SENATE BILL No. 1

Introduced by Senator Beall
(Coauthors: Senators Dodd, Hertzberg, Hill, McGuire, Mendoza, Monning, Wieckowski, and Wiener)

December 5, 2016

An act to amend Sections 13975, 14500, 14526.5, and 16965 of, to add Sections 14033, 14110, 14526.7, and 16321 to, to add Part 5.1 (commencing with Section 14460) to Division 3 of Title 2 of, and to repeal Section 14534.1 of, the Government Code, to amend Section 39719 of the Health and Safety Code, to amend Section 21080.37 of, and to add Division 13.6 (commencing with Section 21200) to, the Public Resources Code, to amend Section 99312.1 of the Public Utilities Code, to amend Sections 6051.8, 6201.8, 7360, 8352.4, 8352.5, 8352.6, and 60050 of the Revenue and Taxation Code, to amend Sections 183.1, 2192, and 2192.2 of, to add Sections 820.1, 2103.1 and 2192.4 to, and to add Chapter 2 (commencing with Section 2030) to Division 3 of, the Streets and Highways Code, and to add Sections 9250.3, 9250.6, and 9400.5 to the Vehicle Code, relating to transportation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1, as introduced, Beall. Transportation funding.

(1) Existing law provides various sources of funding for transportation purposes, including funding for the state highway system and the local street and road system. These funding sources include, among others, fuel excise taxes, commercial vehicle weight fees, local transactions and use taxes, and federal funds. Existing law imposes certain registration fees on vehicles, with revenues from these fees deposited in the Motor Vehicle Account and used to fund the Department of Motor

Vehicles and the Department of the California Highway Patrol. Existing law provides for the monthly transfer of excess balances in the Motor Vehicle Account to the State Highway Account.

This bill would create the Road Maintenance and Rehabilitation Program to address deferred maintenance on the state highway system and the local street and road system. The bill would require the California Transportation Commission to adopt performance criteria, consistent with a specified asset management plan, to ensure efficient use of certain funds available for the program. The bill would provide for the deposit of various funds for the program in the Road Maintenance and Rehabilitation Account, which the bill would create in the State Transportation Fund, including revenues attributable to a $0.12 per gallon increase, phased in over 3 years, in the motor vehicle fuel (gasoline) tax imposed by the bill with an inflation adjustment, as provided, an increase of $38 in the annual vehicle registration fee with an inflation adjustment, as provided, a new $100 annual vehicle registration fee with an inflation adjustment, as provided, applicable to zero-emission motor vehicles, as defined, and certain miscellaneous revenues described in (7) below that are not restricted as to expenditure by Article XIX of the California Constitution.

This bill would annually set aside $200,000,000 of the funds available for the program to fund road maintenance and rehabilitation purposes in counties that have sought and received voter approval of taxes or that have imposed fees, including uniform developer fees, as defined, which taxes or fees are dedicated solely to transportation improvements. These funds would be continuously appropriated for allocation pursuant to guidelines to be developed by the California Transportation Commission in consultation with local agencies. The bill would require $80,000,000 of the funds available for the program to be annually transferred to the State Highway Account for expenditure on the Active Transportation Program. The bill would require $30,000,000 of the funds available for the program in each of 4 fiscal years beginning in 2017–18 to be transferred to the Advance Mitigation Fund created by the bill pursuant to (12) below. The bill would continuously appropriate $2,000,000 annually of the funds available for the program to the California State University for the purpose of conducting transportation research and transportation-related workforce education, training, and development. The bill would require the remaining funds available for the program to be allocated 50% for maintenance of the state highway system or to the state highway operation and protection program and

50% to cities and counties pursuant to a specified formula. The bill would impose various requirements on the department and agencies receiving these funds. The bill would authorize a city or county to spend its apportionment of funds under the program on transportation priorities other than those allowable pursuant to the program if the city's or county's average Pavement Condition Index meets or exceeds 80.

The bill would also require the department to annually identify savings achieved through efficiencies implemented at the department and to propose, from the identified savings, an appropriation to be included in the annual Budget Act of up to $70,000,000 from the State Highway Account for expenditure on the Active Transportation Program.

(2) Existing law establishes in state government the Transportation Agency, which includes various departments and state entities, including the California Transportation Commission. Existing law vests the California Transportation Commission with specified powers, duties, and functions relative to transportation matters. Existing law requires the commission to retain independent authority to perform the duties and functions prescribed to it under any provision of law.

This bill would exclude the California Transportation Commission from the Transportation Agency, establish it as an entity in state government, and require it to act in an independent oversight role. The bill would also make conforming changes.

(3) Existing law creates various state agencies, including the Department of Transportation, the High-Speed Rail Authority, the Department of the California Highway Patrol, the Department of Motor Vehicles, and the State Air Resources Board, with specified powers and duties. Existing law provides for the allocation of state transportation funds to various transportation purposes.

This bill would create the Office of the Transportation Inspector General in state government, as an independent office that would not be a subdivision of any other government entity, to ensure that all of the above-referenced state agencies and all other state agencies expending state transportation funds are operating efficiently, effectively, and in compliance with federal and state laws. The bill would provide for the Governor to appoint the Transportation Inspector General for a 6-year term, subject to confirmation by the Senate, and would provide that the Transportation Inspector General may not be removed from office during the term except for good cause. The bill would specify the duties and responsibilities of the Transportation

Inspector General and would require an annual report to the Legislature and Governor.

This bill would require the department to update the Highway Design Manual to incorporate the “complete streets” design concept by January 1, 2018. The bill would require the department to develop a plan by January 1, 2020, to increase by 100% the dollar value of contracts awarded to small businesses, disadvantaged business enterprises, and disabled veteran business enterprises.

(4) Existing law provides for loans of revenues from various transportation funds and accounts to the General Fund, with various repayment dates specified.

This bill would require the Department of Finance, on or before March 1, 2017, to compute the amount of outstanding loans made from specified transportation funds. The bill would require the Department of Transportation to prepare a loan repayment schedule and would require the outstanding loans to be repaid pursuant to that schedule, as prescribed. The bill would appropriate funds for that purpose from the Budget Stabilization Account. The bill would require the repaid funds to be transferred, pursuant to a specified formula, to cities and counties and to the department for maintenance of the state highway system and for purposes of the state highway operation and protection program.

(5) The Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Proposition 1B) created the Trade Corridors Improvement Fund and provided for allocation by the California Transportation Commission of $2 billion in bond funds for infrastructure improvements on highway and rail corridors that have a high volume of freight movement and for specified categories of projects eligible to receive these funds. Existing law continues the Trade Corridors Improvement Fund in existence in order to receive revenues from sources other than the bond act for these purposes.

This bill would deposit the revenues attributable to a $0.20 per gallon increase in the diesel fuel excise tax imposed by the bill into the Trade Corridors Improvement Fund. The bill would require revenues apportioned to the state from the national highway freight program established by the federal Fixing America’s Surface Transportation Act to be allocated for trade corridor improvement projects approved pursuant to these provisions.

Existing law requires the commission, in determining projects eligible for funding, to consult various state freight and regional infrastructure and goods movement plans and the statewide port master plan.

This bill would revise the list of plans to be consulted by the commission in prioritizing projects for funding. The bill would also expand eligible projects to include, among others, rail landside access improvements, landside freight access improvements to airports, and certain capital and operational improvements. The bill would identify specific amounts to be allocated from available federal funds to certain categories of projects.

(6) Existing law requires all moneys, except for fines and penalties, collected by the State Air Resources Board from the auction or sale of allowances as part of a market-based compliance mechanism relative to reduction of greenhouse gas emissions to be deposited in the Greenhouse Gas Reduction Fund. Existing law continuously appropriates 10% of the annual proceeds of the fund to the Transit and Intercity Rail Capital Program and 5% of the annual proceeds of the fund to the Low Carbon Transit Operations Program.

This bill would, beginning in the 2017-18 fiscal year, instead continuously appropriate 20% of those annual proceeds to the Transit and Intercity Rail Capital Program and 10% of those annual proceeds to the Low Carbon Transit Operations Program, thereby making an appropriation.

(7) Article XIX of the California Constitution restricts the expenditure of revenues from taxes imposed by the state on fuels used in motor vehicles upon public streets and highways to street and highway and certain mass transit purposes. Existing law requires certain miscellaneous revenues deposited in the State Highway Account that are not restricted as to expenditure by Article XIX of the California Constitution to be transferred to the Transportation Debt Service Fund in the State Transportation Fund, as specified, and requires the Controller to transfer from the fund to the General Fund an amount of those revenues necessary to offset the current year debt service made from the General Fund on general obligation transportation bonds issued pursuant to Proposition 116 of 1990.

This bill would delete the transfer of these miscellaneous revenues to the Transportation Debt Service Fund, thereby eliminating the offsetting transfer to the General Fund for debt service on general obligation transportation bonds issued pursuant to Proposition 116 of 1990. The bill, subject to a specified exception, would instead require the miscellaneous revenues to be retained in the State Highway Account and to be deposited in the Road Maintenance and Rehabilitation Account.

(8) Article XIX of the California Constitution requires gasoline excise tax revenues from motor vehicles traveling upon public streets and highways to be deposited in the Highway Users Tax Account, for allocation to city, county, and state transportation purposes. Existing law generally provides for statutory allocation of gasoline excise tax revenues attributable to other modes of transportation, including aviation, boats, agricultural vehicles, and off-highway vehicles, to particular accounts and funds for expenditure on purposes associated with those other modes, except that a specified portion of these gasoline excise tax revenues is deposited in the General Fund. Expenditure of the gasoline excise tax revenues attributable to those other modes is not restricted by Article XIX of the California Constitution.

This bill, commencing July 1, 2017, would instead transfer to the Highway Users Tax Account for allocation to state and local transportation purposes under a specified formula the portion of gasoline excise tax revenues currently being deposited in the General Fund that are attributable to boats, agricultural vehicles, and off-highway vehicles. Because that account is continuously appropriated, the bill would make an appropriation. The bill, commencing July 1, 2017, would transfer, to the Road Maintenance and Rehabilitation Account, the portion of gasoline excise tax revenues attributable to these uses that would be derived from increases in the gasoline excise tax rate described in (1) above.

(9) Existing law, as of July 1, 2011, increases the sales and use tax on diesel and decreases the excise tax, as provided. Existing law requires the State Board of Equalization to annually modify both the gasoline and diesel excise tax rates on a going-forward basis so that the various changes in the taxes imposed on gasoline and diesel are revenue neutral.

This bill would eliminate the annual rate adjustment to maintain revenue neutrality for the gasoline and diesel excise tax rates and would reimpose the higher gasoline excise tax rate that was in effect on July 1, 2010, in addition to the increase in the rate described in (1) above.

Existing law, beyond the sales and use tax rate generally applicable, imposes an additional sales and use tax on diesel fuel at the rate of 1.75%, subject to certain exemptions, and provides for the net revenues collected from the additional tax to be transferred to the Public Transportation Account. Existing law continuously appropriates these and other revenues in the account to the Controller for allocation by formula to transportation agencies for public transit purposes under the State Transit Assistance Program. Existing law provides for appropriation of other revenues in the account to the Department of Transportation for various other transportation purposes, including intercity rail purposes.

This bill would increase the additional sales and use tax rate on diesel fuel by an additional 4%. The bill would restrict expenditures of revenues attributable to the 3.5% rate increase to transit capital purposes and certain transit services and would require a recipient transit agency to comply with certain requirements, including submitting a list of proposed projects to the Department of Transportation, as a condition of receiving a portion of these funds under the State Transit Assistance Program. The bill would require an existing required audit of transit operator finances to verify that these new revenues have been expended in conformance with these specific restrictions and all other generally applicable requirements. By increasing the amount of revenues in the Public Transportation Account that are continuously appropriated, the bill would thereby make an appropriation. The bill would require the revenues attributable to the remaining 0.5% rate increase to be allocated, upon appropriation, to the department for intercity rail and commuter rail purposes.

This bill would, beginning July 1, 2020, and every 3rd year thereafter, require the State Board of Equalization to recompute the gasoline and diesel excise tax rates and the additional sales and use tax rate on diesel fuel based upon the percentage change in the California Consumer Price Index transmitted to the board by the Department of Finance, as prescribed.

(10) Existing law requires the Department of Transportation to prepare a state highway operation and protection program every other year for the expenditure of transportation capital improvement funds for projects that are necessary to preserve and protect the state highway system, excluding projects that add new traffic lanes. The program is required to be based on an asset management plan, as specified. Existing law requires the department to specify, for each project in the program the capital and support budget and projected delivery date for various components of the project. Existing law provides for the California Transportation Commission to review and adopt the program, and authorizes the commission to decline and adopt the program if it determines that the program is not sufficiently consistent with the asset management plan.

This bill would require the commission, as part of its review of the program, to hold at least one hearing in northern California and one hearing in southern California regarding the proposed program. The bill would require the department to submit any change to a programmed project as an amendment to the commission for its approval.

