roads maintenance and rehabilitation, and the Public Transportation Account. The identified \$6.8 billion was to be funneled from the General Fund to the Transportation Investment Fund (TIF) over a six-year period. However, the Fiscal Year (FY) 2001-02 State Budget Act modified the revenue stream going into the TIF to free up \$2.5 billion for General Fund expenditures over the FY 2001-02 and FY 2002-03 budget years. The modifications include postponing the transfer of \$2.3 billion in General Fund revenues to transportation purposes (\$1.1 billion in FY 2001-02 and \$1.2 billion in FY 2002-03); providing a \$238 million loan to the General Fund from the TCR Fund that will be repaid in FY 2004-05; and extended the TCR Program for two years until FY 2007-08. In 2002, the Commission will face a number of TCR Program issues, including: the July 6, 2002 project application deadline; consideration of alternative projects; proposed swap of funds among TCR Program projects; effects on the State Transportation Improvement Program (STIP) for projects not yet fully funded; treatment of project cost overruns; the use of TCR Program savings; and the shift from project approval to focusing on project delivery.*

AB 2928 (Torlakson, Chapter 91, Statutes of 2000) and clean-up legislation SB 1662 (Burton, Chapter 656, Statutes of 2000) enacted the Traffic Congestion Relief (TCR) Program and provided \$6.8 billion in new funding for transportation. The funding included \$1.5 billion in direct general funds from the Fiscal Year (FY) 2000-01 budget surplus, plus \$5.3 billion over six years by transferring all remaining state sales taxes on gasoline and diesel fuel from the General Fund to transportation, thus bringing substantial funding to transportation without increasing gas taxes, truck weight fees, or the State's bonded indebtedness.

The identified \$6.8 billion is being funneled from the General Fund to the Transportation Investment Fund (TIF), where \$4.9 billion is being distributed to the TCR Fund for 141 specified projects and an additional \$0.4 billion to the repair of local streets and roads for FY 2000-01. The remaining

\$1.5 billion in revenues from the TIF are to be used to fund the “40-40-20” program: 40% to augment the State Transportation Improvement Program (STIP); 40% to cities and counties for continued maintenance and rehabilitation; and 20% to the Public Transportation Account (PTA).

The FY 2001-02 State Budget Act modifies the revenue stream going into the TIF to free up \$2.5 billion for General Fund expenditures over the FY 2001-02 and FY 2002-03 budget years. The modifications include postponing the transfer of \$2.3 billion in General Fund revenues from transportation purposes (\$1.1 billion in FY 2001-02 and \$1.2 billion in FY 2002-03); providing a \$238 million loan to the General Fund from the TCR Fund that will be repaid in FY 2004-05; and extending the TCR Program for two years until FY 2007-08.

### **Program Progress to Date**

As of December 31, 2001, the Commission has approved 131 (93%) full or partial applications for the 141 projects specified in the legislation for \$2.37 billion and allocated \$1.0 billion for project work. No applications for alternative or substitute projects have been received to date. Volume II, Section II-A of this Annual Report describes delivery progress in more detail.

In July 2001, the Commission adopted policies regarding delegated authority to the Commission and Department TCR Program Managers to jointly approve minor project change amendments; delegated allocation for STIP-funded TCR Program projects to the Department; and established the TCR exchange program. Volume II, Section II-A of the Annual Report describes these policies in more detail.

### **Upcoming Program Issues**

The Commission can identify the following potential issues that may come forward during 2002:

1. **Project Application Deadline:** AB 2928 (Torlakson, 2000) requires an applicant to prepare and submit to the Commission an application for each specified project by July 6, 2002. To meet this deadline, the project applications would need to be approved at the Commission’s June 2002 meeting. Currently, all the recipient agencies have indicated that they will be submitting their project applications prior to the deadline.

After the deadline, or when the Commission determines an applicant is failing to make progress on project delivery, the Commission can revert unused funds for other TCR Program purposes. The Program may also accrue savings from projects completed at a lower cost than estimated and the premium from the 10% “discount rate” on the swap of state funds for federal local assistance funds. The statute leaves the Legislature and Governor the responsibility to determine how funds eventually are used.

The Commission intends to submit a report to the Administration and the Legislature by August 1, 2002 identifying those projects specified in the TCR Act for which the Commission did not receive a complete project application by the July 6, 2002 deadline. The Commission also intends to make recommendations to the Administration and the Legislature regarding the use of the remaining funds.

2. **Alternative Projects:** AB 2928 (Torlakson, 2000) and Commission guidelines allow an applicant to propose a different project than the one designated and prescribes four tests, one of which must be met, to determine whether an alternative project would be appropriate. The tests are:
  - a. if the specified project is delayed by environmental or other factors, external to the control of the applicant, and unlikely to be removed within a reasonable time,
  - b. if sufficient matching funds are not available,
  - c. if the specified project is not consistent with the pertinent Regional Transportation Plan, or
  - d. if the specified project would jeopardize completion of other projects in the State Transportation Improvement Program.

To date, the Commission has not received a request for an alternative project; however, as projects go through the environmental process alternative projects may be proposed.

3. **Swap of Funds Among Projects:** The Commission expects some applicants to propose to shift TCR funds from one project to another within the TCR Program. The TCR funds would remain available while the Commission ascertained that the original project was built using other funds. Other cases may not be so clear. Other applicants may propose to switch TCR funds from one project to another and spend the funds immediately with a promise to pay back with other local funds and build the original project later, with the Commission having little leverage over the collateral.
4. **Future Funding Needs:** The TCR Program provides, on average about 33% of the cost for specified projects. The bulk of supplemental funding needed to complete projects affects primarily three projects: the Alameda Corridor East freight rail/grade separation project in Southern California, the I-5 widening in Los Angeles County, and the San Francisco Bay Area Rapid Transit (BART) District extension from Fremont to San Jose. Two of the projects, Alameda Corridor East and BART to San Jose, may be securing much of their remaining funds from sources other than the STIP. In particular, BART to San Jose is planning to secure their remaining shortfall through Federal New Starts funding. Should anticipated fund sources not materialize for these projects, supplemental funds may come from the STIP. Significant efforts have been made in securing additional funding commitments, but the need to secure the remaining funding to fully implement these TCR Program projects still exists. Regional agencies will have to consider prioritizing TCR Program projects among other projects for long standing awaiting STIP funds, over the next few STIP cycles. The Department will have to do the same for interregional funding. In fact, the Commission urged the regional agencies and the Department to strongly consider programming

funds from the 2002 STIP because it has three years of programming available rather than the normal two years.

5. **Project Cost Overruns:** The statute specifies that the agency building the project is responsible for covering any cost overruns. Most projects will have a mixture of funds, and a commitment to backfill a shortfall resulting from cost overruns can be built into the other funding sources at the time the Commission approves the project application. A few projects are 100% funded from the TCR Program, if there is a project cost overrun another funding source will need to be identified, such as STIP funds.
  
6. **Use of Program Savings:** Some projects in the TCR Program may end up getting built for less than the original cost estimate, leaving some TCR funds unused; this becomes quite likely, given that the Commission's guidelines require savings to be divided proportionally among all contributing funding sources. Some TCR Program projects may fail to be implemented, and the Commission may not be able to approve an alternative project, leaving funds unused. In addition, every swap of TCR funds for federal local assistance funds, through the Exchange Program, yields a 10% discount rate gain to the State, which will add to the fund. The TCR Program statute implies that the Legislature and Governor define how any additional funds in the program are to be used. Recommendations to the Legislature and the Governor will be made by the Commission upon the analysis of project issues and the determination of the availability of funding due to project savings.
  
7. **Monitoring:** With the approval of full or partial applications for 91% of the 141 TCR Program projects specified in statute, the Department and Commission will be shifting its focus from project approval to project delivery. During the project delivery stage, the Commission and Department will work together to monitor the projects to ensure that they are delivered on time, within scope and within cost estimates.

Each lead applicant agency must submit project progress reports for each project identified in the legislation. The progress reports provide the Commission information to assess the current project progress, which includes the estimated or actual date for submittal of project application, estimated or approved project costs by phase, proposed or approved implementation schedule by phase, and actual expenditures and status of work, until projects have been completed. The progress reports also identify and discuss any significant issues which may impact implementation of a project including financial constraints and commitments, environmental clearance, regional plan consistency, and impacts on other planned and programmed projects.

To keep the Commission apprised of the flow of projects, the Department notifies the Commission monthly of all completed allocations, and identifies projects for which a cooperative agreement has not been executed within 90 days of an allocation.

The statutes require the implementing agency to make diligent progress toward completing the project. If it does not, the statutes allow the Commission to review the status of the project, and if it determines that the applicant or agency implementing the project is not pursuing work and use of

funds diligently, the Commission may rescind the allocation, leaving unused funds in the TCR Fund for future use as authorized by the TCR Act.

If the Commission and applicant determine that a project is being delayed by external factors beyond the applicant's or implementing agency's control and those factors are not likely to be removed within a reasonable time, the Commission may rescind the allocation, reserve any unused funds remaining from the original project, and allow the applicant to submit a new application for an alternative/substitute project.

8. **Minor Amendments to Project Approvals:** With the recent adoption of the Commission's minor amendment policy, a number of applicants have requested minor amendments to previously approved applications. Although these requests vary, ranging from minor project changes to schedule adjustments, they could be the harbinger of major amendment requests as applicant agencies come to grips with potential environmental issues, competing demands for available federal, state and local funding, and meeting project delivery schedules.

### **Upcoming Activities**

Prior to the end of FY 2001-02, the Commission will be able to identify: projects for which applications have not been submitted; savings realized on completed projects; and projects not proceeding toward completion. The Commission will make recommendations to the Legislature and the Governor relative to the analysis of project issues and the availability of funding resulting from project savings and from projects that will not proceed to completion.

The Commission has been using the TCR Program as a laboratory for examining streamlining procedures such as delegated authority to the Department for TCR-funded allocations, delegation of minor project change amendments to the Commission and Department TCR Program Managers, and delegated allocation authority for STIP funds used as a funding source for a TCR Program project. The Commission will need to determine if the streamlining procedures developed in the TCR Program are applicable to the STIP process. The Commission, working closely with the Department and regional agencies, will need to evaluate the TCR Program streamlining efforts to measure their effectiveness and applicability to the STIP process. The Commission may seek legislation, if changes in statute are required to implement successful streamlining procedures.





## I. ISSUES FOR 2002

### D. Transportation System Security

***Overview: The terrorist attacks of September 11, 2001, generated great concern over the exposure of all elements of the national transportation system to terrorist activity. The California Department of Transportation (Department), in partnership with the California Highway Patrol (CHP) and other state agencies, immediately began a review and assessment of security for critical transportation facilities, review of operational procedures involving the Department's Emergency Operations Centers, and evaluation of potential funding needs for security enhancements.***

***The federal government acted quickly to address the security weaknesses in the aviation system that allowed the terrorist attacks to succeed, and to ease the tremendous economic impact the attacks had on the airline industry. The Aviation and Transportation Security Act was signed by the President on November 19, 2001. California must do what needs to be done to keep our aviation system operating under today's heightened security requirements, including immediately providing State funding of approximately \$20 million to supplement federal emergency funding for security equipment, fencing and secure gates at California's smaller commercial, reliever, and feeder airports throughout the state.***

***A number of assessments of security risks and new procedures to address threats are underway by ports, airports, freight and passenger railroads, the Alameda Corridor and other agencies. These efforts must be coordinated so that "solutions" to problems do not create unnecessary inefficiencies in our highly integrated multimodal transportation system. To achieve our security goals and not compromise our economic and quality of life goals, we must work even closer together than ever before.***

The terrorist attacks of September 11, 2001, generated a deep concern over the exposure of all elements of the national transportation system to terrorist activity. In response, Governor Davis issued Executive Order D-47-01, which among other things, directed attention to protecting the state's transportation infrastructure. While the Commission has long realized the criticality of a sound and efficient transportation system on the economy and the quality of life in California, the Commission's focus has traditionally been on providing adequate funding to meet California's transportation needs and on encouraging faster delivery of transportation projects. The events of September 11 taught us the dangers of taking these benefits for granted, a luxury that society can no longer afford. The Commission is committed to working with the myriad of interests to insure the security and safety of California's surface transportation system.

Governor Davis' Executive Order D-47-01, ordered the State Strategic Committee on Terrorism to (1) evaluate the potential threat of terrorist attack, (2) review California's current state of

readiness to prevent and respond to a potential attack, and (3) establish and prioritize recommendations for prevention and response. The Governor further ordered that the State Strategic Committee on Terrorism consider the following areas:

1. The public and private infrastructure that support the people and the economy of California;
2. The facilities and systems for manufacturing, processing, transporting, disposing of and storing potentially dangerous substances;
3. The farms, ranches, feeding, processing, storage, delivery, and other systems that are part of the agricultural industry;
4. The railways, bridges, roadways, terminals, ports, and other transportation arteries;
5. The hospitals, emergency medical systems, and other health facilities and systems that are critical to our ability to rescue and administer to those who may be affected by terrorist acts;
6. The computers, computer networks, and other computing systems that provide essential data processing, systems control, and information channels;
7. The procedures of agencies and departments responsible for issuing licenses and/or regulating materials or processes that pose a potential terrorist threat; and
8. The public employees, facilities, and systems that provide services necessary for the protection of our state.

The California Department of Transportation (Department), in partnership with the California Highway Patrol (CHP) and other state agencies, immediately began a review and assessment of security for critical transportation facilities, review of operational procedures involving the Department's Emergency Operations Centers, and evaluation of potential funding needs for security enhancements. On December 2, 2001, Department Director Morales reported on California's activities at the American Association of State Highway and Transportation Officials (AASHTO) Annual Meeting Security Roundtable in Fort Worth, Texas. He observed that states now taking appropriate steps to assess short-term risks eventually need to redirect their attention to longer-term security issues such as designing security into new and renovated infrastructure.

Director Morales noted that the actions of the Department and the CHP to assess, monitor, and protect California's most critical bridges and tunnels were undertaken in cooperation with the U.S. Coast Guard, U.S. Navy, Long Beach Port Authority, the Governor's Office of Emergency Service, and local law enforcement agencies. The effort examined over 1230 structures that, if damaged, could have significant impacts on commerce and public transportation. Security measures such as physical barriers, active surveillance, and operational security plans were made on the most critical structures and are continuously being updated. Highways to dams, power plant, water treatment facilities, military bases, armories, ports and other critical sites were reviewed with several temporary closures initiated. Detour plans for critical routes that have structures were developed to keep essential traffic flowing in the event of an attack. The Director also called for a more organized flow of information from federal sources to state agencies to maintain confidentiality.

### **Aviation and Transportation Security Act**

The federal government acted quickly to address the security weaknesses in the aviation system that allowed the terrorist attacks of September 11<sup>th</sup> to succeed, and to ease the tremendous economic impact the attacks had on the airline industry. The Aviation and Transportation Security Act was signed by the President on November 19, 2001. Among other things, the Act:

1. Requires that a Federal Security Manager be placed at each U.S. airport that has commercial air carrier service to oversee screening and other security efforts;
2. Federalizes airport screeners and maintains current staffing level of about 28,000;
3. Requires the screening of all individuals, vehicles and property entering into a secured area of an airport;
4. Requires a system must be in operation that screens 100% of all checked baggage at all U.S. airports as "soon as practicable but not later than the 60th day following the date of enactment of the Act;"
5. Requires detection systems that screen all checked bags be in place by December 31, 2002.
6. Requires new background checks on any individual currently in an aviation security position or who has access to airline or airport secure areas;
7. Requires a variety of flight deck and aircraft cabin improvement measures, including strengthening and securing cockpit doors, aircraft cabin monitoring and flight deck-cabin communications must be updated and continuous transponder operation must be ensured;
8. Allows federal air marshals to be deployed on any scheduled flight and are mandated to be placed on all high-risk flights;
9. Requires a report to Congress within 30 days from the Under Secretary on possible airspace and other security measures that can be deployed to improve general aviation security;
10. Estimates the implementation of the requirements under the legislation will cost between \$4-5 billion, with about \$700 million to be funded by the airlines and additional dollars coming from a \$2.50 per person fee added to every leg of a trip, capped at \$5 per one-way trip;
11. Requires the Federal Aviation Administration (FAA) to expedite review of passenger facility charge (PFC) requests for security purposes;
12. Allows fiscal year 2002 federal Airport Improvement Program (AIP) funds to be used for post-September 11 security activities required by law at a 100-percent federal share;
13. Allows, in fiscal year 2002, non-primary airports to use AIP funds to pay debt service if the payments are determined to be necessary to prevent default, at a 100-percent federal share;
14. Defines baggage conveyor systems replacement and reconfiguration of terminal areas to install explosive detection devices as permanently eligible for AIP funding;

15. Authorizes \$1.5 billion to be appropriated over fiscal years 2002-2003 to reimburse airport operators, on-airport parking lots, and vendors of on-airfield direct services to all carriers for the costs of new post-September 11 security mandated by the FAA;
16. Authorizes a total of \$50 million to be appropriated in fiscal years 2002-2006 to the Transportation Security Administration for research into new security technologies;
17. Authorizes appropriation of \$500 million in fiscal year 2002 to make grants or other agreements to air carriers for a variety of aircraft security efforts, including cockpit door fortification and use of video monitors in the passenger cabin.

### **State Aviation Funding**

California, in cooperation with the Federal Aviation Administration, must do what needs to be done to keep the aviation system operating under today's heightened security requirements, including immediately providing State funding (of approximately \$20 million) from a possible new state sales tax for security enhancements to all public infrastructure, the General Fund, or a redirection of a portion of the state sales tax on jet fuel to supplement federal emergency funding for security equipment, fencing and secure gates at California's smaller commercial, reliever, and feeder airports throughout the state.

The Commission has long supported increasing funding for state aviation programs, from existing state tax revenues, to develop an integrated system of airports that adequately meets the demands of California's economy. The events of September 11, 2001 emphasized the critical role aviation plays in our economy, and have increased the need for immediate investment in security measures to keep the aviation system operating. Also, the drastic economic impacts on the aviation industry in the aftermath of September 11 preclude funding needed airport investments from more taxes on the industry. The Commission supports redirecting state sales tax revenues from the sale of jet fuel to fund state aviation programs. These tax revenues are a "user fee" paid by the aviation industry and users, in the same way that sales tax revenues on gasoline and diesel fuel, currently directed to highway and transit program funding, are user fees on drivers.

