

An act to amend Section 63048.65 of, to add Sections 14556.9 and 14556.41 to, and to repeal Sections 63048.66, 63048.67, 63048.7, 63048.75, 63048.8, and 63048.85 of, the Government Code, to amend Section 6701 of the Public Contract Code, to add Sections 21080.36 and 75220.1 to, and to add Part 4 (commencing with Section 75240) to Division 44 of, the Public Resources Code, to amend Sections 7360 and 60050 of, and to add Sections 7361.2, 7653.2, 60050.2, and 60201.4 to, the Revenue and Taxation Code, and to amend Sections 143, 820.1, and 2103 of, to add Sections 2103.1 and 2192.4 to, to add Article 8 (commencing with Section 228) to Chapter 1 of Division 1 of, to add Article 2.5 (commencing with Section 800) to Chapter 4 of Division 1 of, and to add Chapter 2 (commencing with Section 2020) to Division 3 of, the Streets and Highways Code, relating to transportation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.



THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Chapter 2 (commencing with Section 2020) is added to Division 3 of the Streets and Highways Code, to read:

CHAPTER 2. ROAD REPAIR AND ACCOUNTABILITY ACT OF 2016

Article 1. General

2020. This chapter shall be known, and may be cited, as the Road Repair and Accountability Act of 2016.

2021. (a) The Legislature hereby finds and declares all of the following:

(1) Transportation services are vital to the economic well-being of the state and are essential for the daily activities of all people.

(2) State and local governments must invest public funds efficiently to maintain our roads and be accountable to the people through establishment of performance goals that are tracked and reported.

(3) Financing road repairs through user charges has served the state well and should be continued.

(4) User charges have not kept up with inflationary cost increases as the gasoline excise tax has not been increased in 20 years, with those revenue losing more than 55 percent of their purchasing power.

(5) Reduced vehicle miles traveled per capita in recent years and more fuel efficient vehicles are further reducing needed revenues.



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(6) Due to these factors, state and local governments face a significant backlog of deferred road repairs.

(7) Over the next 10 years, the state faces a fifty-seven-billion-dollar (\$57,000,000,000) shortfall to adequately maintain the existing state highway system, in order to keep it in a basic state of good repair.

(8) Similarly, cities and counties face a seventy-eight-billion-dollar (\$78,000,000,000) shortfall over the next decade to adequately maintain the existing network of local streets and roads.

(9) California motorists are spending seventeen billion dollars (\$17,000,000,000) annually in extra maintenance and car repair bills, which is more than seven hundred dollars (\$700) per driver, due to the state's poorly maintained roads.

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

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

(b) It is the intent of the Legislature that the department meet the following preliminary performance outcomes for additional highway investments by the end of 2025, in accordance with the applicable state and federal standards:

(1) Not less than 90 percent of pavement on the state highway system in good condition.

(2) Not less than 90 percent level-of-service achieved for maintenance of potholes, spalls, and cracks.



(3) Not less than 80 percent of culverts in good condition.

(4) Not less than 90 percent of the transportation management system units are functional.

(5) Fix not less than an additional 200 distressed and functionally distressed bridges, beyond the plan in the fiscally constrained 10-year State Highway Operation and Protection Program, as reflected in the 2015 report.

(c) Further, it is the intent of the Legislature that the department leverage funding for trade corridors provided by the act adding this chapter to obtain matching funds from federal and other sources to maximize improvements within the state's high-priority freight corridors.



Article 2. Fiscal Provisions

2030. (a) The Road Maintenance and Accountability Program is hereby created to primarily address deferred maintenance on the state highway system and the local street and road system. A portion of program funds shall also be made available to invest in priority trade corridors.

(b) Funds made available by the program through the Road Maintenance and Rehabilitation Account, which is hereby created in the State Transportation Fund, shall be used for projects that include, but are not limited to, the following:

- (1) Road maintenance and rehabilitation.
- (2) Safety projects.
- (3) Railroad grade separations.

(4) Active transportation and pedestrian and bicycle safety projects in conjunction with any other allowable project.

(5) Trade corridor investments.

(c) To the extent possible and cost-effective, and where feasible, the department and cities and counties receiving an apportionment of funds under the program shall use advanced technologies and material recycling techniques that reduce the cost of maintaining and rehabilitating the streets and highways, and that exhibit reduced levels of greenhouse gas emissions through material choice and construction method.

(d) To the extent possible and cost-effective, and where feasible, the department and cities and counties receiving an apportionment of funds under the program shall use advanced technologies and communications systems in transportation infrastructure that recognize and accommodate advanced automotive technologies that may include, but are not necessarily limited to, charging or fueling opportunities for zero-emission vehicles, and provision of infrastructure-to-vehicle communications for transitional or full autonomous vehicle systems.

(e) To the extent deemed cost-effective, and where feasible, in the context of both the project scope and the risk level for the asset due to global climate change, the department and cities and counties receiving an apportionment of funds under the program shall include features in the projects funded by the program to better adapt the asset to withstand the negative effects of climate change and make the asset more resilient to impacts such as fires, floods, and sea level rise.

(f) To the extent beneficial and practicable in the context of facility type, right-of-way, project scope, and quality of nearby alternative facilities, and where



feasible, the department and cities and counties receiving an apportionment of funds under the program shall incorporate complete street elements into projects funded by the program, including, but not limited to, elements that improve the quality of bicycle and pedestrian facilities and that improve safety for all users of transportation facilities.

(g) The commission's guidelines to implement this chapter shall include reporting provisions for the requirements of subdivisions (c) to (f), inclusive. The commission's guidelines may further define the measurements or targets for the requirements of subdivisions (c) to (f), inclusive.

2031. (a) (1) It is the intent of the Legislature that Road Maintenance and Accountability Program revenues and other revenues designated in the act adding this chapter be divided evenly between state and local transportation infrastructure needs.

(2) Revenues for allocation to local agencies are estimated to be as follows:

(A) One billion one hundred and fifty million dollars (\$1,150,000,000) to local streets and roads, which includes one hundred million dollars (\$100,000,000) for the Low Carbon Road Program pursuant to Part 4 (commencing with Section 75240) of Division 44 of the Public Resources Code.

(B) Two hundred fifty million dollars (\$250,000,000) for the local partnership program pursuant to Section 2031.2.

(C) Four hundred million dollars (\$400,000,000) for rail and transit grants.

(3) Revenues for allocation to the state are estimated to be as follows:

(A) One billion six hundred million dollars (\$1,600,000,000) for state highway, bridge, and culvert repair and maintenance.



(B) Two hundred million dollars (\$200,000,000) for high priority freight corridors.

(b) After the allocation in Section 2031.1, funds in the Road Maintenance and Rehabilitation Account shall be allocated annually as follows:

(1) Two hundred fifty million dollars (\$250,000,000) for the local partnership program pursuant to Section 2031.2.

(2) Two hundred million dollars (\$200,000,000) for the Trade Corridor Enhancement Account established in Section 2192.4. The Controller shall, each month, set aside one-twelfth of this amount, to accumulate a total of two hundred million dollars (\$200,000,000) in each fiscal year.

(3) To ensure that funds made available by the act adding this chapter are divided evenly between state and local transportation infrastructure needs, 40 percent of the unallocated funds after the allocations in paragraphs (1) and (2) are hereby continuously appropriated, notwithstanding Section 13340 of the Government Code, for apportionment to cities and counties by the Controller pursuant to the formula in subparagraph (C) of paragraph (3) of subdivision (a) of Section 2103 for the purposes authorized by this chapter, subject to subdivision (c) of Section 2033 and paragraph (2) of subdivision (a) of Section 2034.

(4) To ensure that funds made available by the act adding this chapter are divided evenly between state and local transportation infrastructure needs, 60 percent of the unallocated funds after the allocations in paragraphs (1) and (2) shall be transferred to the State Highway Account, for expenditure by the department for maintenance of the



state highway system or for allocation to projects in the State Highway Operation and Protection Program.

2031.1. For each fiscal year, the annual Budget Act shall contain an appropriation from the Road Maintenance and Rehabilitation Account to the Controller and to the California Transportation Commission for the costs of carrying out their duties pursuant to this chapter.

2031.2. After deducting the amounts appropriated in the annual budget act as provided in Section 2031.1, two hundred fifty million dollars (\$250,000,000) of the revenues deposited in the Road Maintenance and Rehabilitation Account shall be set aside annually for counties that have sought and received voter approval of taxes or that have imposed fees, including uniform developer fees as defined by subdivision (b) of Section 8879.67 of the Government Code, which taxes or fees are dedicated solely to transportation improvements. The Controller shall each month set aside one-twelfth of this amount, to accumulate a total of two hundred fifty million dollars (\$250,000,000) in each fiscal year.

Notwithstanding Section 13440 of the Government Code, the funds available under this section in each fiscal year are hereby continuously appropriated for allocation to each eligible county and each city in the county for road maintenance and rehabilitation purposes pursuant to Section 2035. On or before June 30 annually, the department shall notify the Controller of any available funds remaining unallocated under this section, which shall then be distributed pursuant to the formula in paragraph (3) of subdivision (b) of Section 2031.



2031.5. The following revenues shall be deposited in the Road Maintenance and Rehabilitation Account:

(a) (1) The portion of revenues attributable to adjustments in the motor vehicle fuel excise tax rate pursuant to subdivision (d) of Section 7360 of the Revenue and Taxation Code, as provided in Section 2103.1.

(2) The revenues attributable to the eleven cents (\$0.11) per gallon increase in the diesel fuel excise tax pursuant to subdivision (b) of Section 60050 of the Revenue and Taxation Code, and adjustments to the tax rate pursuant to subdivision (c) of Section 60050 of the Revenue and Taxation Code, as provided in Section 2103.1.

(3) The revenues attributable to the storage taxes imposed pursuant to Sections 7361.2 and 60050.2 of the Revenue and Taxation Code, as provided in Section 2103.1.