This bill, on and after August 1, 2017, would also require the commission to make an allocation of all capital and support costs for each project in the program, and would require the department to submit a supplemental project allocation request to the commission for each project that experiences cost increases above the amounts in its allocation. The bill would require the commission to establish guidelines to provide exceptions to the requirement for a supplemental project allocation requirement that the commission determines are necessary to ensure that projects are not unnecessarily delayed.

(11) Existing law imposes weight fees on the registration of commercial motor vehicles and provides for the deposit of net weight fee revenues into the State Highway Account. Existing law provides for the transfer of certain weight fee revenues from the State Highway Account to the Transportation Debt Service Fund to reimburse the General Fund for payment of debt service on general obligation bonds issued for transportation purposes. Existing law also provides for the transfer of certain weight fee revenues to the Transportation Bond Direct Payment Account for direct payment of debt service on designated bonds, which are defined to be certain transportation general obligation bonds issued pursuant to Proposition 1B of 2006. Existing law also provides for loans of weight fee revenues to the General Fund to the extent the revenues are not needed for bond debt service purposes, with the loans to be repaid when the revenues are later needed for those purposes, as specified.

This bill, notwithstanding these provisions or any other law, would only authorize specified percentages of weight fee revenues to be transferred from the State Highway Account to the Transportation Debt Service Fund, the Transportation Bond Direct Payment Account, or any other fund or account for the purpose of payment of the debt service on transportation general obligation bonds in accordance with a prescribed schedule, with no more than 50% of weight fee revenues to be used for debt service purposes beginning with the 2021–22 fiscal year. The bill would require the California Transportation Commission, by January 1, 2018, to recommend a course of action to the Legislature and Governor that would retain the remaining 50% share of weight fee revenues in the State Highway Account or provide for the transfer of those revenues to the Road Maintenance and Rehabilitation Account.

The bill would also prohibit loans of weight fee revenues to the General Fund.

(12) The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment.

CEQA, until January 1, 2020, exempts a project or an activity to repair, maintain, or make minor alterations to an existing roadway, as defined, other than a state roadway, if the project or activity is carried out by a city or county with a population of less than 100,000 persons to improve public safety and meets other specified requirements.

This bill would extend the above-referenced exemption indefinitely and delete the limitation of the exemption to projects or activities in cities and counties with a population of less than 100,000 persons. The bill would also expand the exemption to include state roadways.

This bill would also establish the Advance Mitigation Program in the Department of Transportation. The bill would authorize the department to undertake specified mitigation measures in advance of construction of planned transportation improvements. The bill would require the department to establish a steering committee to advise the department on advance mitigation measures and related matters. The bill would create the Advance Mitigation Fund as a continuously appropriated revolving fund, to be funded initially from the Road Maintenance and Rehabilitation Program pursuant to (1) above. The bill would provide for reimbursement of the revolving fund at the time a planned transportation improvement benefiting from advance mitigation is constructed.

(13) Existing federal law requires the United States Secretary of Transportation to carry out a surface transportation project delivery program, under which the participating states assume certain responsibilities for environmental review and clearance of transportation projects that would otherwise be the responsibility of the federal government. Existing law, until January 1, 2017, when these provisions

are repealed, provides that the State of California consents to the jurisdiction of the federal courts with regard to the compliance, discharge, or enforcement of the responsibilities the Department of Transportation assumed as a participant in this program.

This bill would reenact these provisions.

(14) This bill would provide that the fuel tax increases imposed by the bill would be effective on July 1, 2017. The bill would provide that the vehicle fee increases imposed by the bill would be effective on October 1, 2017.

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

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Over the next 10 years, the state faces a $59 billion shortfall to adequately maintain the existing state highway system in order to keep it in a basic state of good repair.

(b) Similarly, cities and counties face a $78 billion shortfall over the next decade to adequately maintain the existing network of local streets and roads.

(c) Statewide taxes and fees dedicated to the maintenance of the system have not been increased in more than 20 years, with those revenues losing more than 55 percent of their purchasing power, while costs to maintain the system have steadily increased and much of the underlying infrastructure has aged past its expected useful life.

(d) California motorists are spending $17 billion annually in extra maintenance and car repair bills, which is more than $700 per driver, due to the state's poorly maintained roads.

(e) Failing to act now to address this growing problem means that more drastic measures will be required to maintain our system in the future, essentially passing the burden on to future generations instead of doing our job today.

(f) A funding program will help address a portion of the maintenance backlog on the state's road system and will stop the growth of the problem.

(g) Modestly increasing various fees can spread the cost of road repairs broadly to all users and beneficiaries of the road network without overburdening any one group.

(h) Improving the condition of the state's road system will have a positive impact on the economy as it lowers the transportation costs of doing business, reduces congestion impacts for employees, and protects property values in the state.

(i) The federal government estimates that increased spending on infrastructure creates more than 13,000 jobs per $1 billion spent.

(j) Well-maintained roads benefit all users, not just drivers, as roads are used for all modes of transport, whether motor vehicles, transit, bicycles, or pedestrians.

(k) Well-maintained roads additionally provide significant health benefits and prevent injuries and death due to crashes caused by poorly maintained infrastructure.

(*l*) A comprehensive, reasonable transportation funding package will do all of the following:

(1) Ensure these transportation needs are addressed.

(2) Fairly distribute the economic impact of increased funding.

(3) Restore the gas tax rate previously reduced by the State Board of Equalization pursuant to the gas tax swap.

(4) Direct increased revenue to the state's highest transportation needs.

SEC. 2. Section 13975 of the Government Code is amended to read:

13975. There is in the state government the Transportation Agency. The agency consists of the Department of the California Highway Patrol, ~~the California Transportation Commission,~~ the Department of Motor Vehicles, the Department of Transportation, the High-Speed Rail Authority, and the Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun.

SEC. 3. Section 14033 is added to the Government Code, to read:

14033. On or before January 1, 2018, the department shall update the Highway Design Manual to incorporate the "complete streets" design concept.

SEC. 4. Section 14110 is added to the Government Code, to read:

14110. The department shall develop a plan by January 1, 2020, to increase by 100 percent the dollar value of contracts awarded to small businesses, disadvantaged business enterprises, and disabled veteran business enterprises.

SEC. 5. Part 5.1 (commencing with Section 14460) is added to Division 3 of Title 2 of the Government Code, to read:

PART 5.1. OFFICE OF THE TRANSPORTATION INSPECTOR GENERAL

14460. (a) There is hereby created in state government the independent Office of the Transportation Inspector General, which shall not be a subdivision of any other governmental entity, to ensure that the Department of Transportation, the High-Speed Rail Authority, the Department of the California Highway Patrol, the Department of Motor Vehicles, the State Air Resources Board, and all other state agencies expending state transportation funds are operating efficiently, effectively, and in compliance with applicable federal and state laws.

(b) The Governor shall appoint, subject to confirmation by the Senate, the Transportation Inspector General to a six-year term. The Transportation Inspector General may not be removed from office during that term, except for good cause. A finding of good cause may include substantial neglect of duty, gross misconduct, or conviction of a crime. The reasons for removal of the Transportation Inspector General shall be stated in writing and shall include the basis for removal. The writing shall be sent to the Secretary of the Senate and the Chief Clerk of the Assembly at the time of the removal and shall be deemed to be a public document.

14461. The Transportation Inspector General shall review policies, practices, and procedures and conduct audits and investigations of activities involving state transportation funds in consultation with all affected state agencies. Specifically, the Transportation Inspector General's duties and responsibilities shall include, but not be limited to, all of the following:

(a) To examine the operating practices of all state agencies expending state transportation funds to identify fraud and waste, opportunities for efficiencies, and opportunities to improve the data used to determine appropriate project resource allocations.

(b) To identify best practices in the delivery of transportation projects and develop policies or recommend proposed legislation enabling state agencies to adopt these practices when practicable.

(c) To provide objective analysis of and, when possible, offer solutions to concerns raised by the public or generated within agencies involving the state's transportation infrastructure and project delivery methods.

(d) To conduct, supervise, and coordinate audits and investigations relating to the programs and operations of all state transportation agencies with state-funded transportation projects.

(e) To recommend policies promoting economy and efficiency in the administration of programs and operations of all state agencies with state-funded transportation projects.

(f) To ensure that the Secretary of Transportation and the Legislature are fully and currently informed concerning fraud or other serious abuses or deficiencies relating to the expenditure of funds or administration of programs and operations.

14462. The Transportation Inspector General shall report at least annually to the Governor and Legislature with a summary of his or her findings, investigations, and audits. The summary shall be posted on the Transportation Inspector General's Internet Web site and shall otherwise be made available to the public upon its release to the Governor and Legislature. The summary shall include, but need not be limited to, significant problems discovered by the Transportation Inspector General and whether recommendations of the Transportation Inspector General relative to investigations and audits have been implemented by the affected agencies. The report shall be submitted to the Legislature in compliance with Section 9795.

SEC. 6. Section 14500 of the Government Code is amended to read:

14500. There is in ~~the Transportation Agency~~ *state government* a California Transportation Commission. *The commission shall act in an independent oversight role.*

SEC. 7. Section 14526.5 of the Government Code is amended to read:

14526.5. (a) Based on the asset management plan prepared and approved pursuant to Section 14526.4, the department shall prepare a state highway operation and protection program for the expenditure of transportation funds for major capital improvements that are necessary to preserve and protect the state highway system. Projects included in the program shall be limited to ~~capital~~ improvements relative to the maintenance, safety, operation, and rehabilitation of state highways and bridges that do not add a new traffic lane to the system.

(b) The program shall include projects that are expected to be advertised prior to July 1 of the year following submission of the program, but which have not yet been funded. The program shall include those projects for which construction is to begin within four fiscal years, starting July 1 of the year following the year the program is submitted.

(c) *(1)* The department, at a minimum, shall specify, for each project in the state highway operation and protection program, the capital and support ~~budget, as well as a projected delivery date,~~ *budget* for each of the following project components:

~~(1) Completion of project~~

(A) Project approval and environmental documents.

~~(2) Preparation of plans,~~

(B) Plans, specifications, and estimates.

~~(3) Acquisition of rights-of-way, including, but not limited to, support activities.~~

(C) Rights-of-way.

(D) Construction.

(2) The department shall specify, for each project in the state highway operation and protection program, a projected delivery date for each of the following components:

(A) Environmental document completion.

(B) Plans, specifications, and estimate completion.

(C) Right-of-way certification.

~~(4)~~

(D) Start of construction.

(d) The ~~program shall be submitted~~ *department shall submit its proposed program* to the commission not later than January 31 of each even-numbered year. Prior to submitting ~~the plan, the~~ *its proposed program, the* department shall make a draft of its proposed program available to transportation planning agencies for review and comment and shall include the comments in its submittal to the commission. *The department shall provide the commission with detailed information for all programmed projects,* *including, but not limited to, cost, scope, schedule, and performance metrics as determined by the commission.*

(e) The commission ~~may~~ *shall* review the *proposed* program relative to its overall adequacy, consistency with the asset management plan prepared and approved pursuant to Section 14526.4 and funding priorities established in Section 167 of the Streets and Highways Code, the level of annual funding needed to implement the program, and the impact of those expenditures on the state transportation improvement program. The commission shall adopt the program and submit it to the Legislature and the Governor not later than April 1 of each even-numbered year. The commission may decline to adopt the program if the commission determines that the program is not sufficiently consistent with the asset management plan prepared and approved pursuant to Section 14526.4.

(f) As part of the commission's review of the program required pursuant to subdivision (a), the commission shall hold at least one hearing in northern California and one hearing in southern California regarding the proposed program.

~~(f)~~

(g) Expenditures for these projects shall not be subject to Sections 188 and 188.8 of the Streets and Highways Code.

(h) Following adoption of the state highway operation and protection program by the commission, any change to a programmed project shall be submitted as an amendment by the department to the commission for its approval before the change may be implemented.

SEC. 8. Section 14526.7 is added to the Government Code, to read:

14526.7. (a) On and after August 1, 2017, an allocation by the commission of all capital and support costs for each project in the state highway operation and protection program shall be required.

(b) For a project that experiences increases in capital or support costs above the amounts in the commission's allocation pursuant to subdivision (a), a supplemental project allocation request shall be submitted by the department to the commission for approval.

(c) The commission shall establish guidelines to provide exceptions to the requirement of subdivision (b) that the commission determines are necessary to ensure that projects are not unnecessarily delayed.

SEC. 9. Section 14534.1 of the Government Code is repealed.

~~14534.1. Notwithstanding Section 12850.6 or subdivision (b) of Section 12800, as added to this code by the Governor's Reorganization Plan No. 2 of 2012 during the 2011–12 Regular Session, the commission shall retain independent authority to perform those duties and functions prescribed to it under any provision of law.~~

SEC. 10. Section 16321 is added to the Government Code, to read:

16321. (a) Notwithstanding any other law, on or before March 1, 2017, the Department of Finance shall compute the amount of outstanding loans made from the State Highway Account, the Motor Vehicle Fuel Account, the Highway Users Tax Account, and the Motor Vehicle Account to the General Fund. The department shall prepare a loan repayment schedule, pursuant to which the outstanding loans shall be repaid, as follows:

(1) On or before December 31, 2017, 50 percent of the outstanding loan amounts.

