

AMENDED IN SENATE FEBRUARY 14, 2009

AMENDED IN ASSEMBLY JANUARY 7, 2009

CALIFORNIA LEGISLATURE—2009—10 THIRD EXTRAORDINARY SESSION

**ASSEMBLY BILL**

**No. 3**

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**Introduced by Assembly Member Evans**

January 5, 2009

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*An act relating to the Budget Act of 2008. An act to add Section 99040 to the Government Code, to amend Section 17054 of, to amend, and add Sections 10752 and 10752.1 of, to add Sections 6051.7, 6201.7, 7360.1, 7360.2, 7361.1, 7653.1, 10752.2, 17044, 60050.2, 60050.3, 60050.4, and 60201.4 to, the Revenue and Taxation Code, and to amend Sections 163 and 164 of the Streets and Highways Code, relating to taxation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 3, as amended, Evans. ~~Budget Act of 2008.~~ *Income taxes: sales and use taxes: motor vehicle and diesel fuel taxes: vehicle license fees.*

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

*(1) The Personal Income Tax Law imposes taxes based upon taxable income. That law also allows credits for personal exemptions.*

*This bill would, until January 1, 2013, impose an additional tax at a specified rate of tax liability and decrease the amount allowable as a credit for personal exemption for dependents.*

*(2) The Vehicle License Fee Law establishes, in lieu of any ad valorem property tax upon vehicles, an annual license fee for any vehicle*

subject to registration in this state in the amount of 0.65% of the market value of that vehicle, as provided.

This bill would, on and after May 19, 2009, and until July 1, 2013, increase that rate to 1%, for specified vehicles and require that the revenues derived from the increase be deposited into the General Fund.

This bill would also, on and after May 19, 2009, and until July 1, 2013, add a sum equal to 0.15% of the market value of specified vehicles, as determined by the Department of Motor Vehicles, to the vehicle registration fee, to be deposited in the General Fund and transferred to the Local Safety and Protection Account, which this bill would create in the Transportation Tax Fund. This bill would continuously appropriate all moneys in the account to the Controller for allocation for, specified purposes. This bill would require the Director of Finance to make written determinations, as specified, of whether any moneys derived from that fee are being allocated for any purpose other than the specified purpose, and to immediately submit his or her written determination to the Director of the Department of Motor Vehicles and specified legislative committees, as provided.

The bill would further provide that if the Director of Finance determines that moneys are being allocated by the state for an unauthorized purpose, the Director of the Department of Motor Vehicles shall, upon receipt of the written determination, immediately stop collection of the fee, and shall resume collection only upon his or her receipt of a written determination by the Director of Finance that none of the moneys are being allocated for an unauthorized purpose.

(3) Existing law imposes a state sales and use tax on retailers and on the storage, use, or other consumption of tangible personal property in this state at the rate of  $6\frac{1}{4}\%$  of the gross receipts from the retail sale of tangible personal property in this state and of the sales price of tangible personal property purchased from any retailer for storage, use, or other consumption in this state.

This bill would increase the state sales and use tax rate on the sale of, and on the storage, use, or other consumption of, tangible personal property, by 1% to a rate of  $7\frac{1}{4}\%$  from April 1, 2009, until July 1, 2012.

(4) Existing law imposes a tax upon the removal, entry, sale, delivery, or specified use of motor vehicle and diesel fuel, at the rate of \$0.18 per gallon. Existing law deposits the revenues derived from the imposition of this tax in several accounts, including the Aeronautics Account in the State Transportation Fund, a continuously appropriated account.

*This bill would, on April 1, 2009, until July 1, 2013, impose an additional tax at the rate of \$0.12 per gallon on the removal, entry, sale, delivery, or specified use of motor vehicle and diesel fuel. The bill also would, for the privilege of storing for the purpose of sale, require each blender, wholesaler, and retailer owning 1,000 gallons or more of motor vehicle or diesel fuel on April 1, 2009, until July 1, 2013, on which the tax of \$0.18 has been imposed, to pay a tax of \$0.12 on each gallon of the motor vehicle or diesel fuel in storage, as specified. Furthermore, this bill, by increasing amounts deposited in a continuously appropriated account, would make an appropriation.*

*The Legislature has established a policy for the use of transportation funds available to the state, including funds in the State Highway Account.*

