

AMENDED IN ASSEMBLY AUGUST 30, 2016

CALIFORNIA LEGISLATURE—2015–16 FIRST EXTRAORDINARY SESSION

ASSEMBLY BILL

No. 26

Introduced by Assembly Member Frazier
(Principal coauthor: Senator Beall)

August 24, 2016

An act to amend Sections 13975, 14500, 14526.5, and 16965 of, to add Sections 14033, 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, 820.1, 2192, 2192.1, and 2192.2 of, to add Sections 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

AB 26, as amended, Frazier. 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 \$0.17 per gallon increase 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 \$165 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, 2017.

(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 September 1, 2016, 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 \$0.30 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 delete consideration of the State Air Resources Board’s Sustainable Freight Strategy and the statewide port master plan and would instead include consideration of the applicable port master plan when determining eligible projects for funding. The bill would also expand eligible projects to include rail landside access improvements, landside freight access improvements to airports, and certain capital and operational improvements.

(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 2016–17 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, 2016, 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.

(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 paragraph (1).

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 revenues to the Controller for allocation by formula to transportation agencies for public transit purposes.

This bill would increase the additional sales and use tax on diesel fuel by an additional 3.5%. By increasing the revenues deposited in a continuously appropriated fund, the bill would thereby make an appropriation. The bill would restrict expenditures of revenues from

this increase in the sales and use tax on diesel fuel 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. 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.

This bill would, beginning July 1, 2019, 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 add to the program capital projects relative to the operation of those state highways and bridges. The 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 February 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 and would prohibit the transfer of weight fee revenues from the State Highway Account after the 2020–21 fiscal year. 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 mitigation measures in advance of construction of a planned transportation project. 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 project 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, 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 delete the January 1, 2017, repeal date, thereby extending these provisions indefinitely.

(14) 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:

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

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

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

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

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

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

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

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

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

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

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

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

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

40 (1) Ensure these transportation needs are addressed.

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

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

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

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

8 13975. There is in the state government the Transportation
9 Agency. The agency consists of the Department of the California
10 Highway Patrol, the Department of Motor Vehicles, the Department
11 of Transportation, the High-Speed Rail Authority, and the Board
12 of Pilot Commissioners for the Bays of San Francisco, San Pablo,
13 and Suisun.

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

16 14033. On or before January 1, 2017, the department shall
17 update the Highway Design Manual to incorporate the “complete
18 streets” design concept.

19 SEC. 4. Part 5.1 (commencing with Section 14460) is added
20 to Division 3 of Title 2 of the Government Code, to read:

21

22 PART 5.1. OFFICE OF THE TRANSPORTATION INSPECTOR
23 GENERAL
24

24

25 14460. (a) There is hereby created in state government the
26 independent Office of the Transportation Inspector General, which
27 shall not be a subdivision of any other governmental entity, to
28 ensure that the Department of Transportation, the High-Speed Rail
29 Authority, the Department of the California Highway Patrol, the
30 Department of Motor Vehicles, the State Air Resources Board,
31 and all other state agencies expending state transportation funds
32 are operating efficiently, effectively, and in compliance with
33 applicable federal and state laws.

34 (b) The Governor shall appoint, subject to confirmation by the
35 Senate, the Transportation Inspector General to a six-year term.
36 The Transportation Inspector General may not be removed from
37 office during that term, except for good cause. A finding of good
38 cause may include substantial neglect of duty, gross misconduct,
39 or conviction of a crime. The reasons for removal of the
40 Transportation Inspector General shall be stated in writing and

1 shall include the basis for removal. The writing shall be sent to
2 the Secretary of the Senate and the Chief Clerk of the Assembly
3 at the time of the removal and shall be deemed to be a public
4 document.

5 14461. The Transportation Inspector General shall review
6 policies, practices, and procedures and conduct audits and
7 investigations of activities involving state transportation funds in
8 consultation with all affected state agencies. Specifically, the
9 Transportation Inspector General's duties and responsibilities shall
10 include, but not be limited to, all of the following:

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

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

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

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

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

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

32 14462. The Transportation Inspector General shall report at
33 least annually to the Governor and Legislature with a summary of
34 his or her findings, investigations, and audits. The summary shall
35 be posted on the Transportation Inspector General's Internet Web
36 site and shall otherwise be made available to the public upon its
37 release to the Governor and Legislature. The summary shall
38 include, but need not be limited to, significant problems discovered
39 by the Transportation Inspector General and whether
40 recommendations of the Transportation Inspector General relative

1 to investigations and audits have been implemented by the affected
2 agencies. The report shall be submitted to the Legislature in
3 compliance with Section 9795.

4 SEC. 5. Section 14500 of the Government Code is amended
5 to read:

6 14500. There is in state government a California Transportation
7 Commission. The commission shall act in an independent oversight
8 role.

9 SEC. 6. Section 14526.5 of the Government Code is amended
10 to read:

11 14526.5. (a) Based on the asset management plan prepared
12 and approved pursuant to Section 14526.4, the department shall
13 prepare a state highway operation and protection program for the
14 expenditure of transportation funds for major capital improvements
15 that are necessary to preserve and protect the state highway system.
16 Projects included in the program shall be limited to improvements
17 relative to maintenance, safety, rehabilitation, and operation of
18 state highways and bridges that do not add a new traffic lane to
19 the system.

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

26 (c) (1) The department, at a minimum, shall specify, for each
27 project in the state highway operation and protection program, the
28 capital and support budget for each of the following project
29 components:

- 30 (A) Project approval and environmental documents.
- 31 (B) Plans, specifications, and estimates.
- 32 (C) Rights-of-way.
- 33 (D) Construction.

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

- 37 (A) Environmental document completion.
- 38 (B) Plans, specifications, and estimate completion.
- 39 (C) Right-of-way certification.
- 40 (D) Start of construction.

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

11 (e) The commission shall review the proposed program relative
12 to its overall adequacy, consistency with the asset management
13 plan prepared and approved pursuant to Section 14526.4 and
14 funding priorities established in Section 167 of the Streets and
15 Highways Code, the level of annual funding needed to implement
16 the program, and the impact of those expenditures on the state
17 transportation improvement program. The commission shall adopt
18 the program and submit it to the Legislature and the Governor not
19 later than April 1 of each even-numbered year. The commission
20 may decline to adopt the program if the commission determines
21 that the program is not sufficiently consistent with the asset
22 management plan prepared and approved pursuant to Section
23 14526.4.

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

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

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

35 SEC. 7. Section 14526.7 is added to the Government Code, to
36 read:

37 14526.7. (a) On and after February 1, 2017, an allocation by
38 the commission of all capital and support costs for each project in
39 the state highway operation and protection program shall be
40 required.