(2) On or before December 31, 2018, the remainder of the outstanding loan amounts.

(b) Notwithstanding any other law, as the loans are repaid pursuant to this section, the repaid funds shall be transferred in the following manner:

(1) Fifty percent to cities and counties pursuant to clauses (i) and (ii) of subparagraph (C) of paragraph (3) of subdivision (a) of Section 2103 of the Streets and Highways Code.

(2) Fifty percent to the department for maintenance of the state highway system and for purposes of the state highway operation and protection program.

(c) Funds for loan repayments pursuant to this section are hereby appropriated from the Budget Stabilization Account pursuant to subclause (II) of clause (ii) of subparagraph (B) of paragraph (1) of subdivision (c) of Section 20 of Article XVI of the California Constitution.

SEC. 11. Section 16965 of the Government Code is amended to read:

16965. (a) (1) The Transportation Debt Service Fund is hereby created in the State Treasury. Moneys in the fund shall be dedicated to all of the following purposes:

(A) Payment of debt service with respect to designated bonds, as defined in subdivision (c) of Section 16773, and as further provided in paragraph (3) and subdivision (b).

(B) To reimburse the General Fund for debt service with respect to bonds.

(C) To redeem or retire bonds, pursuant to Section 16774, maturing in a subsequent fiscal year.

(2) The bonds eligible under subparagraph (B) or (C) of paragraph (1) include bonds issued pursuant to the ~~Clean Air and Transportation Improvement Act of 1990 (Part 11.5 (commencing with Section 99600) of Division 10 of the Public Utilities Code), the~~ Passenger Rail and Clean Air Bond Act of 1990 (Chapter 17 (commencing with Section 2701) of Division 3 of the Streets and Highways Code), the Seismic Retrofit Bond Act of 1996 (Chapter 12.48 (commencing with Section 8879) of Division 1 of Title 2), and the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century (Chapter 20 (commencing with Section 2704) of Division 3 of the Streets and Highways Code), and nondesignated bonds under Proposition 1B, as defined in subdivision (c) of Section 16773.

(3) (A) The Transportation Bond Direct Payment Account is hereby created in the State Treasury, as a subaccount within the Transportation Debt Service Fund, for the purpose of directly paying the debt service, as defined in paragraph (4), of designated bonds of Proposition 1B, as defined in subdivision (c) of Section 16773. Notwithstanding Section 13340, moneys in the Transportation Bond Direct Payment Account are continuously appropriated for payment of debt service with respect to designated bonds as provided in subdivision (c) of Section 16773. So long as any designated bonds remain outstanding, the moneys in the Transportation Bond Direct Payment Account may not be used for any other purpose, and may not be borrowed by or available for transfer to the General Fund pursuant to Section 16310 or any similar law, or to the General Cash Revolving Fund pursuant to Section 16381 or any similar law.

(B) Once the Treasurer makes a certification that payment of debt service with respect to all designated bonds has been paid or provided for, any remaining moneys in the Transportation Bond Direct Payment Account shall be transferred back to the Transportation Debt Service Fund.

(C) The moneys in the Transportation Bond Direct Payment Account shall be invested in the Surplus Money Investment Fund, and all investment earnings shall accrue to the account.

(D) The Controller may establish subaccounts within the Transportation Bond Direct Payment Account as may be required by the resolution, indenture, or other documents governing any designated bonds.

(4) For purposes of this subdivision and subdivision (b), and subdivision (c) of Section 16773, "debt service" means payment of all of the following costs and expenses with respect to any designated bond:

(A) The principal of and interest on the bonds.

(B) Amounts payable as the result of tender on any bonds, as described in clause (iv) of subparagraph (B) of paragraph (1) of subdivision (d) of Section 16731.

(C) Amounts payable under any contractual obligation of the state to repay advances and pay interest thereon under a credit enhancement or liquidity agreement as described in clause (iv) of subparagraph (B) of paragraph (1) of subdivision (d) of Section 16731.

(D) Any amount owed by the state to a counterparty after any offset for payments owed to the state on any hedging contract as described in subparagraph (A) of paragraph (2) of subdivision (d) of Section 16731.

(b) From the moneys transferred to the fund pursuant to paragraph (2) or (3) of subdivision (c) of Section 9400.4 of the Vehicle Code, there shall first be deposited into the Transportation Bond Direct Payment Account in each month sufficient funds to equal the amount designated in a certificate submitted by the Treasurer to the Controller and the Director of Finance at the start of each fiscal year, and as may be modified by the Treasurer thereafter upon issuance of any new issue of designated bonds or upon change in circumstances that requires such a modification. This certificate shall be calculated by the Treasurer to identify, for each month, the amount necessary to fund all of the debt service with respect to all designated bonds. This calculation shall be done in a manner provided in the resolution, indenture, or other documents governing the designated bonds. In the event that transfers to the Transportation Bond Direct Payment Account in any month are less than the amounts required in the Treasurer's certificate, the shortfall shall carry over to be part of the required payment in the succeeding month or months.

(c) The state hereby covenants with the holders from time to time of any designated bonds that it will not alter, amend, or restrict the provisions of subdivision (c) of Section 16773 of the Government Code, or Sections 9400, 9400.1, 9400.4, and 42205 of the Vehicle Code, which provide directly or indirectly for the transfer of weight fees to the Transportation Debt Service Fund or the Transportation Bond Direct Payment Account, or subdivisions (a) and (b) of this section, or reduce the rate of imposition of vehicle weight fees under Sections 9400 and 9400.1 of the Vehicle Code as they existed on the date of the first issuance of any designated bonds, if that alteration, amendment, restriction, or reduction would result in projected weight fees for the next fiscal year determined by the Director of Finance being less than two times the maximum annual debt service with respect to all outstanding designated bonds, as such calculation is determined pursuant to the resolution, indenture, or other documents governing the designated bonds. The state may include this covenant in the resolution, indenture, or other documents governing the designated bonds.

(d) Once the required monthly deposit, including makeup of any shortfalls from any prior month, has been made pursuant to subdivision (b), from moneys transferred to the fund pursuant to paragraph (2) or (3) of subdivision (c) of Section 9400.4 of the Vehicle Code, or pursuant to Section 16965.1 or 63048.67, the Controller shall transfer as an expenditure reduction to the General Fund any amount necessary to offset the cost of current year debt service payments made from the General Fund with respect to any bonds issued pursuant to Proposition 192 (1996) and three-quarters of the amount of current year debt service payments made from the General Fund with respect to any nondesignated bonds, as defined in subdivision (c) of Section 16773, issued pursuant to Proposition 1B (2006). In the alternative, these funds may also be used to redeem or retire the applicable bonds, pursuant to Section 16774, maturing in a subsequent fiscal year as directed by the Director of Finance.

~~(e) From moneys transferred to the fund pursuant to Section 183.1 of the Streets and Highways Code, the Controller shall transfer as an expenditure reduction to the General Fund any~~

~~amount necessary to offset the cost of current year debt service payments made from the General Fund with respect to any bonds issued pursuant to Proposition 116 (1990). In the alternative, these funds may also be used to redeem or retire the applicable bonds, pursuant to Section 16774, maturing in a subsequent fiscal year as directed by the Director of Finance.~~

~~(f)~~

(e) Once the required monthly deposit, including makeup of any shortfalls from any prior month, has been made pursuant to subdivision (b), from moneys transferred to the fund pursuant to paragraph (2) or (3) of subdivision (c) of Section 9400.4 of the Vehicle Code, or pursuant to Section 16965.1 or 63048.67, the Controller shall transfer as an expenditure reduction to the General Fund any amount necessary to offset the eligible cost of current year debt service payments made from the General Fund with respect to any bonds issued pursuant to Proposition 108 (1990) and Proposition 1A (2008), and one-quarter of the amount of current year debt service payments made from the General Fund with respect to any nondesignated bonds, as defined in subdivision (c) of Section 16773, issued pursuant to Proposition 1B (2006). The Department of Finance shall notify the Controller by July 30 of every year of the percentage of debt service that is expected to be paid in that fiscal year with respect to bond-funded projects that qualify as eligible guideway projects consistent with the requirements applicable to the expenditure of revenues under Article XIX of the California Constitution, and the Controller shall make payments only for those eligible projects. In the alternative, these funds may also be used to redeem or retire the applicable bonds, pursuant to Section 16774, maturing in a subsequent fiscal year as directed by the Director of Finance.

~~(g)~~

(f) On or before the second business day following the date on which transfers are made to the Transportation Debt Service Fund, and after the required monthly deposits for that month, including makeup of any shortfalls from any prior month, have been made to the Transportation Bond Direct Payment Account, the Controller shall transfer the funds designated for reimbursement of bond debt service with respect to nondesignated bonds, as defined in subdivision (c) of Section 16773, and other bonds identified in

subdivisions ~~(d), (e), and (f)~~ *(d) and (e)* in that month from the fund to the General Fund pursuant to this section.

SEC. 12. Section 39719 of the Health and Safety Code is amended to read:

39719. (a) The Legislature shall appropriate the annual proceeds of the fund for the purpose of reducing greenhouse gas emissions in this state in accordance with the requirements of Section 39712.

(b) To carry out a portion of the requirements of subdivision (a), annual proceeds are continuously appropriated for the following:

(1) Beginning in the ~~2015–16~~ *2017–18* fiscal year, and notwithstanding Section 13340 of the Government Code, ~~35~~ *50* percent of annual proceeds are continuously appropriated, without regard to fiscal years, for transit, affordable housing, and sustainable communities programs as ~~following:~~ *follows:*

(A) ~~Ten~~ *Twenty* percent of the annual proceeds of the fund is hereby continuously appropriated to the Transportation Agency for the Transit and Intercity Rail Capital Program created by Part 2 (commencing with Section 75220) of Division 44 of the Public Resources Code.

(B) ~~Five~~ *Ten* percent of the annual proceeds of the fund is hereby continuously appropriated to the Low Carbon Transit Operations Program created by Part 3 (commencing with Section 75230) of Division 44 of the Public Resources Code. ~~Funds~~ *Moneys* shall be allocated by the Controller, according to requirements of the program, and pursuant to the distribution formula in subdivision (b) or (c) of Section 99312 of, and Sections 99313 and 99314 of, the Public Utilities Code.

(C) Twenty percent of the annual proceeds of the fund is hereby continuously appropriated to the Strategic Growth Council for the Affordable Housing and Sustainable Communities Program created by Part 1 (commencing with Section 75200) of Division 44 of the Public Resources Code. Of the amount appropriated in this subparagraph, no less than 10 percent of the annual ~~proceeds,~~ *proceeds* shall be expended for affordable housing, consistent with the provisions of that program.

(2) Beginning in the 2015–16 fiscal year, notwithstanding Section 13340 of the Government Code, 25 percent of the annual proceeds of the fund is hereby continuously appropriated to the

High-Speed Rail Authority for the following components of the initial operating segment and Phase I Blended System as described in the 2012 business plan adopted pursuant to Section 185033 of the Public Utilities Code:

(A) Acquisition and construction costs of the project.

(B) Environmental review and design costs of the project.

(C) Other capital costs of the project.

(D) Repayment of any loans made to the authority to fund the project.

(c) In determining the amount of annual proceeds of the fund for purposes of the calculation in subdivision (b), the funds subject to Section 39719.1 shall not be included.

SEC. 13. Section 21080.37 of the Public Resources Code is amended to read:

21080.37. (a) This division does not apply to a project or an activity to repair, maintain, or make minor alterations to an existing roadway if all of the following conditions are met:

~~(1) The project is carried out by a city or county with a population of less than 100,000 persons to improve public safety.~~

~~(2)~~

(1) (A) The project does not cross a waterway.

(B) For purposes of this paragraph, “waterway” means a bay, estuary, lake, pond, river, slough, or a perennial, intermittent, or ephemeral stream, lake, or estuarine-marine shoreline.

~~(3)~~

(2) The project involves negligible or no expansion of an existing use beyond that existing at the time of the lead agency’s determination.

~~(4) The roadway is not a state roadway.~~

~~(5)~~

(3) (A) The site of the project does not contain wetlands or riparian areas and does not have significant value as a wildlife habitat, and the project does not harm any species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code), or the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), and the project does not cause the destruction or removal of any species protected by a local ordinance.

(B) For the purposes of this paragraph:

(i) "Riparian areas" mean those areas transitional between terrestrial and aquatic ecosystems and that are distinguished by gradients in biophysical conditions, ecological processes, and biota. A riparian area is an area through which surface and subsurface hydrology connect waterbodies with their adjacent uplands. A riparian area includes those portions of terrestrial ecosystems that significantly influence exchanges of energy and matter with aquatic ecosystems. A riparian area is adjacent to perennial, intermittent, and ephemeral streams, lakes, and estuarine-marine shorelines.