*This bill would authorize, for fiscal years 2008–09 and 2009–10 combined, up to 90% of the funds in that account derived from the additional motor vehicle and diesel fuel taxes and fuel storage taxes imposed by this bill, to be used for purposes authorized by Section 5 of Article XIX of the California Constitution. This bill would provide that, in subsequent fiscal years, no more than half of those funds may be used in each fiscal year for that purposes. This bill would also specify that annual expenditures for debt service shall be based on the Budget Act or a long range debt service schedule provided by the Department of Finance.*

*This bill would provide that if the funds appropriated in the Budget Act of 2008 and 2009 for prior year debt service from funds derived from the additional motor vehicle and diesel fuel taxes and fuel storage taxes imposed by this bill, are not used for that purpose, those funds may not be used for any other purpose than offsetting the costs of current debt service on transportation bonds approved by the voters prior to January 1, 2009, and will be retained in Transportation Debt Service Fund until used for that purpose.*

*This bill would modify the operative periods for the increase in specified income, sales and use, and fuel excise taxes, and vehicle license fees, if specified conditions occur, as provided.*

The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on December 19, 2008.

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

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

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

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

1     SECTION 1. Section 99040 is added to the Government Code,  
2     to read:

3     99040. The Director of the Department of Finance shall  
4     immediately notify the Joint Legislative Budget Committee, the  
5     Executive Officer of the Franchise Tax Board, the Executive  
6     Director of the State Board of Equalization, and the Director of  
7     the Department of Motor Vehicles when and if an amendment to  
8     the California Constitution is approved at a statewide election  
9     held during the 2009 calendar year, that limits the total amount  
10    that, under Section 20 of Article XVI of the California Constitution,  
11    may be transferred by statute from the Budget Stabilization  
12    Account, or any successor to that account, to the General Fund.

13    SEC. 2. Section 6051.7 is added to the Revenue and Taxation  
14    Code, to read:

15    6051.7. (a) In addition to the taxes imposed by Section 6051  
16    and any other provision of this part, for the privilege of selling  
17    tangible personal property at retail, a tax is hereby imposed upon  
18    all retailers at the rate of 1 percent of the gross receipts of any  
19    retailer from the sale of all tangible personal property sold at  
20    retail in this state, on and after April 1, 2009.

21    (b) This section shall cease to be operative on July 1, 2011,  
22    unless the Director of the Department of Finance makes the  
23    notification pursuant to Section 99040 of the Government Code,  
24    in which case this section shall cease to be operative on July 1,  
25    2012.

26    SEC. 3. Section 6201.7 is added to the Revenue and Taxation  
27    Code, to read:

28    6201.7. (a) In addition to the taxes imposed by Section 6201  
29    and any other provision of this part, an excise tax is hereby  
30    imposed on the storage, use, or other consumption in this state of

1 *tangible personal property purchased from any retailer for storage,*  
2 *use, or other consumption in this state, at the rate of 1 percent of*  
3 *the sales price of the property, on and after April 1, 2009.*

4 *(b) This section shall cease to be operative on July 1, 2011,*  
5 *unless the Director of the Department of Finance makes the*  
6 *notification pursuant to Section 99040 of the Government Code,*  
7 *in which case this section shall cease to be operative on July 1,*  
8 *2012.*

9 *SEC. 4. Section 7360.1 is added to the Revenue and Taxation*  
10 *Code, to read:*

11 *7360.1. (a) On and after April 1, 2009, in addition to any other*  
12 *tax, a tax of twelve cents (\$0.12) is hereby imposed upon each*  
13 *gallon of fuel subject to the tax in Sections 7362, 7363, and 7364.*

14 *(b) This section shall cease to be operative on July 1, 2011,*  
15 *unless the Director of the Department of Finance makes the*  
16 *notification pursuant to Section 99040 of the Government Code,*  
17 *in which case this section shall cease to be operative on July 1,*  
18 *2013.*

19 *SEC. 5. Section 7360.2 is added to the Revenue and Taxation*  
20 *Code, to read:*

21 *7360.2. For purposes of California law, all references to the*  
22 *tax imposed pursuant to Section 7360 shall also include the tax*  
23 *imposed pursuant to Section 7360.1.*

24 *SEC. 6. Section 7361.1 is added to the Revenue and Taxation*  
25 *Code, to read:*