### **Long-Term Focus on Transportation System Security**

As a result of September 11, the Commission has begun to re-evaluate transportation investment criteria with an increased emphasis on security issues associated with our surface transportation system, including airports, sea ports, passenger and freight railroads, and highway facilities and bridges.

The security of our surface transportation system is not a new concern. Prevention and emergency response to major accidents, recovery from natural disasters such as earthquakes and floods, and safe handling of hazardous materials are familiar problems for California. Our experience in dealing with these issues will help us identify best practices for response to terrorist attacks on the surface transportation system. Working from past solutions will make the security task facing us less daunting.

We must also involve the private sector owners and operators of surface transportation systems in the public sector strategy to improve transportation security. Their ability to continue to do business, and their participation and acceptance of the objectives of the strategy will determine whether the necessary measures are implemented and security improved.

There is no question that from now on transportation system designers must integrate security concerns into their plans as an overriding consideration, and project designs and operational plans must incorporate security enhancements, which will certainly increase costs.

The first step in responding to this threat is to understand the problem. Work is well underway by state and federal agencies toward achieving the following goals:

1. Develop a comprehensive understanding of the surface transportation system's vulnerabilities to attack, from local points to the state and national system as a whole.
2. Develop a comprehensive understanding of security technologies and procedures that can be effectively applied to the surface transportation system.
3. Develop new security technologies and processes in response to the unique vulnerabilities of surface transportation.
4. Implement effective security technologies and processes by surface transportation owners and operators to reduce vulnerability to attack.

A number of assessments of security risks and new procedures to address threats are underway by ports, airports, freight and passenger railroads, the Alameda Corridor and other agencies as well. These efforts must be coordinated so that "solutions" to problems do not create unnecessary inefficiencies in our highly integrated multimodal transportation system. To achieve our security goals and not compromise our economic and quality of life goals, we must work even closer together than ever before. The Commission is committed to do whatever is necessary to insure the safety of California's surface transportation system.





## I. ISSUES FOR 2002

### E. Implementing “SCR 96” Global Gateways Program

***Overview:*** *Senate Concurrent Resolution 96 (SCR 96), approved by the Legislature in April 2000, calls for the creation of a Global Gateways Development Program (GGDP) within the California Department of Transportation to identify and implement transportation infrastructure improvements to facilitate goods movement. The purpose of the GGDP is to “improve major freight gateways in California to enhance overall mobility, including increased access at and through international ports of entry, international airports, seaports, other major intermodal transfer facilities and goods movement distribution centers, and trade corridors in California.” SCR 96 states that the GGDP shall “identify high-priority airport and seaport access and intrastate transportation projects for purposes of potential state, federal, and other funding. The identified projects should serve to facilitate the movement of intrastate, interstate, and international trade beneficial to the state’s economy.” When completed, the GGDP Report will identify global gateway transportation needs, recommend priority gateway projects, and discuss funding strategies for implementing the needed improvements.*

Senate Concurrent Resolution 96 (SCR 96), approved by the Legislature in April 2000, calls for the creation of a Global Gateways Development Program (GGDP) within the California Department of Transportation to identify and implement transportation infrastructure improvements to facilitate goods movement. The purpose of the GGDP is to “improve major freight gateways in California to enhance overall mobility, including increased access at and through international ports of entry, international airports, seaports, other major intermodal transfer facilities and goods movement distribution centers, and trade corridors in California.” SCR 96 states that the GGDP shall “identify high-priority airport and seaport access and intrastate transportation projects for purposes of potential state, federal, and other funding. The identified projects should serve to facilitate the movement of intrastate, interstate, and international trade beneficial to the state’s economy.” A report on the GGDP, which is nearing completion, will identify global gateway transportation needs, recommend priority gateway projects, and discuss funding strategies for implementing the needed improvements.

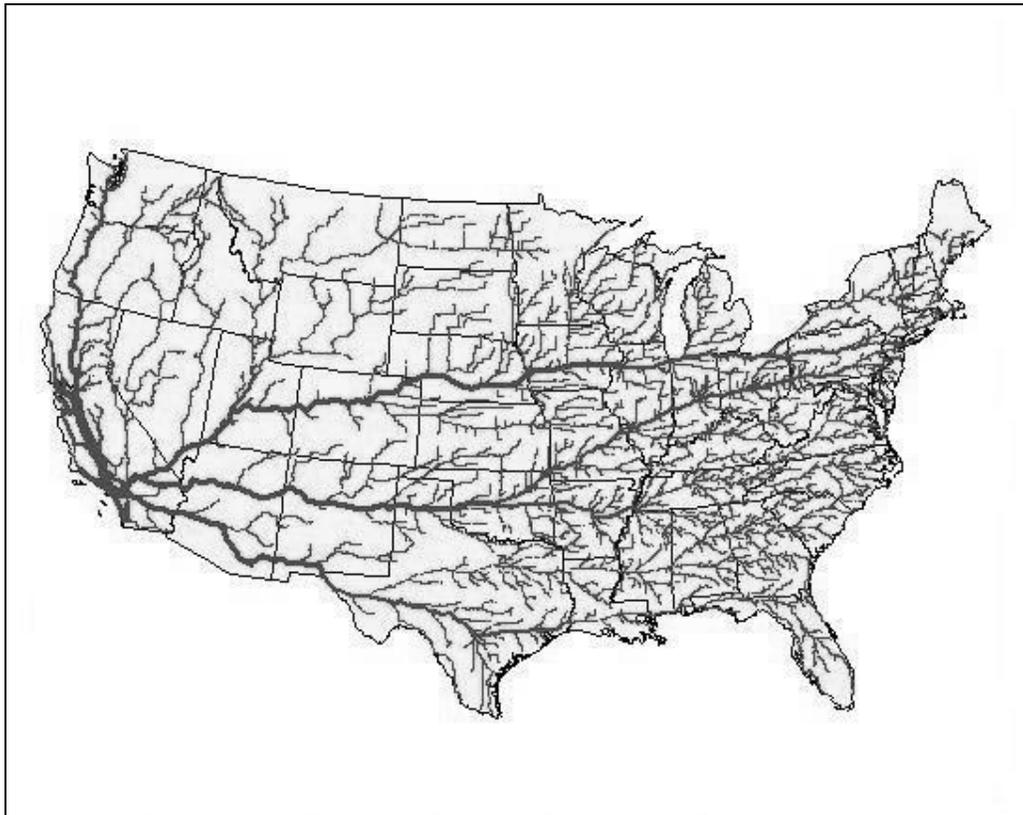
California is an economic powerhouse. In the last five years, California’s Gross State Product has grown 26 percent to \$1.3 trillion annually. The fastest growing segment of California’s economy is international trade and goods movement. If it were a separate nation, California would rank as the fifth largest economy in the world.

### Top Ranking Economies of the World (2000 Gross Domestic Product - \$billions)

1.	United States	\$9,963
2.	Japan	4,614
3.	Germany	1,867
4.	United Kingdom	1,415
	<b>CALIFORNIA</b>	<b>1,330</b>
5.	France	1,281
6.	China (excluding Hong Kong)	1,104
7.	Italy	1,054
8.	Canada	701
9.	Brazil	606
10.	Mexico	578

Source: Los Angeles County Economic Development Corporation, 2001

### National Intermodal Freight Flows to/from the Los Angeles Region



International trade and goods movement have been critical elements of California’s – and the nation’s – recent economic success. With more than \$350 billion in international commerce, California’s economy depends on trade. More than one in seven California jobs are tied to trade. California’s Global Gateways, such as the ports of Los Angeles, Long Beach, and Oakland, international airports at Los Angeles, San Francisco and Oakland, and trade corridor railways and highways and land ports of entry represent the largest trade transportation complex in the United States. The rest of the nation depends on this complex particularly for access to the Pacific Rim. For example, 60 percent of the imported goods consumed in the Chicago area are shipped through the ports of Los Angeles and Long Beach. California’s Global Gateways are critical transport links to every state in the union. The map above shows this graphically from an intermodal flow perspective.

The importance of trade to California’s economy led Senator Betty Karnette to introduce Senate Concurrent Resolution 96 (SCR 96) in April 2000, calling for the creation of a Global Gateways Development Program within the California Department of Transportation to identify and implement transportation infrastructure improvements to facilitate goods movement.

#### **SCR 96 (Karnette, Resolution Chapter 158, Statutes of 2000)**

Senate Concurrent Resolution 96 requested the California Department of Transportation (Department), in cooperation with the Business, Transportation and Housing Agency, the Technology, Trade and Commerce Agency, the California Transportation Commission, and others to develop a Global Gateways Development Program (GGDP). The purpose of the GGDP is to “improve major freight gateways in California to enhance overall mobility, including increased access at and through international ports of entry, international airports, seaports, other major intermodal transfer facilities and goods movement distribution centers, and trade corridors in California.” SCR 96 states that the GGDP shall “identify high-priority airport and seaport access and intrastate transportation projects for purposes of potential state, federal, and other funding. The identified projects should serve to facilitate the movement of intrastate, interstate, and international trade beneficial to the state’s economy.”

#### **Global Gateways Development Program.**

Goods movement and California’s place in the global economy have become high priorities for decision-makers at both the State and national levels. Shortly after becoming California’s chief executive in 1999, Governor Gray Davis launched an initiative to solidify the Golden State’s position as the West Coast gateway for goods entering and leaving the United States for the Pacific Rim. Governor Davis spearheaded the development and implementation of the Traffic Congestion Relief Program (TCRP), a nearly \$8 billion investment effort to upgrade California’s infrastructure to ease congestion and improve mobility. The TCRP represented the single largest investment in transportation infrastructure improvements in the State’s history. Among the projects receiving funding under the TCRP were grade-crossing improvements to the Alameda Corridor East, the gateway to the Ports of Los Angeles and Long Beach, and freeway access to the Otay Mesa Border Crossing at the California/Mexico border in San Diego County. Over

\$280 million in projects benefiting goods movement were also proposed in the interregional portion of the 2000 State Transportation Improvement Program.

Building upon the Governor’s transportation initiative and SCR 96 by Senator Betty Karnette, the California Department of Transportation (Department) and the other cooperating agencies began to develop a Global Gateways Development Program (GGDP). This GGDP will be an innovative strategic transportation plan to enhance the capacity and improve the efficiency of California's global goods movement system. The plan will focus on facilities with the highest freight volumes and greatest transportation challenges including: international airports, seaports, trade corridors (rail lines and highways), border crossings, major intermodal transfer facilities and goods movement distribution centers. A key performance objective is identifying goods movement projects with the greatest transportation, economic, community and environmental benefits as targets for state, federal, regional, local and private funding.

The GGDP is designed to generate discussion among policymakers, the transportation industry and the public so that the State’s most pressing goods movement problems can be solved in a way sensitive to community impacts. Successfully addressing infrastructure capacity and associated environmental issues through cooperative efforts by the Administration, the Legislature, regional and local interests is crucial if California is to continue to function as a major Global Gateway, and continue to reap the economic, technological, and quality of life benefits as a major player in the global economy.

**Program Benefits:** The GGDP's potential benefits are substantial. Goods movement is critical to the California economy, where more than one in seven jobs are tied to trade and the value of international trade exceeds \$350 billion annually. By reducing congestion and delays, the GGDP promises California businesses, carriers, and shippers improved and more reliable access to international and domestic markets. The bottom-line result is lower transportation and inventory costs, and enhanced productivity, profits, growth, and competitiveness. The GGDP will also benefit California consumers by lowering product costs, by reducing congestion and improving safety, and by improving community livability and the environment through reduced air pollution, noise and energy consumption.

The program's benefits will extend nationwide. California’s global gateways represent the largest trade transportation complex in the United States, and the entire nation heavily relies upon this system, particularly for access to the Pacific Rim. For example, 60 percent of the imported goods consumed in the Chicago area are shipped through the ports of Los Angeles and Long Beach. Millions of jobs nationwide depend on California’s transportation network.

**Goods Movement Challenge:** The California goods movement challenge is both substantial and immediate. The development of the State's gateway facilities and freight transportation infrastructure has not kept pace with economic and trade growth. As a result, congestion, delays, accidents, and freight transportation costs continue to increase. The transportation deficiency, if not remedied, threatens to grow much worse as the shift to just-in-time production, the growth in research, manufacturing and retailing industries, and the expanded role of e-commerce increases

goods movement demand. Port container traffic and air cargo volumes are expected to triple by 2020, while overall goods movement volume is projected to jump 56 percent between 1996 and 2016. Failure to address the growing demand could have dire impacts on the State’s ability to remain competitive economically and drastically hurt California’s ability to create new jobs and retain existing businesses.

The GGDP will reflect a growing consensus among the State's goods movement community. Key constituencies consulted include shippers and receivers, carriers (truck, rail, air, and maritime), seaports, airports, implementing agencies such as joint powers authorities, academics, Metropolitan Planning Organizations (MPOs), Regional Transportation Planning Agencies (RTPAs), and County Transportation Commissions. The goal is to use the development and implementation of the GGDP as the focal point for statewide coalition building among public and private sector interests on a goods movement investment strategy that reflects our shared goals. California should also work to build multi-state alliances to influence federal goods movement policy in the Federal surface transportation act reauthorization (see Section I-F) and to compete effectively for federal funding for GGDP projects.

**Priority Gateways and Improvement Needs:** Among California’s top priority global gateways are six ports (Long Beach, Los Angeles, Oakland, Hueneme, Sacramento and Stockton); five international airports (Los Angeles, San Francisco, Oakland, Ontario, and San Diego); and two border crossings (Otay Mesa and Calexico). Key international trade corridors include seven interstate highways (5, 15, 40, 80, 405, 805, and 880), as well as substantial portions of seven others (8, 10, 105, 205, 380, 580, and 710). Four U.S./State Routes (11, 60, 152, and 905) and sections of 12 others (7, 50, 58, 78, 86, 94, 99, 101, 111, 120, 125, and 238), as well as the main lines of the Burlington Northern Santa Fe Railway and the Union Pacific Railroad are also identified. This system of routes supports the flow of international trade in the Los Angeles, San Francisco, Central Valley, and California/Mexico International Border regions which pass through the key global gateways.

For the State’s seaports, the major problem is truck delay. Congestion, wait and turnaround time, limited warehouse pickup and delivery time, hours of operation restrictions, and inadequate parking cause severe and growing problems for the trucking industry. Valuable time is lost, and idling trucks generate unnecessary pollution. Channel depths and harbor dredging are also significant problems for some ports.

For the international airports, truck access is also a critical problem, especially at Los Angeles, Oakland, and Ontario airports. San Diego also has operating constraints and runway and land-use limitations. Expansion of California’s largest airports is hindered by surrounding incompatible land uses, ground-access limitations, air-quality restrictions and local opposition to airport growth. Again, the GGDP can be a tool for developing consensus on air cargo issues and to move forward in providing sufficient capacity for air transport, which balances mobility needs and community impacts in providing an integrated system of airports in California.

Both major railroads face capacity, environmental and community-related problems. Capacity constraints are most acute in single-tracked mountain passes and near the Ports of Long Beach and Los Angeles where space for intermodal transfers and equipment storage is scarce. As goods movement grows, railroad grade crossings pose increasing impacts for automobile and truck delays, emergency vehicle access, pedestrian and traffic safety, noise and air pollution.

At the Mexican border, goods movement traffic has increased dramatically since passage of the North American Free Trade Agreement (NAFTA). Mexico is the United States’ second largest trading partner, and 98 percent of California's trade with Mexico is transported by truck. In 2000, more than two million trucks crossed the border. By 2020 cross-border truck and auto trips are projected to double, potentially resulting in even more delays unless action is taken to increase the number of border crossings, improve the efficiency of inspection procedures, and improve highway capacity on both sides of the border.

On California’s highways, congestion is an ever increasing challenge for commuters and truck drivers alike. The system must be maintained and expanded, and its operational efficiency improved, if these congestion problems are to be mitigated. The I-710 corridor between the Ports of Long Beach and Los Angeles and the intermodal yards near downtown Los Angeles is the number one gateway corridor needing immediate attention. Other highway goods movement priorities include the Port of Oakland/Bay Area I-580 gateway to the Central Valley, upgrades to State Route 99 and Interstate 5 through the Central Valley. Improving these highway corridors is essential to California’s maintaining its place in the movement of domestic and international trade.

**Funding Strategies:** Funding to improve California’s gateways and goods movement system will need to come from both innovative public-private partnerships and modifications of existing State and federal programs. The State of California provides ongoing funding through the State Transportation Improvement Program (STIP), the State Highway Operation and Protection Program (SHOPP), and the California Aid to Airports Program (CAAP). The State also has a number of innovative financing programs including State Highway Account (SHA) Short-Term Loans, Grant Anticipation Revenue Vehicles (GARVEE), the Transportation Finance Bank (TFB), and the California Infrastructure and Economic Development Bank (CIEDB). However, these programs need to be modified to be useful GGDP funding sources. For example, the 25 percent portion of the STIP for interregional system improvements is not sufficient to address statewide transportation needs, including essential goods movement improvement projects. Increases in regional funding participation in funding of major goods movement projects must occur to a much larger degree than has been the case. Eligibility for innovative financing programs and STIP funding should explicitly include projects for seaport and freight rail improvements.

The federal government, through the Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21), provides funding which can be used for goods movement projects. This includes the National Highway System (NHS) Program, Surface Transportation Program (STP), and the Congestion Mitigation and Air Quality (CMAQ) Program. However, in practice limited amounts of these

funds have been used specifically for goods movement projects. TEA-21 contained two new credit programs, the Transportation Infrastructure Finance and Innovation Act (TIFIA) and the Rail Revitalization and Improvement Funding (RRIF) Program. It also provided two related discretionary grant programs, the National Corridor Planning and Development (NCPD) Program and the Coordinated Border Infrastructure (CBI) Program. However, Federal programs often feature restrictive eligibility requirements, rules, and other limitations. The GGDP will serve as the foundation for California’s participation in the Congressional debate on TEA-21 Reauthorization in regard to federal goods movement programs and funding levels.