(b) The revenues from the road improvement charge imposed pursuant to Section 228.

(c) Any other revenues designated for the program.

Article 3. Accountability

2032. The purpose of this article is to establish accountability provisions to ensure that state and local governments invest public funds efficiently to maintain the public highways, streets, and roads, and are accountable to the people through establishment of performance goals that are tracked and reported.



2032.1. (a) The commission shall annually evaluate the department relative to the expenditures made with funds received pursuant to this chapter, and the progress made and achievement of the performance goals outlined in this chapter.

(b) For each fiscal year in which the department receives an allocation of funds pursuant to Section 2031, the department shall submit documentation to the commission that includes a description and the location of each completed project, the amount of funds expended on the project, the completion date, and the project's estimated useful life. The commission shall evaluate the documentation to determine the effectiveness of the department in reducing deferred maintenance and improving road conditions on the state highway system, and may withhold future funding from the department if it determines that program funds have not been appropriately spent.

(c) The department shall implement efficiency measures with the goal to generate at least one hundred million dollars (\$100,000,000) per year in savings to invest in maintenance and rehabilitation of the state highway system. These savings shall be reported annually to the commission.

(d) To provide sufficient workload resources so that the department can effectively manage the large growth in workload to achieve the performance outcomes cited in subdivision (b) of Section 2021, and increase state staff, as needed, at a manageable increment, the department shall increase its annual use of contract staff resources so that 20 percent of its capital outlay support staff consists of such resources by the 2020–21 fiscal year.

(e) The department shall report to the commission no later than January 1, 2017, about targets and performance measures developed by the department for major highway



projects, including, but not limited to, pavement, bridges, culverts, and transportation management systems. The department shall establish annual targets for each measure. Targets may be modified in cooperation with the commission as needed to conform to federal regulation on performance measures and the completion of the department's asset management plan pursuant to Section 14526.4 of the Government Code.

(f) Beginning January 1, 2018, to January 1, 2027, inclusive, the department shall report annually to the commission on its progress toward meeting the targets and performance measures established for state highways in subdivision (e).

(g) The commission shall annually evaluate the department on achievement of the targets established in subdivision (e) and include findings in its annual report.

2033. (a) The commission shall biennially evaluate each city and county receiving funds pursuant to this chapter.

(b) For each fiscal year in which a city or county receives an apportionment of funds pursuant to subdivision (a) or paragraph (3) of subdivision (b) of Section 2031 or Section 2031.2, the commission shall evaluate the documentation submitted pursuant to subdivision (b) of Section 2034 to determine the effectiveness of the city or county in reducing deferred maintenance and improving road conditions within its jurisdiction.

(c) If the commission determines, with respect to any given fiscal year, that a city or county has not appropriately spent its apportionment of funds, the commission shall direct the Controller to make that city or county ineligible to receive an apportionment during the next fiscal year. The Controller shall reapportion that city's or county's share of funds to all other eligible cities or counties pursuant to paragraph (3) of subdivision (b) of Section 2031.



(d) The commission shall include a discussion of its evaluations under this section in its annual report to the Legislature pursuant to Section 14535 of the Government Code.

2034. (a) (1) Prior to receiving an apportionment of funds under the program pursuant to paragraph (3) of subdivision (b) of Section 2031 from the Controller in a fiscal year, an eligible city or county shall submit to the commission a list of projects proposed to be funded with these funds pursuant to an adopted city or county budget. All projects proposed to receive funding shall be included in a city or county budget that is adopted by the applicable city council or county board of supervisors at a regular public meeting. The list of projects proposed to be funded with these funds shall include a description and the location of each proposed project, a proposed schedule for the project's completion, and the estimated useful life of the improvement. The project list shall not limit the flexibility of an eligible city or county to fund projects in accordance with local needs and priorities so long as the projects are consistent with subdivision (d).

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

(b) For each fiscal year, each city or county receiving an apportionment of funds shall, upon expending program funds, submit documentation to the commission that includes a description and location of each completed project, the amount of funds



expended on the project, the completion date, and the estimated useful life of the improvement. The documentation shall also include a comparison of the projects the city or county would have completed without receiving funds under the program.

(c) The documentation provided pursuant to subdivision (b) shall be forwarded by the commission to the department, in a manner and form approved by the department, at the end of each fiscal year as long as program funds remain available for expenditure. The department may post the information contained in the documentation on its Internet Web site.

(d) (1) Funds made available to a city or county under the program shall be used for improvements to transportation facilities that will assist in reducing further deterioration of the existing road system. These improvements may include, but need not be limited to, pavement maintenance, rehabilitation, installation, construction, and reconstruction of necessary associated facilities such as drainage and traffic control devices, or safety projects to reduce fatalities.

(2) Funds made available under the program may also be used for the following purposes:

(A) To satisfy the local match requirement in order to obtain state or federal transportation funds for similar purposes.

(B) Active transportation and pedestrian and bicycle safety projects in conjunction with any other allowable project.

2035. (a) On or before January 1, 2017, the commission, in cooperation with the department, transportation planning agencies, county transportation commissions,



and other local agencies, shall develop guidelines for the allocation of funds pursuant to Section 2031.2.

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

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

2036. (a) Cities and counties shall maintain their existing commitment of local funds for street, road, and highway purposes in order to remain eligible for an allocation or apportionment of funds pursuant to Section 2031 or 2031.2.

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



of Title 5 of the Government Code), may not be considered when calculating a city's or county's annual general fund expenditures.

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

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

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

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

2037. A city or county may spend its apportionment of funds under the program on transportation priorities other than those allowable pursuant to this chapter if the city's or county's average Pavement Condition Index meets or exceeds 85.



SEC. 2. Section 14556.9 is added to the Government Code, to read:

14556.9. As of June 30, 2016, eight hundred seventy-nine million dollars (\$879,000,000) in loans made pursuant to Section 14556.8 will be outstanding. Notwithstanding any other section of law, this amount shall be repaid from the General Fund pursuant to subdivision (c) of Section 20 of Article XVI of the California Constitution no later than June 30, 2020, and upon repayment of this amount all loans authorized pursuant to Section 14556.8 shall be deemed repaid. Pursuant to subdivision (c) of Section 14556.8, the Director of Finance may transfer from the General Fund to the Traffic Congestion Relief Fund any amount necessary to fund projects as follows:

(a) One hundred forty-eight million dollars (\$148,000,000) to be allocated by the commission to fund construction and associated support costs for projects that are programmed in the Traffic Congestion Relief Program, but which have not received a full allocation.

(b) Three hundred thirty-four million dollars (\$334,000,000) for transfer to the Trade Corridor Enhancement Account, created by Section 2192.4 of the Streets and Highways Code, to be allocated consistent with the provisions of Chapter 4.8 (commencing with Section 2192) of Division 3 of the Streets and Highways Code, for associated construction and support costs.

(c) Two hundred sixty-five million dollars (\$265,000,000) for transfer to the Public Transportation Account, to be allocated as follows:

(1) Up to twenty million dollars (\$20,000,000) for allocation to local and regional agencies for climate change adaptation planning.



(2) The remaining funds for Transit and Intercity Rail Capital Program grants as authorized in Part 2 (commencing with Section 75220) of Division 44 of the Public Resources Code.

(d) One hundred thirty-two million dollars (\$132,000,000) for transfer to the State Highway Account, for the State Highway Operation and Protection Program.

SEC. 3. Section 14556.41 is added to the Government Code, to read:

14556.41. As of June 30, 2016, projects in Section 14556.40 for the Traffic Congestion Relief Program shall be deemed complete and final, and funding levels are based on actual amounts requested by the designated lead applicant pursuant to Section 14556.12. Projects without approved applications in accordance with Section 14556.12 shall no longer be eligible for program funding. Pursuant to Section 14556.9, Traffic Congestion Relief Program savings of three hundred thirty-four million dollars (\$334,000,000) shall be transferred to the Trade Corridor Enhancement Account, created by Section 2192.4 of the Streets and Highways Code.

SEC. 4. Section 63048.65 of the Government Code is amended to read:

~~63048.65. (a) Upon a filing by the Director of Finance with the bank of a list of designated tribal compacts and the specific portions of the compact assets to be sold, the bank may sell for, and on behalf of, the state, solely as its agent, those specific portions of the compact assets to a special purpose trust. To that end, a special purpose trust is hereby established as a not-for-profit corporation solely for that purpose and for the purposes necessarily incidental thereto. The bank may enter into one or more sales agreements with the special purpose trust on terms it deems appropriate, which may include covenants of, and binding on, the state necessary to establish and maintain~~



~~the security of the bonds and exemption of interest on the bonds from federal income taxation. The portion of the compact assets to be sold shall be an amount or amounts determined by the Director of Finance that are necessary to provide the state with net proceeds of the sale, not to exceed one billion five hundred million dollars (\$1,500,000,000), exclusive of capitalized interest on the bonds and any costs incurred by the bank or the special purpose trust in implementing this article, including, but not limited to, the cost of financing one or more reserve funds, any credit enhancements, costs incurred in the issuance of bonds, and operating expenses. Those specific portions of the compact assets may be sold at one time or from time to time.~~

~~(b) The special purpose trust may issue bonds, including, but not limited to, refunding bonds, on the terms it shall determine, and do all things contemplated by, and authorized by, this division with respect to the bank, and enjoy all rights, privileges, and immunities the bank enjoys pursuant to this division, or as authorized by Section 5140 of the Corporations Code with respect to public benefit nonprofit corporations, or as necessary or appropriate in connection with the issuance of bonds, and may enter into agreements with any public or private entity and pledge the compact assets that it purchased as collateral and security for its bonds. However, to the extent of any conflict between any of the foregoing and the provisions of this article, the provisions of this article shall control. The pledge of any of these assets and of any revenues, reserves, and earnings pledged in connection with these assets shall be valid and binding in accordance with its terms from the time the pledge is made, and amounts so pledged and thereafter received shall immediately be subject to the lien of the pledge without the need for physical delivery, recordation, filing, or other further act. The special~~



~~purpose trust, and its assets and income, and bonds issued by the special purpose trust, and their transfer and the income therefrom, shall be exempt from all taxation by the state and by its political subdivisions.~~

~~(c)(1) The net proceeds of the sale of compact~~

63048.65. ~~(a) Compact assets by the bank~~ shall be deposited in the following order:

~~(A) One billion two~~

(1) Three hundred twenty-one million dollars ~~(\$1,200,000,000) (\$321,000,000)~~ plus any interest due pursuant to paragraph (3) of subdivision (c) of Section 14556.8, to the Traffic Congestion Relief Fund for the purpose of funding or reimbursing the cost of projects, programs, and activities permitted and necessary to be funded by that fund in accordance with applicable law, and to repay loans made from the State Highway Account and the Public Transportation Account to the Traffic Congestion Relief Fund pursuant to Section 14556.8, in the following priority order:

~~(i)~~

(2) Transfer of four three hundred forty-three eleven million dollars ~~(\$443,000,000) (\$311,000,000)~~ plus any interest due pursuant to paragraph (3) of subdivision (c) of Section 14556.8, to the State Highway Account for project expenditures.