26 *7361.1. (a) For the privilege of storing for the purpose of sale,*  
27 *each blender, wholesaler, and retailer owning 1,000 gallons or*  
28 *more of tax-paid motor vehicle fuel on April 1, 2009, shall pay a*  
29 *tax of twelve cents (\$0.12) on each gallon of the tax-paid motor*  
30 *vehicle fuel in storage according to the volumetric measure thereof.*

31 *(b) For purposes of this section, the following terms have the*  
32 *following meanings:*

33 *(1) "Owning" means having title to the motor vehicle fuel.*

34 *(2) "Retailer" means any person who sells motor vehicle fuel*  
35 *in this state to a person who subsequently uses the motor vehicle*  
36 *fuel.*

37 *(3) "Storing" includes the possession in a storage facility, except*  
38 *any fuel included in the bulk transfer/terminal system, or a*  
39 *container of any kind, including railroad tank cars and truck or*  
40 *trailer cargo tanks, of tax-paid motor vehicle fuel, as well as the*

1 *tax-paid motor vehicle fuel purchased from and invoiced by the*  
2 *seller prior to April 1, 2009, and in transit on that date.*

3 (4) *“Tax-paid motor vehicle fuel” means the gallons of motor*  
4 *vehicle fuel acquired on either a temperature-corrected or*  
5 *volumetric basis on which the tax in Section 7360 has been imposed*  
6 *at the time of, or prior to acquisition by, the blender, wholesaler,*  
7 *or retailer.*

8 (5) *“Wholesaler” means any person who sells motor vehicle*  
9 *fuel in this state for resale to a retailer or to a person who is not*  
10 *a retailer and subsequently uses the motor vehicle fuel.*

11 SEC. 7. *Section 7653.1 is added to the Revenue and Taxation*  
12 *Code, to read:*

13 7653.1. *Each person subject to the storage tax imposed under*  
14 *Section 7361.1 shall, on or before May 31, 2009, prepare and file*  
15 *with the board, on a form prescribed by the board, a return*  
16 *showing the total number of gallons of tax-paid motor vehicle fuel*  
17 *owned by the person on April 1, 2009, the amount of the storage*  
18 *tax, and any other information that the board deems necessary for*  
19 *the proper administration of this part. The return shall be*  
20 *accompanied by a remittance payable to the Controller in the*  
21 *amount of tax due.*

22 SEC. 8. *Section 10752 of the Revenue and Taxation Code is*  
23 *amended to read:*

24 10752. (a) *The annual amount of the license fee for any*  
25 *vehicle, other than a trailer or semitrailer, as described in*  
26 *subdivision (a) of Section 5014.1 of the Vehicle Code or a*  
27 *commercial motor vehicle described in Section 9400.1 of the*  
28 *Vehicle Code, or a trailer coach that is required to be moved under*  
29 *permit as authorized in Section 35790 of the Vehicle Code, shall*  
30 *be a sum equal to ~~2 percent, and on and after January 1, 2005, 0.65~~*  
31 *percent, the following percentage of the market value of the vehicle*  
32 *as determined by the department::*

33 (1) *Sixty-five hundredths of 1 percent on and after January 1,*  
34 *2005, and before May 19, 2009.*

35 (2) *One percent on and after May 19, 2009.*

36 (b) *The annual amount of the license fee for any commercial*  
37 *vehicle as described in Section 9400.1 of the Vehicle Code, shall*  
38 *be a sum equal to 0.65 percent of the market value of the vehicle*  
39 *as determined by the department.*

1 (c) Notwithstanding Chapter 5 (commencing with Section 11001)  
2 or any other law to the contrary, all revenues (including penalties),  
3 less refunds, attributable to that portion of the rate imposed  
4 pursuant to this section in excess of 0.65 percent shall be deposited  
5 into the General Fund.

6 (d) This section shall cease to be operative on July 1, 2011,  
7 unless the Director of the Department of Finance makes the  
8 notification pursuant to Section 99040 of the Government Code,  
9 in which case the section shall cease to be operative on July 1,  
10 2013.

11 SEC. 9. Section 10752 is added to the Revenue and Taxation  
12 Code, to read:

13 10752. (a) The annual amount of the license fee for any  
14 vehicle, other than a trailer or semitrailer, as described in  
15 subdivision (a) of Section 5014.1 of the Vehicle Code, or a trailer  
16 coach that is required to be moved under permit as authorized in  
17 Section 35790 of the Vehicle Code, shall be a sum equal to 0.65  
18 percent of the market value of the vehicle as determined by the  
19 department.