**Recommendations:** To respond to these challenges, the upcoming GGDP Report will make recommendations on actions to address California’s Global Gateway needs. The recommendations will focus on the following issues:

- Defining the roles and responsibilities of the State, regional transportation planning agencies and other local agencies in planning, funding, developing, operating and maintaining critical public portions of the goods movement transportation system.
- Working with a statewide coalition of public and private sector stakeholders in goods movement to define California’s position on TEA-21 reauthorization in order to secure federal cooperation in meeting California’s goods movement needs by proposing a stronger goods movement emphasis and greater funding flexibility in the use of traditional federal transportation funding programs.
- Identification of the appropriate new and existing state funding source for truck, rail, seaport, and airport goods movement projects





## I. ISSUES FOR 2002

### F. Federal Transportation Equity Act Reauthorization for 2003-2009

***Overview:** The Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21), a six-year act, expires on September 30, 2003--less than two years away. The following main issues under discussion for reauthorization are: how high should funding levels be; what is the proper balance among national, state, regional, and local focus; what should be done about unrelieved congestion; what should Congress do to link transportation and land development more closely; what if anything should Congress do about insufficient progress toward clean air; what should Congress do to streamline federal processes; and how much funding should go to safety and research programs.*

#### Congress and the Reauthorization Cycle

The Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21), a six-year act, expires on September 30, 2003--**less than two years away**. Congress should pass a reauthorization act before that date, but past history would say it may not: the Intermodal Surface Transportation Efficiency Act (ISTEA) in 1991 was enacted two months late and TEA-21 in 1998 was enacted nine months late. Previous reauthorization legislation in prior decades had a similar track record. As a result, in each instance, Congress had to provide interim funding, and states had to proceed under prior rules and requirements, not quite knowing what the new rules and requirements might be. As a counterweight to the delay and confusion, Congress in both ISTEA and TEA-21 eventually did increase federal funding substantially. This is the critical year to inform Congress and the federal administration of California's transportation needs and the solutions that will best serve its economic growth. Transportation interests in California need to establish a time line for action and should identify common interests and speak as a single voice in Washington, DC. This way members of the California delegation can work in unison to shape the reauthorization bill to improve the quality of life of our citizens.

The last two acts ushered in the following notable changes:

- ISTEA (1992-1997)
  - Increased funding for highways and transit by more than 50%
  - Set up a new federal program structure to replace the prior Interstate-centered programs
  - Shifted local assistance programs to regional agencies from counties and cities
  - Forced states to share decision-making with regional agencies
  - Defined new requirements for state and regional transportation planning
  - Linked transportation and clean air programs, and created Congestion Mitigation and Air Quality (CMAQ) program funding
  - Established about 20 discretionary grant programs and increased Congressional project earmarks

- **TEA-21 (1998-2003)**

- Continued the basic program structure of ISTEA
- Increased highway funding by 50% and transit funding by 80%
- Defined minimum guaranteed funding levels for states
- Unlocked transportation funding from annual federal budget withholding
- Made innovative financing options permanent
- Contained an unprecedented amount of Congressional project earmarks (\$9.4 billion)
- Ended the use of federal transit funding for operating costs in urban areas
- Simplified requirements for state and regional transportation planning

Most states and regions (and many other transportation interests as well) have become comfortable with the basic structure of the two recent acts, and seek only peripheral changes or changes in emphasis this time around. That said, in fact most states, regions, and other interests will be trying to enhance those particular parts of the program structure where they fare comparatively well in acquiring funding. The easy way out of this maneuvering – a larger overall federal funding pie so everyone can gain – may not be attainable in this next act, given the current economic recession.

The 108<sup>th</sup> Congress may take a broader view. It has been debating a number of major transportation issues during the past year, the first of its two-year session. Various interest groups have been pushing still other issues related to their hopes and objectives for reauthorization. The terrorist attacks of September 11 have yielded significant needs to fund transportation security measures and programs, perhaps not all of which will be funded and sustained via special appropriations, creating an unforeseen drain on reauthorization. In this climate, with the loss of the strong and experienced voices of Congressman Bud Shuster (R-PA) and Senator John Chafee (R-RI), the subsequent change to a Democratic majority in the Senate, and new staffs for both committees, Congressional direction has become hard to read. The lineup and direction could change yet again, if party control of the House or Senate should shift after the November 2002 elections. Nevertheless, both committees may float draft reauthorization proposals during 2002.

### **Main Issues Facing Congress**

The following main issues are known to be in play, although Congress may choose to put off some, or even most, of them until beyond reauthorization:

#### **How high should funding levels be?**

All federal Highway Trust Fund (HTF) revenues are now being apportioned to states. Congress still withholds some spending authority in annual budgets. States and regions assert they need more funding, but at the same time are having difficulty delivering projects to spend all that is currently available (California is delivering projects at a record pace substantially above prior levels). A higher level of funding will require full access to all HTF revenues as well as new revenues (increased federal gas tax and other revenue streams like customs duties generated by

trade-related transportation) and would crowd into the balanced budget ceiling during this recession.

**What is the proper balance among national, state, regional, and local focus?**

Federal agencies want to focus on global economic competitiveness, trade corridors for freight, and border crossings, since states and regions have not been able to do so adequately. State DOTs are complaining about regional decision-making roles. Some urban regions are not performing as Congress expected, to overcome parochial local viewpoints and pursue consensus on investments with region-wide focus and benefit. Counties are demanding direct funding for under-maintained county road systems. Cities are trying to direct urban funding to transit instead of suburban roads.

**What should be done about unrelieved congestion?**

Congestion levels continue to increase in urban and especially suburban areas, with most of currently uncongested urban freeways nearing congested levels; smaller cities are also beginning to experience noticeable congestion. Traffic has become a leading public concern in many urban areas, but it remains unclear how much congestion the public and the economy can tolerate. Congress also has been unable to get consensus on what remedies to emphasize next: traffic operations? road pricing? more transit investment? more suburban roads? streamlining of project delivery? transportation-land development linkage? better metropolitan planning?

**What should Congress do to link transportation and land development more closely?**

All regions with high growth rates also have growing transportation problems. Congress seems to want to do something here, but it does not know what to do. The use of transportation as a tool in the smart growth vs. urban sprawl debate may be fraught with unintended consequences, since individual driving behavior has proven difficult to change. A stronger regional planning mandate is an attractive approach, but controversial and of uncertain effectiveness, given that most land use powers in most states are local. Urban and smart growth interests are calling for coordinated federal policy and programs, across many agencies: transportation, housing, financial, labor, social services, trade and commerce. Suburban interests often suggest higher funding for high growth areas would be the most effective answer.

**What if anything should Congress do about insufficient progress toward clean air?**

Air quality is generally getting better, but perhaps not fast enough to meet Clean Air Act deadlines in the worst areas. Most improvements are clearly attributable to technology, not reductions in vehicle miles traveled, so CMAQ may come under scrutiny. Congress will be reluctant to open up the Clean Air Act as part of transportation reauthorization. The politics are too challenging.

**What should Congress do to streamline federal processes?**

This has become a hot issue currently, and Congress seems to want to do something here. Congress must define the degree of federal oversight in light of protecting real federal interests. Congress **doubled transportation funding** in the past decade **while holding funding and staffing for environmental agencies essentially constant**. Congress is starting to understand that the heart of the problem lies in the nexus between transportation programs and various

single-purpose environmental requirements. Congress mandated streamlining in TEA-21, but little has been achieved by the federal agencies involved. Environmental interests do not cede federal oversight readily. Congress clearly prefers the administrative reform approach, because if it tries to open federal environmental requirements then transportation reauthorization would have to go through Environmental Committees in Congress; perhaps the new Administration will pursue streamlining more effectively. Section 4(f) parkland protection, which is part of transportation law, becomes a likely target. Also early coordination and planning between transportation and environmental interests should be instituted for transportation projects.

### **How much funding should go to safety and research programs?**

Safety is a high priority, for Congress and the U.S. Department of Transportation. The relative effectiveness of more money for safety programs vs. incentives vs. sanctions remains unresolved. Some organizations see more money for safety programs as the solution regardless of the outcomes achieved. Others would base safety program funding on performance regardless of the established stature of the program. Many safety problems on highways can be traced to bad driving practices and behaviors. Long range planning tends to avoid safety issues because of the specter of liability. Investment to make roadsides safer, advanced technologies, and operational programs do work, but are very costly. Congress has been hearing that research funding is inadequate, in safety but also in policy development, roadway engineering, transit performance, and new traffic operational strategies, especially given recent and ongoing advances in technology.

### **What other peripheral issues may drive or constrain reauthorization?**

Both ISTEA and TEA-21 bogged down over peripheral issues that happened to be pet interests of Congress members in key positions who chose to use reauthorization for leverage: triple-trailer trucks, drunk driving sanctions, the balanced budget effect of a self-funded program, and the continually growing trend toward project-specific earmarking. The exact issues that may emerge this time cannot be divined, but some likely suspects include: surface transportation system security, Amtrak subsidies, environmental justice, higher automobile mileage standards (particularly for SUVs and light trucks), a broadened and expanded enhancements program, road pricing policies, or federal funding for the private freight system.

### **California State and Regional Agency Consensus on Reauthorization**

As with the prior two reauthorization acts, transportation interests in California would be well-served to once again focus on three fundamental questions:

How much federal money will be provided?

Who is going to get it?

What can it be used for?

California Association of Councils of Governments (CalCOG), collectively the regional agencies, is working to craft a consensus policy position, to be signed by all 16 urban regions in California plus the State -- Business, Transportation & Housing Agency, Caltrans, and the Commission -- for use in trying to get members of the California delegation to engage early and

work in unison. Late in 2001, the various agencies were discussing policy nuances toward finding common ground and precise language for such a policy statement, with agreement expected by early 2002.

The essence of the consensus position will probably include all or most of the following policy points:

- Increase or, at least, maintain existing guaranteed funding levels;
- Ensure full access to federal Highway Trust Fund revenues;
- Broaden program flexibility, avoiding new programs and federal discretionary programs;
- Strengthen formula programs, especially the transit, clean air, and surface transportation programs;
- Accelerate federal decision-making and simplify program requirements; and
- Provide new funding to improve national security and global economic competitiveness (see Section I-E, Implementing “SCR 96” Global Gateways Program, for information on California’s key role in global competitiveness and goods movement).





## I. ISSUES FOR 2002

### G. Revisiting SB 45 State Transportation Improvement Program Reform

***Overview:*** *The Commission recommends that the Legislature revisit the structure of the two STIP programs introduced by SB 45 in 1997, the 75% regional program and 25% interregional program. Most of SB 45's reforms have succeeded in achieving their goals, promoting project delivery and increasing overall funding flexibility. The structure of the two programs, however, has not lived up to its original promise and has actually frustrated the efforts of Caltrans and the Commission to meet the expectations of the Governor, the Legislature, and local elected officials. The common expectation is that the State is, or should be, responsible for meeting high priority needs, especially on State highways, while the current structure puts most decision-making in regional hands. The original promise was that regional agencies would take charge of identifying and meeting high priority system needs. In practice, however, many regions have subdivided their county shares by formula and delegated the selection of projects to individual cities and county public works departments. Meanwhile, many agencies and even private interests have come to treat the interregional program as a competitive grant program rather than a means to implement a statewide interregional system strategy. Some have come to see the interregional program as the primary means for funding a State highway project, a function the program was neither defined nor funded to do.*

*The Commission identifies three general approaches that the Legislature might take: (1) greatly increase the percentage of STIP funding for the interregional program, (2) change the statutory scope of the regional and interregional programs so that the interregional program is more focused on interregional needs and there is more flexibility to program projects in the regional program, or (3) some combination of the first two approaches. The Commission recommends that the Legislature take action to remedy the current structural imbalance between the STIP regional and interregional programs.*

After four years of experience with the major STIP reforms of SB 45 (1997), the Commission recommends that the Legislature now revisit one of those reforms. Among other things, SB 45 redefined the STIP to include two subprograms, with 25% of all STIP funds dedicated to an interregional improvement program developed by Caltrans and the other 75% dedicated to a regional improvement program, with funding further divided by formula to individual county shares and subject to programming by regional agencies. The original promise was that this structure would provide geographical equity, assure flexibility in meeting interregional transportation needs, and allow regions a stronger role in identifying and meeting regional transportation needs. Regions, Caltrans, and the Commission, using this structure, would work

in partnership to assure that STIP funding was used to meet statewide and regional needs in a seamless manner, regardless of mode or jurisdiction.

### **STIP Experience Since SB 45**

This promise has not been met. The Commission's experience has shown that the current STIP structure has actually frustrated the efforts of Caltrans and the Commission to meet the expectations of the Governor, the Legislature, and local elected officials. The common expectation is that the State is (or should be) responsible for meeting congestion relief and operational improvement needs on State highways using State funds. SB 45, however, put the decision-making for most STIP funds in regional hands, while the interregional program was not designed, either by its size or the scope of its definition, to meet most State highway and rail needs.

Many regional agencies have come to regard the STIP regional program as a local program, driven by parochial interests, much like the direct local subventions of gasoline taxes to cities and counties. They have programmed STIP funds for local road rehabilitation, even on neighborhood streets. They have programmed bus replacements and even bus rehabilitation work. As real and legitimate as these needs might be, their inclusion in the STIP has compromised the State's ability to fund an effective state program and, perhaps, even effective local programs. Many regions have used the STIP eligibility of local projects to fragment decision-making, delegating the selection of projects to individual cities and county public works departments within their jurisdictions. In some cases, this may have allowed STIP funds to replace local general funds that would otherwise have been used for local road or transit purposes.

Meanwhile, many agencies have treated the interregional program as a competitive grant program rather than a means to implement a statewide interregional system strategy. Regional and local agencies, sometimes even private interests, have used the interregional program to seek project funding without drawing on a region's STIP county share. Caltrans itself has occasionally fallen into this trap by using the interregional program to meet critical needs or imperatives that it could not readily meet any other way. It is not uncommon for the Commission to receive letters from elected officials or private citizens concerned that a favored project might not be included in the interregional program, as if that were the primary means for funding a State highway project.

### **Recent History of Changes in STIP Programming Structure**

Before 1990, the STIP was an annual five-year program, funded only from the State Highway Account. It included only State highway projects and urban mass transit guideway (rail) projects. The Commission selected the projects, with each county guaranteed a minimum proportion over a five-year period. Each county minimum was a formula proportion of 70% of the total amount expended. The other 30% was discretionary, though still subject to a 40%/60% North/South split. Each regional agency prepared an RTIP that nominated projects within its region, while Caltrans prepared a comprehensive Proposed STIP (PSTIP) covering the entire

state. The Commission's selection of projects was subject only to the geographic constraints of the North/South split and county minimums and the requirement that each project be nominated by either the region or Caltrans, if not both.

This system had at least two major drawbacks. One was that it was notoriously difficult to calculate and track county minimums because they were based on expenditures rather than programming and allocations. They were not fixed apportionments. A change in any one project would affect the calculation of every other county's minimum. Final adjustments could not be known for many years after a project allocation was made. The other major problem was that the 30% discretion really provided very little discretion. Meeting every county's minimum required that a portion of the discretionary share be used in each county to complete project funding. This made it difficult to meet needs for interregional improvements, particularly in the North.

Major changes were made in 1989 by a pair of bills known together as the Transportation Blueprint for the Twenty-first Century. Beginning with 1990, the STIP was a biennial seven-year program funded from the State Highway Account and Proposition 108 (1990) rail bonds backed by the General Fund. The four-year SHOPP was separated from the STIP. For the first time, projects on local roads were made eligible, and regions and Caltrans nominated projects in separate categories. Regions nominated Flexible Congestion Relief (FCR) and Commuter and Urban Rail (CUR) projects in their RTIPs, while Caltrans nominated Intercity Rail (ICR), Interregional Road System (IRS) and retrofit soundwall (SND) projects in its PSTIP. However, the county minimum system remained unchanged. RTIP and PSTIP projects competed for the same county minimums and discretionary programming, though many rural State highway projects might be nominated in both the RTIP (as FCR) and the PSTIP (as IRS). The county minimums remained difficult to calculate and track, and the Commission's discretion remained minimal, particularly in the North.

The next significant change came in 1993, when SB 233 changed the basis for county minimums from expenditures to allocations, beginning with the county minimum period that began in 1993-94. This made the accounting simpler and more timely, though county minimums remained and each county's minimum could still change with every STIP amendment or allocation.

When SB 45 was enacted in 1997, several major STIP reforms were made simultaneously:

- The STIP was shortened from seven to four years (with the 1998 STIP to be a transitional six-year STIP). AB 2928 in 2000 extended the STIP to five years, beginning with the 2002 STIP. All the other SB 45 reforms listed here remain intact.
- The former Transit Capital Improvement Program was discontinued and its Public Transportation Account funding was folded into the STIP. When AB 2928 (2000) created the Transportation Investment Fund with gasoline sales tax revenues, a portion of that fund's revenues was also added to the STIP.

- County minimums were replaced with county shares. The shares were based on estimates of future revenues and not on proportions of actual expenditures or allocations. This made the shares fixed apportionments, greatly simplifying share accounting.
- For the first time, Caltrans support costs were to be programmed and included in the share accounting. Previously, these support costs were not counted. Not programming support costs had complicated the development of the Fund Estimate for a multimodal STIP and created a bias toward the selection of State highway projects.
- For the first time, all projects (both State and local) were to be programmed by component (environmental, design, right-of-way, and construction), and a project could be programmed for earlier components without being programmed for construction.
- For the first time, project programming and allocations were subject to timely use of funds constraints. The Commission could allocate funds for each project component only during the fiscal year identified in the STIP, and allocated funds were available for expenditure only during that fiscal year and the following two fiscal years. The Commission could extend these deadlines no more than once, for no more than 20 months, and only upon finding that an unforeseen and extraordinary circumstance beyond the control of the of the responsible agency justified the extension.
- For the first time, regions and Caltrans nominated projects for different shares of funding. For the first time, instead of county minimums, regions received fixed formula shares of 75% of STIP funds. For programming from those shares, regions selected regional program projects in their RTIPs that could include virtually any kind of transportation project, either State or local, either roads or transit. The Commission was required to include all RTIP projects into the STIP unless it rejected the RTIP in its entirety. This authority was severely restricted by statute, and after three STIP cycles, the Commission has yet to reject an RTIP. Caltrans was left with 25% of STIP funds for the Interregional Transportation Improvement Program (ITIP), to include State highway, intercity passenger rail, mass transit guideway, or grade separation projects. At least 60% of the ITIP (15% of STIP funds) was required to be programmed for projects on the interregional road system outside urbanized areas or for intercity rail. The remainder that could be spent on State highways or rail in urbanized areas (no more than 40% of the ITIP, 10% of the STIP) was restricted by the North/South split (i.e., no more than 4% of the STIP in the North, no more than 6% in the South).