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

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

9 SEC. 8. Section 14534.1 of the Government Code is repealed.

10 SEC. 9. Section 16321 is added to the Government Code, to
11 read:

12 16321. (a) Notwithstanding any other law, on or before
13 September 1, 2016, the Department of Finance shall compute the
14 amount of outstanding loans made from the State Highway
15 Account, the Motor Vehicle Fuel Account, the Highway Users
16 Tax Account, and the Motor Vehicle Account to the General Fund.
17 The department shall prepare a loan repayment schedule, pursuant
18 to which the outstanding loans shall be repaid, as follows:

19 (1) On or before June 30, 2017, 50 percent of the outstanding
20 loan amounts.

21 (2) On or before June 30, 2018, the remainder of the outstanding
22 loan amounts.

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

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

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

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

37 SEC. 10. Section 16965 of the Government Code is amended
38 to read:

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

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

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

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

11 (2) The bonds eligible under subparagraph (B) or (C) of
12 paragraph (1) include bonds issued pursuant to the Passenger Rail
13 and Clean Air Bond Act of 1990 (Chapter 17 (commencing with
14 Section 2701) of Division 3 of the Streets and Highways Code),
15 the Seismic Retrofit Bond Act of 1996 (Chapter 12.48
16 (commencing with Section 8879) of Division 1 of Title 2), and the
17 Safe, Reliable High-Speed Passenger Train Bond Act for the 21st
18 Century (Chapter 20 (commencing with Section 2704) of Division
19 3 of the Streets and Highways Code), and nondesignated bonds
20 under Proposition 1B, as defined in subdivision (c) of Section
21 16773.

22 (3) (A) The Transportation Bond Direct Payment Account is
23 hereby created in the State Treasury, as a subaccount within the
24 Transportation Debt Service Fund, for the purpose of directly
25 paying the debt service, as defined in paragraph (4), of designated
26 bonds of Proposition 1B, as defined in subdivision (c) of Section
27 16773. Notwithstanding Section 13340, moneys in the
28 Transportation Bond Direct Payment Account are continuously
29 appropriated for payment of debt service with respect to designated
30 bonds as provided in subdivision (c) of Section 16773. So long as
31 any designated bonds remain outstanding, the moneys in the
32 Transportation Bond Direct Payment Account may not be used
33 for any other purpose, and may not be borrowed by or available
34 for transfer to the General Fund pursuant to Section 16310 or any
35 similar law, or to the General Cash Revolving Fund pursuant to
36 Section 16381 or any similar law.

37 (B) Once the Treasurer makes a certification that payment of
38 debt service with respect to all designated bonds has been paid or
39 provided for, any remaining moneys in the Transportation Bond

1 Direct Payment Account shall be transferred back to the
2 Transportation Debt Service Fund.

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

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

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

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

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

18 (C) Amounts payable under any contractual obligation of the
19 state to repay advances and pay interest thereon under a credit
20 enhancement or liquidity agreement as described in clause (iv) of
21 subparagraph (B) of paragraph (1) of subdivision (d) of Section
22 16731.

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

27 (b) From the moneys transferred to the fund pursuant to
28 paragraph (2) or (3) of subdivision (c) of Section 9400.4 of the
29 Vehicle Code, there shall first be deposited into the Transportation
30 Bond Direct Payment Account in each month sufficient funds to
31 equal the amount designated in a certificate submitted by the
32 Treasurer to the Controller and the Director of Finance at the start
33 of each fiscal year, and as may be modified by the Treasurer
34 thereafter upon issuance of any new issue of designated bonds or
35 upon change in circumstances that requires such a modification.
36 This certificate shall be calculated by the Treasurer to identify, for
37 each month, the amount necessary to fund all of the debt service
38 with respect to all designated bonds. This calculation shall be done
39 in a manner provided in the resolution, indenture, or other
40 documents governing the designated bonds. In the event that

1 transfers to the Transportation Bond Direct Payment Account in
2 any month are less than the amounts required in the Treasurer's
3 certificate, the shortfall shall carry over to be part of the required
4 payment in the succeeding month or months.

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

24 (d) Once the required monthly deposit, including makeup of
25 any shortfalls from any prior month, has been made pursuant to
26 subdivision (b), from moneys transferred to the fund pursuant to
27 paragraph (2) or (3) of subdivision (c) of Section 9400.4 of the
28 Vehicle Code, or pursuant to Section 16965.1 or 63048.67, the
29 Controller shall transfer as an expenditure reduction to the General
30 Fund any amount necessary to offset the cost of current year debt
31 service payments made from the General Fund with respect to any
32 bonds issued pursuant to Proposition 192 (1996) and three-quarters
33 of the amount of current year debt service payments made from
34 the General Fund with respect to any nondesignated bonds, as
35 defined in subdivision (c) of Section 16773, issued pursuant to
36 Proposition 1B (2006). In the alternative, these funds may also be
37 used to redeem or retire the applicable bonds, pursuant to Section
38 16774, maturing in a subsequent fiscal year as directed by the
39 Director of Finance.

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

24 (f) On or before the second business day following the date on
25 which transfers are made to the Transportation Debt Service Fund,
26 and after the required monthly deposits for that month, including
27 makeup of any shortfalls from any prior month, have been made
28 to the Transportation Bond Direct Payment Account, the Controller
29 shall transfer the funds designated for reimbursement of bond debt
30 service with respect to nondesignated bonds, as defined in
31 subdivision (c) of Section 16773, and other bonds identified in
32 subdivisions (d) and (e) in that month from the fund to the General
33 Fund pursuant to this section.

34 SEC. 11. Section 39719 of the Health and Safety Code is
35 amended to read:

36 39719. (a) The Legislature shall appropriate the annual
37 proceeds of the fund for the purpose of reducing greenhouse gas
38 emissions in this state in accordance with the requirements of
39 Section 39712.

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

4 (1) Beginning in the 2016–17 fiscal year, and notwithstanding
5 Section 13340 of the Government Code, 50 percent of annual
6 proceeds are continuously appropriated, without regard to fiscal
7 years, for transit, affordable housing, and sustainable communities
8 programs as following:

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

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

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

30 (2) Beginning in the 2015–16 fiscal year, notwithstanding
31 Section 13340 of the Government Code, 25 percent of the annual
32 proceeds of the fund is hereby continuously appropriated to the
33 High-Speed Rail Authority for the following components of the
34 initial operating segment and Phase I Blended System as described
35 in the 2012 business plan adopted pursuant to Section 185033 of
36 the Public Utilities Code:

37 (A) Acquisition and construction costs of the project.