(ii) "Significant value as a wildlife habitat" includes wildlife habitat of national, statewide, regional, or local importance; habitat for species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. ~~1531,~~ *1531* et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code); habitat identified as candidate, fully protected, sensitive, or species of special status by local, state, or federal agencies; or habitat essential to the movement of resident or migratory wildlife.

(iii) "Wetlands" has the same meaning as in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

(iv) "Wildlife habitat" means the ecological communities upon which wild animals, birds, plants, fish, amphibians, and invertebrates depend for their conservation and protection.

~~(6)~~

(4) The project does not impact cultural resources.

~~(7)~~

(5) The roadway does not affect scenic resources, as provided pursuant to subdivision (c) of Section 21084.

(b) Prior to determining that a project is exempt pursuant to this section, the lead agency shall do both of the following:

(1) Include measures in the project to mitigate potential vehicular traffic and safety impacts and bicycle and pedestrian safety impacts.

(2) Hold a noticed public hearing on the project to hear and respond to public comments. The hearing on the project may be conducted with another noticed lead agency public hearing. Publication of the notice shall be no fewer times than required by

Section 6061 of the Government Code, by the public agency in a newspaper of general circulation in the area.

(c) For purposes of this section, “roadway” means a roadway as defined pursuant to Section 530 of the Vehicle Code and the previously graded and maintained shoulder that is within a roadway right-of-way of no more than five feet from the edge of the roadway.

(d) (1) If a state agency determines that a project is not subject to this division pursuant to this section and it approves or determines to carry out that project, it shall file a notice with the Office of Planning and Research in the manner specified in subdivisions (b) and (c) of Section 21108.

~~(d) Whenever~~

(2) If a local agency determines that a project is not subject to this division pursuant to this ~~section,~~ *section* and it approves or determines to carry out that project, ~~the local agency~~ *it* shall file a notice with the Office of Planning and Research, and with the county clerk in the county in which the project will be located in the manner specified in subdivisions (b) and (c) of Section 21152.

~~(e) This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.~~

SEC. 14. Division 13.6 (commencing with Section 21200) is added to the Public Resources Code, to read:

DIVISION 13.6. ADVANCE MITIGATION PROGRAM ACT

Chapter 1. General

21200. This division shall be known, and may be cited, as the Advance Mitigation Program Act.

21201. (a) The purpose of this division is to improve the success and effectiveness of actions implemented to mitigate the natural resource impacts of future transportation improvements by designing those actions to measurably advance regional or statewide conservation priorities and by establishing the means to implement the actions well before the impacts occur. The advance design and implementation of mitigation actions also will streamline the delivery of transportation improvements by avoiding or reducing delays associated with environmental permitting.

(b) This division is not intended to create a new environmental permitting or regulatory program or to modify existing environmental laws or regulations, nor is it expected that all mitigation requirements will be addressed for planned transportation improvements. Instead, it is intended to provide a methodology with which to fulfill the requirements of existing state and federal environmental laws that protect fish, wildlife, plant species, and other natural resources more efficiently and effectively.

21202. The Legislature finds and declares all of the following:

(a) Compensatory mitigation for environmental impacts is ordinarily handled on a project-by-project basis, usually near the end of a project's timeline and often with insufficient guidance regarding regional or statewide conservation priorities.

(b) The cost of critical transportation improvements often escalates because of permitting delays that occur when appropriate conservation and mitigation measures cannot easily be identified and because the cost of these measures often increases between the time a project is planned and funded and the time mitigation is implemented.

(c) When the Department of Transportation is able to anticipate the compensatory mitigation needs for planned transportation improvements, it can meet those needs in a more timely and cost-effective way by using advance mitigation planning.

(d) Working with state and federal resource protection agencies, the department can generate and pool a range of mitigation credits for use for transportation improvements, taking advantage of greater economies of scale and allowing public funds to stretch further. By making those mitigation credits available in advance of environmental impacts and project permitting, transportation agencies can avoid permitting delays that result from project-by-project identification and development of mitigation measures.

(e) Advance mitigation can provide an effective means of facilitating delivery of transportation improvements while ensuring more effective natural resource conservation.

(f) Advance mitigation is needed to direct mitigation funding for transportation improvements to agreed-upon conservation priorities and to the creation of habitat reserves and recreation areas that enhance the sustainability of human and natural systems by protecting or restoring connectivity of natural communities and the delivery of ecosystem services.

(g) Advance mitigation can facilitate the implementation of climate change adaptation strategies both for ecosystems and California's economy.

(h) Advance mitigation can enable the state to protect, restore, and recover its natural resources as it strengthens and improves its transportation systems.

21203. The Legislature intends to do all of the following by enacting this division:

(a) Facilitate delivery of transportation improvements while ensuring more effective natural resource conservation.

(b) Develop effective strategies to improve the state's ability to meet mounting demands for transportation improvements and to maximize conservation and other public benefits.

(c) Achieve conservation objectives of statewide and regional importance by coordinating local, state, and federally funded natural resource conservation efforts with mitigation actions required for impacts from transportation improvements.

(d) Create administrative, governance, and financial incentives and mechanisms necessary to ensure that measures required to minimize or mitigate impacts from transportation improvements will serve to achieve regional or statewide natural resource conservation objectives.

Chapter 2. Definitions

21204. For purposes of this division, the following terms have the following meanings:

(a) "Acquire" and "acquisition" mean, with respect to land or a waterway, acquisition of fee title or purchase of a conservation easement, that protects conservation and mitigation values on the land or waterway in perpetuity.

(b) "Advance mitigation" means mitigation implemented before, and in anticipation of, environmental effects of planned transportation improvements.

(c) "Commission" means the California Transportation Commission.

(d) "Conservation easement" means a perpetual conservation easement that complies with Chapter 4 (commencing with Section 815) of Title 2 of Part 2 of Division 2 of the Civil Code.

(e) "Department" means the Department of Transportation.

(f) "Mitigation credit agreement" means a mitigation credit agreement pursuant to Chapter 9 (commencing with Section 1850) of Division 2 of the Fish and Game Code.

(g) "Transportation agency" means the department, the High-Speed Rail Authority, a metropolitan planning organization, a regional transportation planning agency, or another public agency that implements transportation improvements.

(h) "Transportation improvement" means a transportation capital improvement project.

(i) "Planned transportation improvement" means a transportation project that a transportation agency has identified in a regional transportation plan, an interregional transportation plan, a capital improvement program, or other approved transportation planning document. A planned transportation improvement may include, but is not limited to, a transportation project that has been proposed for approval or that has been approved.

(j) "Program" means the Advance Mitigation Program implemented pursuant to this division.

(k) "Regional conservation investment strategy" means a regional conservation investment strategy pursuant to Chapter 9 (commencing with Section 1850) of Division 2 of the Fish and Game Code.

(*l*) "Regulatory agency" means a state or federal natural resource protection agency with regulatory authority over planned transportation improvements. A regulatory agency includes, but is not limited to, the Natural Resources Agency, the Department of Fish and Wildlife, California regional water quality control boards, the United States Fish and Wildlife Service, the National Marine Fisheries Service, the United States Environmental Protection Agency, and the United States Army Corps of Engineers.

Chapter 3. Advance Mitigation Program

21205. (a) The Advance Mitigation Program is hereby created in the department to accelerate project delivery and improve environmental outcomes of environmental mitigation for planned transportation improvements. The department may do any of the following to administer and implement the program:

(1) Purchase credits at mitigation banks and conservation banks approved by one or more regulatory agencies. The department may also establish mitigation banks or conservation banks, or fund the establishment of mitigation banks or conservation banks, in accordance with applicable state and federal standards if the department determines that those banks would provide biologically appropriate mitigation for planned transportation improvements identified pursuant to Section 21207.

(2) Pay mitigation fees under natural community conservation plans approved pursuant to Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code, or habitat conservation plans approved in accordance with the federal Endangered Species Act.

(3) Prepare, or fund the preparation of, regional conservation investment strategies. Where a regional conservation framework has been approved by the Department of Fish and Wildlife, the department may do the following:

(A) Enter into a mitigation credit agreement with the Department of Fish and Wildlife, and acquire, restore, manage, monitor, protect, and preserve lands , waterways, aquatic resources or fisheries, or fund the acquisition, restoration, management, monitoring, protection, and preservation of lands, waterways, aquatic resources, or fisheries, as needed to generate mitigation credits pursuant to those mitigation credit agreements.

(B) Acquire, restore, manage, monitor, and preserve lands, waterways, aquatic resources, or fisheries, or fund the acquisition, restoration, management, monitoring, and preservation of lands, waterways, aquatic resources, or fisheries that would measurably advance a conservation objective in the regional conservation investment strategy if the department concludes that the action or actions could conserve or create environmental values that are appropriate to mitigate the anticipated potential impacts of planned transportation improvements.

(4) Prepare, or fund the preparation of, regional advance mitigation plans within the area of any regional conservation investment strategy that has been approved by the Department of Fish and Wildlife. The purpose of a regional advance mitigation

plan shall be to identify potential mitigation needs for planned transportation improvements, to facilitate the acquisition or generation of mitigation credits and values that could be used to fulfill those needs and thereby to avoid delays in the environmental permitting of those transportation improvements. A regional advance mitigation plan shall do all of the following:

(A) Use the information and analysis in the regional conservation investment strategy to estimate the nature and extent of potential mitigation requirements of planned transportation improvements on a regional or statewide basis.

(B) Consider the full range of potential impacts on natural resources of planned transportation improvements.

(C) Identify available mitigation credits at mitigation banks or conservation banks approved by one or more regulatory agencies that could be used to mitigate the impacts of planned transportation improvements.

(D) Assess whether, and to what extent, mitigation requirements for planned transportation improvements could be fulfilled by the payment of mitigation fees under approved natural community conservation plans and habitat conservation plans.

(E) Assess whether, and to what extent, mitigation requirements for planned transportation improvements could be fulfilled by mitigation credits created under a mitigation credit agreement.

(F) Assess whether conservation actions or habitat enhancements that would measurably advance an unmet conservation objective in the regional conservation investment strategy could conserve or create environmental values that are appropriate to mitigate the anticipated potential impacts of planned transportation improvements and could fulfill mitigation requirements resulting from those impacts.

(G) Analyze the cost-effectiveness of available mitigation alternatives both in terms of environmental benefits and improved project delivery and certainty.

(b) The department shall track all advance mitigation actions implemented and all mitigation credits generated under the program for environmental mitigation for transportation improvements.

(c) The department may use mitigation credits to fulfill mitigation requirements of a transportation improvement eligible for the State Transportation Improvement Program or the State Highway Operation and Protection Program.

(d) The department may use, or allow local or state transportation agencies to use, mitigation credits or values generated or obtained under the program to fulfill the mitigation requirements of planned transportation improvements if the applicable transportation agency reimburses the program for all costs of purchasing or creating the mitigation credits or values, as determined by the department. Those costs shall be calculated using total cost accounting and shall include, as applicable, land acquisition or conservation easement costs, monitoring and enforcement costs, restoration costs, transaction costs, administrative costs, contingency costs, and land management, monitoring, and protection costs.

21206. No later than February 1, 2017, the department shall establish an interagency transportation advance mitigation steering committee consisting of the department and appropriate state and federal regulatory agencies to support the program so that advance mitigation can be used as required mitigation for planned transportation improvements and can provide improved environmental outcomes. The committee shall advise the department of opportunities to carry out advance mitigation improvements, provide the best available science, and actively participate in mitigation instrument reviews and approvals. The committee shall seek to develop streamlining opportunities, including those related to landscape scale mitigation planning and alignment of federal and state regulations and procedures related to mitigation requirements and implementation. The committee shall also provide input on crediting, using, and tracking of advance mitigation investments.

21207. The Advance Mitigation Fund is hereby created in the State Transportation Fund as a revolving fund. Notwithstanding Section 13340 of the Government Code, the fund shall be continuously appropriated without regard to fiscal years. The moneys in the fund shall be programmed by the commission for the planning and implementation of advance mitigation improvements consistent with the purposes of this chapter. After the transfer of moneys to the fund for four fiscal years pursuant to subdivision (c) of Section 2032 of the Streets and Highways Code, commencing in the 2017–18 fiscal year, the program is intended to be self-sustaining. Advance expenditures from the fund shall later be reimbursed from project funding available at the time a planned transportation improvement is constructed. A maximum of 5 percent of available funds may be used for administrative purposes.

21208. The program is intended to improve the efficiency and efficacy of mitigation only and is not intended to supplant the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000)) or any other environmental law. The identification of planned transportation improvements and of mitigation improvements or measures for planned transportation improvements under this division does not imply or require approval of those improvements for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000)) or any other environmental law.

SEC. 15. Section 99312.1 of the Public Utilities Code is amended to read:

99312.1. *(a)* Revenues transferred to the Public Transportation Account pursuant to Sections 6051.8 and 6201.8 of the Revenue and Taxation Code *for the State Transit Assistance Program* are hereby continuously appropriated to the Controller for allocation as follows:

~~(a)~~

(1) Fifty percent for allocation to transportation planning agencies, county transportation commissions, and the San Diego Metropolitan Transit Development Board pursuant to Section 99314.