20 (b) This section shall become operative on July 1, 2011, unless  
21 the Director of the Department of Finance makes the notification  
22 pursuant to Section 99040 of the Government Code, in which case  
23 this section shall become operative on July 1, 2013.

24 SEC. 10. Section 10752.1 of the Revenue and Taxation Code  
25 is amended to read:

26 10752.1. (a) The annual amount of the license fee for a trailer  
27 coach which is required to be moved under permit as authorized  
28 in Section 35790 of the Vehicle Code shall be a sum equal to ~~2~~  
29 ~~percent, and on and after January 1, 2005, 0.65 percent, the~~  
30 ~~following percentage~~ of the market value of the vehicle as  
31 determined by the department.:

32 (1) Sixty-five hundredths of 1 percent on and after January 1,  
33 2005, and before May 19, 2009.

34 (2) One percent on and after May 19, 2009.

35 (b) Notwithstanding Chapter 5 (commencing with Section  
36 11001) or any other law to the contrary, all revenues (including  
37 penalties), less refunds, attributable to that portion of the rate  
38 imposed pursuant to this section in excess of 0.65 percent shall be  
39 deposited in the General Fund.

1 (c) *This section shall cease to be operative on July 1, 2011,*  
2 *unless the Director of the Department of Finance makes the*  
3 *notification pursuant to Section 99040 of the Government Code,*  
4 *in which case this section shall cease to be operative on July 1,*  
5 *2013.*

6 *SEC. 11. Section 10752.1 is added to the Revenue and Taxation*  
7 *Code, to read:*

8 *10752.1. (a) The annual amount of the license fee for a trailer*  
9 *coach which is required to be moved under permit as authorized*  
10 *in Section 35790 of the Vehicle Code shall be a sum equal to 0.65*  
11 *percent of the market value of the vehicle as determined by the*  
12 *department.*

13 *(b) This section shall become operative on July 1, 2011, unless*  
14 *the Director of the Department of Finance makes the notification*  
15 *pursuant to Section 99040 of the Government Code, in which case*  
16 *this section shall become operative on July 1, 2013.*

17 *SEC. 12. Section 10752.2 is added to the Revenue and Taxation*  
18 *Code, to read:*

19 *10752.2. (a) On and after May 19, 2009, in addition to the*  
20 *annual license fee for a vehicle, other than a commercial motor*  
21 *vehicle described in Section 9400.1 of the Vehicle Code, imposed*  
22 *pursuant to Sections 10752 and 10752.1, a sum equal to 0.15*  
23 *percent of the market value of the vehicle as determined by the*  
24 *department, shall be added to that annual fee.*

25 *(b) Notwithstanding Chapter 5 (commencing with Section*  
26 *11001) or any other law to the contrary, all revenues (including*  
27 *penalties), less refunds, derived from fees collected pursuant to*  
28 *subdivision (a) shall be deposited in the General Fund and*  
29 *transferred to the Local Safety and Protection Account, which is*  
30 *hereby established in the Transportation Tax Fund.*  
31 *Notwithstanding Section 13340 of the Government Code, all*  
32 *moneys in the account are hereby continuously appropriated,*  
33 *without regard to fiscal year, to the Controller for allocation*  
34 *pursuant to Sections 29553, 30061, and 30070 of the Government*  
35 *Code, Section 13821 of the Penal Code, and Sections 18220 and*  
36 *18220.1 of the Welfare and Institutions Code.*

37 *(c) (1) In 2010 and each calendar year thereafter, the Director*  
38 *of Finance shall, no later than January 10 and upon the enactment*  
39 *of the Budget Act during the calendar year, make a written*  
40 *determination of whether any of the moneys derived from fees*

1 collected pursuant to subdivision (a) are being allocated by the  
2 state for any purpose not authorized by subdivision (b), and shall  
3 immediately submit his or her written determination to all of the  
4 following:

- 5 (A) The Director of the Department of Motor Vehicles.
- 6 (B) The Joint Legislative Budget Committee.
- 7 (C) The Senate and Assembly Appropriations Committees.
- 8 (D) The Senate and Assembly Revenue and Taxation  
9 Committees.