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

39 (C) Other capital costs of the project.

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

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

6 SEC. 12. Section 21080.37 of the Public Resources Code is
7 amended to read:

8 21080.37. (a) This division does not apply to a project or an
9 activity to repair, maintain, or make minor alterations to an existing
10 roadway if all of the following conditions are met:

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

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

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

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

28 (B) For the purposes of this paragraph:

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

38 (ii) “Significant value as a wildlife habitat” includes wildlife
39 habitat of national, statewide, regional, or local importance; habitat
40 for species protected by the federal Endangered Species Act of

1 1973 (16 U.S.C. Sec. 1531, et seq.), the California Endangered
2 Species Act (Chapter 1.5 (commencing with Section 2050) of
3 Division 3 of the Fish and Game Code), or the Native Plant
4 Protection Act (Chapter 10 (commencing with Section 1900) of
5 Division 2 of the Fish and Game Code); habitat identified as
6 candidate, fully protected, sensitive, or species of special status
7 by local, state, or federal agencies; or habitat essential to the
8 movement of resident or migratory wildlife.

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

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

14 (4) The project does not impact cultural resources.

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

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

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

22 (2) Hold a noticed public hearing on the project to hear and
23 respond to public comments. The hearing on the project may be
24 conducted with another noticed lead agency public hearing.
25 Publication of the notice shall be no fewer times than required by
26 Section 6061 of the Government Code, by the public agency in a
27 newspaper of general circulation in the area.

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

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

38 (2) If a local agency determines that a project is not subject to
39 this division pursuant to this section and it approves or determines
40 to carry out that project, it shall file a notice with the Office of

1 Planning and Research, and with the county clerk in the county in
2 which the project will be located in the manner specified in
3 subdivisions (b) and (c) of Section 21152.

4 SEC. 13. Division 13.6 (commencing with Section 21200) is
5 added to the Public Resources Code, to read:

6
7 DIVISION 13.6. ADVANCE MITIGATION PROGRAM ACT

8
9 CHAPTER 1. GENERAL

10
11 21200. This division shall be known, and may be cited, as the
12 Advance Mitigation Program Act.

13 21201. (a) The purpose of this division is to improve the
14 success and effectiveness of actions implemented to mitigate the
15 natural resource impacts of future transportation projects by
16 establishing the means to implement those actions well before the
17 transportation projects are constructed. The advance identification
18 and implementation of mitigation actions also will streamline the
19 delivery of transportation projects by anticipating mitigation
20 requirements for planned transportation projects and avoiding or
21 reducing delays associated with environmental permitting. By
22 identifying regional or statewide conservation priorities and by
23 anticipating the impacts of planned transportation projects on a
24 regional or statewide basis, mitigation actions can be designed to
25 protect and restore California's most valuable natural resources
26 and also facilitate environmental compliance for planned
27 transportation projects on a regional scale.

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

37 21202. The Legislature finds and declares all of the following:

38 (a) The minimization and mitigation of environmental impacts
39 is ordinarily handled on a project-by-project basis, usually near

1 the end of a project’s timeline and often without guidance regarding
2 regional or statewide conservation priorities.

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

9 (c) Addressing conservation and mitigation needs early in a
10 project’s timeline, during the project design and development
11 phase, can reduce costs, allow natural resources conservation to
12 be integrated with project siting and design, and result in the
13 establishment of more valuable and productive habitat mitigation.

14 (d) When the Department of Transportation is able to anticipate
15 the mitigation needs for planned transportation projects, it can
16 meet those needs in a more timely and cost-effective way by using
17 advance mitigation planning.

18 (e) Working with state and federal resource protection agencies,
19 the department can identify, conserve, and, where appropriate,
20 restore lands for mitigation of numerous projects early in the
21 projects’ timelines, thereby allowing public funds to stretch further
22 by acquiring habitat at a lower cost and avoiding environmental
23 permitting delays.

24 (f) Advance mitigation can provide an effective means of
25 facilitating delivery of transportation projects while ensuring more
26 effective natural resource conservation.

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

33 (h) Advance mitigation can facilitate the implementation of
34 climate change adaptation strategies both for ecosystems and
35 California’s economy.

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

39 21203. The Legislature intends to do all of the following by
40 enacting this division:

1 (a) Facilitate delivery of transportation projects while ensuring
2 more effective natural resource conservation.

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

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

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

15
16 CHAPTER 2. DEFINITIONS
17

18 21204. For purposes of this division, the following terms have
19 the following meanings:

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

24 (b) “Advance mitigation” means mitigation implemented before,
25 and in anticipation of, environmental effects of planned
26 transportation projects.

27 (c) “Commission” means the California Transportation
28 Commission.

29 (d) “Department” means the Department of Transportation.

30 (e) “Transportation agency” means the department, the
31 High-Speed Rail Authority, a metropolitan planning organization,
32 a regional transportation planning agency, or another public agency
33 that implements transportation projects.

34 (f) “Transportation project” means a transportation capital
35 improvement project.

36 (g) “Planned transportation project” means a transportation
37 project that a transportation agency has concluded is reasonably
38 likely to be constructed within 20 years and that has been identified
39 to the agency for purposes of this division. A planned transportation

1 project may include, but is not limited to, a transportation project
2 that has been proposed for approval or that has been approved.

3 (h) “Program” means the Advance Mitigation Program
4 implemented pursuant to this division.

5 (i) “Regulatory agency” means a state or federal natural resource
6 protection agency with regulatory authority over planned
7 transportation projects. A regulatory agency includes, but is not
8 limited to, the Natural Resources Agency, the Department of Fish
9 and Wildlife, California regional water quality control boards, the
10 United States Fish and Wildlife Service, the National Marine
11 Fisheries Service, the United States Environmental Protection
12 Agency, and the United States Army Corps of Engineers.

13
14 CHAPTER 3. ADVANCE MITIGATION PROGRAM
15

16 21205. (a) The Advance Mitigation Program is hereby created
17 in the department to accelerate project delivery and improve
18 environmental outcomes of environmental mitigation for planned
19 transportation projects.

20 (b) The program may utilize mitigation instruments, including,
21 but not limited to, mitigation banks, in lieu of fee programs, and
22 conservation easements as defined in Section 815.1 of the Civil
23 Code.

24 (c) The department shall track all implemented advance
25 mitigation projects to use as credits for environmental mitigation
26 for state-sponsored transportation projects.

27 (d) The department may use advance mitigation credits to fulfill
28 mitigation requirements of any environmental law for a
29 transportation project eligible for the State Transportation
30 Improvement Program or the State Highway Operation and
31 Protection Program.