~~(b)~~

(2) Fifty percent for allocation to transportation agencies, county transportation commissions, and the San Diego Metropolitan Transit Development Board for purposes of Section 99313.

~~For~~

(b) For purposes of this chapter, the revenues allocated pursuant to this section shall be subject to the same requirements as revenues allocated pursuant to subdivisions (b) and (c), as applicable, of Section 99312.

(c) The revenues transferred to the Public Transportation Account for the State Transit Assistance Program that are attributable to the increase in the sales and use tax on diesel fuel pursuant to subdivision (b) of Section 6051.8 of the Revenue and Taxation Code, as adjusted pursuant to subdivision (c) of that section, and subdivision (b) of Section 6201.8 of the Revenue and

Taxation Code, as adjusted pursuant to subdivision (c) of that section, upon allocation pursuant to Sections 99313 and 99314, shall only be expended on the following:

(1) Transit capital projects or services to maintain or repair a transit operator's existing transit vehicle fleet or existing transit facilities, including rehabilitation or modernization of existing vehicles or facilities.

(2) The design, acquisition, and construction of new vehicles or facilities that improve existing transit services.

(3) Transit services that complement local efforts for repair and improvement of local transportation infrastructure.

(d) (1) Prior to receiving an apportionment of funds pursuant to subdivision (c) from the Controller in a fiscal year, a recipient transit agency shall submit to the Department of Transportation a list of projects proposed to be funded with these funds. The list of projects proposed to be funded with these funds shall include a description and location of each proposed project, a proposed schedule for the project's completion, and the estimated useful life of the improvement. The project list shall not limit the flexibility of a recipient transit agency to fund projects in accordance with local needs and priorities so long as the projects are consistent with subdivision (c).

(2) The department shall report to the Controller the recipient transit agencies that have submitted a list of projects as described in this subdivision and that are therefore eligible to receive an apportionment of funds for the applicable fiscal year. The Controller, upon receipt of the report, shall apportion funds pursuant to Sections 99313 and 99314.

(e) For each fiscal year, each recipient transit agency receiving an apportionment of funds pursuant to subdivision (c) shall, upon expending those funds, submit documentation to the department that includes a description and location of each completed project, the amount of funds expended on the project, the completion date, and the estimated useful life of the improvement.

(f) The audit of transit operator finances required pursuant to Section 99245 shall verify that the revenues identified in subdivision (c) have been expended in conformance with these specific requirements and all other generally applicable requirements.

SEC. 16. Section 6051.8 of the Revenue and Taxation Code is amended to read:

6051.8. (a) Except as provided by Section 6357.3, in addition to the taxes imposed by this part, for the privilege of selling tangible personal property at retail a tax is hereby imposed upon all retailers at the rate of 1.75 percent of the gross receipts of any retailer from the sale of all diesel ~~fuel, as defined in Section 60022, sold at retail in this state on and after the operative date of this subdivision.~~ *fuel.*

~~(b) Notwithstanding subdivision (a), for the 2011–12 fiscal year only, the rate referenced in subdivision (a) shall be 1.87 percent.~~

~~(c) Notwithstanding subdivision (a), for the 2012–13 fiscal year only, the rate referenced in subdivision (a) shall be 2.17 percent.~~

~~(d) Notwithstanding subdivision (a), for the 2013–14 fiscal year only, the rate referenced in subdivision (a) shall be 1.94 percent.~~

(b) Except as provided by Section 6357.3, in addition to the taxes imposed by this part and by subdivision (a), for the privilege of selling tangible personal property at retail a tax is hereby imposed upon all retailers at the rate of 4 percent of the gross receipts of any retailer from the sale of all diesel fuel, as defined in Section 60022, sold at retail in this state.

(c) Beginning July 1, 2020, and every third year thereafter, the State Board of Equalization shall recompute the rates of the taxes imposed by this section. That computation shall be made as follows:

(1) The Department of Finance shall transmit to the State Board of Equalization the percentage change in the California Consumer Price Index for all items from November of three calendar years prior to November of the prior calendar year, no later than January 31, 2020, and January 31 of every third year thereafter.

(2) The State Board of Equalization shall do all of the following:

(A) Compute an inflation adjustment factor by adding 100 percent to the percentage change figure that is furnished pursuant to paragraph (1) and dividing the result by 100.

(B) Multiply the preceding tax rate per gallon by the inflation adjustment factor determined in subparagraph (A) and round off the resulting product to the nearest tenth of a cent.

(C) Make its determination of the new rate no later than March 1 of the same year as the effective date of the new rate.

~~(e)~~

(d) (1) Notwithstanding subdivision (b) of Section 7102, *except as otherwise provided in paragraph (2),* all of the revenues, less refunds, collected pursuant to this section shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, and transferred quarterly to the Public Transportation Account in the State Transportation Fund for allocation *under the State Transit Assistance Program* pursuant to Section 99312.1 of the Public Utilities Code.

(2) The revenues, less refunds, attributable to a rate of 0.5 percent of the 4-percent increase in the rate pursuant to subdivision (b), amounting to one-eighth of revenues from the increase in the rate under that subdivision, shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, and transferred quarterly to the Public Transportation Account in the State Transportation Fund for allocation to the Department of Transportation, upon appropriation by the Legislature, to intercity rail and commuter rail purposes pursuant to Section 99315 of the Public Utilities Code.

~~(f) Subdivisions (a) to (e), inclusive, shall become operative on July 1, 2011.~~

SEC. 17. Section 6201.8 of the Revenue and Taxation Code is amended to read:

6201.8. (a) Except as provided by Section 6357.3, in addition to the taxes imposed by this part, an excise tax is hereby imposed on the storage, use, or other consumption in this state of diesel fuel, as defined in Section 60022, at the rate of 1.75 percent of the sales price of the diesel ~~fuel on and after the operative date of this subdivision.~~ *fuel.*

~~(b) Notwithstanding subdivision (a), for the 2011–12 fiscal year only, the rate referenced in subdivision (a) shall be 1.87 percent.~~

~~(c) Notwithstanding subdivision (a), for the 2012–13 fiscal year only, the rate referenced in subdivision (a) shall be 2.17 percent.~~

~~(d) Notwithstanding subdivision (a), for the 2013–14 fiscal year only, the rate referenced in subdivision (a) shall be 1.94 percent.~~

(b) Except as provided by Section 6357.3, in addition to the taxes imposed by this part and by subdivision (a), an excise tax is hereby imposed on the storage, use, or other consumption in this state of diesel fuel, as defined in Section 60022, at the rate of 4 percent of the sales price of the diesel fuel.

(c) Beginning July 1, 2020, and every third year thereafter, the State Board of Equalization shall recompute the rates of the taxes imposed by this section. That computation shall be made as follows:

(1) The Department of Finance shall transmit to the State Board of Equalization the percentage change in the California Consumer Price Index for all items from November of three calendar years prior to November of the prior calendar year, no later than January 31, 2020, and January 31 of every third year thereafter.

(2) The State Board of Equalization shall do all of the following:

(A) Compute an inflation adjustment factor by adding 100 percent to the percentage change figure that is furnished pursuant to paragraph (1) and dividing the result by 100.

(B) Multiply the preceding tax rate per gallon by the inflation adjustment factor determined in subparagraph (A) and round off the resulting product to the nearest tenth of a cent.

(C) Make its determination of the new rate no later than March 1 of the same year as the effective date of the new rate.

~~(c)~~

(d) (1) Notwithstanding subdivision (b) of Section 7102, *except as otherwise provided in paragraph (2),* all of the revenues, less refunds, collected pursuant to this section shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, and transferred quarterly to the Public Transportation Account in the State Transportation Fund for allocation pursuant to Section 99312.1 of the Public Utilities Code.

(2) The revenues, less refunds, attributable to a rate of 0.5 percent of the 4-percent increase in the rate pursuant to subdivision (b), amounting to one-eighth of revenues from the increase in the rate under that subdivision, shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, and transferred quarterly to the Public Transportation Account in the State Transportation Fund for allocation to the Department of Transportation, upon appropriation by the Legislature, to intercity rail and commuter rail purposes pursuant to Section 99315 of the Public Utilities Code.

~~(f) Subdivisions (a) to (e), inclusive, shall become operative on July 1, 2011.~~

SEC. 18. Section 7360 of the Revenue and Taxation Code is amended to read:

7360. (a) (1) *(A)* A tax of eighteen cents ($0.18) is hereby imposed upon each gallon of fuel subject to the tax in Sections 7362, 7363, and 7364.

(B) In addition to the tax imposed pursuant to subparagraph (A), a tax of six cents ($0.06) is hereby imposed upon each gallon of fuel, other than aviation gasoline, subject to the tax in Sections 7362, 7363, and 7364. Effective one year after the date that the six-cent ($0.06) tax is imposed, an additional tax of three cents ($0.03) is hereby imposed, and effective two years after the date that the six-cent ($0.06) tax is imposed, an additional tax of three cents ($0.03) is hereby imposed, on each gallon of fuel, other than aviation gasoline, subject to the tax in Sections 7362, 7363, and 7364.

(2) If the federal fuel tax is reduced below the rate of nine cents ($0.09) per gallon and federal financial allocations to this state for highway and exclusive public mass transit guideway purposes are reduced or eliminated correspondingly, the tax rate imposed by *subparagraph (A) of* paragraph (1), on and after the date of the reduction, shall be recalculated by an amount so that the combined state rate under *subparagraph (A) of* paragraph (1) and the federal tax rate per gallon equal twenty-seven cents ($0.27).

(3) If any person or entity is exempt or partially exempt from the federal fuel tax at the time of a reduction, the person or entity shall continue to be so exempt under this section.

(b) ~~(1)~~ On and after July 1, 2010, in addition to the tax imposed by subdivision (a), a tax is hereby imposed upon each gallon of motor vehicle fuel, other than aviation gasoline, subject to the tax in Sections 7362, 7363, and 7364 in an amount equal to seventeen and three-tenths cents ($0.173) per gallon.

~~(2) For the 2011–12 fiscal year and each fiscal year thereafter, the board shall, on or before March 1 of the fiscal year immediately preceding the applicable fiscal year, adjust the rate in paragraph (1) in that manner as to generate an amount of revenue that will equal the amount of revenue loss attributable to the exemption provided by Section 6357.7, based on estimates made by the board, and that rate shall be effective during the state's next fiscal year.~~

~~(3) In order to maintain revenue neutrality for each year, beginning with the rate adjustment on or before March 1, 2012, the adjustment under paragraph (2) shall also take into account the extent to which the actual amount of revenues derived pursuant to~~

~~this subdivision and, as applicable, Section 7361.1, the revenue loss attributable to the exemption provided by Section 6357.7 resulted in a net revenue gain or loss for the fiscal year ending prior to the rate adjustment date on or before March 1.~~

~~(4) The intent of paragraphs (2) and (3) is to ensure that the act adding this subdivision and Section 6357.7 does not produce a net revenue gain in state taxes.~~

(c) Beginning July 1, 2020, and every third year thereafter, the State Board of Equalization shall recompute the rates of the taxes imposed by this section. That computation shall be made as follows:

(1) The Department of Finance shall transmit to the State Board of Equalization the percentage change in the California Consumer Price Index for all items from November of three calendar years prior to November of the prior calendar year, no later than January 31, 2020, and January 31 of every third year thereafter.

(2) The State Board of Equalization shall do all of the following:

(A) Compute an inflation adjustment factor by adding 100 percent to the percentage change figure that is furnished pursuant to paragraph (1) and dividing the result by 100.

(B) Multiply the preceding tax rate per gallon by the inflation adjustment factor determined in subparagraph (A) and round off the resulting product to the nearest tenth of a cent.

(C) Make its determination of the new rate no later than March 1 of the same year as the effective date of the new rate.

SEC. 19. Section 8352.4 of the Revenue and Taxation Code is amended to read:

8352.4. (a) Subject to Sections 8352 and 8352.1, and except as otherwise provided in subdivision (b), there shall be transferred from the money deposited to the credit of the Motor Vehicle Fuel Account to the Harbors and Watercraft Revolving Fund, for expenditure in accordance with Division 1 (commencing with Section 30) of the Harbors and Navigation Code, the sum of six million six hundred thousand dollars ($6,600,000) per annum, representing the amount of money in the Motor Vehicle Fuel Account attributable to taxes imposed on distributions of motor vehicle fuel used or usable in propelling vessels. The actual amount shall be calculated using the annual reports of registered boats prepared by the Department of Motor Vehicles for the United States Coast Guard and the formula and method of the December

1972 report prepared for this purpose and submitted to the Legislature on December 26, 1972, by the Director of Transportation. If the amount transferred during each fiscal year is in excess of the calculated amount, the excess shall be retransferred from the Harbors and Watercraft Revolving Fund to the Motor Vehicle Fuel Account. If the amount transferred is less than the amount calculated, the difference shall be transferred from the Motor Vehicle Fuel Account to the Harbors and Watercraft Revolving Fund. No adjustment shall be made if the computed difference is less than fifty thousand dollars ($50,000), and the amount shall be adjusted to reflect any temporary or permanent increase or decrease that may be made in the rate under the Motor Vehicle Fuel Tax Law. Payments pursuant to this section shall be made prior to payments pursuant to Section 8352.2.