It is only the last of the reforms listed above that the Commission would now propose to revisit.

### **Recommendations for Statutory Reform**

The Commission recommends that the Legislature modify the current STIP programming structure to remedy some of the shortcomings the Commission has identified over the three STIP cycles since SB 45. An appropriate set of changes would better focus the STIP on meeting state transportation needs, allow the Commission to direct the STIP to respond to the expectations of state and local elected officials, and discourage regional fragmentation of the STIP.

**The Commission can identify at least three general approaches that the Legislature might take: (1) greatly increase the percentage of STIP funding for the interregional program, (2) change the statutory scope of the regional and interregional programs so that the interregional program is more focused on interregional needs and there is more flexibility to nominate and program projects in the regional program, or (3) some combination of first two approaches. The Commission recommends that the Legislature take one of these approaches to remedy the current structural imbalance between the STIP regional and interregional programs.**

The first and most obvious remedy would seem to be simply to increase the percentage of STIP funds dedicated to the interregional program above its present 25%, perhaps to 50%. This remedy is most appealing if one accepts the premise that the State has responsibility for State highways and that the interregional program should be or must be the primary means for funding improvements on State highways. However, without changes in the regional and interregional program definitions, the percentage needed to support State highway, rail, and grade separation projects might be much higher, perhaps 75% interregional to 25% regional. With a larger interregional program, one could expect less partnering from regional agencies and more dependency on the interregional program to meet all State highway needs. Larger percentages for the interregional program might also mean greater concerns about statewide equity.

A second remedy, an alternative to the first, would be to maintain the current 25%-75% split while modifying the definitions and procedures governing the interregional and regional programs. **A key element of this alternative would be to permit Caltrans to nominate projects, and the Commission to program projects, directly from the 75% regional program.** The following set of modifications, **taken together**, could provide the needed programming flexibility (1) by shifting some project funding from the 25% interregional program to the 75% regional program, (2) by shifting some project funding from the 15% unrestricted portion of the interregional program the 10% restricted portion, and (3) freeing up 75% regional program shares by reducing, if not eliminating, the incentive for regional agencies to fragment and suballocate county shares. By shifting more project funding to the 75% regional program, these modifications would also bring more focus to the remaining 25% regional program.

The following modifications would increase programming flexibility through changes in the definitions and procedures for the 75% regional program. They would provide more options for nominating and programming projects and reduce the suballocation of county shares by formula:

- Caltrans nominations from the 75% regional program. Permit Caltrans to nominate a project for county share funding through the ITIP. A project nominated in this way would not be subject to the constraints of the STIP interregional program. **This would parallel the current provision that permits a region to propose an interregional program project in its RTIP** and the pre-SB 45 provision that permitted Caltrans to propose an FCR project in the PSTIP. The former provision has not yet been used and the latter provision was only rarely used. Both, however, have served to provide greater balance and flexibility in the STIP development process.

- CTC project approval. Permit the Commission to approve RTIP projects individually for inclusion in the STIP. **This would parallel the Commission’s current authority with regard to ITIP projects and would provide the kind of programming flexibility the Commission had before SB 45, even with fixed county shares.** Prior to SB 45, the Commission had the authority to program individual projects, provided that they were nominated by either the regional agency or Caltrans. Since SB 45, the Commission has been able to exclude an RTIP project from the STIP only by rejecting the RTIP in its entirety. Permitting the approval of individual projects would provide greater balance and flexibility in the STIP development process by allowing the Commission to consider direct Caltrans nominations. It would discourage the suballocation of county shares and help to assure that the regional program adequately provides for regionwide needs.
- Rehabilitation projects. Redefine “transportation improvement projects” to exclude local road and bus rehabilitation and equipment replacement projects. The present eligibility of these projects for the STIP has enabled and provided a strong incentive for many regional agencies to suballocate their county shares, delegating the selection of projects to individual cities and county public works departments. A local jurisdiction, without other needs, could always find rehabilitation work to use a share suballocated by the region. This fragmentation of decision-making has been a barrier to the selection and implementation of effective improvement projects while allowing STIP funds to be used to displace other locally available funding. Since local rehabilitation projects were first programmed in the STIP, AB 2928 (2000) created a new local subvention program from the Transportation Investment Fund, funded by the state sales tax on gasoline. Now scheduled for a six-year period, this subvention would be extended and made permanent by the approval of Proposition 42 (Assembly Constitutional Amendment 4) in March 2002.

The following modifications would increase programming flexibility through changes in the definitions and procedures for the 25% interregional program. They would free up the limited capacity of the current 25% interregional program by allowing more projects to be nominated and programmed from the 75% regional program:

- Commuter rail. Define “intercity rail” as it was defined in statute prior to SB 45. With this change, commuter rail projects would be treated as “mass transit guideways” rather than as “intercity rail.” That would shift commuter rail projects from the 15% unrestricted portion of the interregional program, where they have been programmed, to either the 10% restricted portion of the interregional program or to the 75% regional program. Under the current statutes, at least 60% of the interregional program (15% of the STIP) must be programmed for projects on the interregional road system outside of urbanized areas or on intercity rail. Up to 40% of the interregional program (10% of the STIP) may be programmed for projects in urbanized areas and off the interregional road system, including mass transit guideways. Since SB 45, commuter rail operators have argued for and come to expect support for their systems under the rubric of intercity rail, subject neither to the limitations of county shares nor to the restriction on urbanized area projects in the interregional program. These expectations strain the limited capacity of the interregional program.
- Rail rolling stock. Limit “mass transit guideways” in the interregional program, including commuter rail, to fixed facilities and exclude rolling stock. That would shift rolling stock

projects to the 75% regional program. The five-county Metrolink system in Southern California has received over \$56 million to date through the 25% interregional program to purchase rolling stock. This is a convenient source of funding for the operator and the regional agencies involved since it eliminates the need to negotiate proportionate shares among the counties. However, expectations for rolling stock projects for multicounty rail systems strain the limited capacity of the interregional program.

- Freeway access. Exclude freeway interchange projects from the 25% interregional program where they are designed to provide access to the system rather than to increase through capacity. Caltrans would instead nominate these projects directly from the 75% regional program. These projects rarely contribute significantly to the interregional movement of people and goods, though they often have strong support from local officials and may be of high state interest for the purpose of supporting economic development. Expectations for these access projects further strain the limited capacity of the 25% interregional program.

A third remedy would be to implement some combination of the first two alternatives. For example, the Legislature might enact some, but not all, of the modifications for flexibility identified above while increasing the proportion of the interregional program, but to something less than 50% of the STIP. To the extent that the identified modifications to the 75% regional program are not implemented, the interregional program share of the STIP should be increased above the current 25% and the regional share should be decreased accordingly. To the extent that the identified modifications to the 25% interregional program are not implemented, either the share of the interregional program that must be programmed for the interregional road system and intercity rail should be increased to an amount greater than the current 60% or the overall interregional program should be increased to an amount greater than the current 25% and the share for the regional program should be decreased accordingly.

The Commission offers these alternatives for consideration and discussion and has not yet taken a specific position in support of any particular percentage split or any particular set of the identified modifications for programming flexibility. The Commission does, however, recommend that the Legislature take some action or set of actions to remedy the current structural imbalance between the regional and interregional programs of the STIP. Such action should shift the programming of the STIP away from localized subventions toward meeting regionwide and statewide needs. At the same time, it should allow Caltrans and the Commission to better meet the programming expectations of the Governor, the Legislature, and local elected officials.





## I. ISSUES FOR 2002

### H. Financing Storm Water Runoff

***Overview:*** Congress amended the Clean Water Act in 1987 and mandated that storm water runoff dischargers obtain National Pollution Discharge Elimination System (NPDES) permits. The State Water Resources Control Board sets water quality standards and issues NPDES permits in California. The environmental community challenged the adequacy of effort by Caltrans, Los Angeles and San Diego in fulfilling their NPDES permit requirements. Caltrans determined that the approximate \$114 billion cost for California to fully comply with the storm water runoff water quality standards would be economically infeasible. Caltrans applied for a variance from the water quality standards for transportation facilities based on the economic infeasibility of achieving the standards. The Environmental Protection Agency indicated that the question of infeasibility of California's water quality standards was not a federal issue. The State Water Resources Control Board indicated that Caltrans and other municipalities will not be granted variances from water quality standards, and that the standards will not be relaxed. Such a big multi-billion dollar number to cleanup storm water runoff outstrips the capacity of the State Highway Account (SHA). If the SHA were the sole source of funds for addressing the storm water runoff problem, other transportation investments would be precluded for a generation or more.

Congress has instituted tougher regulations on pollution carried by storm water runoff into California's streams, rivers, bays and lakes. Storm water runoff treatment costs of as high as **\$114 billion** from all sources, transportation and non-transportation, with as much as \$6 billion associated with runoff from State highways alone, were identified in the Commission's 1999 "Inventory Of Ten-Year Funding Needs For California's Transportation Systems", known as the SR 8 Report. Such a big multi-billion dollar number outstrips the capacity of the State Highway Account (SHA). If the SHA alone has to bear this burden, other transportation investments would be precluded for a generation or more. Storm water runoff is the burden of the first decade of the 21<sup>st</sup> Century as seismic retrofit was the burden of the last decade of the 20<sup>th</sup> Century. Unless other funds are brought to bear upon addressing this problem, the outlook for transportation projects in California could be catastrophic.

### Federal Water Pollution Control Act

The Federal Water Pollution Control Act (FWPCA) Amendments of 1972 were a comprehensive recodification and revision of federal water pollution control law and marked a distinct change in the philosophy of water pollution control in the United States. The amendments maintained the requirements for water quality-based controls, but added an equal emphasis on technology-based,

or end-of-pipe, control strategies. The FWPCA Amendments contained four important principles:

1. The discharge of pollutants to navigable waters is not a right.
2. A discharge permit is required to use public resources for waste disposal and limits the amount of pollution that may be discharged.
3. Wastewater must be treated with the best treatment technology economically achievable, regardless of the condition of the receiving water.
4. Effluent limits must be based on treatment technology performance, but more stringent limits may be imposed if the technology-based limits do not prevent violations of water quality in the receiving water.

Twenty-five years ago, less than a third of the nation's waters were safe for fishing and swimming. Wetland losses were estimated at four hundred and sixty thousand acres annually. Sewage treatment plants served only eighty-five million people.

Over the last 25 years, the quality of rivers, lakes and bays has improved dramatically as a result of implemented public health and pollution control programs. Today, over 60 percent of the nation's waterways are safe for fishing and swimming. Wetland losses are estimated at seventy to ninety thousand acres annually (less than 20% of the annual loss 25 years ago). The number of people served by modern wastewater treatment facilities has more than doubled to one hundred seventy-three million.

Despite this progress, degraded waterbodies still exist. According to the 1996 National Water Quality Inventory, a biennial summary of State surveys of water quality, approximately 40 percent of surveyed U. S. waterbodies are still impaired by pollution and do not meet water quality standards. A leading source of this impairment is polluted storm water runoff. According to the inventory, 13 percent of impaired rivers, 21 percent of impaired lake acres and 45 percent of impaired estuaries are affected by urban/suburban storm water runoff.

Storm water runoff is simply rainwater or snowmelt that runs off the land and into streams, rivers, and lakes. When storm water runs through transportation facilities (city streets, county roads and state highways) it picks up pollutants such as oil and grease, chemicals, nutrients, metals, bacteria and assorted debris and transport them into waterways and affect potable water supplies, commercial fisheries, recreation areas, and the navigability of waterways.

### **National Pollution Discharge Elimination System Permits**

To help curb the problem of storm water runoff pollution, Congress amended the Clean Water Act in 1987 to define storm water discharges as "point sources" just like wastewater discharges and required the Environmental Protection Agency (EPA) to develop a program under the National Pollution Discharge Elimination System (NPDES) for storm water discharges. To implement the storm water discharge requirements, the EPA on November 16, 1990 issued NPDES permit rules requiring all municipalities in urban areas with populations of 100,000 or

greater to obtain permits for storm water discharges (this became known as Phase I of the EPA storm water program). NPDES permits were developed to ensure that discharges to receiving waters are protective of human health and the environment. They establish specific discharge limits, monitoring, and reporting requirements and may also require that dischargers undertake measures to reduce or eliminate pollution to receiving waters.

Phase II is the next step in EPA's efforts to preserve, protect, and improve the Nation's water resources from polluted storm water runoff. The Phase II program final rule was promulgated on August 7, 1995 and expanded the Phase I program by requiring additional operators of storm water sewer systems in urbanized areas and operators of small construction sites, through the use of NPDES permits, to implement programs and practices to control polluted storm water runoff. Phase II is intended to further reduce adverse impacts to water quality and aquatic habitat by instituting the use of controls on unregulated sources of storm water discharges that have the greatest likelihood of causing continued environmental degradation.

### **State Water Resources Control Board**

Under the Porter-Cologne Act (California's basic water quality act), nine Regional Water Quality Control Boards set water quality standards and issue water quality-related discharge permits, including storm water discharge permits. The State Water Resources Control Board has oversight and appeal functions concerning actions of the nine regional boards. Enforcement of the federal Clean Water Act also rests with the State Water Resources Control Board and the nine regional boards through state acceptance of federal pass-through authority.

Caltrans received its first storm water discharge NPDES permit in 1990 from the Los Angeles Regional Water Quality Control Board as a co-permittee with the County and the City of Los Angeles. In 1993, the environmental community challenged in Federal Court the adequacy of effort by Caltrans and its co-permittees to fulfill the Los Angeles NPDES permit requirements. The Federal Court ruled that Caltrans' efforts to fulfill the NPDES permit requirements were inadequate and issued a permanent injunction. The Court in the Los Angeles case ordered Caltrans to identify "opportunities" to retrofit existing storm water drain systems with treatment devices to obtain full compliance with Clean Water Act requirements.

By the summer of 1996, the EPA and the environmental community challenged Caltrans' storm water cleanup efforts in the San Diego area. At about the same time Caltrans decided to apply to the State Water Resources Control Board for one statewide storm water NPDES permit so as not to have to deal with nine Regional Boards on the same issue.

In the spring of 1997, EPA determined that all storm water NPDES permit dischargers must assure that their discharges do not cause or contribute to the exceedances of applicable water quality standards. Shortly following the EPA determination, a court settlement agreement was reached between Caltrans and plaintiffs in the Los Angeles and San Diego storm water NPDES permit cases requiring, among other things, initiation of major research/monitoring efforts, including a pilot program assessing the feasibility of treating storm water discharges.

By the spring of 1998, Caltrans determined the obvious: that storm water discharges from storm drain systems are causing or contributing to exceedance of applicable water quality standards. Caltrans also determined that the cost to comply with the water quality standards is infeasible and applied to the State Water Resources Control Board for a variance from water quality standards based on EPA's standards of economic achievability.

### **Costs of Storm Water Treatment**

Caltrans issued a draft report by Brown and Caldwell in October 1998 on the "Cost of Storm Water Treatment for California Urbanized Areas". The report noted that, at present, there is limited regulatory experience for establishing treatment levels for storm water discharges. Several generalized treatment categories representing successively more stringent levels of treatment were considered and analyzed for the report. The treatment levels are as follows:

- Level 1 treatment includes screening and detention of storm water to remove floating debris and settle bulk solids picked up by storm water.
- Level 2 treatment includes filtration and disinfection in addition to screening and detention.
- Level 3 treatment a highly sophisticated treatment process to remove very low concentrations of toxic and soluble constituents that are typically found in urban storm water runoff.

Level 1 treatment is commonly recommended and represents a treatment technology that can be implemented relatively easily but not cheaply for a drainage area. Level 2 treatment eliminates human pathogens. Storm water runoff is often contaminated with coliform bacteria, which are indicator organisms used to indicate the potential for the presence of human pathogens. Coliform levels can be high in urban storm water runoff, and may cause the receiving water to exceed levels considered safe for recreational contact, a designated use of most waters within the state. High-rate filtration physically removes a large fraction of the coliform organisms. Subsequent chlorine disinfection inactivates a large fraction of the remaining coliform bacteria. Dechlorination protects receiving water organisms from residual chlorine toxicity.

Many of the waters in California are designated as potential drinking water sources, which may require Level 3, advanced treatment to meet water quality objectives. The standards for toxicity, as they relate to sensitive species that could potentially exist in the receiving waters, are even more restrictive than drinking water standards. Most waters have a beneficial use designation that describes aquatic environments and have objectives to protect that beneficial use. Meeting these objectives with structural treatment units would require advanced treatment beyond what is normally expected of municipal drinking water treatment facilities.

The draft October 1998 Brown and Caldwell report identified **statewide storm water collection and treatment capital costs** range from **\$70 billion for Level 1** to **\$114 billion for Level 3** treatment. **Annual operations and maintenance costs** ranged from **\$145 million/year for**

**Level 1 to \$424 million/year for Level 3.** The report also assumed a uniform storm water treatment level for all urbanized areas throughout the State and the "design storm" used for storm water runoff calculations in the study was a 24-hour duration, 1-year return period storm.

**Cost of Storm Water Treatment in Los Angeles County**

Caltrans issued an additional report by Brown and Caldwell in October 1998 on the "Cost Of Storm Water Treatment For The Los Angeles County NPDES Permit Areas". Brown and Caldwell selected a 24-hour duration, 1-year return period storm for the Los Angeles County study. Per the report, the selected storm allows the storm water treatment facility to capture most of the runoff for a normal rainfall year. The capacity will be exceeded only when storms greater than the one-year return frequency are experienced. On a long term, several year basis, the design storm will result in treatment of 80 to 90 percent of the storm water runoff. The chosen design storm represents a compromise between the cost of attempting to design for a higher intensity storm and a desire to maximize pollutant capture. The 24-hour duration, 1-year return period storm is the minimum rainfall with a statistical probability of reoccurring one or more times per year. Rainfall varies depending on the local terrain and averages approximately 1.25 inches for the area included in the study.