10 (2) If the Director of Finance determines that any moneys  
11 derived from fees collected pursuant to subdivision (a) are being  
12 allocated by the state for a purpose not authorized by subdivision  
13 (b), the Director of the Department of Motor Vehicles shall, upon  
14 receipt of the written determination, immediately cease collection  
15 of the fees imposed by subdivision (a), and shall resume collection  
16 of those fees only upon his or her receipt of written determination  
17 provided under paragraph (1) that specifies that none of the  
18 moneys derived from fees collected pursuant to subdivision (a)  
19 are being allocated by the state for a purpose not authorized by  
20 subdivision (a).

21 (d) This section shall cease to be operative on July 1, 2011,  
22 unless the Director of the Department of Finance makes the  
23 notification pursuant to Section 99040 of the Government Code,  
24 in which case this section shall cease to be operative on July 1,  
25 2013.

26 SEC. 13. Section 17044 is added to the Revenue and Taxation  
27 Code, to read:

28 17044. (a) For each taxable year beginning on or after  
29 January 1, 2009, and before January 1, 2013, in addition to any  
30 other taxes imposed by this part, an additional tax shall be imposed  
31 at the rate of 5 percent on the total tax for the taxable year.

32 (b) (1) For purposes of this section, "total tax" means the tax  
33 imposed by this part, less any credit allowed under Chapter 2  
34 (commencing with Section 17041), other than the Child and  
35 Dependent Care Credit allowed under Section 17052.6.

36 (2) For purposes of applying Part 10.2 (commencing with  
37 Section 18401) of Division 2, the tax imposed under this section  
38 shall be treated as if imposed under Section 17041.

39 (c) The tax imposed under this section shall not be further  
40 reduced by any credits otherwise allowable under Chapter 2

1 (commencing with Section 17041), other than the Child and  
2 Dependent Care Credit allowed under Section 17052.6.

3 (d) This section shall cease to be operative on December 1,  
4 2011, for taxable years beginning before January 1, 2011, unless  
5 the Director of the Department of Finance makes the notification  
6 pursuant to Section 99040 of the Government Code, in which case  
7 this section shall cease to be operative on December 1, 2013.

8 (e) This section shall become operative only if the Director of  
9 Finance does not provide notification to the Joint Legislative  
10 Budget Committee on or before April 1, 2009, pursuant to Section  
11 99030 of the Government Code.

12 SEC. 14. Section 17044 is added to the Revenue and Taxation  
13 Code, to read:

14 17044. (a) For each taxable year beginning on or after  
15 January 1, 2009, and before January 1, 2013, in addition to any  
16 other taxes imposed by this part, an additional tax shall be imposed  
17 at the rate of 2.5 percent on the total tax for the taxable year.

18 (b) (1) For purposes of this section, "total tax" means the tax  
19 imposed by this part, less any credit allowed under Chapter 2  
20 (commencing with Section 17041), other than the Child and  
21 Dependent Care Credit allowed under Section 17052.6.

22 (2) For purposes of applying Part 10.2 (commencing with  
23 Section 18401) of Division 2, the tax imposed under this section  
24 shall be treated as if imposed under Section 17041.

25 (c) The tax imposed under this section shall not be further  
26 reduced by any credits otherwise allowable under Chapter 2  
27 (commencing with Section 17041), other than the Child and  
28 Dependent Care Credit allowed under Section 17052.6.

29 (d) This section shall cease to be operative on December 1,  
30 2011, for taxable years beginning before January 1, 2011, unless  
31 the Department of Finance makes the notification pursuant to  
32 Section 99040 of the Government Code, in which case this section  
33 shall cease to be operative on December 1, 2013.

34 (e) This section shall become operative only if the Director of  
35 Finance provides notification to the Joint Legislative Budget  
36 Committee on or before April 1, 2009, pursuant to Section 99030  
37 of the Government Code.

38 SEC. 15. Section 17054 of the Revenue and Taxation Code is  
39 amended to read:

1 17054. In the case of individuals, the following credits for  
2 personal exemption may be deducted from the tax imposed under  
3 Section 17041 or 17048, less any increases imposed under  
4 paragraph (1) of subdivision (d) or paragraph (1) of subdivision  
5 (e), or both, of Section 17560.

6 (a) In the case of a single individual, a head of household, or a  
7 married individual making a separate return, a credit of fifty-two  
8 dollars (\$52).