(b) *(1)* Commencing July 1,~~ 2016,~~ *2017,* the revenues attributable to the taxes imposed pursuant to subdivision (b) of Section 7360~~ and Section 7361.1~~ and otherwise to be deposited in the Harbors and Watercraft Revolving Fund pursuant to subdivision (a) shall instead be transferred to the~~ General Fund. The revenues attributable to the taxes imposed~~ *Highway Users Tax Account for distribution* pursuant to~~ subdivision (b) of Section 7360 and Section 7361.1 that were deposited in~~ *Section 2103.1 of* the~~ Harbors~~ *Streets* and~~ Watercraft Revolving Fund in the 2010–11 and 2011–12 fiscal years shall be transferred to the General Fund.~~ *Highways Code.*

(2) Commencing July 1, 2017, the revenues attributable to the taxes imposed pursuant to subparagraph (B) of paragraph (1) of subdivision (a) of Section 7360 and otherwise to be deposited in the Harbors and Watercraft Revolving Fund pursuant to subdivision (a) shall instead be transferred to the Road Maintenance and Rehabilitation Account pursuant to Section 2031 of the Streets and Highways Code.

SEC. 20. Section 8352.5 of the Revenue and Taxation Code is amended to read:

8352.5. (a) (1) Subject to Sections 8352 and 8352.1, and except as otherwise provided in subdivision (b), there shall be transferred from the money deposited to the credit of the Motor Vehicle Fuel Account to the Department of Food and Agriculture Fund, during the second quarter of each fiscal year, an amount equal to the estimate contained in the most recent report prepared pursuant to this section.

(2) The amounts are not subject to Section 6357 with respect to the collection of sales and use taxes thereon, and represent the portion of receipts in the Motor Vehicle Fuel Account during a calendar year that were attributable to agricultural off-highway use of motor vehicle fuel which is subject to refund pursuant to Section 8101, less gross refunds allowed by the Controller during the fiscal year ending June ~~30th~~ *30* following the calendar year to persons entitled to refunds for agricultural off-highway use pursuant to Section 8101. Payments pursuant to this section shall be made prior to payments pursuant to Section 8352.2.

(b) *(1)* Commencing July 1, ~~2016,~~ *2017,* the revenues attributable to the taxes imposed pursuant to subdivision (b) of Section 7360 ~~and Section 7361.1~~ and otherwise to be deposited in the Department of Food and Agriculture Fund pursuant to subdivision (a) shall instead be transferred to the ~~General Fund. The revenues attributable to the taxes imposed~~ *Highway Users Tax Account for distribution* pursuant to ~~subdivision (b) of Section 7360 and Section 7361.1 that were deposited in the Department~~ *Section 2103.1* of ~~Food and Agriculture Fund in~~ the ~~2010–11~~ *Streets* and ~~2011–12 fiscal years shall be transferred to the General Fund.~~ *Highways Code.*

(2) Commencing July 1, 2017, the revenues attributable to the taxes imposed pursuant to subparagraph (B) of paragraph (1) of subdivision (a) of Section 7360 and otherwise to be deposited in the Department of Food and Agriculture Fund pursuant to subdivision (a) shall instead be transferred to the Road Maintenance and Rehabilitation Account pursuant to Section 2031 of the Streets and Highways Code.

(c) On or before September 30, 2012, and on or before September 30 of each even-numbered year thereafter, the Director of Transportation and the Director of Food and Agriculture shall jointly prepare, or cause to be prepared, a report setting forth the current estimate of the amount of money in the Motor Vehicle Fuel Account attributable to agricultural off-highway use of motor vehicle fuel, which is subject to refund pursuant to Section 8101 less gross refunds allowed by the Controller to persons entitled to refunds for agricultural off-highway use pursuant to Section 8101; and they shall submit a copy of the report to the Legislature.

SEC. 21. Section 8352.6 of the Revenue and Taxation Code is amended to read:

8352.6. (a) (1) Subject to Section 8352.1, and except as otherwise provided in paragraphs (2) and (3), on the first day of every month, there shall be transferred from moneys deposited to the credit of the Motor Vehicle Fuel Account to the Off-Highway Vehicle Trust Fund created by Section 38225 of the Vehicle Code an amount attributable to taxes imposed upon distributions of motor vehicle fuel used in the operation of motor vehicles off highway and for which a refund has not been claimed. Transfers made pursuant to this section shall be made prior to transfers pursuant to Section 8352.2.

(2) *(A)* Commencing July 1, ~~2016,~~ *2017,* the revenues attributable to the taxes imposed pursuant to subdivision (b) of Section 7360 ~~and Section 7361.1~~ and otherwise to be deposited in the Off-Highway Vehicle Trust Fund pursuant to paragraph (1) shall instead be transferred to the ~~General Fund. The revenues attributable to the taxes imposed~~ *Highway Users Tax Account for distribution* pursuant to ~~subdivision (b) of Section 7360 and Section 7361.1 that were deposited in~~ *Section 2103.1 of* the ~~Off-Highway Vehicle Trust Fund in the 2010–11~~ *Streets* and ~~2011–12 fiscal years shall be transferred to the General Fund.~~ *Highways Code.*

(B) Commencing July 1, 2017, the revenues attributable to the taxes imposed pursuant to subparagraph (B) of paragraph (1) of subdivision (a) of Section 7360 and otherwise to be deposited in the Off-Highway Vehicle Trust Fund pursuant to subdivision (a) shall instead be transferred to the Road Maintenance and Rehabilitation Account pursuant to Section 2031 of the Streets and Highways Code.

(3) The Controller shall withhold eight hundred thirty-three thousand dollars ($833,000) from the monthly transfer to the Off-Highway Vehicle Trust Fund pursuant to paragraph (1), and transfer that amount to the General Fund.

(b) The amount transferred to the Off-Highway Vehicle Trust Fund pursuant to paragraph (1) of subdivision (a), as a percentage of the Motor Vehicle Fuel Account, shall be equal to the percentage transferred in the 2006–07 fiscal year. Every five years, starting in the 2013–14 fiscal year, the percentage transferred may be adjusted by the Department of Transportation in cooperation with the Department of Parks and Recreation and the Department of Motor Vehicles. Adjustments shall be based on, but not limited to, the changes in the following factors since the 2006–07 fiscal year or the last adjustment, whichever is more recent:

(1) The number of vehicles registered as off-highway motor vehicles as required by Division 16.5 (commencing with Section 38000) of the Vehicle Code.

(2) The number of registered street-legal vehicles that are anticipated to be used off highway, including four-wheel drive vehicles, all-wheel drive vehicles, and dual-sport motorcycles.

(3) Attendance at the state vehicular recreation areas.

(4) Off-highway recreation use on federal lands as indicated by the United States Forest Service's National Visitor Use Monitoring and the United States Bureau of Land Management's Recreation Management Information System.

(c) It is the intent of the Legislature that transfers from the Motor Vehicle Fuel Account to the Off-Highway Vehicle Trust Fund should reflect the full range of motorized vehicle use off highway for both motorized recreation and motorized off-road access to other recreation opportunities. Therefore, the Legislature finds that the fuel tax baseline established in subdivision (b), attributable to off-highway estimates of use as of the 2006–07 fiscal year, accounts for the three categories of vehicles that have been found over the years to be users of fuel for off-highway motorized recreation or motorized access to nonmotorized recreational pursuits. These three categories are registered off-highway motorized vehicles, registered street-legal motorized vehicles used off highway, and unregistered off-highway motorized vehicles.

(d) It is the intent of the Legislature that the off-highway motor vehicle recreational use to be determined by the Department of Transportation pursuant to paragraph (2) of subdivision (b) be that usage by vehicles subject to registration under Division 3 (commencing with Section 4000) of the Vehicle Code, for recreation or the pursuit of recreation on surfaces where the use of vehicles registered under Division 16.5 (commencing with Section 38000) of the Vehicle Code may occur.

(e) In the 2014–15 fiscal year, the Department of Transportation, in consultation with the Department of Parks and Recreation and the Department of Motor Vehicles, shall undertake a study to determine the appropriate adjustment to the amount transferred pursuant to subdivision (b) and to update the estimate of the amount attributable to taxes imposed upon distributions of motor vehicle fuel used in the operation of motor vehicles off highway and for which a refund has not been claimed. The department shall provide a copy of this study to the Legislature no later than January 1, 2016.

SEC. 22. Section 60050 of the Revenue and Taxation Code is amended to read:

60050. (a) (1) A tax of ~~eighteen~~ *thirteen* cents ~~($0.18)~~ *($0.13)* is hereby imposed upon each gallon of diesel fuel subject to the tax in Sections 60051, 60052, and 60058.

(2) If the federal fuel tax is reduced below the rate of fifteen cents ($0.15) per gallon and federal financial allocations to this state for highway and exclusive public mass transit guideway purposes are reduced or eliminated correspondingly, the tax rate imposed by paragraph ~~(1), including any reduction or adjustment pursuant to subdivision (b), on and after the date of the reduction,~~ *(1)* shall be increased by an amount so that the combined state rate under paragraph (1) and the federal tax rate per gallon equal what it would have been in the absence of the federal reduction.

(3) If any person or entity is exempt or partially exempt from the federal fuel tax at the time of a reduction, the person or entity shall continue to be exempt under this section.

~~(b) (1) On July 1, 2011, the tax rate specified in paragraph (1) of subdivision (a) shall be reduced to thirteen cents ($0.13) and every July 1 thereafter shall be adjusted pursuant to paragraphs (2) and (3).~~

~~(2) For the 2012–13 fiscal year and each fiscal year thereafter, the board shall, on or before March 1 of the fiscal year immediately preceding the applicable fiscal year, adjust the rate reduction in paragraph (1) in that manner as to result in a revenue loss attributable to paragraph (1) that will equal the amount of revenue gain attributable to Sections 6051.8 and 6201.8, based on estimates made by the board, and that rate shall be effective during the state's next fiscal year.~~

~~(3) In order to maintain revenue neutrality for each year, beginning with the rate adjustment on or before March 1, 2013, the adjustment under paragraph (2) shall take into account the extent to which the actual amount of revenues derived pursuant to Sections 6051.8 and 6201.8 and the revenue loss attributable to this subdivision resulted in a net revenue gain or loss for the fiscal~~

~~year ending prior to the rate adjustment date on or before March 1.~~

~~(4) The intent of paragraphs (2) and (3) is to ensure that the act adding this subdivision and Sections 6051.8 and 6201.8 does not produce a net revenue gain in state taxes.~~

(b) In addition to the tax imposed pursuant to subdivision (a), an additional tax of twenty cents ($0.20) is hereby imposed upon each gallon of diesel fuel subject to the tax in Sections 60051, 60052, and 60058.

(c) Beginning July 1, 2020, and every third year thereafter, the State Board of Equalization shall recompute the rates of the taxes imposed by this section. That computation shall be made as follows:

(1) The Department of Finance shall transmit to the State Board of Equalization the percentage change in the California Consumer Price Index for all items from November of three calendar years prior to November of the prior calendar year, no later than January 31, 2020, and January 31 of every third year thereafter.

(2) The State Board of Equalization shall do all of the following:

(A) Compute an inflation adjustment factor by adding 100 percent to the percentage change figure that is furnished pursuant to paragraph (1) and dividing the result by 100.

(B) Multiply the preceding tax rate per gallon by the inflation adjustment factor determined in subparagraph (A) and round off the resulting product to the nearest tenth of a cent.

(C) Make its determination of the new rate no later than March 1 of the same year as the effective date of the new rate.

SEC. 23. Section 183.1 of the Streets and Highways Code is amended to read:

183.1. ~~(a) Notwithstanding subdivision (a) of Section 182 or any other provision of law,~~ *Except as otherwise provided in Section 54237.7 of the Government Code,* money deposited into the account that is not subject to Article XIX of the California Constitution, including, but not limited to, money that is derived from the sale of documents, charges for miscellaneous services to the public, condemnation deposits fund investments, rental of state property, or any other miscellaneous uses of property or money, ~~may be used for any transportation purpose authorized by statute, upon appropriation by the Legislature or, after transfer to another fund, upon appropriation by the Legislature from that fund.~~ *shall be* *deposited in the Road Maintenance and Rehabilitation Account created pursuant to Section 2031.*

~~(b) Commencing with the 2013–14 fiscal year, and not later than November 1 of each fiscal year thereafter, based on prior year financial statements, the Controller shall transfer the funds identified in subdivision (a) for the prior fiscal year from the State Highway Account to the Transportation Debt Service Fund in the State Transportation Fund, and those funds are continuously appropriated for the purposes specified for the Transportation Debt Service Fund.~~

SEC. 24. Section 820.1 is added to the Streets and Highways Code, to read:

820.1. (a) The State of California consents to the jurisdiction of the federal courts with regard to the compliance, discharge, or enforcement of the responsibilities assumed by the department pursuant to Section 326 of, and subsection (a) of Section 327 of, Title 23 of the United States Code.