~~(ii) Two hundred ninety million dollars (\$290,000,000) for allocation to Traffic Congestion Relief Program projects.~~

~~(iii) Two hundred seventy-five~~



~~(3) Ten million dollars (\$275,000,000) (\$10,000,000) to the Public Transportation Account for project expenditures.~~

~~(iv) All remaining funds for allocation to Traffic Congestion Relief Program projects:~~

~~(B) To the Transportation Deferred Investment Fund, an amount up to the outstanding amount of the suspension of the 2004-05 fiscal year transfer of the sales tax on gasoline to the Transportation Investment Fund pursuant to requirements of Article XIX B of the California Constitution.~~

~~(C) To the Transportation Deferred Investment Fund, an amount up to the outstanding amount of the suspension of the 2003-04 fiscal year transfer of the sales tax on gasoline to the Transportation Investment Fund pursuant to requirements of Article XIX B of the California Constitution.~~

~~(2) Notwithstanding paragraph (1), if and to the extent it is necessary to ensure to the maximum extent practicable the eligibility for exclusion from taxation under the federal Internal Revenue Code of interest on the bonds to be issued by the special purpose trust, the Director of Finance may adjust the application of proceeds not eligible for exclusion from taxation among the authorized funds described in paragraph (1). The Department of Finance shall submit a report to the Legislature describing any proposed changes among the authorized funds in paragraph (1), and consistent with this paragraph, at least 30 days prior to issuing the bonds pursuant to this article. Amounts deposited in the Traffic Congestion Relief Fund pursuant to paragraph (1) shall be applied as a credit to transfers from the General Fund that the Controller would otherwise be required to make to that fund. Amounts deposited in the Transportation~~



~~Deferred Investment Fund shall be expended in conformance with Sections 7105 and 7106 of the Revenue and Taxation Code, and the amounts so deposited shall also be applied as a credit to the transfers from the General Fund that the Controller would otherwise be required to make under those sections. The Legislature hereby finds and declares that the deposits and credits described in this subdivision do not constitute the use of the proceeds of bonds or other indebtedness to pay a yearend State Budget deficit as prohibited by subdivision (c) of Section 1.3 of Article XVI of the California Constitution. Subject to any constitutional limitation, the use and application of the proceeds of any sale of compact assets or bonds shall not in any way affect the legality or validity of that sale or those bonds.~~

~~(d) Funds received from amended tribal-state compacts, or new compacts entered into and ratified on or after the effective date of this article, pursuant to Section 4.3.1 of the amended compacts, or the comparable section in new compacts, as specified in those compacts, that are neither sold to the special purpose trust nor otherwise appropriated, and funds received as a result of the state's acquisition of an ownership interest in any residual interest in compact assets attributable to Section 4.3.1 of the amended compacts, or the comparable section in new compacts, as specified in those compacts, shall be remitted to the California Gambling Control Commission for deposit in the General Fund.~~

~~(e)~~

~~(b) Funds received from amended tribal-state compacts, or new compacts entered into and ratified on or after the effective date of this article, pursuant to Section 4.3.3 of the amended compacts, or the comparable section in new compacts, as specified in~~



those compacts, shall be held in an account within the Special Deposit Fund until those funds are ~~sold or otherwise~~ applied pursuant to this subdivision. From time to time, at the direction of the Director of Finance, any moneys in this account shall be deposited and applied in accordance with subdivision (c) or shall be deemed to be compact assets for purposes of sale to the special purpose trust pursuant to this article. ~~If the Director of Finance determines that the bonds authorized pursuant to this article cannot be successfully issued by the special purpose trust, funds~~ Funds within the account shall be deposited in accordance with subdivision ~~(e)~~. (a). In addition, all subsequent revenues remitted pursuant to Section 4.3.3 of the amended compacts, or the comparable section in new compacts, as specified in those compacts, and funds received as a result of the state's acquisition of an ownership interest in any residual interest in compact assets attributable to Section 4.3.3 of the amended compacts, or the comparable section in new compacts, as specified in those compacts, shall be used to satisfy the purposes of subdivision ~~(e)~~. (a). When the amounts described in subdivision ~~(e)~~ (a) have been paid to the funds named in that subdivision either pursuant to this article or by other appropriations or transfers, thereafter the revenues received by the state from Section 4.3.3 of the compact shall be remitted to the California Gambling Control Commission for deposit in the General Fund.

~~(f) The principal office of the special purpose trust shall be located in the County of Sacramento. The articles of incorporation of the special purpose trust shall be prepared and filed, on behalf of the state, with the Secretary of State by the bank. The members of the board of directors of the bank as of the effective date of this article, the Director of the Department of Transportation, and the Director of General Services,~~



~~shall each serve ex officio as the directors of the special purpose trust. Any of these directors may name a designee to act on his or her behalf as a director of the special purpose trust. The Director of Finance or his or her designee shall serve as chair of the special purpose trust. Directors of the special purpose trust shall not be subject to personal liability for carrying out the powers and duties conferred by this article. The Legislature hereby finds and declares that the duties and responsibilities of the directors of the special purpose trust and the duties and responsibilities of the Director of Finance established under this article are within the scope of the primary duties of those persons in their official capacities. The special purpose trust shall be treated as a separate legal entity with its separate corporate purpose as described in this article, and the assets, liabilities, and funds of the special purpose trust shall be neither consolidated nor commingled with those of the bank.~~

SEC. 5. Section 63048.66 of the Government Code is repealed.

~~63048.66. (a) Notwithstanding Section 63048.65 or any other provision of this article, compact assets that are subject to designation by the Director of Finance for sale pursuant to subdivision (a) of Section 63048.65 and that are timely deposited or are due for deposit in the Special Deposit Fund on or after July 1, 2008, and on or before June 30, 2016, shall not be available for the purpose of Section 63048.65.~~

~~(b) The Director of Finance shall determine the portion of the compact assets described in subdivision (a) that are attributable to payments made for each fiscal year. The Director of Finance may direct the Controller, by separate order applicable to the assets for each fiscal year, to transfer the compact assets attributable to that fiscal year from the Special Deposit Fund to the General Fund.~~



~~(e) Upon order of the Director of Finance, the Controller shall transfer the compact assets as provided in subdivision (b).~~

~~(d) If any legal challenges to the issuance of bonds pursuant to this article are settled sufficiently for the bonds to be sold, the following shall occur:~~

~~(1) Notwithstanding subdivision (a), the tribal assets described in subdivision (a) that are in the Special Deposit Fund, or are still due for payment to the Special Deposit Fund, may be made available for sale pursuant to subdivision (a) of Section 63048.65.~~

~~(2) The transfer of any compact assets to the General Fund pursuant to this section shall be suspended until after the bonds are sold, and any possible future transfers to the General Fund shall be consistent with the provisions of the bond sale.~~

SEC. 6. Section 63048.67 of the Government Code is repealed.

~~63048.67. The loans made from the State Highway Account through the Traffic Congestion Relief Fund to the General Fund that are referenced in clause (i) of subparagraph (A) of paragraph (1) of subdivision (e) of Section 63048.65 are hereby determined to have been from weight fee revenues in the State Highway Account fund balance. Any repayments made to the State Highway Account pursuant to subdivision (e) of Section 63048.65, upon transfer of those funds to the State Highway Account, shall be immediately transferred by the Controller from the State Highway Account to the Transportation Debt Service Fund for use pursuant to Section 16965.~~

SEC. 7. Section 63048.7 of the Government Code is repealed.

~~63048.7. Notwithstanding any other provision of this division, Article 3 (commencing with Section 63040), Article 4 (commencing with Section 63042), and~~



~~Article 5 (commencing with Section 63043) do not apply to any bonds issued by the special purpose trust established by this article. All matters authorized in this article are in addition to powers granted to the bank in this division.~~

SEC. 8. Section 63048.75 of the Government Code is repealed.

~~63048.75. Any sale of some or all of the compact assets under this article shall be treated as a true sale and absolute transfer of the property so transferred to the special purpose trust and not as a pledge or grant of a security interest by the state, the bank board, or the bank for any borrowing. The characterization of the sale of any of those assets as an absolute transfer by the participants shall not be negated or adversely affected by the fact that only a portion of the compact assets is transferred, nor by the state's acquisition of an ownership interest in any residual interest in the compact assets, nor by any characterization of the special purpose trust or its bonds for purposes of accounting, taxation, or securities regulation, nor by any other factor whatsoever.~~

SEC. 9. Section 63048.8 of the Government Code is repealed.

