

Senate Bill No. 11

Passed the Senate December 18, 2008

Secretary of the Senate

Passed the Assembly December 18, 2008

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2008, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Part 4.5 (commencing with Section 9601) to, and to add Part 32 (commencing with Section 61001) to Division 2 of, the Revenue and Taxation Code, and to add Section 2100.1 to the Streets and Highways Code, relating to fuel, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 11, Ducheny. User fee: gasoline and diesel fuel.

Existing law imposes a levy of \$0.18 per gallon on motor vehicle fuel, commonly referred to as gasoline, and on diesel fuel. Under Article XIX of the California Constitution, the portion of these revenues that is derived from use in motor vehicles upon public streets and highways is restricted for expenditure on street and highway and certain mass transit guideway purposes.

This bill would, commencing April 1, 2009, impose a user fee of \$0.39 per gallon on gasoline and \$0.31 per gallon on diesel fuel. The bill would require the State Board of Equalization to adjust the amount of the fee every 3 years consistent with the California Consumer Price Index. The bill would require revenues from the fee to be distributed pursuant to specified formulas. The bill would require the State Board of Equalization to administer the user fees in the same manner as the existing \$0.18 per gallon levies. Revenues from the fee would be required to be used solely for purposes consistent with the requirements under law for a user fee of this nature. The bill would continuously appropriate the fee revenues deposited in the Motor Vehicle Fuel Account, and would continuously appropriate the portion of fee revenues designated for apportionment by the Controller to cities and counties, as specified, thereby making an appropriation. The bill would enact other related provisions.

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 1, 2008.

This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on December 1, 2008, pursuant to the California Constitution.

Appropriation: yes.

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

SECTION 1. Part 4.5 (commencing with Section 9601) is added to Division 2 of the Revenue and Taxation Code, to read:

PART 4.5. MOTOR VEHICLE FUEL USER FEE

9601. (a) A user fee of 39 cents (\$0.39) is hereby initially imposed, commencing April 1, 2009, on each gallon of motor vehicle fuel, as defined in Section 7326. The fee shall be deemed to be imposed on the ultimate user of the motor vehicle fuel but shall be collected in the same manner as provided in Part 2 (commencing with Section 7301). All revenues from the user fee shall be used solely for purposes consistent with requirements under law for a user fee of this nature.

(b) The board shall adjust the amount of the fee in subdivision (a) every three years consistent with the California Consumer Price Index.

9602. All provisions governing Part 2 (commencing with Section 7301), including any exemptions and provisions governing claims for refunds, shall apply to the administration of this part, except to the extent inconsistent with this part or where the context otherwise requires. For the purposes of this part, any reference to “tax” or “license tax” in Part 2 (commencing with Section 7301) shall be deemed to be a reference to the fee imposed by this part. The board may adopt regulations to implement this part.

9603. (a) All revenues collected by the board pursuant to this part shall be distributed pursuant to the process established in Part 2 (commencing with Section 7301), including the transfer of revenues pursuant to Section 8353, which shall be distributed by the Controller pursuant to Section 2100.1 of the Streets and Highways Code.

(b) Revenues from the fee shall be subject to appropriation by the Legislature, and shall not be continuously appropriated, notwithstanding any provision of law to the contrary in Part 2

(commencing with Section 7301) of this code or Chapter 3 (commencing with Section 2100) of Division 3 of the Streets and Highways Code, except that the continuous appropriation specified in Section 8352 shall be continued in effect, and except that the appropriation provided in paragraph (1) of subdivision (b) of Section 2100.1 of the Streets and Highways Code shall be in effect.

9604. If Part 2 (commencing with Section 7301) or any relevant portion thereof is repealed, all references in this part to Part 2 (commencing with Section 7301) shall be deemed to refer to that part as it existed immediately prior to repeal.

SEC. 2. Part 32 (commencing with Section 61001) is added to Division 2 of the Revenue and Taxation Code, to read:

PART 32. DIESEL FUEL USER FEE

61001. (a) A user fee of 31 cents (\$0.31) is hereby initially imposed, commencing April 1, 2009, on each gallon of diesel fuel, as defined in Section 60022. The fee shall be deemed to be imposed on the ultimate user of the diesel fuel but shall be collected in the same manner as provided in Part 31 (commencing with Section 60001). All revenues from the user fee shall be used solely for purposes consistent with requirements under law for a user fee of this nature.