The Brown and Caldwell study noted that the "design storm" concept is similar to storm water design assumptions made by flood control agencies within Los Angeles County, but cautioned that flood control designs use longer return frequency storms and greater quantities of runoff. The study examined the same 3 levels of storm water treatment as enumerated above. The following table summarizes the Los Angeles area costs.

<b>Level of Treatment</b>	<b>Capital Costs</b>	<b>Operations &amp; Maintenance Costs</b>
1	\$33 billion	\$ 68 million/year
2	\$39 billion	\$117 million/year
3	\$54 billion	\$199 million/year

**Financial and Economic Impacts of Storm Water Treatment in Los Angeles County**

Stanley R. Hoffman Associates presented to the California Department of Transportation Environmental Program a report, dated November 1998, on the "Financial And Economic Impacts Of Storm Water Treatment Los Angeles County NPDES Permit Area". The Hoffman report used capital costs and operations & maintenance costs as reported in the Brown and Caldwell Los Angeles County NPDES Permit Areas report and refined the costs to a per household level. It evaluated the impacts on property taxes, sales taxes and local debt level so the big unwieldy billion dollar numbers could be better grasped at an individual taxpayer level.

The Hoffman report concluded that the \$54 billion Level 3 storm water treatment cost would equal to about \$741 per household annually in the Los Angeles County NPDES Permit Area. As a comparison the existing non-storm water pollution (air quality, drinking water treatment,

sanitary sewer, solid waste disposal) control costs were identified as \$554 per household annually. In terms of property tax impacts the rate for a single-family unit is estimated to increase by about 0.87 percentage points. When added to the median base property tax of 1.19 percent, this results in a total property tax of 2.06 percent, an increase of about 73 percent in the annual property tax bill. For multi-family units, the estimated increase would be 0.67 percentage points and would represent a sizable increase if translated into a rental pass through.

To compare the annualized storm water treatment costs to other economic indicators, Hoffman calculated a hypothetical 6-percentage point increase to the present sales tax rate for a total sales tax rate of 14.25 percent for the Los Angeles County NPDES Permit Area. According to California Municipal Statistics, Inc., there is an estimated \$11.6 billion of outstanding local public debt in Los Angeles County. The estimated cost of \$54 billion for Level 3 storm water treatment would represent an almost fivefold increase in local public debt.

### **Economic Infeasibility Variance Rejected**

**EPA indicated that the question of infeasibility of California's water quality standards was not a federal issue. The State Water Resources Control Board indicated that Caltrans and other municipalities will not be granted variances from water quality standards, and that the standards will not be relaxed.** In July 1999, Caltrans received its statewide storm water discharge NPDES permit from the State Water Resources Control Board, contingent on obtaining approval of a statewide Storm Water Management Plan (SWMP). In the winter of 1999, EPA issued revised NPDES rules requiring that all municipalities in areas with greater than 10,000 population become permitted for storm water discharges. In May 2001 the State Water Resources Control Board approved Caltrans' statewide SWMP plan.

### **Storm Water Runoff Funding**

In adopting the 2002 STIP Fund Estimate on August 23, 2001, the Commission increased State Highway Operation and Protection Program (SHOPP) funding by approximately \$300 million (about \$60 million per year for the STIP period) to ensure compliance with the conditions and requirements set forth by the State Water Resources Control Board in the Caltrans storm water discharge NPDES permit. This \$300 million sum for the SHOPP program is just an initial response to address storm water quality standard requirements.

Based on the big multi-billion dollar numbers presented above, the State Highway Account is not in any position to finance an ambitious storm water treatment program for the state highways and the local city street and county roads.

The \$54 billion for Los Angeles County and \$114 billion statewide are daunting figures, but it is necessary for the Legislature and the transportation community to seek unique opportunities to begin long-term solutions for financing storm water runoff treatment programs that directly affect Californians' quality of life. The above figures might not even be right; Caltrans might have

overstated the magnitude of the numbers in order to make its point of economic infeasibility. On the other hand, the magnitude might be understated because the "design storm" duration and return frequency might not be correct and greater quantities of runoff will need to be treated. In either case, the numbers would still be astronomical and action needs to be taken.

### **Additional Funding Sources**

One area of inquiry could be a state general obligation bond as was done for the seismic retrofit effort under Proposition 192, but the seismic retrofit effort pales in comparison to the price tag for storm water treatment. Another opportunity is the upcoming federal Transportation Act reauthorization. The Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21) expires on September 30, 2003. Congress could be asked to include funds for storm water treatment as it did for clean air under the Congestion Mitigation and Air Quality (CMAQ) program. The Legislature should also inquire if it is reasonable for the State Water Resources Control Board to set storm water runoff treatment level standards that are more restrictive than the state's drinking water standards.





## I. ISSUES FOR 2002

### I. Continued Efforts Toward Environmental Streamlining

***Overview:*** *In each of its last two annual reports, the Commission has addressed the continuing need for streamlining the project environmental review process and the efforts being made toward that end. The 1999 report discussed the need for environmental streamlining in detail, with recommendations aimed principally at legislative solutions. The 2000 report focused more on possible administrative reforms, with recommendations for Caltrans and State resource agencies. This year, the Commission cites progress being made, though the issues remain and much work remains to be done. Early in the year, the Commission sponsored a pair of environmental streamlining workshops, bringing together representatives from Caltrans, the Federal Highway Administration, regional transportation agencies, and State and Federal resource agencies. In conjunction with those workshops, the three major State transportation and resource agencies (the Business, Transportation and Housing Agency, the Resources Agency, and the California Environmental Protection Agency) announced that they had concluded a tri-agency partnership agreement to promote streamlining. At a later meeting, the Commission reviewed efforts being made and heard suggestions made by Federal agencies for reform. In mid-year, Caltrans made a formal proposal to the U. S. Department of Transportation to streamline the environmental process by adopting a set of administrative measures jointly between FHWA and Caltrans. The DOT has responded favorably, committing the FHWA to work Caltrans and the resource agencies to further develop the recommended actions and to implement them when they are final.*

In each of its last two Annual Reports to the Legislature, the Commission has addressed the continuing need for streamlining of the project environmental review process and the efforts being made toward that end. The 1999 Annual Report (Volume I, Chapter B-2) discussed the need for environmental streamlining in detail, with recommendations aimed principally at legislative solutions. The 2000 Annual Report (Volume I, Chapter C) focused more on possible administrative reforms, with recommendations for Caltrans and State resources agencies.

The year 2001 has seen some promising efforts made toward environmental streamlining, though the issues continue and much work remains to be done:

- In January and February, the Commission played the role of catalyst to bring Caltrans, the Federal Highway Administration (FHWA), a representative voice for regional transportation agencies, and State and Federal resource agencies together through a pair of workshops.
- In February, the three major State transportation and resource agencies concluded a tri-agency partnership agreement to promote environmental streamlining.

- In May, the Commission revisited environmental streamlining, reviewing efforts and suggestions made by Federal agencies for reform.
- In July, Caltrans submitted a formal proposal to the U.S. Department of Transportation to streamline environmental compliance procedures through the adoption of a set of administrative efficiencies jointly between FHWA and Caltrans. In September, Transportation Secretary Norman Mineta responded that he looked forward to making the initiative a reality and indicated that FHWA would “continue to work with you and the resource and environmental agencies to further develop your recommended actions and to implement them once they are final.”

### **Environmental Process**

Environmental challenges today are complex, pervasive, and driven by policy external to transportation. The array of environmental laws, some overlapping, and the agencies responsible for them, both federal and state, presents a daunting gauntlet:

- The California Environmental Quality Act (CEQA) of 1970 and the National Environmental Policy Act (NEPA) of 1969 are the basic laws that define how environmental studies, reviews, and decisions are to be carried out.
- Beyond these two basic laws, other requirements have been enacted to protect specific environmental resources including, but not limited to:
  - Clean Air Acts (both federal and state)
  - Clean Water Act (federal)
  - Endangered Species Acts (both federal and state)
  - Magnusson-Stevens Fisheries Protection Act (federal)
  - Department of Transportation Act, Section 4(f): parklands (federal)
  - National Historic Preservation Act (federal)
  - Farmland Protection Policy Act (federal)
  - Noise Control Act (federal)
  - Uniform Relocation Assistance Act (federal)
  - Presidential Executive Orders on floodplain management, wetland protection, and environmental justice (federal)
  - California Coastal Zone Management Act (state)
  - Governor's Executive Orders on historic preservation (state).

All of these latter laws are single-purpose, aimed at protecting some resource or value. Many of them come armed with permit requirements, which must be negotiated. The process to comply with each of them (as applicable) contributes the lion's share of delay during the environmental phase. At least some of them apply to every project, and larger, more complex projects typically must deal with half a dozen or more of them.

The process is intended to get all issues out on the table, assessed and considered. The nature of the process itself guarantees that a wide range of community and environmental interests can

enter the fray. The maze of process that has been built up is convoluted, often sequential rather than parallel, bureaucratic, involving a myriad of agencies, none of which can definitively approve a project, but each of which can individually block or at least delay a project.

Meaningful improvements to this labyrinth are neither straightforward to identify nor easy to reach. California encounters the greatest difficulty with the same problems other states report to be most vexing and time-consuming – parklands, historic resources, endangered species, wetlands, and hazardous materials – and must deal with the same group of federal agencies and procedures.

### **Environmental Streamlining**

The activities needed to complete the environmental phase of projects in California have become enormously complex. Most large transportation projects can have far-reaching effects that must be assessed case by case. The environmental phase forces a blending of community, environmental, and transportation objectives in full public sunshine. For each project, Caltrans must reach community consensus on location and scope, get resource agencies' agreement about environmental effects, and weigh engineering considerations and cost. The mix becomes customized to the circumstances of each project. It is challenging merely to define and understand the process, let alone manage it.

As described above, several laws and the multitude of agencies responsible for carrying them out, both federal and state, frame the picture. To start with, although environmental laws all have the same general intent, individual laws pull in somewhat different directions. Both NEPA and CEQA require study, full disclosure, and consideration of potential impacts to both the natural and community environment. Federal laws generally stress avoidance of impacts; state laws require mitigation of impacts, where feasible, with avoidance as one option. Federal agencies require detailed technical studies to support what are called “findings of no jeopardy” or choice of “least environmentally damaging practicable alternative.” NEPA is fundamentally a process-based law. All NEPA studies and paperwork must go through a full multi-agency consultation and review process, with everything back and forth handled by FHWA or FTA, with all the accompanying time and delays. Under NEPA, the process has become the essence of the law. On the other hand, CEQA requires agencies to mitigate impacts wherever feasible, and the process becomes relatively straightforward if no significant impacts remain.

The differences in the laws have been compounded by differences among the agencies responsible for them. Transportation and resources agencies have different objectives, which are often conflicting. Public works agencies have sought to improve the built environment, whereas environmental agencies and interests have tried to preserve the natural environment or even to reestablish prior conditions. They have typically perceived that when no project was built, the environment was preserved. Resources agencies have typically worked as regulators, trying to prevent damage from the activities of public infrastructure agencies. On both sides, the agencies' basic missions have tended to be single-purpose rather than balancing:

- “Caltrans improves mobility across California.”

- “U.S. Department of Transportation serves the United States by ensuring a fast, safe, efficient, accessible and convenient transportation system that meets our vital national interests and enhances the quality of life of the American people.”
- “U.S. Fish & Wildlife Service works with others to conserve, protect, and enhance fish, wildlife, plants and their habitats for the continuing benefit of the American people.”
- “U.S. Environmental Protection Agency protects human health and safeguards the natural environment – air, water, and land – upon which life depends.”
- “The California Office of Historic Preservation coordinates a wide range of activities that encourages the preservation of tangible remains of our unique past – communities, neighborhoods, commercial districts, buildings, archeological sites, and other historic and cultural resources.”
- “California Department of Fish & Game manages California’s diverse fish, wildlife, and plant resources, and the habitats upon which they depend, for their ecological values and for their use and enjoyment by the public.”

This system was put in place to provide checks and balances, not an efficient and collaborative decision-making process. A long history of litigation has yielded a collection of difficult procedures ratified by the Courts, and agencies have often been loathe to tinker with those procedures even though other ways of doing business might be both better and equally acceptable. In California, much of the historic regulatory relationship remains, with Caltrans usually seeking permits at minimal cost and resources agencies often trying to extract maximum mitigation.

### **Commission Workshops**

The Commission held a two-part workshop on environmental streamlining at its January and February meetings. In January, the Commission heard from representatives of Caltrans and the sales tax “self-help” counties about project delivery issues, including their recent experiences and efforts to speed up delivery through streamlining of the environmental process. Caltrans Deputy Director Brian Smith noted recent Department efforts:

- Caltrans has put in place an internal change control policy that advances studies previously done in design, locks in design to avoid unplanned additional environmental work, and calls for permit information to be determined during environmental studies.
- Caltrans has signed partnership agreements for early involvement of resources agencies in project planning and environmental studies with the FHWA, the U.S. Environmental Protection Agency (EPA), the U.S. Fish and Wildlife Service, the U.S. Army Corps of Engineers, and the State Department of Fish and Game.
- Caltrans has provided funding for staff positions in resource agencies, in return for premium service in reviewing its documents.
- There is an increasing focus on advancing environmental issues to the planning stage. This can place issues in a broader regional perspective, help to avoid or minimize significant

impacts prior to programming, lead to better assessment of cumulative impacts, and allow for increased use of geographic information system (GIS) technologies and development of resource databases.

Paul Maxwell of the Contra Costa Transportation Authority, representing the experience of local sales tax authorities, had the following recommendations:

- Develop memoranda of understanding with regulatory agencies that respect the mandates of transportation agencies and environmental agencies. Include deadlines for response.
- Require regulatory agencies to be actively involved in project development at the beginning, not the end.
- Joint field review and identification of issues early in the process.
- Seek more flexibility from FHWA in allowing contact and/or negotiations with regulatory agencies directly.
- Have Caltrans tailor the level of analysis to the likely challenge to the project (risk taking).
- Consistent imposition of deadlines, with implied consequence or penalties for non-response.

For its February meeting, the Commission invited representatives of the FHWA and key State and Federal resource agencies to get their perspectives on their roles in environmental and permitting processes. The Commission asked for their assistance in identifying ways to improve the effectiveness and efficiency of the overall process and to offer their ideas of how best to integrate the state's needs for mobility with the need to maintain and enhance the environment. The Commission heard from representatives of the Business, Transportation, and Housing Agency, the Resources Agency, the California Environmental Protection Agency, the FHWA, the U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service.

The Commission's February workshop was opened with a presentation from Commission staff summarizing a set of recommendations originally made in the 2000 Annual Report:

- 1. Get all parties engaged early, at planning, for the project study report, at Notice of Preparation.**
  - Think transportation and environment from the very start.
  - Get environmental and local agencies at joint field reviews at the project start.
  - Agree up front on project purpose and need and environmental information and objectives.
- 2. Ensure resources agencies and FHWA have adequate resources to cooperate early, stay engaged, and respond quickly.**
  - Fill expeditiously the positions that Caltrans funds for faster review and service.
  - Consider Proposition 35 contracting where appropriate.
- 3. Devise and fund joint projects for joint transportation and environmental objectives in difficult situations.**
  - Broaden agency missions, to provide for more balanced public policy and projects.
  - Add environmental scope or broaden the locus of mitigation for joint projects.

- 4. Use best practices more consistently in Caltrans in preparing environmental documents, particularly for non-controversial projects.**
  - Write focused documents rather than comprehensive ones.
  - Refer to or include in documents information necessary for environmental permits.
  - Enlist local officials to lead the way to local consensus on project alternatives.
- 5. Encourage FHWA to treat environmental review as a full partnership activity.**
  - Focus FHWA reviews on significant issues and expedited turnaround.
  - Allow Caltrans to negotiate directly with federal environmental agencies,
  - Seek more and broader memoranda of understanding (MOUs) for delegated approvals, standard mitigations, and streamlined procedures.
- 6. Improve environmental databases for use in transportation.**
  - Provide help from Caltrans to complete critical resource mapping along major corridors.
- 7. Coordinate transportation and environmental planning.**
  - Clarify and understand environmental objectives.
  - Improve regional-scale environmental analyses for project location and general scope decisions through the regional transportation plan.
  - Seek joint transportation and environmental decisions at the regional level.
- 8. Focus the Commission's project delivery responsibilities on projects with tough environmental challenges.**
  - Program environmental-only for projects with environmental uncertainty.
  - Track selected projects closely.
  - Examine STIP amendments through the lens of Caltrans' change control policy.
  - Seek strategic opportunities for state-only programming for state projects.

### **Tri-agency Partnership Agreement**

At the Commission's February workshop, the Business, Transportation and Housing (BT&H) Agency, the California Environmental Protection Agency (Cal/EPA) and the Resources Agency announced the signing of a tri-agency partnership agreement in which they agreed "to engage in concerted, cooperative, and collaborative program relationships" with the objective "to ensure the timely planning and implementation of transportation projects that protect or restore the State's environment."

The three agencies agreed to commit staffing and coordinate resources to support this objective and established an upper management workgroup to develop and implement initiatives, with a Steering Committee consisting of the three agency secretaries. The agreement identified the following goals:

- Identify and share information on transportation and environmental priorities.
- Develop transportation and environmental performance criteria to evaluate transportation projects and to improve their selection and design.
- Ensure the timely development of environmentally beneficial transportation plans and projects that recognize the priorities of livable communities, the principles of environmental justice, regional planning, cultural and natural resource conservation, and protection of the environment.