~~63048.8. (a) (1) On and after the effective date of each sale of compact assets, the state shall have no right, title, or interest in or to the compact assets sold, and the compact assets so sold shall be property of the special purpose trust and not of the state, the bank board, or the bank, and shall be owned, received, held, and disbursed by the special purpose trust or the trustee for the financing. None of the compact assets sold by the state pursuant to this article shall be subject to garnishment, levy, execution, attachment, or other process, writ, including, but not limited to, a writ of mandate, or remedy in connection with the assertion or enforcement of any debt, claim, settlement, or judgment against the state, the bank board, or the bank.~~



~~(2) On or before the effective date of any sale, the state, acting through the Director of Finance, upon direction of the bank, shall notify each tribe that has executed a designated tribal compact that the particular compact assets that have been sold to the special purpose trust and irrevocably instruct the tribe that, as of the applicable effective date and so long as the bonds secured by the compact assets are outstanding, the compact assets sold are to be paid directly to the trustee for the applicable bonds of the special purpose trust. Certification by the Director of Finance that this notice has been given shall be conclusive evidence thereof for purposes of this article.~~

~~(3) The state pledges and agrees with the holders of any bonds issued by the special purpose trust that it will not authorize anyone other than an Indian tribe with a federally authorized compact to engage in specified gaming activities within the defined core geographic market of an Indian tribe that is a party to a designated tribal compact in violation of the designated tribal compact as ratified by the Legislature, unless adequate provision is made by law for the protection of the holders of bonds in a manner consistent with the indenture or trust agreement pursuant to which the bonds are issued. The state pledges to and agrees with the holders of any bonds issued by the special purpose trust that it will (A) enforce its rights to collect the compact assets sold to the special purpose trust pursuant to this article, (B) not amend any designated tribal compact or take any other action, that would in any way diminish, limit, or impair the rights to receive compact assets sold to the special purpose trust pursuant to this article, and (C) not in any way impair the rights and remedies of bondholders or the security for their bonds until, in each case, those bonds, together with the interest thereon and costs and expenses in connection with any action or proceeding on behalf of the~~



~~bondholders, are fully paid and discharged or otherwise provided for pursuant to the terms of the indenture or trust agreement pursuant to which those bonds are issued. The special purpose trust may include these pledges and undertakings in its bonds. Notwithstanding any other provision of this article, inherent police powers that cannot be contracted away are reserved to the state.~~

~~(b) Bonds issued pursuant to this article shall not be deemed to constitute a debt of the state nor a pledge of the faith or credit of the state, and all bonds shall contain on the face of the bond a statement to the effect that neither the faith and credit nor the taxing power nor any other assets or revenues of the state or of any political subdivision of the state other than the special purpose trust, is or shall be pledged to the payment of the principal of or the interest on the bonds.~~

~~(c) Whether or not the bonds are of a form and character as to be negotiable instruments under the terms of the Uniform Commercial Code, the bonds are hereby made negotiable instruments for all purposes, subject only to the provisions of the bonds for registration.~~

~~(d) The special purpose trust and the bank shall be treated as public agencies for purposes of Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure, and any action or proceeding challenging the validity of any matter authorized by this article shall be brought in accordance with, and within the time specified in, that chapter.~~

~~(e) Notwithstanding any other provision of law, the exclusive means to obtain review of a superior court judgment entered in an action brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure~~



~~to determine the validity of any bonds to be issued, any other contracts to be entered into, or any other matters authorized by this article shall be by petition to the Supreme Court for writ of review. Any such petition shall be filed within 15 days following the notice of entry of the superior court judgment, and no extension of that period shall be allowed. If no petition is filed within the time allowed for this purpose, or the petition is denied, with or without opinion, the decision of the superior court shall be final and enforceable as provided in subdivision (a) of Section 870 of the Code of Civil Procedure. In any case in which a petition has been filed within the time allowed, the Supreme Court shall make any orders as it may deem proper in the circumstances. If no answering party appeared in the superior court action, the only issues that may be raised in the petition are those related to the jurisdiction of the superior court. Nothing in this subdivision or subdivision (d) shall be construed as granting standing to challenge the designated tribal compacts.~~

SEC. 10. Section 63048.85 of the Government Code is repealed.

~~63048.85. (a) The Legislature finds and declares that, because the proceeds from the sale of compact assets authorized by this article are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.~~

~~(b) Compact assets shall not be deemed to be "State General Fund proceeds of taxes appropriated pursuant to Article XIII B" within the meaning of Section 8 of Article XVI of the California Constitution, Section 41202 of the Education Code, or any other provision of law.~~



~~(e) Compact assets are not General Fund revenues for the purposes of Section 8 of Article XVI of the California Constitution or any other provision of law.~~

SEC. 11. Section 6701 of the Public Contract Code is amended to read:

6701. (a) The Construction Manager/General Contractor method provided by this chapter may be used by the department, but is not limited to, when it is anticipated that it will reduce project costs or expedite project completion in a manner that is not achievable through the design-bid-build method. Notwithstanding any other law, for projects utilizing the Construction Manager/General Contractor method provided by this chapter, the department shall advertise, award, and administer the Construction Manager/General Contractor contract. The department shall not delegate the contracting authority.

(b) The department may use the Construction Manager/General Contractor method on no more than ~~six~~ 12 projects, at least five of which shall have construction costs greater than ten million dollars (\$10,000,000).

(c) On at least four of the projects utilizing the Construction Manager/General Contractor method provided by this chapter, the department shall use department employees or consultants under contract with the department to perform all project design and engineering services related to design required for Construction Manager/General Contractor project delivery consistent with Article XXII of the California Constitution. On all ~~six~~ 12 projects, the department shall use department employees or consultants under contract with the department to perform all construction inspection services required for Construction Manager/General Contractor project delivery consistent with Article XXII of the California Constitution. Department



resources, including personnel requirements, necessary to perform all services described in this subdivision shall be included in the department's capital outlay support program for workload purposes in the annual Budget Act.

(d) (1) The department shall prepare and submit to the Legislature, no later than July 1 of each year during which any project using the Construction Manager/General Contractor method is ongoing, a report that describes each project and provides relevant data, including, but not limited to, the stage of completion, district, cost, description, status, and estimated time to completion.

(2) The department shall prepare and submit to the Legislature, no later than July 1 of the year after any project using the Construction Manager/General Contractor method has been completed, a report that includes, in addition to the data in paragraph (1), all of the following:

(A) Data on initial cost estimates, actual cost upon completion, and the reasons for any difference.

(B) Estimated time for completion, actual time of completion, and the reasons for any difference.

(C) The number and dollar value of any change orders for all projects completed using the Construction Manager/General Contractor method.

(e) (1) A report to be submitted pursuant to subdivision (d) shall be submitted in compliance with Section 9795 of the Government Code.

(2) Notwithstanding Section 10231.5 of the Government Code, the requirement for submitting a report imposed under subdivision (d) is inoperative on July 1 of the



year following the submission of the final report upon completion of the fourth project of the department that uses the Construction Manager/General Contractor method.

SEC. 12. Section 21080.36 is added to the Public Resources Code, to read:

21080.36. (a) This division does not apply to a project, or the issuance of a permit for the project, that consists of the inspection, maintenance, repair, rehabilitation, replacement, or removal of existing transportation infrastructure, including, but not limited to, highways, roadways, bridges, culverts, tunnels, transit systems, bikeways, and paths and sidewalks serving bicycles or pedestrians, or both, or the addition of an auxiliary lane or bikeway to existing transportation infrastructure if the project meets both of the following conditions:

(1) The project is located within an existing right-of-way, and any area surrounding the right-of-way that is to be altered as a result of construction activities that are necessary for the completion of the project will be restored to its condition before the project, and does not add additional motor vehicle lanes, except auxiliary lanes.

(2) The public agency complies with all conditions otherwise authorized by law, and any conditions imposed by the city or county planning department as part of any applicable local agency permit process, that are required to mitigate potential impacts of the proposed project, and to otherwise comply with the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code), Chapter 6 (commencing with Section 1600) of Division 2 of the Fish and Game Code, the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of



Division 3 of the Fish and Game Code), and other applicable state laws, and with all applicable federal laws.

(b) If a project meets the requirements of subdivision (a), the public agency carrying out the project shall do all of the following

(1) Notify, in writing, any affected public agency, including, but not limited to, any public agency having permit, land use, environmental, public health protection, or emergency response authority of the exemption of the project from this division under subdivision (a).

(2) Provide notice in a manner consistent with Section 21108 or Section 21152.

(3) Comply with all conditions otherwise authorized by law and any conditions imposed by the city or county planning department, as part of any applicable local agency permit process, that are required to mitigate potential impacts of the proposed project, and to otherwise comply with the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code), Chapter 6 (commencing with Section 1600) of Division 2 of the Fish and Game Code, the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), and other applicable state laws, and with all applicable federal laws.

(c) For purposes of this section, “auxiliary lane” means the portion of the roadway used for weaving, truck climbing, speed change, or for other purposes supplemental to through traffic movement.

SEC. 13. Section 75220.1 is added to the Public Resources Code, to read:



75220.1. For each year that the annual Budget Act includes an appropriation for the Transit and Intercity Rail Capital Program authorized by this part that is in addition to the amount that is continuously appropriated to the program pursuant to paragraph (A) of subdivision (b) of Section 39719 of the Health and Safety Code, at least 50 percent of the funding provided from the Budget Act appropriation shall be allocated to projects benefiting disadvantaged communities, consistent with the objectives of Chapter 830 of the Statutes of 2012.

SEC. 14. Part 4 (commencing with Section 75240) is added to Division 44 of the Public Resources Code, to read:

PART 4. LOW CARBON ROAD PROGRAM

75240. (a) The Low Carbon Road Program is hereby created to provide capital assistance to cities, counties, and tribal governments for road projects to reduce greenhouse gas emissions and improve mobility, with a priority on serving disadvantaged communities, when funds are appropriated for this purpose from the Greenhouse Gas Reduction Fund.

(b) The Department of Transportation shall evaluate applications for funding under the program consistent with the criteria set forth in this part and prepare a list of projects recommended for funding. The list may be revised at any time.