32 21206. No later than February 1, 2017, the department shall
33 establish an interagency transportation advance mitigation steering
34 committee consisting of the department and appropriate state and
35 federal regulatory agencies to support the program so that advance
36 mitigation can be used as required mitigation for planned
37 transportation projects and can provide improved environmental
38 outcomes. The committee shall advise the department of
39 opportunities to carry out advance mitigation projects, provide the
40 best available science, and actively participate in mitigation

1 instrument reviews and approvals. The committee shall seek to
2 develop streamlining opportunities, including those related to
3 landscape scale mitigation planning and alignment of federal and
4 state regulations and procedures related to mitigation requirements
5 and implementation. The committee shall also provide input on
6 crediting, using, and tracking of advance mitigation investments.

7 21207. The Advance Mitigation Fund is hereby created in the
8 State Transportation Fund as a revolving fund. Notwithstanding
9 Section 13340 of the Government Code, the fund shall be
10 continuously appropriated without regard to fiscal years. The
11 moneys in the fund shall be programmed by the commission for
12 the planning and implementation of advance mitigation projects
13 consistent with the purposes of this chapter. After the transfer of
14 moneys to the fund for four fiscal years pursuant to subdivision
15 (c) of Section 2032 of the Streets and Highways Code, commencing
16 in the 2017–18 fiscal year, the program is intended to be
17 self-sustaining. Advance expenditures from the fund shall later be
18 reimbursed from project funding available at the time a planned
19 transportation project is constructed. A maximum of 5 percent of
20 available funds may be used for administrative purposes.

21 21208. *The program is intended to improve the efficiency and*
22 *efficacy of mitigation only and is not intended to supplant the*
23 *requirements of the California Environmental Quality Act (Division*
24 *13 (commencing with Section 21000) or any other environmental*
25 *law. The identification of planned transportation projects and of*
26 *mitigation projects or measures for planned transportation projects*
27 *under this division does not imply or require approval of those*
28 *projects for purposes of the California Environmental Quality Act*
29 *(Division 13 (commencing with Section 21000) or any other*
30 *environmental law.*

31 SEC. 14. Section 99312.1 of the Public Utilities Code is
32 amended to read:

33 99312.1. (a) Revenues transferred to the Public Transportation
34 Account pursuant to Sections 6051.8 and 6201.8 of the Revenue
35 and Taxation Code are hereby continuously appropriated to the
36 Controller for allocation as follows:

37 (1) Fifty percent for allocation to transportation planning
38 agencies, county transportation commissions, and the San Diego
39 Metropolitan Transit Development Board pursuant to Section
40 99314.

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

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

8 (c) The revenues transferred to the Public Transportation
9 Account that are attributable to the increase in the sales and use
10 tax on diesel fuel pursuant to subdivision (b) of Section 6051.8 of
11 the Revenue and Taxation Code, as adjusted pursuant to
12 subdivision (c) of that section, and subdivision (b) of Section
13 6201.8 of the Revenue and Taxation Code, as adjusted pursuant
14 to subdivision (c) of that section, upon allocation pursuant to
15 Sections 99313 and 99314, shall only be expended on the
16 following:

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

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

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

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

36 (2) The department shall report to the Controller the recipient
37 transit agencies that have submitted a list of projects as described
38 in this subdivision and that are therefore eligible to receive an
39 apportionment of funds for the applicable fiscal year. The

1 Controller, upon receipt of the report, shall apportion funds
2 pursuant to Sections 99313 and 99314.

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

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

14 SEC. 15. Section 6051.8 of the Revenue and Taxation Code
15 is amended to read:

16 6051.8. (a) Except as provided by Section 6357.3, in addition
17 to the taxes imposed by this part, for the privilege of selling
18 tangible personal property at retail a tax is hereby imposed upon
19 all retailers at the rate of 1.75 percent of the gross receipts of any
20 retailer from the sale of all diesel fuel.

21 (b) Except as provided by Section 6357.3, in addition to the
22 taxes imposed by this part and by subdivision (a), for the privilege
23 of selling tangible personal property at retail a tax is hereby
24 imposed upon all retailers at the rate of 3.5 percent of the gross
25 receipts of any retailer from the sale of all diesel fuel, as defined
26 in Section 60022, sold at retail in this state. The tax imposed under
27 this subdivision shall be imposed on and after the first day of the
28 first calendar quarter that occurs 90 days after the effective date
29 of the act adding this subdivision.

30 (c) Beginning July 1, 2019, and every third year thereafter, the
31 State Board of Equalization shall recompute the rates of the taxes
32 imposed by this section. That computation shall be made as
33 follows:

34 (1) The Department of Finance shall transmit to the State Board
35 of Equalization the percentage change in the California Consumer
36 Price Index for all items from November of three calendar years
37 prior to November of the prior calendar year, no later than January
38 31, 2019, and January 31 of every third year thereafter.

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

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

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

7 (C) Make its determination of the new rate no later than March
8 1 of the same year as the effective date of the new rate.

9 (d) Notwithstanding subdivision (b) of Section 7102, all of the
10 revenues, less refunds, collected pursuant to this section shall be
11 estimated by the State Board of Equalization, with the concurrence
12 of the Department of Finance, and transferred quarterly to the
13 Public Transportation Account in the State Transportation Fund
14 for allocation pursuant to Section 99312.1 of the Public Utilities
15 Code.

16 SEC. 16. Section 6201.8 of the Revenue and Taxation Code
17 is amended to read:

18 6201.8. (a) Except as provided by Section 6357.3, in addition
19 to the taxes imposed by this part, an excise tax is hereby imposed
20 on the storage, use, or other consumption in this state of diesel
21 fuel, as defined in Section 60022, at the rate of 1.75 percent of the
22 sales price of the diesel fuel.

23 (b) Except as provided by Section 6357.3, in addition to the
24 taxes imposed by this part and by subdivision (a), an excise tax is
25 hereby imposed on the storage, use, or other consumption in this
26 state of diesel fuel, as defined in Section 60022, at the rate of 3.5
27 percent of the sales price of the diesel fuel. The tax imposed under
28 this subdivision shall be imposed on and after the first day of the
29 first calendar quarter that occurs 90 days after the effective date
30 of the act adding this subdivision.

31 (c) Beginning July 1, 2019, and every third year thereafter, the
32 State Board of Equalization shall recompute the rates of the taxes
33 imposed by this section. That computation shall be made as
34 follows:

35 (1) The Department of Finance shall transmit to the State Board
36 of Equalization the percentage change in the California Consumer
37 Price Index for all items from November of three calendar years
38 prior to November of the prior calendar year, no later than January
39 31, 2019, and January 31 of every third year thereafter.