(b) In any action brought pursuant to the federal laws described in subdivision (a), no immunity from suit may be asserted by the department pursuant to the Eleventh Amendment to the United States Constitution, and any immunity is hereby waived.

(c) The department shall not delegate any of its responsibilities assumed pursuant to the federal laws described in subdivision (a) to any political subdivision of the state or its instrumentalities.

(d) Nothing in this section affects the obligation of the department to comply with state and federal law.

SEC. 25. Chapter 2 (commencing with Section 2030) is added to Division 3 of the Streets and Highways Code, to read:

Chapter 2. Road Maintenance and Rehabilitation Program

2030. (a) The Road Maintenance and Rehabilitation Program is hereby created to address deferred maintenance on the state highway system and the local street and road system. Funds made available by the program shall be prioritized for expenditure on basic road maintenance and road rehabilitation projects, and on critical safety projects. For funds appropriated pursuant to paragraph (1) of subdivision (d) of Section 2032, the California Transportation Commission shall adopt performance criteria, consistent with the asset management plan required pursuant to 14526.4 of the Government Code, to ensure efficient use of the funds available for these purposes in the program.

(b) (1) Funds made available by the program shall be used for projects that include, but are not limited to, the following:

(A) Road maintenance and rehabilitation.

(B) Safety projects.

(C) Railroad grade separations.

(D) Complete street components, including active transportation purposes, pedestrian and bicycle safety projects, transit facilities, and drainage and stormwater capture projects in conjunction with any other allowable project.

(E) Traffic control devices.

(2) Funds made available by the program may also be used to satisfy a match requirement in order to obtain state or federal funds for projects authorized by this subdivision.

2031. The following revenues shall be deposited in the Road Maintenance and Rehabilitation Account, which is hereby created in the State Transportation Fund:

(a) Notwithstanding subdivision (b) of Section 2103, the portion of the revenues in the Highway Users Tax Account attributable to the increases in the motor vehicle fuel excise tax pursuant to subparagraph (B) of paragraph (1) of subdivision (a) of Section 7360 of the Revenue and Taxation Code, as adjusted pursuant to subdivision (c) of that section.

(b) The portion of revenues attributable to the increase in the motor vehicle fuel excise tax pursuant to subparagraph (B) of paragraph (1) of subdivision (a) of Section 7360 of the Revenue and Taxation Code, as adjusted pursuant to subdivision (c) of that section, and designated for the Road Maintenance and Rehabilitation Account pursuant to paragraph (2) of subdivision (b) of Section 8352.4 of, paragraph (2) of subdivision (b) of Section 8352.5 of, and subparagraph (B) paragraph (2) of subdivision (a) of Section 8352.6 of, that code.

(c) The revenues from the increase in the vehicle registration fee pursuant to Section 9250.3 of the Vehicle Code, as adjusted pursuant to subdivision (b) of that section.

(d) The revenues from the increase in the vehicle registration fee pursuant to Section 9250.6 of the Vehicle Code, as adjusted pursuant to subdivision (b) of that section.

(e) The revenues deposited in the account pursuant to Section 183.1 of the Streets and Highways Code.

(f) Any other revenues designated for the program.

2031.5. Each fiscal year the annual Budget Act shall contain an appropriation from the Road Maintenance and Rehabilitation Account to the Controller for the costs of carrying out his or her duties pursuant to this chapter and to the California Transportation Commission for the costs of carrying out its duties pursuant to this chapter and Section 14526.7 of the Government Code.

2032. (a) (1) After deducting the amounts appropriated in the annual Budget Act, as provided in Section 2031.5, two hundred million dollars ($200,000,000) of the remaining revenues deposited in the Road Maintenance and Rehabilitation Account shall be set aside annually for counties that have sought and received voter approval of taxes or that have imposed fees, including uniform developer fees as defined by subdivision (b) of Section 8879.67 of the Government Code, which taxes or fees are dedicated solely to transportation improvements. The Controller shall each month set aside one-twelfth of this amount, to accumulate a total of two hundred million dollars ($200,000,000) in each fiscal year.

(2) Notwithstanding Section 13340 of the Government Code, the funds available under this subdivision in each fiscal year are hereby continuously appropriated for allocation to each eligible county and each city in the county for road maintenance and rehabilitation purposes pursuant to Section 2033.

(b) (1) After deducting the amounts appropriated in the annual Budget Act pursuant to Section 2031.5 and the amount allocated in subdivision (a), beginning in the 2017–18 fiscal year, eighty million dollars ($80,000,000) of the remaining revenues shall be transferred annually to the State Highway Account for expenditure, upon appropriation by the Legislature, on the Active Transportation Program created pursuant to Chapter 8 (commencing with Section 2380) of Division 3 to be allocated by the California Transportation Commission pursuant to Section 2381.

(2) In addition to the funds transferred in paragraph (1), the department shall annually identify savings achieved through efficiencies implemented at the department. The department, through the annual budget process, shall propose, from the identified savings, an appropriation to be included in the annual Budget Act of up to seventy million dollars ($70,000,000), but not

to exceed the total annual identified savings, from the State Highway Account for expenditure on the Active Transportation Program.

(c) After deducting the amounts appropriated in the annual Budget Act pursuant to Section 2031.5, the amount allocated in subdivision (a) and the amount transferred in paragraph (1) of subdivision (b), in the 2017–18, 2018–19, 2019–20, and 2020–21 fiscal years, the sum of thirty million dollars ($30,000,000) in each fiscal year from the remaining revenues shall be transferred to the Advance Mitigation Fund in the State Transportation Fund created pursuant to Section 21207 of the Public Resources Code.

(d) After deducting the amounts appropriated in the annual Budget Act pursuant to Section 2031.5, the amount allocated in subdivision (a), and the amounts transferred in paragraph (1) of subdivision (b) and in subdivision (c), beginning in the 2017–18 fiscal year and each fiscal year thereafter, and notwithstanding Section 13340 of the Government Code, there is hereby continuously appropriated to the California State University the sum of two million dollars ($2,000,000) from the remaining revenues for the purpose of conducting transportation research and transportation-related workforce education, training, and development. Prior to the start of each fiscal year, the chairs of the Assembly Committee on Transportation and the Senate Committee on Transportation and Housing shall confer and set out a recommended priority list of research components to be addressed in the upcoming fiscal year.

(e) Notwithstanding Section 13340 of the Government Code, the balance of the revenues deposited in the Road Maintenance and Rehabilitation Account are hereby continuously appropriated as follows:

(1) Fifty percent for allocation to the department for maintenance of the state highway system or for purposes of the state highway operation and protection program.

(2) Fifty percent for apportionment to cities and counties by the Controller pursuant to the formula in clauses (i) and (ii) of subparagraph (C) of paragraph (3) of subdivision (a) of Section 2103 for the purposes authorized by this chapter.

2033. (a) On or before January 1, 2018, the commission, in cooperation with the department, transportation planning agencies, county transportation commissions, and other local agencies, shall develop guidelines for the allocation of funds pursuant to subdivision (a) of Section 2032.

(b) The guidelines shall be the complete and full statement of the policy, standards, and criteria that the commission intends to use to determine how these funds will be allocated.

(c) The commission may amend the adopted guidelines after conducting at least one public hearing.

2034. (a) (1) Prior to receiving an apportionment of funds under the program pursuant to paragraph (2) of subdivision (e) of Section 2032 from the Controller in a fiscal year, an eligible city or county shall submit to the commission a list of projects proposed to be funded with these funds pursuant to an adopted city or county budget. All projects proposed to receive funding shall be included in a city or county budget that is adopted by the applicable city council or county board of supervisors at a regular public meeting. The list of projects proposed to be funded with these funds shall include a description and the location of each proposed project, a proposed schedule for the project's completion, and the estimated useful life of the improvement. The project list shall not limit the flexibility of an eligible city or county to fund projects in accordance with local needs and priorities so long as the projects are consistent with subdivision (b) of Section 2030.

(2) The commission shall report to the Controller the cities and counties that have submitted a list of projects as described in this subdivision and that are therefore eligible to receive an apportionment of funds under the program for the applicable fiscal year. The Controller, upon receipt of the report, shall apportion funds to eligible cities and counties.

(b) For each fiscal year, each city or county receiving an apportionment of funds shall, upon expending program funds, submit documentation to the commission that includes a description and location of each completed project, the amount of funds expended on the project, the completion date, and the estimated useful life of the improvement.

2036. (a) Cities and counties shall maintain their existing commitment of local funds for street, road, and highway purposes in order to remain eligible for an allocation or apportionment of funds pursuant to Section 2032.

(b) In order to receive an allocation or apportionment pursuant to Section 2032, the city or county shall annually expend from its general fund for street, road, and highway purposes an amount not less than the annual average of its expenditures from its general fund during the 2009–10, 2010–11, and 2011–12 fiscal years, as reported to the Controller pursuant to Section 2151. For purposes of this subdivision, in calculating a city's or county's annual general fund expenditures and its average general fund expenditures for the 2009–10, 2010–11, and 2011–12 fiscal years, any unrestricted funds that the city or county may expend at its discretion, including vehicle in-lieu tax revenues and revenues from fines and forfeitures, expended for street, road, and highway purposes shall be considered expenditures from the general fund. One-time allocations that have been expended for street and highway purposes, but which may not be available on an ongoing basis, including revenue provided under the Teeter Plan Bond Law of 1994 (Chapter 6.6 (commencing with Section 54773) of Part 1 of Division 2 of Title 5 of the Government Code), may not be considered when calculating a city's or county's annual general fund expenditures.

(c) For any city incorporated after July 1, 2009, the Controller shall calculate an annual average expenditure for the period between July 1, 2009, and December 31, 2015, inclusive, that the city was incorporated.

(d) For purposes of subdivision (b), the Controller may request fiscal data from cities and counties in addition to data provided pursuant to Section 2151, for the 2009–10, 2010–11, and 2011–12 fiscal years. Each city and county shall furnish the data to the Controller not later than 120 days after receiving the request. The Controller may withhold payment to cities and counties that do not comply with the request for information or that provide incomplete data.

(e) The Controller may perform audits to ensure compliance with subdivision (b) when deemed necessary. Any city or county that has not complied with subdivision (b) shall reimburse the state for the funds it received during that fiscal year. Any funds withheld or returned as a result of a failure to comply with subdivision (b) shall be reapportioned to the other counties and cities whose expenditures are in compliance.

(f) If a city or county fails to comply with the requirements of subdivision (b) in a particular fiscal year, the city or county may expend during that fiscal year and the following fiscal year a total amount that is not less than the total amount required to be expended for those fiscal years for purposes of complying with subdivision (b).

2037. A city or county may spend its apportionment of funds under the program on transportation priorities other than those allowable pursuant to this chapter if the city's or county's average Pavement Condition Index meets or exceeds 80.

2038. (a) The department and local agencies, as a condition of receiving funds from the program, shall adopt and implement a program designed to promote and advance construction employment and training opportunities through preapprenticeship opportunities, either by the public agency itself or through contractors engaged by the public agencies to do work funded in whole or in part by funds made available by the program.

(b) The department and local agencies, as a condition of receiving funds from the program, shall ensure the involvement of the California Conservation Corps and certified community conservation corps in the delivery of projects and services funded in whole or in part by funds made available by the program.

SEC. 26. Section 2103.1 is added to the Streets and Highways Code, to read:

2103.1. (a) Notwithstanding Section 2103, the revenues transferred to the Highway Users Tax Account pursuant to Sections 8352.4, 8352.5, and 8352.6 of the Revenue and Taxation Code shall be distributed pursuant to the formula in paragraph (3) of subdivision (a) of Section 2103.

(b) Notwithstanding subdivision (b) of Section 2103, the portion of revenues in the Highway Users Tax Account attributable to the increases in the motor vehicle fuel excise tax pursuant to subparagraph (B) of paragraph (1) of subdivision (a) of Section 7360 of the Revenue and Taxation Code, as adjusted pursuant to subdivision (c) of that section, shall be transferred to the Road Maintenance and Rehabilitation Account pursuant to Section 2031.

(c) Notwithstanding subdivision (b) of Section 2103, the portion of revenues in the Highway Users Tax Account attributable to the increase in the diesel fuel excise tax pursuant to subdivision (b) of Section 60050 of the Revenue and Taxation Code, as adjusted pursuant to subdivision (c) of that section, shall be transferred to the Trade Corridors Improvement Fund pursuant to Section 2192.4.