(c) The California Transportation Commission shall award grants to applicants pursuant to the list prepared by the Department of Transportation.



75241. (a) Projects eligible for funding under the program include all of the following:

- (1) Complete streets programs.
- (2) Roundabouts replacing stop-controlled intersections.
- (3) Optimization of traffic signals.
- (4) Safety improvements to roads that improve safety for pedestrians and bicyclists to increase active transportation.
- (5) Other street improvements expected to reduce greenhouse gas emissions, and authorized in program guidelines.

(b) In order to be eligible for funding under the program, a project shall demonstrate that it will achieve a reduction in greenhouse gas emissions.

(c) At least 50 percent of available funding for the program from the Greenhouse Gas Reduction Fund shall be allocated to projects benefiting disadvantaged communities, consistent with the objectives of Chapter 830 of the Statutes of 2012.

(d) The Department of Transportation, in coordination with the State Air Resources Board, shall develop guidelines that describe the methodologies that program applicants shall use to demonstrate that proposed expenditures will meet the criteria in subdivisions (b) and (c) and establish the reporting requirements for documenting ongoing compliance with those criteria.

(e) In evaluating grant applications for funding, the Department of Transportation shall consider the following:

(1) The cobenefits of projects that support implementation of sustainable communities strategies through one or more of the following:



- (A) Reducing auto vehicle miles traveled.
 - (B) Promoting infill housing development.
 - (C) Supporting the expansion of existing rail and public transit systems.
 - (D) Promoting active transportation.
 - (E) Improving public health.
- (2) Geographic equity.
- (3) Consistency with the adopted sustainable communities strategies and the recommendations of regional agencies.
- (f) Eligible applicants under the program shall be cities, counties, and California tribal governments.
- (g) A recipient of funds under the program may combine funding from the program with other funding, including, but not limited to, the State Transportation Improvement Program, the Low Carbon Transit Operations Program, the Affordable Housing and Sustainable Communities Program, and state transportation bond funds.
75242. (a) Applications for grants under the program shall be submitted to the Department of Transportation for evaluation in accordance with procedures and program guidelines adopted by the department.
- (b) The Department of Transportation shall conduct at least two public workshops on draft program guidelines containing selection criteria prior to adoption and shall post the draft guidelines on the department's Internet Web site at least 30 days prior to the first public workshop. Concurrent with the posting, the department shall transmit the draft guidelines to the fiscal committees and to the appropriate policy committees of the Legislature.



(c) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to the development and adoption of procedures and program guidelines for the program pursuant to this section.

SEC. 15. Section 7360 of the Revenue and Taxation Code is amended to read:

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

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

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

(b) (1) On and after July 1, 2010, but before July 1, 2017, in addition to the tax imposed by subdivision (a), a tax is hereby imposed upon each gallon of motor vehicle fuel, other than aviation gasoline, subject to the tax in Sections 7362, 7363, and 7364 in an amount equal to seventeen and three-tenths cents (\$0.173) per gallon.

(2) For the 2011–12 fiscal year and each fiscal year thereafter, the board shall, on or before March 1 of the fiscal year immediately preceding the applicable fiscal year, adjust the rate in paragraph (1) in that manner as to generate an amount of revenue that will equal the amount of revenue loss attributable to the exemption provided by



Section 6357.7, based on estimates made by the board, and that rate shall be effective during the state's next fiscal year.

(3) In order to maintain revenue neutrality for each year, beginning with the rate adjustment on or before March 1, 2012, the adjustment under paragraph (2) shall also take into account the extent to which the actual amount of revenues derived pursuant to this subdivision and, as applicable, Section 7361.1, the revenue loss attributable to the exemption provided by Section 6357.7 resulted in a net revenue gain or loss for the fiscal year ending prior to the rate adjustment date on or before March 1.

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

(5) This subdivision shall become inoperative on July 1, 2017.

(c) On and after July 1, 2017, in addition to the tax imposed by subdivision (a), a tax is hereby imposed upon each gallon of motor vehicle fuel, other than aviation gasoline, subject to the tax in Sections 7362, 7363, and 7364, in an amount equal to eighteen cents (\$0.18) per gallon.

(d) On July 1, 2018, and every July 1 thereafter, the board shall adjust the taxes imposed by subdivisions (a) and (c) by increasing the taxes by a percentage amount equal to the increase in the California Consumer Price Index for the prior year, as calculated by the Department of Finance, with the resulting taxes rounded to the nearest one-tenth of one cent (\$0.001).

(e) Any increases to the taxes imposed under subdivisions (a) and (c) that are enacted by legislation subsequent to July 1, 2017, shall be deemed to be changes to the base taxes for purposes of the calculation performed pursuant to subdivision (d).



SEC. 16. Section 7361.2 is added to the Revenue and Taxation Code, to read:

7361.2. (a) For the privilege of storing, for the purpose of sale, each supplier, wholesaler, and retailer owning 1,000 or more gallons of tax-paid motor vehicle fuel on July 1, 2017, shall pay a storage tax, the rate of which shall be determined by the board pursuant to the difference in the rate of the tax on motor vehicle fuel in effect on June 30, 2017, and the rate in effect on July 1, 2017, on tax-paid motor vehicle fuel in storage according to the volumetric measure thereof.

(b) For purposes of this section:

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

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

(3) "Storing" includes the ownership or possession of tax-paid motor vehicle fuel outside of the bulk transfer/terminal system, including the holding of tax-paid motor vehicle fuel for sale at wholesale or retail locations stored in a container of any kind, including railroad tank cars and trucks or trailer cargo tanks. "Storing" also includes tax-paid motor vehicle fuel purchased from and invoiced by the seller, and tax-paid motor vehicle fuel removed from a terminal or entered into by a supplier, prior to the date specified in subdivision (a) and in transit on that date.

(4) "Wholesaler" means any person who sells diesel fuel in this state for resale to a retailer or to a person who is not a retailer and subsequently uses the motor vehicle fuel.

SEC. 17. Section 7653.2 is added to the Revenue and Taxation Code, to read:



7653.2. On or before September 1, 2017, each person subject to the storage tax imposed under Section 7361.2 shall prepare and file with the board, in a form prescribed by the board, a return showing the total number of gallons of tax-paid motor vehicle fuel owned by the person on July 1, 2017, the amount of the storage tax, and any other information that the board deems necessary for the proper administration of this part. The return shall be accompanied by a remittance payable to the board in the amount of tax due.

SEC. 18. Section 60050 of the Revenue and Taxation Code is amended to read:

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

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

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

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



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

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

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

(b) In addition to the tax imposed pursuant to subdivision (a), on and after July 1, 2017, an additional tax of eleven cents (\$0.11) is hereby imposed upon each gallon of diesel fuel subject to the tax in Sections 60051, 60052, and 60058.

(c) On July 1, 2018, and every July 1 thereafter, the board shall adjust the taxes imposed by subdivisions (a) and (b) by increasing the taxes by a percentage amount equal to the increase in the California Consumer Price Index for the prior year, as calculated by the Department of Finance, with the resulting taxes rounded to the nearest one-tenth of one cent (\$0.001).



(d) Any increases to the taxes imposed under subdivisions (a) and (b) that are enacted by legislation subsequent to July 1, 2017, shall be deemed to be changes to the base taxes for purposes of the calculation performed pursuant to subdivision (c).

SEC. 19. Section 60050.2 is added to the Revenue and Taxation Code, to read:

60050.2. (a) For the privilege of storing, for the purpose of sale, each supplier, wholesaler, and retailer owning 1,000 or more gallons of tax-paid diesel fuel on July 1, 2017, shall pay a storage tax of eleven cents (\$0.11) per gallon of tax-paid diesel fuel in storage according to the volumetric measure thereof.

(b) For purposes of this section:

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

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

(3) "Storing" includes the ownership or possession of tax-paid diesel fuel outside of the bulk transfer/terminal system, including the holding of tax-paid diesel fuel for sale at wholesale or retail locations stored in a container of any kind, including railroad tank cars and trucks or trailer cargo tanks. "Storing" also includes tax-paid diesel fuel purchased from and invoiced by the seller, and tax-paid diesel fuel removed from a terminal or entered into by a supplier, prior to the date specified in subdivision (a) and in transit on that date.

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

SEC. 20. Section 60201.4 is added to the Revenue and Taxation Code, to read:



60201.4. On or before September 1, 2017, each person subject to the storage tax imposed under Section 60050.2 shall prepare and file with the board, in a form prescribed by the board, a return showing the total number of gallons of tax-paid diesel fuel owned by the person on July 1, 2017, the amount of the storage tax, and any other information that the board deems necessary for the proper administration of this part. The return shall be accompanied by a remittance payable to the board in the amount of tax due.

SEC. 21. Section 143 of the Streets and Highways Code is amended to read:

143. (a) (1) “Best value” means a value determined by objective criteria, including, but not limited to, price, features, functions, life-cycle costs, and other criteria deemed appropriate by the department or the regional transportation agency.

(2) “Contracting entity or lessee” means a public or private entity, or consortia thereof, that has entered into a comprehensive development lease agreement with the department or a regional transportation agency for a transportation project pursuant to this section.

(3) “Design-build” means a procurement process in which both the design and construction of a project are procured from a single entity.

(4) “Regional transportation agency” means any of the following:

(A) A transportation planning agency as defined in Section 29532 or 29532.1 of the Government Code.

(B) A county transportation commission as defined in Section 130050, 130050.1, or 130050.2 of the Public Utilities Code.



(C) Any other local or regional transportation entity that is designated by statute as a regional transportation agency.

(D) A joint exercise of powers authority as defined in Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, with the consent of a transportation planning agency or a county transportation commission for the jurisdiction in which the transportation project will be developed.

(5) "Public Infrastructure Advisory Commission" means a unit or auxiliary organization established by the Transportation Agency that advises the department and regional transportation agencies in developing transportation projects through performance-based infrastructure partnerships.