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

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

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

7 (C) Make its determination of the new rate no later than March
8 1 of the same year as the effective date of the new rate.

9 (d) Notwithstanding subdivision (b) of Section 7102, all of the
10 revenues, less refunds, collected pursuant to this section shall be
11 estimated by the State Board of Equalization, with the concurrence
12 of the Department of Finance, and transferred quarterly to the
13 Public Transportation Account in the State Transportation Fund
14 for allocation pursuant to Section 99312.1 of the Public Utilities
15 Code.

16 SEC. 17. Section 7360 of the Revenue and Taxation Code is
17 amended to read:

18 7360. (a) (1) (A) A tax of eighteen cents (\$0.18) is hereby
19 imposed upon each gallon of fuel subject to the tax in Sections
20 7362, 7363, and 7364.

21 (B) In addition to the tax imposed pursuant to subparagraph
22 (A), on and after the first day of the first calendar quarter that
23 occurs 90 days after the effective date of the act adding this
24 subparagraph, a tax of seventeen cents (\$0.17) is hereby imposed
25 upon each gallon of fuel, other than aviation gasoline, subject to
26 the tax in Sections 7362, 7363, and 7364.

27 (2) If the federal fuel tax is reduced below the rate of nine cents
28 (\$0.09) per gallon and federal financial allocations to this state for
29 highway and exclusive public mass transit guideway purposes are
30 reduced or eliminated correspondingly, the tax rate imposed by
31 subparagraph (A) of paragraph (1), on and after the date of the
32 reduction, shall be recalculated by an amount so that the combined
33 state rate under subparagraph (A) of paragraph (1) and the federal
34 tax rate per gallon equal twenty-seven cents (\$0.27).

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

38 (b) On and after July 1, 2010, in addition to the tax imposed by
39 subdivision (a), a tax is hereby imposed upon each gallon of motor
40 vehicle fuel, other than aviation gasoline, subject to the tax in

1 Sections 7362, 7363, and 7364 in an amount equal to seventeen
 2 and three-tenths cents (\$0.173) per gallon.

3 (c) Beginning July 1, 2019, and every third year thereafter, the
 4 State Board of Equalization shall recompute the rates of the taxes
 5 imposed by this section. That computation shall be made as
 6 follows:

7 (1) The Department of Finance shall transmit to the State Board
 8 of Equalization the percentage change in the California Consumer
 9 Price Index for all items from November of three calendar years
 10 prior to November of the prior calendar year, no later than January
 11 31, 2019, and January 31 of every third year thereafter.

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

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

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

19 (C) Make its determination of the new rate no later than March
 20 1 of the same year as the effective date of the new rate.

21 SEC. 18. Section 8352.4 of the Revenue and Taxation Code
 22 is amended to read:

23 8352.4. (a) Subject to Sections 8352 and 8352.1, and except
 24 as otherwise provided in subdivision (b), there shall be transferred
 25 from the money deposited to the credit of the Motor Vehicle Fuel
 26 Account to the Harbors and Watercraft Revolving Fund, for
 27 expenditure in accordance with Division 1 (commencing with
 28 Section 30) of the Harbors and Navigation Code, the sum of six
 29 million six hundred thousand dollars (\$6,600,000) per annum,
 30 representing the amount of money in the Motor Vehicle Fuel
 31 Account attributable to taxes imposed on distributions of motor
 32 vehicle fuel used or usable in propelling vessels. The actual amount
 33 shall be calculated using the annual reports of registered boats
 34 prepared by the Department of Motor Vehicles for the United
 35 States Coast Guard and the formula and method of the December
 36 1972 report prepared for this purpose and submitted to the
 37 Legislature on December 26, 1972, by the Director of
 38 Transportation. If the amount transferred during each fiscal year
 39 is in excess of the calculated amount, the excess shall be
 40 retransferred from the Harbors and Watercraft Revolving Fund to

1 the Motor Vehicle Fuel Account. If the amount transferred is less
2 than the amount calculated, the difference shall be transferred from
3 the Motor Vehicle Fuel Account to the Harbors and Watercraft
4 Revolving Fund. No adjustment shall be made if the computed
5 difference is less than fifty thousand dollars (\$50,000), and the
6 amount shall be adjusted to reflect any temporary or permanent
7 increase or decrease that may be made in the rate under the Motor
8 Vehicle Fuel Tax Law. Payments pursuant to this section shall be
9 made prior to payments pursuant to Section 8352.2.

10 (b) Commencing July 1, 2016, the revenues attributable to the
11 taxes imposed pursuant to subdivision (b) of Section 7360 and
12 Section 7361.1 and otherwise to be deposited in the Harbors and
13 Watercraft Revolving Fund pursuant to subdivision (a) shall instead
14 be transferred to the Highway Users Tax Account for distribution
15 pursuant to Section 2103.1 of the Streets and Highways Code.

16 SEC. 19. Section 8352.5 of the Revenue and Taxation Code
17 is amended to read:

18 8352.5. (a) (1) Subject to Sections 8352 and 8352.1, and
19 except as otherwise provided in subdivision (b), there shall be
20 transferred from the money deposited to the credit of the Motor
21 Vehicle Fuel Account to the Department of Food and Agriculture
22 Fund, during the second quarter of each fiscal year, an amount
23 equal to the estimate contained in the most recent report prepared
24 pursuant to this section.

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

35 (b) Commencing July 1, 2016, the revenues attributable to the
36 taxes imposed pursuant to subdivision (b) of Section 7360 and
37 Section 7361.1 and otherwise to be deposited in the Department
38 of Food and Agriculture Fund pursuant to subdivision (a) shall
39 instead be transferred to the Highway Users Tax Account for

1 distribution pursuant to Section 2103.1 of the Streets and Highways
2 Code.

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

13 SEC. 20. Section 8352.6 of the Revenue and Taxation Code
14 is amended to read:

15 8352.6. (a) (1) Subject to Section 8352.1, and except as
16 otherwise provided in paragraphs (2) and (3), on the first day of
17 every month, there shall be transferred from moneys deposited to
18 the credit of the Motor Vehicle Fuel Account to the Off-Highway
19 Vehicle Trust Fund created by Section 38225 of the Vehicle Code
20 an amount attributable to taxes imposed upon distributions of motor
21 vehicle fuel used in the operation of motor vehicles off highway
22 and for which a refund has not been claimed. Transfers made
23 pursuant to this section shall be made prior to transfers pursuant
24 to Section 8352.2.