SEC. 27. Section 2192 of the Streets and Highways Code is amended to read:

2192. (a) *(1)* The Trade Corridors Improvement Fund, created pursuant to subdivision (c) of Section 8879.23 of the Government Code, is hereby continued in existence to receive revenues from *state* sources other than the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006. ~~This chapter shall govern expenditure of those other revenues.~~

(2) Revenues apportioned to the state under Section 167 of Title 23 of the United States Code from the national highway freight program, pursuant to the federal Fixing America's Surface Transportation Act ("FAST Act," Public Law 114-94) shall be allocated for projects approved pursuant to this chapter.

(b) This chapter shall govern the expenditure of those state and federal revenues described in subdivision (a).

~~(b) The moneys in the fund from these other sources~~

(c) The funding described in subdivision (a) shall be available upon appropriation for allocation by the California Transportation Commission for infrastructure improvements in this state on federally designated Trade Corridors of National and Regional Significance, on the Primary Freight Network, and along other corridors that have a high volume of freight movement, as determined by the ~~commission.~~ *commission and as identified in the state freight plan developed and adopted pursuant to Section 13978.8 of the Government Code.* In ~~determining~~ *prioritizing* the projects ~~eligible~~ for funding, the commission shall consult the ~~Transportation Agency's state freight plan as described in Section 13978.8 of the Government Code, the State Air Resources Board's Sustainable Freight Strategy adopted by Resolution 14-2, and the trade infrastructure and goods movement plan submitted to the commission by the Secretary of Transportation and the Secretary for Environmental Protection. The commission shall also consult~~ *California Sustainable Freight Action Plan released in July 2016 pursuant to Executive Order B-32-15,* trade infrastructure and goods movement plans adopted by regional transportation planning agencies, adopted regional transportation plans required by state and federal law, and the ~~statewide~~ *applicable* port master ~~plan when determining eligible projects for funding.~~ *plan. Eligible projects for the funding described in subdivision (a) shall further the state's economic, environmental, and public health objectives*

and goals for freight policy, as articulated in the plans to be consulted pursuant to this subdivision. Eligible projects ~~for these funds include, but are not limited to, all of the following:~~ *are as follows:*

(1) ~~Highway~~ *Highway, local road, and rail capital and* capacity *improvements, rail landside access improvements, landside freight access* improvements *to airports, seaports, and land ports,* and operational improvements to more efficiently accommodate the movement of freight, particularly for ingress and egress to and from the state's land ports of ~~entry~~ *entry, rail terminals,* and seaports, including navigable inland waterways used to transport freight between seaports, land ports of entry, and airports, and to relieve traffic congestion along major trade or goods movement corridors.

(2) Freight rail system improvements to enhance the ability to move goods from seaports, land ports of entry, and airports to warehousing and distribution centers throughout California, including projects that separate rail lines from highway or local road traffic, improve freight rail mobility through mountainous regions, relocate rail switching yards, and other projects that improve the efficiency and capacity of the rail freight system.

~~(3) Projects to enhance the capacity and efficiency of ports.~~

(3) Infrastructure improvement projects to enhance the capacity and efficiency of ports without having the effect of displacing workers in port operations.

(4) Truck corridor *and capital and operational* improvements, ~~including~~ *including, but not limited to,* dedicated truck facilities or truck toll facilities.

(5) Border ~~access~~ *capital and operational* improvements that enhance goods movement between California and Mexico and that maximize the state's ability to access ~~coordinated border infrastructure~~ funds made available to the state by federal law.

(6) Surface transportation and connector road *capital and operational* improvements to effectively facilitate the movement of goods, particularly for ingress and egress to and from the state's land ports of entry, airports, and seaports, to relieve traffic congestion along major trade or goods movement corridors.

~~(c) (1) The~~

(d) (1) ~~Except as provided in paragraph (2),~~ *In evaluating the program of projects to be funded with funds described in paragraph*

(2) of subdivision (a), the commission shall *evaluate the total potential economic and noneconomic benefits of the program of projects to California's economy, environment, and public health. The commission shall consult with the agencies identified in Executive Order B-32-15 and metropolitan planning organizations in order to utilize the appropriate models, techniques, and methods to develop the parameters for evaluating the program of projects. The commission shall* allocate ~~funds~~ *the funding described in paragraph (2) of subdivision (a)* for trade infrastructure improvements ~~from the fund~~ consistent with Section 8879.52 of the Government Code and the Trade Corridors Improvement Fund (TCIF) Guidelines adopted by the commission on November 27, 2007, or as amended by the commission, and in a manner that (A) addresses the state's most urgent needs, (B) balances the demands of various land ports of entry, seaports, and airports, (C) provides reasonable geographic balance between the state's regions, ~~and~~ (D) places emphasis on projects that improve trade corridor mobility *and safety* while reducing emissions of diesel particulate and other pollutant ~~emissions.~~ *emissions and reducing other negative community impacts, and (E) makes a significant contribution to the state's economy.*

(2) The commission shall allocate the federal freight funding, specifically, pursuant to the original TCIF Guidelines, as adopted by the commission on November 27, 2007, and in the manner described in (A) to (E), inclusive, of paragraph (1).

(A) One hundred fifty million dollars ($150,000,000) shall be dedicated exclusively to fund improvements to California's existing or planned land ports of entry on the border with Mexico. The department, in consultation with the San Diego Association of Governments and the Imperial County Transportation Commission, shall nominate a program of projects for funding allocations that make border capital and operational improvements to enhance goods movement between California and Mexico and contribute to the reduction of emissions.

(B) Seventy million dollars ($70,000,000) shall be dedicated exclusively to fund projects for the elimination, alteration, or improvement of hazardous railroad-highway grade crossings. Projects shall be jointly nominated by the department and a regional transportation agency.

(C) Three hundred sixty million dollars ($360,000,000) shall be available for projects nominated by regional transportation agencies and other public agencies, including counties, cities, and port authorities, in consultation with the department, and consistent with corridor-based programming targets contained in the Trade Corridors Investment Fund (TCIF) Guidelines adopted by the commission on November 27, 2007, or as amended by the commission, to provide reasonable geographic targets for funding allocations without constraining what an agency may propose or what the commission may approve. However, the San Diego Association of Governments, the Imperial County Transportation Commission, and other public agencies in San Diego and Imperial Counties shall be excluded from nominating projects under this subparagraph.

(2) The commission shall proportionately adjust the amounts in subparagraphs (A), (B), and (C) of paragraph (1) if the amount of funds described in paragraph (2) of subdivision (a) is less than or greater than five hundred eighty million dollars ($580,000,000).

(3) The commission shall adopt guidelines to allocate the funding described in subdivision (a) for trade infrastructure improvements in a manner that (A) addresses the state's most urgent needs, (B) balances the demands of various land ports of entry, seaports, and airports, (C) provides reasonable geographic balance between the state's regions, (D) places emphasis on projects that improve trade corridor mobility and safety while reducing emissions of diesel particulates, greenhouse gases, and other pollutants and reducing other negative community impacts, and (E) makes a significant contribution to the state's economy. The commission shall adopt any amendments to the 2007 guidelines on or before April 1, 2017.

(4) In adopting amended guidelines, and developing and adopting the program of projects, the commission shall do all of the following:

(A) Accept nominations for projects to be included in the program of projects from regional and local transportation agencies and the department.

(B) Recognize the key role of the state in project identification and support integrating statewide goods movement priorities into the corridor approach.

(C) Give the highest priority for funding allocations to projects jointly nominated by the department and a regional or other public agency.

~~(3)~~

(5) In addition, the commission shall also consider the following factors when allocating ~~these funds:~~ *funds under this section:*

(A) "Velocity," which means the speed by which large cargo would travel from the land port of entry or seaport through the distribution system.

(B) "Throughput," which means the volume of cargo that would move from the land port of entry or seaport through the distribution system.

(C) "Reliability," which means a reasonably consistent and predictable amount of time for cargo to travel from one point to another on any given day or at any given time in California.

(D) "Congestion reduction," which means the reduction in recurrent daily hours of delay to be achieved.

SEC. 28. Section 2192.2 of the Streets and Highways Code is amended to read:

2192.2. The commission shall allocate funds made available by this chapter to projects that have identified and committed supplemental funding from appropriate local, federal, or private sources. The commission shall determine the appropriate amount of supplemental funding each project should have to be eligible for moneys ~~from the fund~~ based on a project-by-project review and an assessment of the project's benefit to the state and the program. ~~Except for border access~~ *Funded* improvements ~~described in paragraph (5) of subdivision (b) of Section 2192, improvements funded with moneys from the fund~~ shall have supplemental funding that is at least equal to the amount of the contribution ~~from the fund.~~ *under this chapter.* The commission may give priority for funding to projects with higher levels of committed supplemental funding.

SEC. 29. Section 2192.4 is added to the Streets and Highways Code, to read:

2192.4. The portion of the revenues in the Highway Users Tax Account attributable to the increase in the diesel fuel excise tax pursuant to subdivision (b) of Section 60050 of the Revenue and Taxation Code, as adjusted pursuant to subdivision (c) of that section, shall be transferred to the Trade Corridors Improvement Fund.

SEC. 30. Section 9250.3 is added to the Vehicle Code, to read:

9250.3. (a) In addition to any other fees specified in this code or the Revenue and Taxation Code, commencing October 1, 2017, a registration fee of thirty-eight dollars ($38) shall be paid to the department for registration or renewal of registration of every vehicle subject to registration under this code, except those vehicles that are expressly exempted under this code from payment of registration fees.

(b) Beginning October 1, 2020, and every third year thereafter, the Department of Motor Vehicles shall adjust the fee imposed under this section for inflation in an amount equal to the change in the California Consumer Price Index for the prior three-year period, as calculated by the Department of Finance, with amounts equal to or greater than fifty cents ($0.50) rounded to the next highest whole dollar.

(c) Revenues from the fee, after the deduction of the department's administrative costs related to this section, shall be deposited in the Road Maintenance and Rehabilitation Account created pursuant to Section 2031 of the Streets and Highways Code.

SEC. 31. Section 9250.6 is added to the Vehicle Code, to read:

9250.6. (a) In addition to any other fees specified in this code, or the Revenue and Taxation Code, commencing October 1, 2017, a registration fee of one hundred dollars ($100) shall be paid to the department for registration or renewal of registration of every zero-emission motor vehicle subject to registration under this code, except those motor vehicles that are expressly exempted under this code from payment of registration fees.

(b) Beginning October 1, 2020, and every third year thereafter, the Department of Motor Vehicles shall adjust the fee imposed under this section for inflation in an amount equal to the change in the California Consumer Price Index for the prior three-year period, as calculated by the Department of Finance, with amounts equal to or greater than fifty cents ($0.50) rounded to the next highest whole dollar.

(c) Revenues from the fee, after deduction of the department's administrative costs related to this section, shall be deposited in the Road Maintenance and Rehabilitation Account created pursuant to Section 2031 of the Streets and Highways Code.

(d) This section does not apply to a commercial motor vehicle subject to Section 9400.1.

(e) The registration fee required pursuant to this section does not apply to the initial registration after the purchase of a new zero-emission motor vehicle.

(f) For purposes of this section, “zero-emission motor vehicle” means a motor vehicle as described in subdivisions (c) and (d) of Section 44258 of the Health and Safety Code, or any other motor vehicle that is able to operate on any fuel other than gasoline or diesel fuel.

SEC. 32. Section 9400.5 is added to the Vehicle Code, to read:

9400.5. (a) Notwithstanding Sections 9400.1, 9400.4, and 42205 of this code, Sections 16773 and 16965 of the Government Code, Section 2103 of the Streets and Highways Code, or any other law, weight fee revenues shall only be transferred consistent with the schedule provided in subdivision (b) from the State Highway Account to the Transportation Debt Service Fund, the Transportation Bond Direct Payment Account, or any other fund or account for the purpose of payment of the debt service on transportation general obligation bonds and shall not be loaned to the General Fund.

(b) (1) The transfer of weight fee revenues, after deduction of collection costs, from the State Highway Account pursuant to subdivision (a) shall not exceed:

(A) Ninety percent of the total weight fees in the 2017–18 fiscal year.

(B) Eighty percent of the total weight fees in the 2018–19 fiscal year.

(C) Seventy percent of the total weight fees in the 2019–20 fiscal year.

(D) Sixty percent of the total weight fees in the 2020–21 fiscal year.

(E) Fifty percent of the total weight fees in 2021–22 and subsequent fiscal years.

(2) The California Transportation Commission, on or before January 1, 2018, shall recommend a course of action to the Legislature and the Governor that would provide for the portion of weight fees described in subparagraph (E) of paragraph (1) to

be retained in the State Highway Account or transferred to the Road Maintenance and Rehabilitation Account created pursuant to Section 2031.

SEC. 33. The increases in tax rates in Sections 6051.8, 6201.8, 7360, and 60050 of the Revenue and Taxation Code, as amended by this act, shall become effective on July 1, 2017.

SEC. 34. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide additional funding for road maintenance and rehabilitation purposes as quickly as possible, it is necessary for this act to take effect immediately.

CORRECTIONS:

Heading—Line 3.

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