(b) The board shall adjust the amount of the fee in subdivision (a) every three years consistent with the California Consumer Price Index.

61002. All provisions governing Part 31 (commencing with Section 60001), including any exemptions and provisions governing claims for refunds, shall apply to the administration of this part, except to the extent inconsistent with this part or where the context otherwise requires. For the purposes of this part, any reference to “tax” in Part 31 (commencing with Section 60001) shall be deemed to be a reference to the fee imposed by this part. The board may adopt regulations to implement this part.

61003. (a) All revenues collected by the board pursuant to this part shall be distributed pursuant to the process established in Part 31 (commencing with Section 60001), including the transfer of revenues pursuant to Section 60653, which shall be distributed by the Controller pursuant to Section 2100.1 of the Streets and Highways Code.

(b) Revenues from the fee shall be subject to appropriation by the Legislature, and shall not be continuously appropriated, notwithstanding any provision of law to the contrary in Part 31 (commencing with Section 60001) of this code or Chapter 3 (commencing with Section 2100) of Division 3 of the Streets and Highways Code, except that the continuous appropriation specified in Section 60652 shall be continued in effect, and except that the appropriation provided in paragraph (1) of subdivision (b) of Section 2100.1 of the Streets and Highways Code shall be in effect.

61004. If Part 31 (commencing with Section 60001) is repealed, all references in this part to Part 31 (commencing with Section 60001) shall be deemed to refer to that part as it existed immediately prior to repeal.

SEC. 3. Section 2100.1 is added to the Streets and Highways Code, to read:

2100.1. (a) Notwithstanding Section 2100, the Highway Users Tax Account shall hereinafter be known as the Highway Users Revenue Account. Any reference in law or regulation to the Highway Users Tax Account shall be deemed to refer to the Highway Users Revenue Account.

(b) The revenues deposited in the Highway Users Revenue Account pursuant to Sections 8353 and 60653 of the Revenue and Taxation Code shall be used solely for purposes consistent with requirements under law for a user fee of this nature. Notwithstanding any other provision of this chapter to the contrary, those revenues shall be distributed or transferred by the Controller as follows, except as provided in subdivision (c):

(1) Thirty-three percent of total revenues in the Highway Users Revenue Account are continuously appropriated to the Controller and shall be apportioned to cities and counties for the purposes authorized by this subdivision. The formulas in this chapter applicable to cities and counties shall be used to make an initial apportionment of funds under this paragraph, and all requirements in this chapter pertaining to those formulas shall apply to those funds. An additional amount from the account equal to the difference between the total amount required to be apportioned pursuant to this paragraph and the amount of the initial apportionment shall further be apportioned to cities and counties based on the applicable formulas set forth in Section 7104.2 of the Revenue and Taxation Code, with 50 percent of the additional

amount to be apportioned to counties pursuant to subparagraph (A) of paragraph (3) of subdivision (c) of Section 7104.2 of the Revenue and Taxation Code, and with 50 percent of the additional amount to be apportioned to cities pursuant to subparagraph (B) of paragraph (3) of subdivision (c) of Section 7104.2 of the Revenue and Taxation Code, and the requirements in subdivisions (d), (e), (f), and (g) of that section shall apply to those funds.

(2) Forty-five percent of the total revenues in the Highway Users Revenue Account shall be transferred to the State Highway Account for expenditure in accordance with Section 163, except that a minimum of 20 percent of the revenues transferred to the State Highway Account pursuant to this paragraph shall be available for appropriation to capital projects to be programmed in the state transportation improvement program.

(3) Twenty-two percent of the total revenues in the Highway Users Revenue Account shall be transferred to the Transportation Funding Stabilization Account, which is hereby created in the State Transportation Fund. Revenues in the account shall be available for appropriation to transportation purposes as specified by statute.

(c) Prior to making the distributions pursuant to subdivision (b), an amount shall be made available from the revenues deposited in the Highway Users Revenue Account pursuant to Sections 8353 and 60653 of the Revenue and Taxation Code for the purposes of maintenance and repair of highways in units of the state park system pursuant to Section 2107.7.

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

Approved _____, 2008

Governor