25 (2) Commencing July 1, 2016, the revenues attributable to the
26 taxes imposed pursuant to subdivision (b) of Section 7360 and
27 Section 7361.1 and otherwise to be deposited in the Off-Highway
28 Vehicle Trust Fund pursuant to paragraph (1) shall instead be
29 transferred to the Highway Users Tax Account for distribution
30 pursuant to Section 2103.1 of the Streets and Highways Code.

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

35 (b) The amount transferred to the Off-Highway Vehicle Trust
36 Fund pursuant to paragraph (1) of subdivision (a), as a percentage
37 of the Motor Vehicle Fuel Account, shall be equal to the percentage
38 transferred in the 2006–07 fiscal year. Every five years, starting
39 in the 2013–14 fiscal year, the percentage transferred may be
40 adjusted by the Department of Transportation in cooperation with

1 the Department of Parks and Recreation and the Department of
2 Motor Vehicles. Adjustments shall be based on, but not limited
3 to, the changes in the following factors since the 2006–07 fiscal
4 year or the last adjustment, whichever is more recent:

5 (1) The number of vehicles registered as off-highway motor
6 vehicles as required by Division 16.5 (commencing with Section
7 38000) of the Vehicle Code.

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

11 (3) Attendance at the state vehicular recreation areas.

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

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

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

37 (e) In the 2014–15 fiscal year, the Department of Transportation,
38 in consultation with the Department of Parks and Recreation and
39 the Department of Motor Vehicles, shall undertake a study to
40 determine the appropriate adjustment to the amount transferred

1 pursuant to subdivision (b) and to update the estimate of the amount
 2 attributable to taxes imposed upon distributions of motor vehicle
 3 fuel used in the operation of motor vehicles off highway and for
 4 which a refund has not been claimed. The department shall provide
 5 a copy of this study to the Legislature no later than January 1,
 6 2016.

7 SEC. 21. Section 60050 of the Revenue and Taxation Code is
 8 amended to read:

9 60050. (a) (1) A tax of thirteen cents (\$0.13) is hereby
 10 imposed upon each gallon of diesel fuel subject to the tax in
 11 Sections 60051, 60052, and 60058.

12 (2) If the federal fuel tax is reduced below the rate of fifteen
 13 cents (\$0.15) per gallon and federal financial allocations to this
 14 state for highway and exclusive public mass transit guideway
 15 purposes are reduced or eliminated correspondingly, the tax rate
 16 imposed by paragraph (1) shall be increased by an amount so that
 17 the combined state rate under paragraph (1) and the federal tax
 18 rate per gallon equal what it would have been in the absence of
 19 the federal reduction.

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

23 (b) In addition to the tax imposed pursuant to subdivision (a),
 24 on and after the first day of the first calendar quarter that occurs
 25 90 days after the effective date of the act amending this subdivision
 26 in the 2015 First Extraordinary Session, an additional tax of thirty
 27 cents (\$0.30) is hereby imposed upon each gallon of diesel fuel
 28 subject to the tax in Sections 60051, 60052, and 60058.

29 (c) Beginning July 1, 2019, and every third year thereafter, the
 30 State Board of Equalization shall recompute the rates of the taxes
 31 imposed by this section. That computation shall be made as
 32 follows:

33 (1) The Department of Finance shall transmit to the State Board
 34 of Equalization the percentage change in the California Consumer
 35 Price Index for all items from November of three calendar years
 36 prior to November of the prior calendar year, no later than January
 37 31, 2019, and January 31 of every third year thereafter.

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

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

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

7 (C) Make its determination of the new rate no later than March
8 1 of the same year as the effective date of the new rate.

9 SEC. 22. Section 183.1 of the Streets and Highways Code is
10 amended to read:

11 183.1. Except as otherwise provided in Section 54237.7 of the
12 Government Code, money deposited into the account that is not
13 subject to Article XIX of the California Constitution, including,
14 but not limited to, money that is derived from the sale of
15 documents, charges for miscellaneous services to the public,
16 condemnation deposits fund investments, rental of state property,
17 or any other miscellaneous uses of property or money, shall be
18 deposited in the Road Maintenance and Rehabilitation Account
19 created pursuant to Section 2031.

20 SEC. 23. Section 820.1 of the Streets and Highways Code is
21 amended to read:

22 820.1. (a) The State of California consents to the jurisdiction
23 of the federal courts with regard to the compliance, discharge, or
24 enforcement of the responsibilities assumed by the department
25 pursuant to Section 326 of, and subsection (a) of Section 327 of,
26 Title 23 of the United States Code.

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

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

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

36 SEC. 24. Chapter 2 (commencing with Section 2030) is added
37 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 increase in the motor vehicle fuel excise tax by seventeen cents (\$0.17) per gallon pursuant to subdivision (a) of Section 7360 of the Revenue and Taxation Code, as adjusted pursuant to subdivision (c) of that section.

(b) The revenues from the increase in the vehicle registration fee pursuant to Section 9250.3 of the Vehicle Code.

(c) The revenues from the increase in the vehicle registration fee pursuant to Section 9250.6 of the Vehicle Code.

1 (d) The revenues deposited in the account pursuant to Section
2 183.1 of the Streets and Highways Code.

3 (e) Any other revenues designated for the program.

4 2031.5. Each fiscal year the annual Budget Act shall contain
5 an appropriation from the Road Maintenance and Rehabilitation
6 Account to the Controller for the costs of carrying out his or her
7 duties pursuant to this chapter and to the California Transportation
8 Commission for the costs of carrying out its duties pursuant to this
9 chapter and Section 14526.7 of the Government Code.

10 2032. (a) (1) After deducting the amounts appropriated in the
11 annual Budget Act, as provided in Section 2031.5, two hundred
12 million dollars (\$200,000,000) of the remaining revenues deposited
13 in the Road Maintenance and Rehabilitation Account shall be set
14 aside annually for counties that have sought and received voter
15 approval of taxes or that have imposed fees, including uniform
16 developer fees as defined by subdivision (b) of Section 8879.67
17 of the Government Code, which taxes or fees are dedicated solely
18 to transportation improvements. The Controller shall each month
19 set aside one-twelfth of this amount, to accumulate a total of two
20 hundred million dollars (\$200,000,000) in each fiscal year.

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

26 (b) (1) After deducting the amounts appropriated in the annual
27 Budget Act pursuant to Section 2031.5 and the amount allocated
28 in subdivision (a), beginning in the 2017–18 fiscal year, eighty
29 million dollars (\$80,000,000) of the remaining revenues shall be
30 transferred annually to the State Highway Account for expenditure,
31 upon appropriation by the Legislature, on the Active Transportation
32 Program created pursuant to Chapter 8 (commencing with Section
33 2380) of Division 3 to be allocated by the California Transportation
34 Commission pursuant to Section 2381.