(6) "Transportation project" means one or more of the following: planning, design, development, finance, construction, reconstruction, rehabilitation, improvement, acquisition, lease, operation, or maintenance of highway, public street, rail, or related facilities supplemental to existing facilities currently owned and operated by the department or regional transportation agencies that is consistent with the requirements of subdivision (c).

(b) (1) The Public Infrastructure Advisory Commission shall do all of the following:

(A) Identify transportation project opportunities throughout the state.

(B) Research and document similar transportation projects throughout the state, nationally, and internationally, and further identify and evaluate lessons learned from these projects.



(C) Assemble and make available to the department or regional transportation agencies a library of information, precedent, research, and analysis concerning infrastructure partnerships and related types of public-private transactions for public infrastructure.

(D) Advise the department and regional transportation agencies, upon request, regarding infrastructure partnership suitability and best practices.

(E) Provide, upon request, procurement-related services to the department and regional transportation agencies for infrastructure partnership.

(2) The Public Infrastructure Advisory Commission may charge a fee to the department and regional transportation agencies for the services described in subparagraphs (D) and (E) of paragraph (1), the details of which shall be articulated in an agreement entered into between the Public Infrastructure Advisory Commission and the department or the regional transportation agency.

(c) (1) Notwithstanding any other provision of law, only the department, in cooperation with regional transportation agencies, and regional transportation agencies, may solicit proposals, accept unsolicited proposals, negotiate, and enter into comprehensive development lease agreements with public or private entities, or consortia thereof, for transportation projects.

(2) Projects proposed pursuant to this section and associated lease agreements shall be submitted to the California Transportation Commission. The commission, at a regularly scheduled public hearing, shall select the candidate projects from projects nominated by the department or a regional transportation agency after reviewing the



nominations for consistency with paragraphs (3) and (4). Approved projects may proceed with the process described in paragraph (5).

(3) The projects authorized pursuant to this section shall be primarily designed to achieve the following performance objectives:

(A) Improve mobility by improving travel times or reducing the number of vehicle hours of delay in the affected corridor.

(B) Improve the operation or safety of the affected corridor.

(C) Provide quantifiable air quality benefits for the region in which the project is located.

(4) In addition to meeting the requirements of paragraph (3), the projects authorized pursuant to this section shall address a known forecast demand, as determined by the department or regional transportation agency.

(5) At least 60 days prior to executing a final lease agreement authorized pursuant to this section, the department or regional transportation agency shall submit the agreement to the Legislature and the Public Infrastructure Advisory Commission for review. Prior to submitting a lease agreement to the Legislature and the Public Infrastructure Advisory Commission, the department or regional transportation agency shall conduct at least one public hearing at a location at or near the proposed facility for purposes of receiving public comment on the lease agreement. Public comments made during this hearing shall be submitted to the Legislature and the Public Infrastructure Advisory Commission with the lease agreement. The Secretary of Transportation or the chairperson of the Senate or Assembly fiscal committees or policy committees with jurisdiction over transportation matters may, by written notification



to the department or regional transportation agency, provide any comments about the proposed agreement within the 60-day period prior to the execution of the final agreement. The department or regional transportation agency shall consider those comments prior to executing a final agreement and shall retain the discretion for executing the final lease agreement.

(d) For the purpose of facilitating those projects, the agreements between the parties may include provisions for the lease of rights-of-way in, and airspace over or under, highways, public streets, rail, or related facilities for the granting of necessary easements, and for the issuance of permits or other authorizations to enable the construction of transportation projects. Facilities subject to an agreement under this section shall, at all times, be owned by the department or the regional transportation agency, as appropriate. For department projects, the commission shall certify the department's determination of the useful life of the project in establishing the lease agreement terms. In consideration therefor, the agreement shall provide for complete reversion of the leased facility, together with the right to collect tolls and user fees, to the department or regional transportation agency, at the expiration of the lease at no charge to the department or regional transportation agency. At the time of the reversion, the facility shall be delivered to the department or regional transportation agency, as applicable, in a condition that meets the performance and maintenance standards established by the department or regional transportation agency and that is free of any encumbrance, lien, or other claims.

(e) Agreements between the department or regional transportation agency and the contracting entity or lessee shall authorize the contracting entity or lessee to use a



design-build method of procurement for transportation projects, subject to the requirements for utilizing such a method contained in Chapter 6.5 (commencing with Section ~~6800~~ 6820) of Part 1 of Division 2 of the Public Contract Code, other than Sections ~~6802, 6803, 6821~~ and ~~6813~~ 6822 of that code, if those provisions are enacted by the Legislature during the 2009–10 Regular Session, or a 2009–10 extraordinary session: code.

(f) (1) (A) Notwithstanding any other provision of this chapter, for projects on the state highway system, the department is the responsible agency for the performance of project development services, including performance specifications, preliminary engineering, prebid services, the preparation of project reports and environmental documents, and construction inspection services. The department is also the responsible agency for the preparation of documents that may include, but need not be limited to, the size, type, and desired design character of the project, performance specifications covering the quality of materials, equipment, and workmanship, preliminary plans, and any other information deemed necessary to describe adequately the needs of the department or regional transportation agency.

(B) The department may use department employees or consultants to perform the services described in subparagraph (A), consistent with Article XXII of the California Constitution. Department resources, including personnel requirements, necessary for the performance of those services shall be included in the department's capital outlay support program for workload purposes in the annual Budget Act.

(2) The department or a regional transportation agency may exercise any power possessed by it with respect to transportation projects to facilitate the transportation



projects pursuant to this section. The department, regional transportation agency, and other state or local agencies may provide services to the contracting entity or lessee for which the public entity is reimbursed, including, but not limited to, planning, environmental planning, environmental certification, environmental review, preliminary design, design, right-of-way acquisition, construction, maintenance, and policing of these transportation projects. The department or regional transportation agency, as applicable, shall regularly inspect the facility and require the contracting entity or lessee to maintain and operate the facility according to adopted standards. Except as may otherwise be set forth in the lease agreement, the contracting entity or lessee shall be responsible for all costs due to development, maintenance, repair, rehabilitation, and reconstruction, and operating costs.

(g) (1) In selecting private entities with which to enter into these agreements, notwithstanding any other provision of law, the department and regional transportation agencies may utilize, but are not limited to utilizing, one or more of the following procurement approaches:

(A) Solicitations of proposals for defined projects and calls for project proposals within defined parameters.

(B) Prequalification and short-listing of proposers prior to final evaluation of proposals.

(C) Final evaluation of proposals based on qualifications and best value. The California Transportation Commission shall develop and adopt criteria for making that evaluation prior to evaluation of a proposal.

(D) Negotiations with proposers prior to award.



(E) Acceptance of unsolicited proposals, with issuance of requests for competing proposals. Neither the department nor a regional transportation agency may award a contract to an unsolicited bidder without receiving at least one other responsible bid.

(2) When evaluating a proposal submitted by the contracting entity or lessee, the department or the regional transportation agency may award a contract on the basis of the lowest bid or best value.

(h) The contracting entity or lessee shall have the following qualifications:

(1) Evidence that the members of the contracting entity or lessee have completed, or have demonstrated the experience, competency, capability, and capacity to complete, a project of similar size, scope, or complexity, and that proposed key personnel have sufficient experience and training to competently manage and complete the design and construction of the project, and a financial statement that ensures that the contracting entity or lessee has the capacity to complete the project.

(2) The licenses, registration, and credentials required to design and construct the project, including, but not limited to, information on the revocation or suspension of any license, credential, or registration.

(3) Evidence that establishes that members of the contracting entity or lessee have the capacity to obtain all required payment and performance bonding, liability insurance, and errors and omissions insurance.

(4) Evidence that the contracting entity or lessee has workers' compensation experience, history, and a worker safety program of members of the contracting entity or lessee that is acceptable to the department or regional transportation agency.



(5) A full disclosure regarding all of the following with respect to each member of the contracting entity or lessee during the past five years:

(A) Any serious or willful violation of Part 1 (commencing with Section 6300) of Division 5 of the Labor Code or the federal Occupational Safety and Health Act of 1970 (Public Law 91-596).

(B) Any instance where members of the contracting entity or lessee were debarred, disqualified, or removed from a federal, state, or local government public works project.

(C) Any instance where members of the contracting entity or lessee, or its owners, officers, or managing employees submitted a bid on a public works project and were found to be nonresponsive or were found by an awarding body not to be a responsible bidder.

(D) Any instance where members of the contracting entity or lessee, or its owners, officers, or managing employees defaulted on a construction contract.

(E) Any violations of the Contractors' State License Law (Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code), including, but not limited to, alleged violations of federal or state law regarding the payment of wages, benefits, apprenticeship requirements, or personal income tax withholding, or Federal Insurance Contributions Act (FICA) withholding requirements.

(F) Any bankruptcy or receivership of any member of the contracting entity or lessee, including, but not limited to, information concerning any work completed by a surety.



(G) Any settled adverse claims, disputes, or lawsuits between the owner of a public works project and any member of the contracting entity or lessee during the five years preceding submission of a bid under this article, in which the claim, settlement, or judgment exceeds fifty thousand dollars (\$50,000). Information shall also be provided concerning any work completed by a surety during this five-year period.

(H) If the contracting entity or lessee is a partnership, joint venture, or an association that is not a legal entity, a copy of the agreement creating the partnership or association that specifies that all general partners, joint venturers, or association members agree to be fully liable for the performance under the agreement.

(i) No agreement entered into pursuant to this section shall infringe on the authority of the department or a regional transportation agency to develop, maintain, repair, rehabilitate, operate, or lease any transportation project. Lease agreements may provide for reasonable compensation to the contracting entity or lessee for the adverse effects on toll revenue or user fee revenue due to the development, operation, or lease of supplemental transportation projects with the exception of any of the following:

- (1) Projects identified in regional transportation plans prepared pursuant to Section 65080 of the Government Code.
- (2) Safety projects.
- (3) Improvement projects that will result in incidental capacity increases.
- (4) Additional high-occupancy vehicle lanes or the conversion of existing lanes to high-occupancy vehicle lanes.
- (5) Projects located outside the boundaries of a public-private partnership project, to be defined by the lease agreement.