- Ensure compliance with all applicable environmental laws, rules, and regulations, permits, and policies while reducing the time required to develop and implement transportation projects.
- Work collaboratively to develop efficiencies within the transportation planning and environmental processes, such as by developing early and continuing consultation to determine the type, nature and extent of needed environmental studies, and by developing environmental baseline resource information. This must include timely communication of changed circumstances.
- Encourage the early and continuous participation of affected state, federal and local agencies, public interest groups, and the public throughout the local land use planning, resource conservation planning, transportation planning, project development and regulatory approval processes.
- Identify and implement ways to conduct concurrent environmental and permitting processes.
- Establish an interagency issue resolution process with appropriate timelines for completion.
- Establish performance criteria by which the success of this Agreement will be measured.

The partnership group has been meeting throughout 2001, and in December 2001, representatives of the three agencies reported to the Commission on their progress to date. Among the achievements they noted were:

- A pilot program identified for partnering, at the project level, among Caltrans districts and regions of resource and environmental agencies.
- Success in negotiating permits and biological opinions for the replacement of East Span of the San Francisco Oakland Bay Bridge in record time.
- Success in the coordination of transportation and environmental issues using communications and mapping tools. Cited as an example was the overlay of field GPS data on wetlands with project aerial photography.
- The exploration of vegetated wildlife crossings made possible by early consultation.
- The integration of waste management with project planning and design, as through the use of shredded tires as lightweight aggregate.
- Joint training between Caltrans and Department of Fish and Game staff.
- Caltrans/Regional Water Quality Control Boards executive level forums.
- Caltrans/Fish and Game Regional Office meetings with Federal agencies.
- Staff rotation opportunities between Caltrans, Fish and Game, Regional Water Quality Control Boards, and the State Historic Preservation Office (SHPO).

Future goals and expectations identified by the partnership were to:

- Implement regional strategic transportation planning, including early project coordination and identification of the state's sensitive habitats. One example cited was the Riverside County Integrated Process, which includes a multispecies habitat conservation plan integrated with the transportation plan and general plan. Similar efforts are now taking place in 16 counties.
- Continue cooperative development of geographic information system (GIS) data layers.
- Initiate coordination and partnerships with Federal resource agencies. Meetings are already underway among Caltrans, FHWA, US Fish & Wildlife Service, and the National Marine Fisheries Service.

- Begin to identify pre-project mitigation opportunities. This may lead to the programming of dual-purpose projects and enhancements and the implementation of programmatic mitigation.
- Look to the Federal Transportation Reauthorization and other opportunities to improve the Federal process.

The BT&H Agency has agreed to provide continuing progress reports on the work of the partnership as part of the Agency's regular report at Commission meetings.

### **Federal Agency Suggestions**

Following the February workshop, the Commission wrote to the FHWA, the Fish and Wildlife Service, the Corps of Engineers, and the EPA, asking each agency to submit its ideas for environmental streamlining. The Commission heard a report of these ideas at its May meeting, including a presentation from the EPA, which had not been present in February. Their recommendations, as summarized by Commission staff, included the following:

#### From the FHWA:

- do a detailed process analysis of the steps involved in NEPA and CEQA, to pinpoint redundancies, conflicts, and obstacles, as a first step to understand streamlining opportunities;
- use limited staff more efficiently and meaningfully, by grouping projects in a nearby area for joint analysis and review;
- set project schedules in consultation with environmental agencies, so as to build in the time those agencies will want for their reviews;
- coordinate transportation and environmental planning to expose environmental issues early;
- improve the scope, content, and communication in environmental studies, and clearer and more concise environmental documents;
- expand programmatic agreements among various federal agencies for specified tasks or types of impacts or projects; and
- expand Caltrans role in environmental work for local agency projects.

#### From the EPA:

- expand and improve mapping of environmental resources;
- define critical habitat areas and protect them as open space;
- build environmental protection into transportation planning, including better coordination with local general planning;
- get environmental and local agencies involved earlier, at the transportation planning stage;
- consider fully the growth implications of projects and the environmental implications of that growth;
- work with federal agencies to develop guidelines for mitigating the impacts of growth induced by transportation projects;
- give serious consideration to a broad range of project alternatives, starting through the regional transportation plan, for old controversial projects and projects near environmentally sensitive areas;
- define and use environmental performance measures during evaluation of project alternatives;
- consider transit and other VMT-reducing options more strongly for projects in non-attainment areas;
- train staffs of cities, counties and regional agencies more thoroughly about federal and state environmental requirements; and
- focus streamlining efforts on selected key, high priority projects.

From the Fish and Wildlife Service:

- establish a single point of contact in each federal agency involved in environmental reviews;
- lay out priorities for state projects to guide environmental study and review priorities;
- develop regional mitigation banks for critical habitat, covering several projects;
- increase staffing levels to handle the increased workload from transportation projects; and
- begin consultation about impacts at the earliest stages of project development.

From the Corps of Engineers:

- expand nationwide and blanket permit agreements, aimed at making and holding early commitments;
- seek a least environmentally-damaging alternative as a preferred alternative whenever feasible;
- increase staffing levels or streamline procedures to match higher workloads; and
- delegate approvals insofar as possible to state and regional water resource agencies.

Most of these suggestions focus on long-term activities, and few offer much promise of progress for projects already in the STIP and SHOPP, well past the planning stage. None of the ideas, except possibly the idea of a single point of contact, really gets at the inordinate amount of time spent getting consultations arranged, reviews done, and decisions made, the major complaint from the state side. The notions that need for more staffing, undetected opportunities to combine or overlap steps, and poor quality studies and documents are the reason reviews take so long, and that longer timelines would yield fewer late documents, discount the need to focus on expediting decisions on the vast majority of straightforward projects, in an arena where truly controversial and significant projects are rare and the avoidance of risk (even where risk and controversy are minimal) seems to have higher value than expedited delivery of improvements. The Corps' suggestion to delegate approvals to state and regional agencies seems to match the Commission's preferred strategy for streamlining, since presumably the state can exert more leverage to gain cooperation and streamlining from state and regional agencies than federal ones.

**Caltrans Environmental Streamlining Initiative**

In July, Caltrans presented to U.S. Department of Transportation (DOT) Secretary Norman Mineta a proposal to further streamline environmental compliance procedures through actions to be adopted jointly with FHWA and the U.S. DOT. The measures are designed to attain environmental compliance more expeditiously without compromising environmental quality. The proposed actions are:

1. Mutually define and commit to deadlines to expedite environmental document review.
2. Expand the role of Caltrans as an agent of FHWA in coordinating and negotiating directly with federal resource and regulatory agencies.
3. Expand programmatic categorical exclusion (CE) approval authority to Caltrans, with appropriate monitoring by FHWA's California Division.
4. Develop and maintain a formal tracking system for movement of environmental work products between Caltrans, FHWA, and regulatory agencies.
5. Establish a Caltrans environmental document quality assurance program with elements of peer, technical specialist, and legal review; technical editing; document consistency; and documentation production improvements.

6. Increase internal legal sufficiency review of the Department's environmental documents and augment legal staff availability for consultation during project and environmental document development.

In a September response, Secretary Mineta commended Caltrans for the balanced nature of the proposal, involving complementary actions by Caltrans and FHWA, and committed the FHWA to work with Caltrans and the resource agencies to further develop the recommended actions and to implement them once they are final. The following is a summary of each of the Caltrans proposals.

Environmental Review Deadlines. Caltrans noted that the Federal Council on Environmental Quality recently undertook to reduce paperwork and delays and to produce better environmental decisions. A specific strategy that grew out of that effort was to "define timeframes for individual project reviews and/or classes of action on a state by state, region wide or project specific basis." Caltrans proposed a specific set of FHWA review and approval timelines, ranging from three days for a minor project to 30 days for approval of a Final Environmental Impact Statement.

Expand Caltrans' Role as an Agent of FHWA. Formal compliance with Federal single-purpose environmental laws is normally handled between Federal agencies. For example, FHWA has required Caltrans to send virtually all materials and requests through FHWA for its consideration before passing them on to the other regulatory agencies. Caltrans proposed that it be permitted to work directly with the regulatory agencies for many aspects of Section 106 of the National Historic Preservation Act and Section 7 of the Endangered Species Act. FHWA handling time has varied from two weeks to more than six months. Once the material reaches the regulatory agencies, regulatory timelines apply. However, no timelines exist for FHWA review. Caltrans further noted that this proposal would not only save processing time directly, but would free FHWA staff for more timely review of environmental documents.

Section 106 allows federal agencies to substitute other procedures for its regulations through the use of Programmatic Agreements (PA) that satisfy the basic Section 106 requirements. The Caltrans proposal included a new PA developed by Caltrans in cooperation with the FHWA, modeled on agreements already in use in other states. The proposed PA is now being reviewed by the State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP).

Caltrans proposed three measures to comply more efficiently with the Section 7 of the Endangered Species Act.

- First, the Department proposed that FHWA authorize Caltrans to negotiate directly with permitting agencies on how to deal with an endangered species where species and/or habitat are "not likely to be adversely affected." The FHWA has this authority under the implementing regulations for the Endangered Species Act.
- Second, Caltrans proposed that FHWA agree to concur, before studies begin, on the scope and content of biological assessments (BA) where an endangered species may be adversely

affected or “take” may be reasonably expected. The review would take place within a specified timeframe. Consistency with the pre-approved scope would provide the basis for subsequent BA reviews.

- Third, Caltrans proposed, in cooperation with FHWA, to implement a quality control and quality assurance review programs for biological reports. Caltrans proposed that a group of Department biologists and FHWA environmental specialists be convened immediately, with the first products to be delivered within six months.

Expand Categorical Exclusion Authority. Caltrans proposed that the FHWA California Division Administrator approve a new programmatic categorical exclusion (PCE), replacing the current PCE that was approved in September 1990. The PCE defines the conditions under which no FHWA approval of a categorical exclusion is required. The FHWA Transportation Engineer individually approves all categorical exclusions that do not meet the PCE conditions. Today, more than 1,000 Caltrans actions each year require individual approval. The revised PCE would specify broader impact conditions, using the PCE agreements of other states as models. An expanded PCE authority is now pending an FHWA “process review” of existing PCE use by Caltrans.

Formal Tracking System. There has been no formal system to track the large and growing volume of work products between Caltrans, FHWA, and the regulatory agencies. As a result, Caltrans must repeatedly contact FHWA to determine document status. Caltrans and FHWA are now testing a web-based system to track documents and consultation requests, anticipated to be fully functional early in 2002. In addition to improving delivery, this system should provide valuable information on resource and time requirements, which in turn should help in scope projects and setting realistic time schedules. The goals of the tracking system are to:

- Be low cost and simple and without major software or hardware purchases or upgrades.
- Allow data to be entered easily.
- Allow tracking of specific items for specific projects.
- Allow the Department to set priorities of items for review.

Environmental Document Quality Control. Caltrans committed to submit documents to FHWA only when the Department has assured itself that the document meets standards and is ready to be approved by the FHWA. Quality documents should reduce FHWA review time, increase FHWA confidence in the work products, and streamline project delivery. Caltrans intends to standardize requirements and responsibilities for environmental document review, including:

- Peer review, verifying that a document meets standards.
- Technical specialist review, verifying that the document is technically accurate.
- Technical editing, to assure that the document is readable.
- Supervisor review and legal review, to assure that the document is acceptable for public review.

Caltrans, in cooperation with FHWA, would develop document standards. Those standards, now undergoing review by Caltrans districts prior to a statewide roll-out, include:

- Standard format and organization, following a standard Department style guide;

- Quality graphics, prepared by staff or contract graphics specialists.
- Technical editors, to edit major documents.
- Electronic publication of environmental documents, to speed distribution and reduce publishing costs.

Caltrans is proposing changes in reporting and evaluation mechanisms. The Department committed to:

- Continue active FHWA Transportation Engineer participation on the Project Development Team (PDT).
- Develop an internal Caltrans process to assess the effectiveness of quality control plan measures, with the implementation of district-level quality control plans by February 2002.
- Convene regular meetings with FHWA to fine tune quality assurance approaches and practices.
- Hold environmental document closeout meetings to assess successes and needs for improvement.

Increase Caltrans Legal Sufficiency Review. Caltrans has added a new Environmental Deputy Chief Counsel and new environmental attorney positions to its Legal Division, recognizing the anticipated increase in environmental document review loads and the need for legal assistance throughout the development of environmental documents. The new attorneys are being trained in Federal environmental requirements and are working in collaboration with FHWA legal staff. In the past, there have been fewer than ten Caltrans attorneys working on a part-time basis reviewing environmental documents and consulting with staff during the environmental process. These attorneys also have had active litigation cases, which take priority at times over environmental review. Because of time constraints and caseload limitations, they have been reviewing only potentially problematic environmental documents. The increase in document quality that should result from increased internal legal review should facilitate a faster formal FHWA legal sufficiency review.

## **Conclusion**

Over the past two years, the Commission has sought to act as a catalyst, bringing together the State and Federal transportation and resource agencies whose cooperation is needed to streamline the environmental process. These efforts have borne fruit in the current year, and the Commission sees signs of significant progress. Long-term success, however, will require a continuing focus and multiagency cooperation to achieve the goal of timely delivery of transportation projects while protecting the environment. The Commission is committed to providing leadership and a forum to maintain that continuing focus.



## I. ISSUES FOR 2002

### J. Aviation Issues - The State's Role In Aviation

***Overview:*** *The rapidly expanding role of aviation in moving people and goods in the global economy requires a re-examination of the State's role in commercial and business aviation. If California is to remain competitive in the global economy, our aviation system must be improved to facilitate significant growth in air passenger and cargo movement, to provide access for and fully integrate increasing business and corporate aviation, to ensure mobility around airports, and to responsibly mitigate adverse impacts of aviation on communities. The State should accept the responsibility to provide the leadership and resources, in cooperation with local, regional and federal agencies, to develop the efficient and secure aviation system that is essential for our economic success. Recommendations are presented for increasing aviation program funding and focusing expenditures on improvements for airport security, safety, capacity and ground access, completing airport Comprehensive Land Use Plans, and mitigating airport impacts on surrounding communities.*

#### **Introduction and Purpose:**

The rapidly expanding role of aviation in moving people and goods in the global economy requires a reexamination of the State's role in commercial and business aviation. California's economic future is inextricably linked to providing the transportation infrastructure that will connect all areas of the State to the global economic system. If California is to remain competitive in the global economy, our aviation system must be improved to facilitate significant growth in air passenger and cargo movement, to provide access for and fully integrate increasing business and corporate aviation, to ensure mobility around airports, to responsibly mitigate adverse impacts of aviation on communities, and to continue a high quality of life for our citizens.

California cannot continue to leave the statewide economic interests associated with aviation to the vagaries of local politics and priorities alone. The State should accept the responsibility to provide the leadership and resources, in cooperation with local, regional and federal agencies, to develop the efficient aviation system that is essential for our economic success in the 21<sup>st</sup> Century. This view is shared both by the Administration and the Legislature as reflected in initiatives by both, as discussed below.

Now is the appropriate time to reassess and adjust the State's aviation role in coordination with other efforts underway to address critical transportation issues. Enacted in 2000, the Federal Aviation Investment and Reform Act for the 21<sup>st</sup> Century (AIR 21) provides increased funding and expanded programs for airport infrastructure maintenance and development. A report identifying the State's top infrastructure priorities and recommending approaches to implement

the priorities from the Governor’s Commission on Building for the 21<sup>st</sup> Century is nearing completion. Senate Concurrent Resolution 96 (Chapter 158, 2000 Statutes) requires creation of a Global Gateways Development Program to identify high priority airport and seaport access and infrastructure projects for purposes of potential federal, State and other funding. The California Department of Transportation (Department) has undertaken a comprehensive, collaborative process to develop a new statewide, multimodal California Transportation Plan that will address the mobility of people, goods and services over the next 20 years.

**Background:**

The Policy Element of the California Aviation System Plan (CASP) defines the continuous aviation system planning process and the roles of federal, State, regional and local participants in the process; discusses issues affecting aviation and its relationship with other modes; and defines the policies and implementing actions guiding Division of Aeronautics activities and CASP development, including funding priorities for general aviation and for commercial service airports in California.

The role the Department should play in planning and assisting the infrastructure and capacity development and maintenance of the airport system and the funding limits restricting that role continue to be issues emphasized in the current Policy Element update adopted by the Commission in November 2001. Options for increased funding of the State aviation program have been discussed for years, but no action has yet been taken.

**The following points substantiate the need for increasing funding for the State aviation program:**

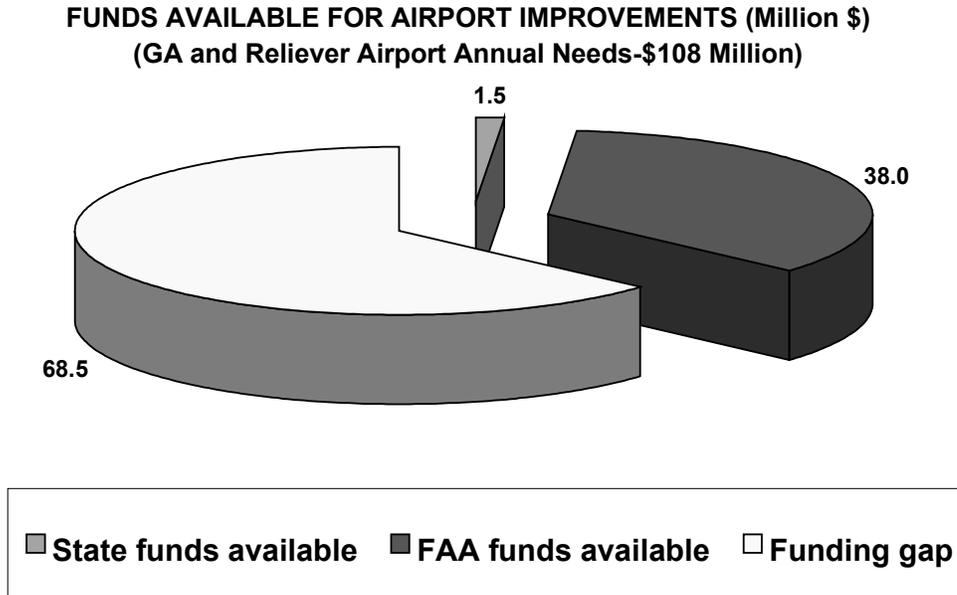
- **There is an increasing shortfall in funding capability between the Department’s biennial Aeronautics Capital Improvement Program (CIP) adopted by the Commission and the three-year funded program;**

The Division of Aeronautics provides approximately \$1.5 million a year for State capital grants to airports, \$1.5 million to cover half of the local match required to receive Federal Airport Improvement Program grants, and \$1.5 million for a \$10,000 annual entitlement grant to every publicly-owned public-use general aviation airport. **There is a dramatic funding gap between needs identified in the annualized CIP for general aviation airports (a total of \$108 million annualized -- \$68.5 million unfunded) and the portion of Aeronautics Account funds available to fund the CIP (\$1.5 million annualized). See Figure 1.**

A new Federal entitlement program for general aviation included in AIR 21 will likely result in many more federally funded airport projects in California. In order to capture all Federal funds available to California, the State needs to significantly increase the amount of State funds available to meet local match requirements, estimated at about \$3 million annually. In

some cases, providing a greater share of the local match to assist cash strapped airports should be considered.