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

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

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

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

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

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

34 (2) Fifty percent for apportionment to cities and counties by the
35 Controller pursuant to the formula in clauses (i) and (ii) of
36 subparagraph (C) of paragraph (3) of subdivision (a) of Section
37 2103 for the purposes authorized by this chapter.

38 2033. (a) On or before January 1, 2017, the commission, in
39 cooperation with the department, transportation planning agencies,
40 county transportation commissions, and other local agencies, shall

1 develop guidelines for the allocation of funds pursuant to
2 subdivision (a) of Section 2032.

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

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

8 2034. (a) (1) Prior to receiving an apportionment of funds
9 under the program pursuant to paragraph (2) of subdivision (d) of
10 Section 2032 from the Controller in a fiscal year, an eligible city
11 or county shall submit to the commission a list of projects proposed
12 to be funded with these funds pursuant to an adopted city or county
13 budget. All projects proposed to receive funding shall be included
14 in a city or county budget that is adopted by the applicable city
15 council or county board of supervisors at a regular public meeting.
16 The list of projects proposed to be funded with these funds shall
17 include a description and the location of each proposed project, a
18 proposed schedule for the project's completion, and the estimated
19 useful life of the improvement. The project list shall not limit the
20 flexibility of an eligible city or county to fund projects in
21 accordance with local needs and priorities so long as the projects
22 are consistent with subdivision (b) of Section 2030.

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

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

35 2036. (a) Cities and counties shall maintain their existing
36 commitment of local funds for street, road, and highway purposes
37 in order to remain eligible for an allocation or apportionment of
38 funds pursuant to Section 2032.

39 (b) In order to receive an allocation or apportionment pursuant
40 to Section 2032, the city or county shall annually expend from its

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

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

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

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

38 (f) If a city or county fails to comply with the requirements of
39 subdivision (b) in a particular fiscal year, the city or county may
40 expend during that fiscal year and the following fiscal year a total

1 amount that is not less than the total amount required to be
2 expended for those fiscal years for purposes of complying with
3 subdivision (b).

4 2037. A city or county may spend its apportionment of funds
5 under the program on transportation priorities other than those
6 allowable pursuant to this chapter if the city's or county's average
7 Pavement Condition Index meets or exceeds 80.

8 2038. (a) The department and local agencies, as a condition
9 of receiving funds from the program, shall adopt and implement
10 a program designed to promote and advance construction
11 employment and training opportunities through preapprenticeship
12 opportunities, either by the public agency itself or through
13 contractors engaged by the public agencies to do work funded in
14 whole or in part by funds made available by the program.

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

20 SEC. 25. Section 2103.1 is added to the Streets and Highways
21 Code, to read:

22 2103.1. (a) Notwithstanding Section 2103, the revenues
23 transferred to the Highway Users Tax Account pursuant to Sections
24 8352.4, 8352.5, and 8352.6 of the Revenue and Taxation Code
25 shall be distributed pursuant to the formula in paragraph (3) of
26 subdivision (a) of Section 2103.

27 (b) Notwithstanding subdivision (b) of Section 2103, the portion
28 of revenues in the Highway Users Tax Account attributable to the
29 increase in the motor vehicle fuel excise tax by seventeen cents
30 (\$0.17) per gallon pursuant to subdivision (a) of Section 7360 of
31 the Revenue and Taxation Code, as adjusted pursuant to
32 subdivision (c) of that section, shall be transferred to the Road
33 Maintenance and Rehabilitation Account pursuant to Section 2031.

34 (c) Notwithstanding subdivision (b) of Section 2103, the portion
35 of revenues in the Highway Users Tax Account attributable to the
36 increase in the diesel fuel excise tax by thirty cents (\$0.30) per
37 gallon pursuant to subdivision (b) of Section 60050 of the Revenue
38 and Taxation Code, as adjusted pursuant to subdivision (c) of that
39 section, shall be transferred to the Trade Corridors Improvement
40 Fund pursuant to Section 2192.4.

1 SEC. 26. Section 2192 of the Streets and Highways Code is
2 amended to read:

3 2192. (a) (1) The Trade Corridors Improvement Fund, created
4 pursuant to subdivision (c) of Section 8879.23 of the Government
5 Code, is hereby continued in existence to receive revenues from
6 state sources other than the Highway Safety, Traffic Reduction,
7 Air Quality, and Port Security Bond Act of 2006.

8 (2) Revenues apportioned to the state under Section 167 of Title
9 23 of the United States Code from the national highway freight
10 program, pursuant to the federal Fixing America's Surface
11 Transportation Act ("FAST Act," Public Law 114-94) shall be
12 allocated for projects approved pursuant to this chapter.

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

15 (c) The funding described in subdivision (a) shall be available
16 upon appropriation for allocation by the California Transportation
17 Commission for infrastructure improvements in this state on
18 federally designated Trade Corridors of National and Regional
19 Significance, on the Primary Freight Network, and along other
20 corridors that have a high volume of freight movement, as
21 determined by the commission. In determining the projects eligible
22 for funding, the commission shall consult the Transportation
23 Agency's state freight plan as described in Section 13978.8 of the
24 Government Code and the trade infrastructure and goods movement
25 plan submitted to the commission by the Secretary of
26 Transportation and the Secretary for Environmental Protection.
27 The commission shall also consult trade infrastructure and goods
28 movement plans adopted by regional transportation planning
29 agencies, adopted regional transportation plans required by state
30 and federal law, and the applicable port master plan when
31 determining eligible projects for funding. Eligible projects for
32 these funds include, but are not limited to, all of the following:

33 (1) Highway capacity improvements, rail landside access
34 improvements, landside freight access improvements to airports,
35 and operational improvements to more efficiently accommodate
36 the movement of freight, particularly for ingress and egress to and
37 from the state's land ports of entry, rail terminals, and seaports,
38 including navigable inland waterways used to transport freight
39 between seaports, land ports of entry, and airports, and to relieve
40 traffic congestion along major trade or goods movement corridors.

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

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

9 (4) Truck corridor and capital and operational improvements,
10 including dedicated truck facilities or truck toll facilities.

11 (5) Border capital and operational improvements that enhance
12 goods movement between California and Mexico and that
13 maximize the state's ability to access funds made available to the
14 state by federal law.