9 (b) In the case of a surviving spouse (as defined in Section  
10 17046), or a husband and wife making a joint return, a credit of  
11 one hundred four dollars (\$104). If one spouse was a resident for  
12 the entire taxable year and the other spouse was a nonresident for  
13 all or any portion of the taxable year, the personal exemption shall  
14 be divided equally.

15 (c) In addition to any other credit provided in this section, in  
16 the case of an individual who is 65 years of age or over by the end  
17 of the taxable year, a credit of fifty-two dollars (\$52).

18 (d) (1) A credit of two hundred twenty-seven dollars (\$227)  
19 for each dependent (as defined in Section 17056) for whom an  
20 exemption is allowable under Section 151(c) of the Internal  
21 Revenue Code, relating to additional exemption for dependents.  
22 The credit allowed under this subdivision for taxable years  
23 beginning on or after January 1, 1999, shall not be adjusted  
24 pursuant to subdivision (i) for any taxable year beginning before  
25 January 1, 2000.

26 (2) The credit allowed under paragraph (1) may not be denied  
27 on the basis that the identification number of the dependent, as  
28 defined in Section 17056, for whom an exemption is allowable  
29 under Section 151(c) of the Internal Revenue Code, relating to  
30 additional exemption for dependents, is not included on the return  
31 claiming the credit.

32 (3) (A) *For taxable years beginning on or after January 1,*  
33 *2009, the credit allowed under paragraph (1) for each dependent*  
34 *shall be equal to the credit allowed under subdivision (a). This*  
35 *subparagraph shall cease to be operative on January 1, 2011,*  
36 *unless the Director of the Department of Finance makes the*  
37 *notification pursuant to Section 99040 of the Government Code,*  
38 *in which case this subparagraph shall cease to be operative on*  
39 *January 1, 2013.*

1 (B) Commencing on the date that subparagraph (A) ceases to  
2 be operative, the credit allowed under paragraph (1) for each  
3 dependent shall be equal to the amount that would be allowed if  
4 subparagraph (A) had never been operative.

5 (e) A credit for personal exemption of fifty-two dollars (\$52)  
6 for the taxpayer if he or she is blind at the end of his or her taxable  
7 year.

8 (f) A credit for personal exemption of fifty-two dollars (\$52)  
9 for the spouse of the taxpayer if a separate return is made by the  
10 taxpayer, and if the spouse is blind and, for the calendar year in  
11 which the taxable year of the taxpayer begins, has no gross income  
12 and is not the dependent of another taxpayer.

13 (g) For the purposes of this section, an individual is blind only  
14 if either (1) his or her central visual acuity does not exceed 20/200  
15 in the better eye with correcting lenses, or (2) his or her visual  
16 acuity is greater than 20/200 but is accompanied by a limitation  
17 in the fields of vision such that the widest diameter of the visual  
18 field subtends an angle no greater than 20 degrees.

19 (h) In the case of an individual with respect to whom a credit  
20 under this section is allowable to another taxpayer for a taxable  
21 year beginning in the calendar year in which the individual's  
22 taxable year begins, the credit amount applicable to that individual  
23 for that individual's taxable year is zero.

24 (i) For each taxable year beginning on or after January 1, 1989,  
25 the Franchise Tax Board shall compute the credits prescribed in  
26 this section. That computation shall be made as follows:

27 (1) The California Department of Industrial Relations shall  
28 transmit annually to the Franchise Tax Board the percentage change  
29 in the California Consumer Price Index ~~as modified for rental~~  
30 ~~equivalent home ownership~~ for all items from June of the prior  
31 calendar year to June of the current calendar year, no later than  
32 August 1 of the current calendar year.

33 (2) The Franchise Tax Board shall add 100 percent to the  
34 percentage change figure which is furnished to them pursuant to  
35 paragraph (1), and divide the result by 100.

36 (3) The Franchise Tax Board shall multiply the immediately  
37 preceding taxable year credits by the inflation adjustment factor  
38 determined in paragraph (2), and round off the resulting products  
39 to the nearest one dollar (\$1).

1 (4) In computing the credits pursuant to this subdivision, the  
2 credit provided in subdivision (b) shall be twice the credit provided  
3 in subdivision (a).