However, compensation to a contracting entity or lessee shall only be made after a demonstrable reduction in use of the facility resulting in reduced toll or user fee revenues, and may not exceed the difference between the reduction in those revenues and the amount necessary to cover the costs of debt service, including principal and interest on any debt incurred for the development, operation, maintenance, or rehabilitation of the facility.

(j) (1) Agreements entered into pursuant to this section shall authorize the contracting entity or lessee to impose tolls and user fees for use of a facility constructed by it, and shall require that over the term of the lease the toll revenues and user fees be applied to payment of the capital outlay costs for the project, the costs associated with operations, toll and user fee collection, administration of the facility, reimbursement to the department or other governmental entity for the costs of services to develop and maintain the project, police services, and a reasonable return on investment. The agreement shall require that, notwithstanding Sections 164, 188, and 188.1, any excess toll or user fee revenue either be applied to any indebtedness incurred by the contracting entity or lessee with respect to the project, improvements to the project, or be paid into the State Highway Account, or for all three purposes, except that any excess toll revenue under a lease agreement with a regional transportation agency may be paid to the regional transportation agency for use in improving public transportation in and near the project boundaries.

(2) Lease agreements shall establish specific toll or user fee rates. Any proposed increase in those rates not otherwise established or identified in the lease agreement during the term of the agreement shall first be approved by the department or regional



transportation agency, as appropriate, after at least one public hearing conducted at a location near the proposed or existing facility.

(3) The collection of tolls and user fees for the use of these facilities may be extended by the commission or regional transportation agency at the expiration of the lease agreement. However, those tolls or user fees shall not be used for any purpose other than for the improvement, continued operation, or maintenance of the facility.

(k) Agreements entered into pursuant to this section shall include indemnity, defense, and hold harmless provisions agreed to by the department or regional transportation agency and the contracting entity or lessee, including provisions for indemnifying the State of California or the regional transportation agency against any claims or losses resulting or accruing from the performance of the contracting entity or lessee.

(l) The plans and specifications for each transportation project on the state highway system developed, maintained, repaired, rehabilitated, reconstructed, or operated pursuant to this section shall comply with the department's standards for state transportation projects. The lease agreement shall include performance standards, including, but not limited to, levels of service. The agreement shall require facilities on the state highway system to meet all requirements for noise mitigation, landscaping, pollution control, and safety that otherwise would apply if the department were designing, building, and operating the facility. If a facility is on the state highway system, the facility leased pursuant to this section shall, during the term of the lease, be deemed to be a part of the state highway system for purposes of identification,



maintenance, enforcement of traffic laws, and for the purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

(m) Failure to comply with the lease agreement in any significant manner shall constitute a default under the agreement and the department or the regional transportation agency, as appropriate, shall have the option to initiate processes to revert the facility to the public agency.

(n) The assignment authorized by subdivision (c) of Section 130240 of the Public Utilities Code is consistent with this section.

(o) A lease to a private entity pursuant to this section is deemed to be public property for a public purpose and exempt from leasehold, real property, and ad valorem taxation, except for the use, if any, of that property for ancillary commercial purposes.

(p) Nothing in this section is intended to infringe on the authority to develop high-occupancy toll lanes pursuant to Section 149.4, 149.5, or 149.6.

(q) Nothing in this section shall be construed to allow the conversion of any existing nontoll or nonuser-fee lanes into tolled or user fee lanes with the exception of a high-occupancy vehicle lane that may be operated as a high-occupancy toll lane for vehicles not otherwise meeting the requirements for use of that lane.

(r) The lease agreement shall require the contracting entity or lessee to provide any information or data requested by the California Transportation Commission or the Legislative Analyst. The commission, in cooperation with the Legislative Analyst, shall annually prepare a report on the progress of each project and ultimately on the operation of the resulting facility. The report shall include, but not be limited to, a



review of the performance standards, a financial analysis, and any concerns or recommendations for changes in the program authorized by this section.

(s) Notwithstanding any other provision of this section, no lease agreement may be entered into pursuant to the section that affects, alters, or supersedes the Memorandum of Understanding (MOU), dated November 26, 2008, entered into by the Golden Gate Bridge Highway and Transportation District, the Metropolitan Transportation Commission, and the San Francisco County Transportation Authority, relating to the financing of the U.S. Highway 101/Doyle Drive reconstruction project located in the City and County of San Francisco.

(t) No lease agreements may be entered into under this section on or after January 1, ~~2017~~ 2027.

SEC. 22. Article 8 (commencing with Section 228) is added to Chapter 1 of Division 1 of the Streets and Highways Code, to read:

Article 8. Road Improvement Charge

228. (a) In addition to any other charge imposed on a vehicle by law, an annual road improvement charge is hereby imposed on each vehicle described in subdivision (c). The amount of the annual road improvement charge shall be sixty-five dollars (\$65). The Department of Motor Vehicles shall collect the charge at the same time and in the same manner as the department collects the vehicle registration fee pursuant to Section 9250 of the Vehicle Code.



(b) Revenues from the charge, after deduction of the department's administrative costs related to this section, shall be deposited in the Road Maintenance and Rehabilitation Account created pursuant to Section 2031.5.

(c) As used in this section, "vehicle" means every vehicle subject to registration in this state. "Vehicle" does not mean either any vehicle exempted pursuant to the Vehicle Code from the payment of registration fees or any vehicle for which a certificate of nonoperation has been filed with the Department of Motor Vehicles pursuant to Section 4604 of the Vehicle Code during the period of time covered by the certificate.

SEC. 23. Article 2.5 (commencing with Section 800) is added to Chapter 4 of Division 1 of the Streets and Highways Code, to read:

Article 2.5. Advanced Mitigation Program

800. (a) The Advanced Mitigation Program is hereby created in the department to accelerate project delivery and improve environmental outcomes of environmental mitigation for transportation infrastructure projects.

(b) For the purposes of this article, "advanced mitigation" means mitigation implemented before, and in anticipation of, environmental effects of future transportation projects. This program may utilize mitigation instruments including, but not limited to, mitigation banks, in lieu of fee programs, and conservation easements as defined in Section 815.1 of the Civil Code.

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



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

(e) No later than July 1, 2016, the department shall establish an interagency transportation advanced mitigation steering committee consisting of the department and appropriate state and federal agencies to support the Advanced Mitigation Program so that advanced mitigation can be used as required mitigation for future transportation projects and provide improved environmental outcomes. The committee shall advise the department of opportunities to carry out advanced mitigation projects, provide the best available science, and actively participate in mitigation instrument reviews and approvals. The committee shall seek to develop streamlining opportunities, including those related to landscape scale mitigation planning, and alignment of federal and state regulations and procedures related to mitigation requirements and implementation. The committee shall also provide input on crediting, using, and tracking of advanced mitigation investments.

(f) Commencing with the 2016–17 fiscal year, the department shall set aside no less than thirty million dollars (\$30,000,000) annually for the Advanced Mitigation Program from the annual appropriations for the State Transportation Improvement Program and the State Highway Operation and Protection Program for the planning and implementation of projects in the Advanced Mitigation Program. The commission shall program the funds set aside for the Advanced Mitigation Program consistent with the purposes of the program.



SEC. 24. Section 820.1 of the Streets and Highways Code is amended to read:

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

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

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

(d) The department shall, no later than January 1, 2016, submit a report to the Legislature that includes the following:

(1) A comparative analysis of the environmental review process under the National Environmental Policy Act (Chapter 55 (commencing with Section 4321) of Title 42 of the United States Code) for the 30 projects, excluding those projects categorically excluded from environmental review, undertaken immediately preceding the enactment of this section that involved the Federal Highway Administration and the environmental review process for all projects, excluding those projects categorically excluded from environmental review, undertaken following the enactment of this section that did not involve the Federal Highway Administration. This analysis shall include department- and local agency-sponsored projects, and shall address the following:



(A) For each project included in the analysis, the environmental review process under the National Environmental Policy Act, including which state and federal agencies reviewed the environmental documents and the amount of time the documents were reviewed by each agency, shall be described.

(B) The points in the environmental review process under the National Environmental Policy Act when project delays occurred and the nature of the delays.

(C) The time saved in the environmental review process for projects undertaken following the enactment of this section in comparison to the review process for projects undertaken prior to the enactment of this section, and the points in the review process when time was saved.

(D) The circumstances when the Federal Highway Administration hindered and facilitated project delivery.

(2) All financial costs incurred by the department to assume the responsibilities pursuant to Section 326 of, and subsection (a) of Section 327 of, Title 23 of the United States Code, including, but not limited to, the following:

(A) Personnel to conduct and review environmental documents and to manage litigation.

(B) Administrative costs.

(C) Litigation.

(3) An explanation of all litigation initiated against the department for the responsibilities assumed pursuant to Section 326 of, and subsection (a) of Section 327 of, Title 23 of the United States Code.

(4) A comparison of all costs and benefits of assuming these responsibilities.



(5) An assessment of overall project delivery time from the time environmental studies begin to the time the project is ready to advertise for construction, including the time required for each project phase and distinguishing between different types of environmental documents and between projects on the state highway system and local assistance projects. The department may also include other variables that it determines may be useful in the assessment.

~~(c)(1) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.~~

~~(2) The state shall remain liable for any decisions made, or responsibilities assumed and exercised, prior to the repeal of this section under this subdivision, pursuant to applicable federal statutes of limitation for filing citizens' suits in federal court.~~

~~(f)~~

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

SEC. 25. Section 2103 of the Streets and Highways Code is amended to read:

2103. (a) Notwithstanding Section 13340 of the Government Code, of the net revenues deposited to the credit of the Highway Users Tax Account that are derived from the increases in the rates of taxes that are imposed pursuant to ~~subdivision subdivisions~~ (b) and (c) of Section 7360 and Section 7361.1 of the Revenue and Taxation Code, all of the following shall occur on a monthly basis:



(1) (A) By the 15th day of every month, the Treasurer's office, in consultation with the Department of Finance, shall notify the Controller of the amount of debt service that will be paid on each transportation bond during that month.