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

20 (d) (1) Except as provided in paragraph (2), the commission
21 shall allocate the funding described in subdivision (a) for trade
22 infrastructure improvements consistent with Section 8879.52 of
23 the Government Code and the Trade Corridors Improvement Fund
24 (TCIF) Guidelines adopted by the commission on November 27,
25 2007, or as amended by the commission, and in a manner that (A)
26 addresses the state's most urgent needs, (B) balances the demands
27 of various land ports of entry, seaports, and airports, (C) provides
28 reasonable geographic balance between the state's regions, (D)
29 places emphasis on projects that improve trade corridor mobility
30 and safety while reducing emissions of diesel particulate and other
31 pollutant emissions and reducing other negative community
32 impacts, and (E) makes a significant contribution to the state's
33 economy.

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

38 (3) In addition, the commission shall also consider the following
39 factors when allocating these funds:

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

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

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

10 (D) “Congestion reduction,” which means the reduction in
11 recurrent daily hours of delay to be achieved.

12 SEC. 27. Section 2192.1 of the Streets and Highways Code is
13 amended to read:

14 2192.1. (a) To the extent moneys from the Greenhouse Gas
15 Reduction Fund, attributable to the auction or sale of allowances
16 as part of a market-based compliance mechanism relative to
17 reduction of greenhouse gas emissions, are transferred to the Trade
18 Corridors Improvement Fund, projects funded with those moneys
19 shall be subject to all of the requirements of existing law applicable
20 to the expenditure of moneys appropriated from the Greenhouse
21 Gas Reduction Fund, including, but not limited to, all of the
22 following:

23 (1) Projects shall further the regulatory purposes of the
24 California Global Warming Solutions Act of 2006 (Division 25.5
25 (commencing with Section 38500) of the Health and Safety Code),
26 including reducing emissions from greenhouse gases in the state,
27 directing public and private investment toward disadvantaged
28 communities, increasing the diversity of energy sources, or creating
29 opportunities for businesses, public agencies, nonprofits, and other
30 community institutions to participate in and benefit from statewide
31 efforts to reduce emissions of greenhouse gases.

32 (2) Projects shall be consistent with the guidance developed by
33 the State Air Resources Board pursuant to Section 39715 of the
34 Health and Safety Code.

35 (3) Projects shall be consistent with the required benefits to
36 disadvantaged communities pursuant to Section 39713 of the
37 Health and Safety Code.

38 (b) All allocations of funds made by the commission pursuant
39 to this section shall be made in a manner consistent with the criteria
40 expressed in Section 39712 of the Health and Safety Code and

1 with the investment plan developed by the Department of Finance
2 pursuant to Section 39716 of the Health and Safety Code.

3 (c) For purposes of this section, “disadvantaged community”
4 means a community with any of the following characteristics:

5 (1) An area with a median household income less than 80
6 percent of the statewide median household income based on the
7 most current census tract-level data from the American Community
8 Survey.

9 (2) An area identified by the California Environmental
10 Protection Agency pursuant to Section 39711 of the Health and
11 Safety Code.

12 (3) An area where at least 75 percent of public school students
13 are eligible to receive free or reduced-price meals under the
14 National School Lunch Program.

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

17 2192.2. The commission shall allocate funds made available
18 by this chapter to projects that have identified and committed
19 supplemental funding from appropriate local, federal, or private
20 sources. The commission shall determine the appropriate amount
21 of supplemental funding each project should have to be eligible
22 for moneys based on a project-by-project review and an assessment
23 of the project’s benefit to the state and the program. Funded
24 improvements shall have supplemental funding that is at least equal
25 to the amount of the contribution under this chapter. The
26 commission may give priority for funding to projects with higher
27 levels of committed supplemental funding.

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

30 2192.4. Notwithstanding subdivision (b) of Section 2103, the
31 portion of the revenues in the Highway Users Tax Account
32 attributable to the increase in the diesel fuel excise tax by thirty
33 cents (\$0.30) per gallon pursuant to subdivision (b) of Section
34 60050 of the Revenue and Taxation Code, as adjusted pursuant to
35 subdivision (c) of that section, shall be deposited in the Trade
36 Corridors Improvement Fund.

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

38 9250.3. (a) In addition to any other fees specified in this code
39 or the Revenue and Taxation Code, commencing 120 days after
40 the effective date of the act adding this section, a registration fee

1 of thirty-eight dollars (\$38) shall be paid to the department for
2 registration or renewal of registration of every vehicle subject to
3 registration under this code, except those vehicles that are expressly
4 exempted under this code from payment of registration fees.

5 (b) Beginning July 1, 2019, and every third year thereafter, the
6 Department of Motor Vehicles shall adjust the fee imposed under
7 this section for inflation in an amount equal to the change in the
8 California Consumer Price Index for the prior three-year period,
9 as calculated by the Department of Finance, with amounts equal
10 to or greater than fifty cents (\$0.50) rounded to the next highest
11 whole dollar.

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

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

18 9250.6. (a) In addition to any other fees specified in this code,
19 or the Revenue and Taxation Code, commencing 120 days after
20 the effective date of the act adding this section, a registration fee
21 of one hundred and sixty-five dollars (\$165) shall be paid to the
22 department for registration or renewal of registration of every
23 zero-emission motor vehicle subject to registration under this code,
24 except those motor vehicles that are expressly exempted under
25 this code from payment of registration fees.

26 (b) Beginning July 1, 2019, and every third year thereafter, the
27 Department of Motor Vehicles shall adjust the fee imposed under
28 this section for inflation in an amount equal to the change in the
29 California Consumer Price Index for the prior three-year period,
30 as calculated by the Department of Finance, with amounts equal
31 to or greater than fifty cents (\$0.50) rounded to the next highest
32 whole dollar.

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

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

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

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

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

10 9400.5. (a) Notwithstanding Sections 9400.1, 9400.4, and
11 42205 of this code, Sections 16773 and 16965 of the Government
12 Code, Section 2103 of the Streets and Highways Code, or any
13 other law, weight fee revenues shall only be transferred consistent
14 with the schedule provided in subdivision (b) from the State
15 Highway Account to the Transportation Debt Service Fund, the
16 Transportation Bond Direct Payment Account, or any other fund
17 or account for the purpose of payment of the debt service on
18 transportation general obligation bonds and shall not be loaned to
19 the General Fund.

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

23 (A) 80 percent of the total weight fees in the 2017–18 fiscal
24 year.

25 (B) 60 percent of the total weight fees in the 2018–19 fiscal
26 year.

27 (C) 40 percent of the total weight fees in the 2019–20 fiscal
28 year.

29 (D) 20 percent of the total weight fees in the 2020–2021 fiscal
30 year.

31 (2) No weight fees, after deduction of collection costs, shall be
32 transferred from the State Highway Account after the 2020–21
33 fiscal year.

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

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

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