4 *SEC. 16. Section 60050.2 is added to the Revenue and Taxation*  
5 *Code, to read:*

6 *60050.2. (a) On and after April 1, 2009, in addition to any*  
7 *other tax, a tax of twelve cents (\$0.12) is hereby imposed upon*  
8 *each gallon of diesel fuel subject to the tax in Sections 60051,*  
9 *60052, and 60058.*

10 *(b) This section shall cease to be operative on July 1, 2011,*  
11 *unless the Director of the Department of Finance makes the*  
12 *notification pursuant to Section 99040 of the Government Code,*  
13 *in which case this section shall cease to be operative on July 1,*  
14 *2013.*

15 *SEC. 17. Section 60050.3 is added to the Revenue and Taxation*  
16 *Code, to read:*

17 *60050.3. For purposes of California law, all references to the*  
18 *tax imposed pursuant to Section 60050 shall also include the tax*  
19 *imposed pursuant to Section 60050.2.*

20 *SEC. 18. Section 60050.4 is added to the Revenue and Taxation*  
21 *Code, to read:*

22 *60050.4. (a) For the privilege of storing for the purpose of*  
23 *sale, each blender, wholesaler, and retailer owning 1,000 gallons*  
24 *or more of tax-paid diesel fuel on April 1, 2009, shall pay a tax of*  
25 *twelve cents (\$0.12) on each gallon of tax-paid diesel fuel in*  
26 *storage according to the volumetric measure thereof.*

27 *(b) For purposes of this section, the following terms have the*  
28 *following meanings:*

29 *(1) "Owning" means having title to the diesel fuel.*

30 *(2) "Retailer" means any person who sells diesel fuel in this*  
31 *state to a person who subsequently uses the diesel fuel.*

32 *(3) "Storing" includes the possession in a storage facility, except*  
33 *any fuel included in the bulk transfer/terminal system, or a*  
34 *container of any kind, including railroad tank cars and truck or*  
35 *trailer cargo tanks, of tax-paid diesel fuel, as well as the tax-paid*  
36 *diesel fuel purchased from and invoiced by the seller prior to April*  
37 *1, 2009, and in transit on that date.*

38 *(4) "Tax-paid diesel fuel" means the gallons of diesel fuel*  
39 *acquired on either a temperature-corrected or volumetric basis*

1 on which the tax in Section 60050 has been imposed at the time  
2 of, or prior to acquisition by, the blender, wholesaler, or retailer.

3 (5) “Wholesaler” means any person who sells diesel fuel in this  
4 state for resale to a retailer or to a person who is not a retailer  
5 and subsequently uses the diesel fuel.

6 SEC. 19. Section 60201.4 is added to the Revenue and Taxation  
7 Code, to read:

8 60201.4. Each person subject to the storage tax imposed under  
9 Section 60050.3 shall, on or before May 31, 2009, prepare and  
10 file with the board, on a form prescribed by the board, a return  
11 showing the total number of gallons of tax-paid diesel fuel owned  
12 by the person on April 1, 2009, the amount of the storage tax, and  
13 any other information that the board deems necessary for the  
14 proper administration of this part. The return shall be accompanied  
15 by a remittance payable to the board in the amount of tax due.

16 SEC. 20. Section 163 of the Streets and Highways Code is  
17 amended to read:

18 163. (a) The Legislature, through the enactment of this section,  
19 intends to establish a policy for the use of all transportation funds  
20 that are available to the state, including the State Highway Account,  
21 the Public Transportation Account, and federal funds. For the  
22 purposes of this section, “federal funds” means any obligational  
23 authority to be provided under annual federal transportation  
24 appropriations acts. The department and the commission shall  
25 prepare fund estimates pursuant to Sections 14524 and 14525 of  
26 the Government Code based on the following:

27 (a)

28 (1) Annual expenditures for the administration of the department  
29 shall be the same as the most recent Budget Act, adjusted for  
30 inflation.

31 (b)

32 (2) Annual expenditures for the maintenance and operation of  
33 the state highway system shall be the same as the most recent  
34 Budget Act, adjusted for inflation and inventory, or, when a  
35 maintenance plan has been enacted pursuant to Section 164.6,  
36 maintenance expenditures shall be based on planned expenditures  
37 in that plan.

38 (c)

39 (3) Annual expenditure for the rehabilitation of the state highway  
40 system shall be the same as the most recent Budget Act, or, when

1 a long-range rehabilitation plan has been enacted pursuant to  
2 Section 164.6, shall be based on planned expenditures in that  
3 long-range plan.