**FIGURE 1**




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Sources: State funds available, California Department of Transportation, Division of Aeronautics, Capital Improvement Program (July 2001); FAA funds available, FAA Airport Improvement Program (Fiscal Year 2000)

Also, appropriately addressing reliever and general aviation airport infrastructure needs is increasingly important as commercial service airports face severe capacity constraints from growing passenger and cargo activity and the expanding business and corporate segments of general aviation. Improving reliever and general aviation airport infrastructure and capacity to accommodate business and corporate aircraft will help to mitigate congestion and environmental pressures at the larger commercial service airports and will provide for continued growth of an important contributor to the State’s economy.

- **Pressure from development and incompatible uses on land surrounding airports emphasizes the need to have local Airport Comprehensive Land Use Plans (CLUPs) in place.**

Incompatible land use development near airports of all sizes and categories is one of the most serious capacity and infrastructure improvement problems affecting airport viability in California. State legislation requires all counties with airports “open for the benefit of the general public” to form an Airport Land Use Commission (ALUC) and develop a CLUP for each of the airports in the county. As planning issues for airports become more complex, staff time and costs for handling those issues are rising. Insufficient funding has precluded CLUP development in many counties. While funding of CLUPs is an eligible category in the State CIP, few are funded because of limited funds. The estimate of funds needed to complete CLUPs statewide is \$5.22 million.

- **As aviation activity grows in California, the public’s annoyance with aircraft noise can be expected to grow and there will be increased interest from State Legislators to affect that issue from the State level.**

Under State Law, the Division of Aeronautics administers State Noise Standards for airports. Nine of the ten airports that currently must comply with those standards are commercial service airports, yet the entire program is funded with general aviation fuel tax funds. The State’s noise program has historically cost the Division of Aeronautics in excess of \$300,000 per year.

Practically every year, State legislation is introduced that, if passed, would require the Division of Aeronautics to take some additional action regarding noise generated primarily by air carrier aircraft. Last year, a bill proposed a \$500 tax credit for persons exposed to a specific level of noise. This year, there was interest from a legislator for the Division to conduct a \$100,000 study regarding aircraft noise in neighborhoods that are well outside any airport’s “noise impact area” as defined in the State’s Noise Standards. These proposals, however, seldom include a new funding source to implement them.

As pressure increases to provide more service to members of the public who consider themselves to be affected by aircraft noise, there needs to be a mechanism for having the air carriers fund those programs, since they are the most significant generators of aircraft noise.

- **Providing adequate surface connections to airports is critical to improving airport capacity, while there is a general inattention and misunderstanding of the importance of ground access to airports.**

The importance of assessing airport ground access needs and defining appropriate ways to meet those needs consistently has been a concern discussed in the CASP Policy Element and in the Commission’s Annual Reports to the Legislature. In 1999, a Commission survey of airports and the CASP Capital Improvement Plan (CIP) indicated 41 airports had 103 unfunded ground access projects costing \$3.1 billion. An Airport Ground Access Study just completed by the Division of Aeronautics provides a project specific assessment of needs at an even greater aggregate cost of \$5.8 billion and recommends methods to plan, fund,

program and implement airport ground access improvements, including how the State should take a stronger role.

- **There is an immediate need to aggressively undertake aviation system planning projects to address commercial passenger and cargo capacity shortfalls.**

Historically, funding for CASP development and related aviation system planning projects has come from Federal Airport Improvement Program (AIP) or other federal planning and research grants. In fact, PUC Sec. 21707 mandates that funding for the CASP shall come from Federal grants. State funding policy has been guided by a concern that limited Aeronautics Account funds should be dedicated to its general aviation source and focused on maintaining airport infrastructure and administering legislatively mandated aviation regulations. Thus aviation system planning conducted by the Department has been dependent upon federal priorities and funding levels. The State needs to take action to more aggressively participate in studies and projects that will define how and where airport expansion should take place throughout the state.

- **There is a need to ensure that appropriate attention is given to new and emerging issues and related activities.**

The CASP Policy Element attempts to comprehensively identify new or emerging issues and to recommend appropriate actions to address the issues. One example in the most recent Policy Element update is the addition of a policy to guide activities of the Space Office, a recent addition to the Division of Aeronautics. The new Space and Technology Policy recognizes the importance of considering increasingly routine commercial space launch and recovery activities as an essential mode of the transportation system in the CASP and in other intermodal planning, including the California Transportation Plan update. **While responsibilities of the Division of Aeronautics continue to increase, resources have remained constant.**

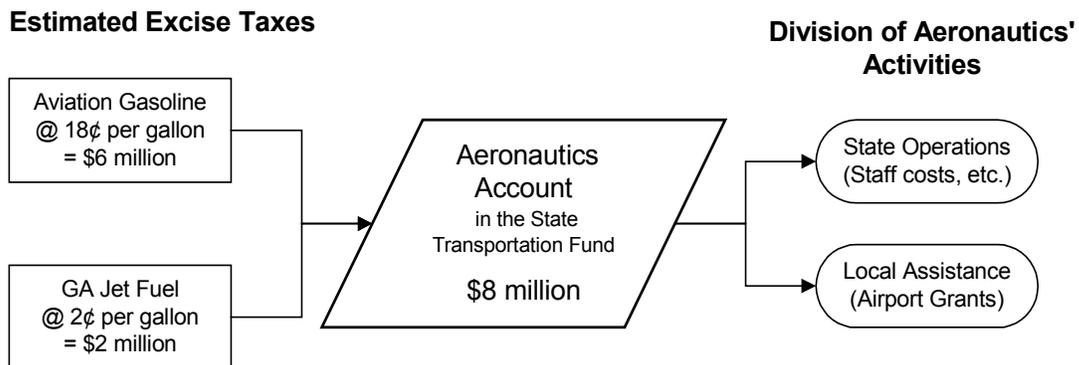
- **Funding Considerations (See Figure 2, next page)**

Existing State Funding: Annual revenue deposited in the State Aeronautics Account is approximately \$8 million. The Aeronautics Account is the sole State source of funding for the Division of Aeronautics and the programs it administers. The revenue sources are an 18-cents per gallon motor vehicle fuel tax on general aviation gasoline, and a two-cents per gallon tax on general aviation jet fuel. Air carrier and military aircraft and aviation manufacturing are exempt from the two-cents per gallon jet fuel tax.

**FIGURE 2**

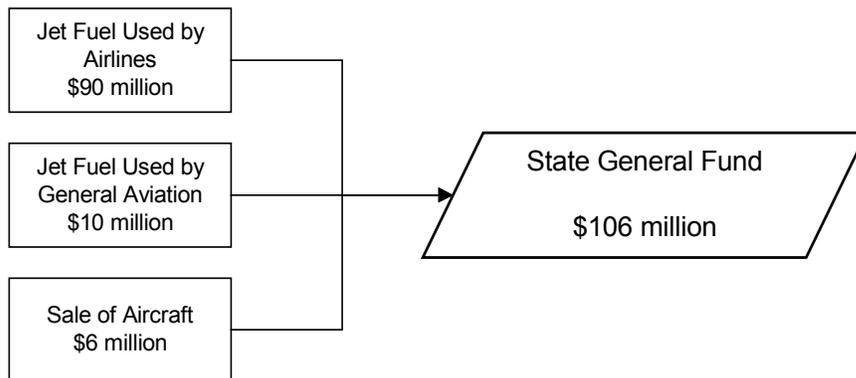
**Aviation Revenue Sources  
from State Excise & Sales Taxes**

**Tax Revenue Sources, Calendar Year 1999**



**Estimated Sales/Use Taxes (@ 5.0%)**

[This excludes the local portions of the tax which are equivalent to 2.92%]



The Division of Aeronautics has several, minor non-tax revenue sources that do not appear in this chart. "GA" General aviation is all aviation except for the military and scheduled airlines (including cargo). Excise tax figures are based on monthly Board of Equalization (BOE) reports of distributed gallons. The jet-fuel sales tax estimates are based on federal DOE reports on gallons sold, BOE reports on tax-exempt fuels and GA jet fuel gallons, and Caltrans' estimate of average retail fuel prices. "Sale of Aircraft" is from BOE and includes taxable repair services and sale of aircraft parts. Nearly all of this sales activity involves only GA. For year 2001, the "state" sales tax rate declined to 4.75%, but the price of jet fuel is much higher than 1999.

July 2001

The Division of Aeronautics administers four financial assistance programs primarily for general aviation projects. Annual Grants of \$10,000/year are available for capital improvements as well as maintenance and operation costs at general aviation public-use airports. Reliever and commercial service airports are not eligible for this grant. AIP Matching funds match every eligible Federal AIP grant. Commercial service airports are not eligible but reliever airports are. Acquisition and Development Grants are selected from the State’s Capital Improvement Program (CIP). Projects at all publicly owned airports are eligible, and grants are limited to \$500,000 per project. The California Airport Loan Program issues loans to airports for construction and acquisition projects that benefit general aviation uses at airports and improve financial self-sufficiency. All airports that are owned by a qualified public agency are eligible for these loan funds.

- **Aviation Funding Sources**

Nearly \$215 million in State and local taxes is collected from the aviation industry annually and only about \$8 million (3.25%) is directed to address aviation needs. Additional revenues generated by aviation but not going to the Aeronautics Account are as follows: sales tax on jet fuel of approximately \$168 million (deposited in the State and local general funds); sales tax on general aviation aircraft of approximately \$10 million (deposited in the State and local general funds); and property tax on general aviation assessed valuation of approximately \$30 million (deposited in local general funds and local school districts).

It appears the aviation industry currently contributes sufficient tax revenues that, if a portion of the revenues were used to address aviation needs, California could make significant progress in implementing State priorities to enhance airport capacity and safety, air passenger mobility, air cargo efficiency, and mitigation of airport operations on communities.

### **Recommendations**

The Commission has long supported increasing funding for state aviation programs, from existing state tax revenues, to develop an integrated system of airports that adequately meets the demands of California’s economy. The events of September 11, 2001 emphasized the critical role aviation plays in our economy, and have increased the need for immediate investment in security measures to keep the aviation system operating. Also, the drastic economic impacts on the aviation industry in the aftermath of September 11 preclude funding needed airport investments from more taxes on the industry. The Commission supports redirecting state sales tax revenues from the sale of jet fuel to fund state aviation programs. These tax revenues are a “user fee” paid by the aviation industry and users, in the same way that sales tax revenues on gasoline and diesel fuel, currently directed to highway and transit program funding, are user fees on drivers.

The Commission, based on proposals from the Technical Advisory Committee on Aeronautics (TACA), recommends that the Legislature and the Administration act in 2002 to address these aviation system needs.

- First, California, in cooperation with the Federal Aviation Administration, must do what needs to be done to keep the aviation system operating under today’s heightened security requirements, including immediately providing State funding (of approximately \$20 million) from a possible new state sales tax for security enhancements to all public infrastructure, the General Fund, or a redirection of a portion of the state sales tax on jet fuel to supplement federal emergency funding for security equipment, fencing and secure gates at California’s smaller commercial, reliever, and feeder airports throughout the state.
- Beyond improved airport security, protecting the long-term operational integrity of California’s aviation system requires controlling land uses around existing airports. Increased state funding (of at least \$5 million) to help county Airport Land Use Commissions complete Comprehensive Land Use Plans for all airports in their county is a necessary step for developing and maintaining a viable aviation system in California. A redirection of the state sales tax on jet fuel which is paid by the aviation industry is an appropriate funding source for this purpose.
- A significant increase in state funding for aviation is needed to provide: 1) the safety and capacity improvements identified in the California Aviation System Plan - Capital Improvement Program; 2) runway extensions to 5,000 feet and widening to 75 feet at selected airports to allow air cargo and business aviation jets to access airports throughout the state; and 3) ground access improvements to commercial airports. The state sales tax on jet fuel currently being paid by commercial passenger and cargo airlines is the most appropriate funding source for this purpose. A long-term investment strategy of \$20 million - \$40 million a year is needed to make significant progress on these needs over the next ten years.
- Authorize and fund involvement of the Caltrans Division of Aeronautics in providing information to pilots and business aviation departments to promote the use of a larger number of California’s airports and better use existing system capacity. Existing and newly upgraded facilities often are not used to their potential because of habitual behavior by companies. Caltrans could be very helpful in the cause of highway congestion and runway congestion management, by marketing convenient alternatives to the congested airports within a reasonable distance of major business destinations.
- Authorize and fund increased involvement of the Caltrans Division of Aeronautics to assist smaller airports in securing state and federal aviation grants to insure that California receives the maximum amount of federal funding and uses state funds in an expeditious manner.



## I. 2001 ACTIVITIES AND ACCOMPLISHMENTS

### K. Intercity Rail Issues

***Overview:** Intercity rail passenger service in California faces uncertainty in terms of adequate funding for operations and capital improvements. Last year the Traffic Congestion Relief (TCR) Act was passed, but due to this year's slowing economy, funding the Public Transportation Account has been deferred for two years, making it difficult to fund beyond existing intercity rail service or rail/transit projects not eligible for State Highway Account funds. To improve the delivery of rail projects that involve working with the railroads, Caltrans re-organized so that most units working with the railroads would report to one person. Further steps could be taken to improve delivery such as having cabinet-level or directorate-level managers work with the railroads' management to speed delivery. Caltrans is currently updating its Ten-Year Rail Passenger Program Report, which proposes a \$4 billion capital program, primarily funded from a proposed \$12 billion federal bond. The Commission directed Caltrans to develop a ten-year capital program, based upon historical STIP funding for Intercity Rail. Currently high-speed rail planning by the High-Speed Rail Authority includes evaluating routes, stations and the preferred technology for a statewide 700-mile system. Nationally, Amtrak's future remains uncertain. The Amtrak Reform Council ordered Amtrak to develop a liquidation plan because it would not meet a 2002 self-sufficiency deadline. Congress, however, may eliminate the Amtrak self-sufficiency requirement. Congress is also deliberating on legislation on several multibillion-dollar Amtrak capital and security packages. Regardless of Amtrak's fate, California must ensure that Amtrak's mandate, permitting it to use private railroads to provide intercity passenger service, is continued or transferred. California must ensure that the federal funds are forthcoming, while Congress and the White House make a decision about Amtrak's future.*

#### Uncertain State and Federal Funding Picture

Over the last several years, intercity rail passenger service in California has faced an uncertain future in terms of adequate funding for operations and capital improvements from the State and federal government. Recent State and federal legislative actions have reduced some of those uncertainties; however, with the threat of a national recession and Amtrak's inability to become self sufficient, challenges remain. According to the California Transportation Commission's 1999 Report Ten-Year Funding Needs for Transportation (pursuant to Senate Resolution 8), intercity rail operational costs over the next ten years for existing, enhanced and new service are projected to be \$1.1 billion.

This \$1.1 billion ten-year operational cost would have to come almost entirely from the State Public Transportation Account (PTA Account), with a small contribution from Amtrak through

Federal Fiscal Year (FFY) 2002-03. In 1998, the PTA Account was projected to have a six-year shortfall of \$158 million over the six-year period Fiscal Year (FY) 2000–01 through FY 2005-06. Recent legislation – AB 2928 (Statutes of 2000), Traffic Congestion Relief (TCR) Act of 2000 – was passed, in part, to resolve the PTA Account shortfall for the foreseeable future, even with increases in Intercity Rail operational costs. No one, however, expected the sudden downturn of the economy in 2001, which resulted in the re-financing of the TCR Program to free up General Fund revenues for non-transportation purposes. PTA Account revenues were re-directed as a loan to the TCR Program for cash flow purposes.

Amtrak's operational funding, which California relies upon, in part, for subsidizing its intercity rail service, continues to be reduced by the federal government, which wants Amtrak to be self-sufficient by FFY 2002-03 and not rely upon federal operating subsidies. Should the Amtrak operational subsidy cease, the State would need to contribute annually at least an additional \$10 million, adding another \$100 million to intercity rail's 10-year operating costs through 2010.

According to both Caltrans' preliminary draft 2001 Ten-Year Passenger Rail Plan and Amtrak's twenty-year plan, the projected capital improvement needs to maintain, enhance and expand intercity rail passenger service over the next ten years are expected to cost about \$4 billion. State Highway Account and PTA Account funds programmed in the State Transportation Improvement Program (STIP) would continue to provide a portion of the funding, but could only provide between \$200 to \$400 million per STIP cycle, which could leave a shortfall well in excess of \$2 billion. While AB 2928 has earmarked another \$197 million for intercity rail projects, a proposed \$12 billion nationwide bond for Amtrak capital projects remains on hold, pending further Congressional action.

### **Coordination With the Railroads of Funding and Project Delivery**

Given the growing significance that the Administration places on commuter and intercity passenger rail service in relieving traffic congestion, and the economic importance of freight rail service to California's economy, the State must develop procedures for working with the private sector railroads that maximize the benefits derived from public investment in rail infrastructure. The State should commit to a collaborative process at the executive level with the railroads to coordinate state and regional funding of capacity improvements for commuter and intercity rail with the railroads capital investment plans for their systems. It is also necessary to commit to an ongoing process of regular communication and cooperation on maintenance and operational issues in order to quickly resolve problems and to optimize the service provided to all that use the rail system. The Commission recommends that the Business, Transportation and Housing Agency meet with the railroads to establish a process that will achieve these goals.