4 ~~(d)~~

5 (4) Annual expenditures for local assistance shall be the amount  
6 required to fund local assistance programs required by state or  
7 federal law or regulations, including, but not limited to, railroad  
8 grade crossing maintenance, bicycle transportation account,  
9 congestion mitigation and air quality, regional surface  
10 transportation programs, local highway bridge replacement and  
11 rehabilitation, local seismic retrofit, local hazard elimination and  
12 safety, and local emergency relief.

13 *(b) (1) In fiscal years 2008-09 and 2009-10 combined, up to*  
14 *90 percent of revenues deposited in the State Highway Account*  
15 *pursuant to Section 2108 that are derived from Sections 7360.1,*  
16 *7361.1, 60050.2, and 60050.4 of the Revenue and Taxation Code*  
17 *may be used for the purposes of Section 5 of Article XIX of the*  
18 *California Constitution. In subsequent fiscal years, no more than*  
19 *one-half of those revenues may be used in each fiscal year for that*  
20 *purpose. Annual expenditures shall be based on the Budget Act*  
21 *or a long-range debt service schedule provided by the Department*  
22 *of Finance.*

23 *(2) If the funds appropriated in the Budget Acts of 2008 and*  
24 *2009 for prior year debt service from the funds described in*  
25 *paragraph (1) are not used for that purpose, those funds may not*  
26 *be used for any other purpose than offsetting the costs of current*  
27 *debt service on transportation bonds approved by the voters prior*  
28 *to January 1, 2009 and will be retained in the Transportation Debt*  
29 *Service Fund created by Section 16965 of the Government Code*  
30 *until used for that purpose.*

31 ~~(e)~~

32 (c) After deducting expenditures for administration, operation,  
33 maintenance, local assistance, safety, and rehabilitation pursuant  
34 to ~~subdivisions (a), (b), (e), and (d)~~ *subdivision (a)*, and for  
35 expenditures pursuant to Section 164.56, *and debt service under*  
36 *subdivision (b)*, the remaining funds shall be available for capital  
37 improvement projects to be programmed in the state transportation  
38 improvement program.

39 *SEC. 21. Section 164 of the Streets and Highways Code is*  
40 *amended to read:*

1 164. (a) Funds made available for transportation capital  
 2 improvement projects under subdivision ~~(e)~~ (c) of Section 163  
 3 shall be programmed and expended for the following program  
 4 categories:

- 5 (1) Twenty-five percent for interregional improvements.
- 6 (2) Seventy-five percent for regional improvements.

7 (b) Sixty percent of the funds available for interregional  
 8 improvements under paragraph (1) of subdivision (a) shall be  
 9 programmed and expended for improvements to state highways  
 10 that are specified in Sections 164.10 to 164.20, inclusive, and that  
 11 are outside the boundaries of an urbanized area with a population  
 12 of more than 50,000, and for intercity rail improvements.

13 (c) Not less than 15 percent of the amount of funds programmed  
 14 under subdivision (b) shall be programmed for intercity rail  
 15 improvement projects, including separation of grade projects.

16 (d) Funds made available under paragraph (1) of subdivision  
 17 (a) shall be used for transportation improvement projects that are  
 18 needed to facilitate interregional movement of people and goods.  
 19 The projects may include state highway, intercity passenger rail,  
 20 mass transit guideway, or grade separation projects.

21 (e) Funds made available under paragraph (2) of subdivision  
 22 (a) shall be used for transportation improvement projects that are  
 23 needed to improve transportation within the region. The projects  
 24 may include, but shall not be limited to, improving state highways,  
 25 local roads, public transit, intercity rail, pedestrian, and bicycle  
 26 facilities, and grade separation, transportation system management,  
 27 transportation demand management, soundwall projects, intermodal  
 28 facilities, safety, and providing funds to match federal funds.

29 *SEC. 22. This act addresses the fiscal emergency declared by*  
 30 *the Governor by proclamation on December 19, 2008, pursuant*  
 31 *to subdivision (f) of Section 10 of Article IV of the California*  
 32 *Constitution.*

33 *SEC. 23. This act is an urgency statute necessary for the*  
 34 *immediate preservation of the public peace, health, or safety within*  
 35 *the meaning of Article IV of the Constitution and shall go into*  
 36 *immediate effect. The facts constituting the necessity are:*

37 *In order to properly address the current fiscal emergency, it is*  
 38 *necessary that this act go into immediate effect.*

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

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

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