### **Uncertain Economy and Deferral and Extension of Commitment on the State Level**

In 2000, the Davis Administration initiated a number of transportation proposals to help relieve traffic congestion, which resulted in the Traffic Congestion Relief Act of 2000 (AB 2928 and SB 1662). The TCR Act also provides \$197 million from the General Fund to the TCR Fund for specific intercity rail improvements on the Capitol, Pacific Surfliner, and San Joaquin intercity

rail corridors. The Commission has approved four of the five projects during 2001. The Department is currently completing the environmental, preliminary design and engineering work for the fifth project (bill reference # 92), which is to improve the San Joaquin track and signals. Once these phases are complete, the Department expects to submit an application by spring 2002 (see chart below).

**Traffic Congestion Relief Act Intercity Rail Projects**

<i>Bill Ref. #</i>	<i>Project Description</i>	<i>County</i>	<i>Funds Millions</i>
9	Capitol Corridor; improve intercity rail line between Oakland and San Jose, and at Jack London Square and Emeryville stations in Alameda and Santa Clara Counties. <b>Approved.</b>	Regional	\$25.0
35	Pacific Surfliner; triple track intercity rail line within Los Angeles County and add run-through-tracks through Los Angeles Union Station in Los Angeles County. <b>Approved.</b>	Los Angeles	\$100.0
74	Pacific Surfliner; double track intercity rail line within San Diego County, add maintenance yard in San Diego County. <b>Approved</b>	San Diego	\$47.0
92	San Joaquin Corridor; improve track and signals along San Joaquin intercity rail line near Hanford in Kings County. Not Approved.	Kings Co.	\$10.0
99	San Joaquin Corridor; improve track and signals along San Joaquin intercity rail line in seven counties. <b>Approved.</b>	Regional	\$15.0
<b>Total:</b>			\$197.0

However, due to the slowing economy, the Administration deferred funding the TCR Program from the General Fund for two years (FY 2001-02 and FY 2002-03). This action was possible because the projected cash flow needs of the TCR Program could accommodate the deferral. To balance the deferral, the Administration extended funding of the TCR Program for two additional years to FY 2007-08. The Administration also eliminated the transfer of \$173 million from the Transportation Investment Fund (created by AB 2928) to the PTA Account in FY 2001-02 and FY 2002-03 and loaned \$280 million in FY 2001-02 and FY 2002-03 (via AB 438, a trailer budget bill) from the PTA Account to the TCR Program for cash flow purposes. In the short-term over the next two fiscal years, the PTA Account could have up to \$453 million diverted from intercity rail operations as well as reducing programming capacity for rail/transit capital improvements in the State Transportation Improvement Program. It may be difficult over the next several years to fund intercity rail operations beyond existing service. Further, using the PTA Account to provide STIP programming capacity for rail/transit projects that do not qualify for State Highway Account funds may be problematic.

**Project Delivery Concerns and Cooperation from Private Railroads:**

Another concern is project delivery for intercity rail and local rail projects. In May and June of 2000, the Commission considered a number of extension requests for project delivery and noted a number of regional and state projects were being delayed because of the railroad corporations' untimely cooperation. The state and local agencies must be able to work with the railroad corporations to deliver needed road, transit, and rail projects where access and permission is

needed from those railroads. The Commission asked Caltrans and Commission staff to examine the issue and propose methods to improve cooperation and project delivery with the railroads.

In discussions with Caltrans, the Department noted that it was re-organizing to bring under the administrative control of one Caltrans deputy director the division offices that deal with projects requiring cooperation from the railroads. The re-organization would move the Railroad Agreements office from the Division of Engineering Services to the Division of Right-of-Way and transfer the Federal Section 130 (Grade Crossing) and State Section 190 (Grade Separation) programs to the Division of Rail. The Division of Engineering Services would retain the review of engineering plans. The actual re-assignment of staff and transfers would take about six months. The re-organization is intended to deal with railroads in a more timely, uniform, and efficient manner and thereby improve project delivery.

The Department's re-organization effort should only be considered a first step in ensuring that the state's projects are delivered in a timely manner. Some further steps that could be considered to improve project delivery are:

- the Administration should consider having cabinet- or directorate-level managers contact the involved railroads' executive management to help speed project delivery.
- the Department should consider offering staff support, when requested, to local jurisdictions that are also having problems from the railroads in delivering a project.
- the Department should annually survey the number of local and state projects that involve the railroads and help organize the scheduling of these projects with the railroads to facilitate the timely delivery of those projects.
- the Department and local jurisdictions may consider pursuing legislation that would permit public agencies to access railroad property after due notice is given.

#### **Status of Caltrans' Preliminary Draft Ten-Year Rail Passenger Program Report:**

In 2000, Caltrans updated its Ten-Year Rail Passenger Program Report (Report) for the first time since 1993. The Commission reviewed Caltrans' Ten-Year Report and provided advice to Caltrans so it could revise the Report before the Commission gave its consent at its November 2000 meeting. The next update of the Report is due in 2002. Caltrans is currently updating the Report. As part of that process, Caltrans presented a preliminary draft to the Commission's Public Transit Committee at its November 2001 meeting. The preliminary draft reflects the Commission's advice and contains:

- standards for meeting its Ten-Year Plan goals to provide rail as an alternative mode of transportation, congestion relief, clean air, fuel efficiency, and improved land use;

- standards for considering new capital projects. Projects must result in:
  - increased revenues, reduced costs, and improved farebox revenue to 50% or exceed it,
  - increased capacity for increased frequencies or improved reliability for better on-time performance,
  - reduced running times, more efficient service, and a competitive alternative to the automobile, and
  - new cost-effective routes;
- standards to:
  - add/remove service or segments to improve cost-effectiveness,
  - add new service to help State-supported service as a whole,
  - add new service where Caltrans has already paid for capacity increases, and others are now willing to pay for capital and/or operating needs;
- projected annual costs for operating. The costs are broken out by the State's contribution and Amtrak's contribution for operating subsidies. If Amtrak's contributions are picked up by the State, it would result in an additional \$10 million cost to the State.

Caltrans relied upon Amtrak's twenty-year plan in developing the ten-year \$4.0 billion capital improvement program in its preliminary draft Ten-Year Report. Of the \$4.0 billion, \$3.1 billion would be used on existing routes (Capitol [\$457.9 million], Pacific Surfliner [\$1,728.8 million], and San Joaquin [\$938.2 million]) to fund rolling stock, track and signal work, stations, maintenance facilities, and grade-crossing improvements. The remaining \$876.4 million could be used over the next ten years to start new routes and extensions in the following areas: Coast, Monterey, Redding, Reno, Las Vegas, and Coachella Valley.

The State's share of intercity rail operational costs would be covered from the PTA Account. State costs are projected to increase over the ten-year period from \$67.9 million/year to \$86.0 million/year for existing service. New routes would increase from \$8.6 million/year to \$31.2 million/year. By Caltrans' estimate at the end of ten years (FY 2010-11), California could be paying \$117.2 million/year for the State's portion of the subsidized cost. Under the worst scenario, Congress may not fund Amtrak operations past FFY 2002-03. California, if it wished to continue all State-supported intercity rail service, would have to pick up Amtrak's share. This would mean that by FY 2010-11, California could be contributing an additional \$10 million/year to cover Amtrak's share for existing service and new service. Thus, the total cost in FY 2010-11 could be as high as \$127.2 million/year.

The Commission's Public Transit Committee noted that Caltrans' \$4 billion capital program is predicated on the federal rail bond passing. The "fiscally constrained" alternative proposed by Caltrans is to extend the time frame for funding the capital program and fund it through upcoming State Transportation Improvement Program (STIP) cycles. The Public Transit Committee noted that if Caltrans received \$200 million/year in STIP funds (\$1 billion over 5 years or about 25% of the 2002 Fund Estimate), it would take Caltrans 20 years to meet its proposed 10-year \$4 billion capital program. The Public Transit Committee requested that

Caltrans determine what could be accomplished in 10 years, based upon the historical funding Intercity Rail has received from the STIP.

### **Ultra High-Speed Rail Planning Continues in California**

Planning for ultra high-speed rail, trains that exceed speeds of 200+ miles per hour, continues to move forward in California. In 1999, the California High-Speed Rail (HSR) Authority proposed that the State move forward on an incremental basis, rather than placing a ballot measure before the voters to issue bonds for an estimated \$25 billion project (1999 \$). Under existing law at that time, the HSR Authority would have terminated on June 30, 2001, because neither the Legislature nor the voters had approved a specified financial plan.

In 2000, the Legislature passed a bill, which was signed by the Governor, to extend the life of the Authority. AB 1703 (Florez, 2000):

- extends the termination date of the Authority until December 31, 2003, unless the Legislature repeals those provisions or provides a different termination date;
- provides for expiration of the terms of the current nine members of the Authority by January 1, 2001. Nine new members would be appointed to staggered terms by the Governor, the Senate Committee on Rules, and the Speaker of the Assembly;
- continues to give the Authority the exclusive authorization and responsibility for the planning, construction, and operation of high-speed passenger train service but changed the definition of high-speed rail from speeds exceeding 100 miles per hour (mph) to speeds exceeding 125 mph;
- allows the Authority to prepare a plan only upon an appropriation in the Budget Act for that purpose and would limit the submission of the plan to the Legislature and the Governor rather than submitting the plan for a vote of the electorate.

In 2000, the TCR Act (AB 2928, Torlakson) appropriated \$5 million to the HSR Authority to commence preliminary environmental documentation for implementing high-speed rail service in California. (The HSR Authority also received Proposition 116 funds from the Commission to study in more detail alternate routes between Bakersfield and Los Angeles through the Tehachapi.) In FY 2001-02, the HSR Authority started a three-year environmental process to prepare a program-level Environmental Impact Report (EIR)/Environmental Impact Statement (EIS) for a 700-mile high-speed train system serving Sacramento, the San Francisco Bay Area, the Central Valley, Los Angeles, the Inland Empire, Orange County and San Diego. These high-speed trains would be capable of traveling from San Francisco to Los Angeles in 2 hours and 30 minutes.

The Authority is the lead state agency for the state EIR and the Federal Railroad Administration (FRA) is the lead federal agency for the federal EIS. The HSR Authority and the FRA are in the process of completing a scoping process and evaluating numerous options for routes and stations, as well as the technology to be used. The HSR Authority and FRA are reviewing staff recommendations for the first screening of alternatives for the Bay Area-Merced, Los Angeles-

Bakersfield, Los Angeles-Inland Empire-San Diego, and Los Angeles-Orange County-San Diego regions.

The HSR Authority also decided against using magnetic levitation (mag-lev) technology for two reasons. First, the mag-lev trains cannot share track with conventional trains and adopting this technology for a California ultra-high speed rail system would bar this type of service from going into San Francisco, where insufficient right-of-way prevents adding another rail line. Second, no mag-lev trains are currently in commercial service anywhere in the world.

After receiving public and agency comments, HSR Authority staff will prepare a final draft scoping document for Authority approval in late 2001. Next year the HSR Authority intends to conduct the engineering and environmental analyses necessary to prepare a draft Program EIR/EIS for review and comment in late 2002 to early 2003.

### **Southern California Magnetic Levitation Project Suffers Setback**

The Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21) provides \$1.055 billion for a magnetic levitation (mag-lev) demonstration project. In 1999, the Southern California Association of Governments (SCAG) and the HSR Authority were co-recipients of one of seven grants of federal planning grant funds for the mag-lev demonstration project. SCAG and the HSR Authority received \$3.4 million to initiate preliminary engineering, begin environmental assessments and begin community outreach for SCAG's proposed 60-mile corridor linking Los Angeles International Airport (LAX) with March Inland Port in Riverside County, via Los Angeles Union Station and Ontario Airport.

In June 2000, SCAG, the HSR Authority, and the State Business, Transportation and Housing Agency submitted an application for \$1 million to the Federal Railroad Administration to proceed with full engineering and environmental clearance. (The Southern California mag-lev project would be designed to lure commuters off increasingly congested freeways.) In September 2000, FRA announced that it would fund the entire field of seven applicants for full engineering and environmental clearance.

In January 2001, U.S. Secretary of Transportation Rodney Slater announced the selection of two projects to advance to the next phase of competition, which is to build and demonstrate the first mag-lev high-speed train system in revenue service in the United States. One selected project is in Baltimore, Maryland (Camden Yard – Baltimore – Baltimore/Washington International Airport to Union Station in Washington, D.C.) and the other is in Pittsburgh, Pennsylvania (Pittsburgh Airport to Pittsburgh and its eastern suburbs). In the next phase, each project team is required to refine its estimates of ridership revenue and cost, its financial plan, strengthen the financial commitments of its sponsors, and begin work on a site-specific environmental assessment. Based on the information resulting from those efforts, the U.S. Department of Transportation (DOT) would then select a single project, which would be eligible for a grant of \$950 million in federal funding authorized for construction under TEA-21, and subject to appropriation by the Congress.

Although the SCAG project did not advance, the Secretary strongly encouraged the proponents of the projects in California, Florida, Georgia, Louisiana, and Nevada to continue to develop their plans and seek alternative sources of financing. Each of those projects received about \$1 million in federal funds, as specified by Congress in its FY 2001 appropriations. Should either project in Maryland or Pennsylvania falter early, it is possible that U.S. DOT could select another project to maintain the competition.

### **Amtrak Intercity Rail Continues to Face Uncertainty at the National Level**

The future of Amtrak intercity rail remains uncertain at the national level. On the negative side, the Amtrak Reform Council and the U.S. General Accounting Office have criticized Amtrak's poor track record in meeting its own goals. In past years, Congress has pressed Amtrak to conform to its mandate that Amtrak's operational funding be eliminated by FFY 2002-03. On the positive side, Congress is currently considering a ten-year, \$12 billion bond proposal (H.R. 2329 and S. 250) for funding Amtrak capital improvements, as well as another proposal (S. 1550, Rail Security Act of 2001) to provide up to \$1.8 billion in additional funding to deal with the September 11<sup>th</sup> terrorist attacks.

The Glass Is Half-Empty: The federally sanctioned Amtrak Reform Council and the U.S. General Accounting Office have criticized Amtrak for its aggressive and overly optimistic forecasts regarding funding, revenues, and operational efficiencies, its poor accounting methodology, and lack of strategic planning. The Council stated that Amtrak's 2000 Strategic Plan contains a number of elements that would not provide the benefits projected. A prime example is Amtrak's troubled new Northeast Corridor high-speed rail service, the Acela. The Acela service is supposed to be a net revenue generator (about \$183 million by 2003). The revenues generated would be used nationwide. The Acela service, which was suppose to start with the new millennium, started in early 2001, more than 12 months after its projected start.

The US General Accounting Office reported in its May 2000 report to Congress that Amtrak would need at least \$9 billion for capital improvements on the Northeast corridor, could face serious capital shortfalls beginning 2001, and would not reach operational self-sufficiency by 2003 without major corrective action.

In November 2001, the Amtrak Reform Council announced that it would order Amtrak to come up with a plan to liquidate itself, concluding that one more year would not be enough for the national railway to end 30 years of operating deficits. The Amtrak Reform Council voted 6-5 to declare that Amtrak would not meet a Congressional deadline of December 2, 2002, for covering its operating costs without government help.

The Council ruling does not mean any immediate changes in train service. Amtrak has 90 days to draw up a liquidation plan. The Council also intends to propose a plan to Congress for restructuring passenger rail service in America. The proposed restructuring could include recommendations to spin off pieces of Amtrak and re-organizing how national intercity rail is operated. Congress and the White House ultimately will review both plans and make a final decision about the future of Amtrak and rail service.

The Glass Is Half-Full: If H.R. 2329 and S. 250 pass, \$1 billion annually would be available to designated HSR corridors, providing a local match requirement of 20% is met. Initially, the 20% local match would be used to retire the federal bond, then at the discretion of Amtrak and the contributing state any remaining local match would be used to fund a project or retire more of the bond debt. Further, no more than \$3 billion of the funds can be directed to any one corridor. California's combined intercity passenger rail corridors, as well as the Coast Route, have been designated as one of ten such corridors nationwide eligible to compete for the \$12 billion that could be available FFY 2002 through FFY 2011.

S. 1550, if passed, would provide \$1.8 billion to Amtrak for security and system upgrades. Of that amount, \$515,000,000 would be available system-wide for security upgrades, including the reimbursement of extraordinary security-related costs incurred by Amtrak since September 11, 2001, and including the hiring and training additional police officers, canine-assisted security units, and surveillance equipment. The remaining \$1.3 billion would be targeted toward specific security and safety projects on the East Coast.

In response to the Amtrak Reform Council request that Amtrak prepare a liquidation plan, Amtrak questioned whether the Council took into account Amtrak's "heightened public service role" since the September 11<sup>th</sup> terrorist attacks. The law creating the Council required it to consider "acts of God, national emergencies, and other events beyond the reasonable control of Amtrak." Representative Jack Quinn, R-N.Y., chairman of the House Transportation subcommittee on railroads, also cited the September 11<sup>th</sup> attacks and said, "The Amtrak Reform Council's decision could not have come at a worse time." Further, Senate Commerce Chairman Senator Ernest Hollings, D-S.C., has proposed eliminating the self-sufficiency requirement as a part of a multibillion-dollar package for the railroad. Congress already has started to ponder Amtrak's future, so the ultimate impact of the Council's decision is unclear.

Carpe Diem: Regardless of the disposition of Amtrak, California should:

- be ready to pursue its "fair share" of federal funds that may become available, or
- be prepared to seek alternative funding sources to fund its ten-year capital plan, or
- consider which projects and corridors take priority with the funding available.
- express through its Congressional delegation that:
  - ⇒ Amtrak's statutory mandate that allows it to provide intercity rail passenger service on private railroads should be continued or transferred to the U.S. DOT, which could in turn delegate that right to the states.
  - ⇒ capital funding whether through federal bonds, direct appropriations, or some other financing mechanism should be available first to states that provide local matching funds. California supports intercity rail as evidenced by the funding provided from the STIP and TCRP Programs and operational funding from the PTA Account. California expects Amtrak in a re-structured form or the U.S. Department of Transportation to continue the intercity rail partnership, provide funding, and match dollar-for-dollar California's commitment.