(B) Within two business days following the 28th day of each month, the Controller shall transfer to the Transportation Debt Service Fund an amount equal to the amount of monthly debt service paid by the General Fund on any bonds issued pursuant to the Seismic Retrofit Bond Act of 1996 (Chapter 12.48 (commencing with Section 8879) of Division 1 of Title 2 of the Government Code) or any other bonds issued for highway or eligible guideway projects consistent with the requirements applicable to the expenditure of revenues under Article XIX of the California Constitution as identified by the Department of Finance pursuant to Section 16965 of the Government Code, and three-quarters of the amount of monthly debt service paid on any bonds issued pursuant to the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Chapter 12.49 (commencing with Section 8879.20) of Division 1 of Title 2 of the Government Code) for reimbursement of the General Fund for these costs. If revenues available pursuant to this subdivision in any given month are insufficient to fully reimburse the General Fund for the debt service payments made, the first revenues available pursuant to this subdivision in the following month or months shall be transferred to the Transportation Debt Service Fund so that all debt service payments made on these bonds from the General Fund in a given fiscal year are fully reimbursed. However, no further transfers shall be made pursuant to this subparagraph once the transfers for the months of July to October, inclusive, in 2010 have been made. Any transfers made from the net revenues identified in this paragraph



for highway and eligible guideway bond debt service for months after October 2010 shall be reversed and shall instead be made from weight fee revenues in the State Highway Account, as described in subparagraph (F).

(C) Beginning November 2, 2010, the Controller shall transfer to the State Highway Account within two business days following the 28th day of each month all of the monthly net revenues identified in subparagraph (B) that were designated for highway and eligible guideway bond debt service reimbursement but that have not been transferred, or that were transferred by means of a transfer that was reversed, pursuant to that subparagraph. To the extent the Controller has distributed any of those net revenues to cities and counties pursuant to subparagraph (C) of paragraph (3) between November 2, 2010, and March 24, 2011, the Controller shall subsequently reduce the amount transferred to cities and counties on a monthly basis pursuant to subparagraph (C) of paragraph (3) and shall instead transfer these funds to the State Highway Account until all of the revenues that would otherwise have been transferred to the State Highway Account on and after November 2, 2010, pursuant to this subparagraph have been so transferred. For the 2011–12 fiscal year, the Controller shall transfer to the State Highway Account within two business days following the 28th day of each month an amount equal to the weight fee revenues transferred to the Transportation Debt Service Fund pursuant to subdivision (b) of Section 9400.4 of the Vehicle Code, including forty-three million seven hundred thousand dollars (\$43,700,000) authorized pursuant to Item 2660-013-0042 of Section 2.00 of the Budget Act of 2011 and an amount equal to weight fee revenues transferred to the General Fund as a loan pursuant to subdivision (b) of Section 9400.4 of the Vehicle Code. To



the extent the Controller has distributed any of those revenues to cities and counties pursuant to subparagraph (C) of paragraph (3), the Controller shall subsequently reduce the amount transferred to cities and counties on a monthly basis pursuant to subparagraph (C) of paragraph (3) and instead transfer these funds to the State Highway Account until all of the revenues that would otherwise have been transferred to the State Highway Account in the 2011–12 fiscal year pursuant to this subparagraph have been so transferred.

(D) Notwithstanding subparagraph (C), commencing with the 2012–13 fiscal year and every fiscal year thereafter, the Controller shall transfer to the State Highway Account within two business days following the 28th day of each month an amount equal to the amount of weight fee revenues transferred to the Transportation Debt Service Fund for highway and eligible guideway bond debt service and to the General Fund as a loan pursuant to subdivision (c) of Section 9400.4 of the Vehicle Code.

(E) Beginning July 1, 2011, transfers made under subparagraphs (C) and (D) during a fiscal year shall not exceed the annual revenue generated from weight fees, as determined by Sections 9400.4 and 42205 of the Vehicle Code, at the rates in effect as of March 24, 2011, as determined by the Department of Finance.

(F) Any remaining amount of the highway or eligible guideway bond debt service reimbursement authorized by this paragraph that has not been made pursuant to subparagraph (B) on and after November 2, 2010, shall instead be made pursuant to subdivisions (a), (b), and (c) of Section 9400.4 of the Vehicle Code from revenues in the State Highway Account derived from weight fees deposited in the account pursuant to subdivision (e) of Section 9400.1 and Section 42205 of the Vehicle Code.



(2) (A) In the 2010–11 fiscal year, after the monthly transfer made pursuant to paragraph (1), the sum of fifty-four million one hundred sixty-seven thousand dollars (\$54,167,000) per month shall be held in the account for future appropriation by the Legislature.

(B) Notwithstanding any other provision of law, with respect to the monthly net revenues described in subparagraph (A), no further transfers of these revenues for the purpose of loans to the General Fund shall be made pursuant to Item 2660-011-0062 of Section 2.00 of the Budget Act of 2010 once the loan transfers for the months of July to October, inclusive, in 2010 have been made. Notwithstanding the loan repayment date specified in the provisional language for that item, the funds loaned shall be repaid by June 30, 2021. Any transfers made from the monthly net revenues in subparagraph (A) for months after October 2010 shall be reversed and shall instead be made from weight fee revenues in the State Highway Account, as described in subparagraph (D). The revenues from loan repayments shall be held in the Highway Users Tax Account for future appropriation by the Legislature.

(C) Beginning November 2, 2010, all of the monthly net revenues described in subparagraph (A) shall instead be transferred by the Controller to the State Highway Account within two business days following the 28th day of each month. To the extent that the Controller has distributed any of the revenues identified in this paragraph to cities and counties pursuant to subparagraph (C) of paragraph (3) between October 14, 2010, and March 24, 2011, the Controller shall subsequently reduce the amount transferred to cities and counties on a monthly basis pursuant to subparagraph (C) of paragraph (3) and shall instead transfer these funds to the State Highway Account until



all of the revenues that would have been transferred to the General Fund as a loan pursuant to Item 2660-011-0062 of Section 2.00 of the Budget Act of 2010 on and after November 2, 2010, have instead been transferred to the State Highway Account.

(D) Any remaining amount of the loans to the General Fund authorized pursuant to Item 2660-011-0062 of Section 2.00 of the Budget Act of 2010 that has not been made pursuant to subparagraph (B) on and after November 2, 2010, shall instead be made pursuant to subdivisions (a), (b), and (c) of Section 9400.4 of the Vehicle Code from revenues in the State Highway Account derived from weight fees deposited in the account pursuant to subdivision (e) of Section 9400.1 and Section 42205 of the Vehicle Code.

(3) The Controller shall transfer any remaining net revenues subject to this subdivision as follows:

(A) Forty-four percent shall be transferred to the State Highway Account to fund projects in the State Transportation Improvement Program that are consistent with Section ~~1~~2 of Article XIX of the California Constitution, except in the 2010–11 fiscal year, 50 percent shall be transferred for purposes of this subparagraph.

(B) Twelve percent shall be transferred to the State Highway Account to fund projects in the State Highway Operation and Protection Program, except in the 2010–11 fiscal year, no revenues shall be transferred for purposes of this subparagraph.

(C) Forty-four percent shall be apportioned by the Controller for local street and road purposes, except in the 2010–11 fiscal year, 50 percent shall be transferred for purposes of this subparagraph as follows:



(i) Fifty percent shall be apportioned by the Controller to cities, including a city and county, in the proportion that the total population of the city bears to the total population of all the cities in the state.

(ii) Fifty percent shall be apportioned by the Controller to counties, including a city and county, in accordance with the following formulas:

(I) Seventy-five percent shall be apportioned among the counties in the proportion that the number of fee-paid and exempt vehicles that are registered in the county bear to the number of fee-paid and exempt vehicles registered in the state.

(II) Twenty-five percent shall be apportioned among the counties in the proportion that the number of miles of maintained county roads in each county bear to the total number of miles of maintained county roads in the state. For the purposes of apportioning funds under this subparagraph, any roads within the boundaries of a city and county that are not state highways shall be deemed to be county roads.

(b) After the transfers or other actions pursuant to subdivision (a), at least 90 percent of the balance deposited to the credit of the Highway Users Tax Account in the Transportation Tax Fund by the 28th day of each month shall be apportioned or transferred, as applicable, by the Controller by the second working day thereafter, except for June, in which case the apportionment or transfer shall be made the same day. These apportionments or transfers shall be made as provided for in Sections 2104 to 2122, inclusive. If information is not available to make the apportionment or transfer as required, the apportionment or transfer shall be made on the basis of the information of the previous month. Amounts not apportioned or transferred shall be included in the apportionment or transfer of the subsequent month.



(c) Notwithstanding any other law, the funds apportioned by the Controller to cities and counties pursuant to subparagraph (C) of paragraph (3) of subdivision (a) are not subject to Section 7104 or 7104.2 of the Revenue and Taxation Code. These funds may be expended for any street and road purpose consistent with the requirements of this chapter.

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

2103.1. (a) Notwithstanding subdivision (b) of Section 2103, the portion of the revenues in the Highway Users Tax Account attributable to the increase in the tax rates on motor vehicle fuel pursuant to subdivision (d) of Section 7360 of the Revenue and Taxation Code, and the increase in the tax rate on diesel fuel pursuant to subdivisions (b) and (c) of Section 60050 of the Revenue and Taxation Code, shall be deposited in the Road Maintenance and Rehabilitation Account created pursuant to Section 2030.

(b) Notwithstanding subdivision (b) of Section 2103, the portion of the revenues in the Highway Users Tax Account attributable to the storage taxes imposed pursuant to Sections 7361.2 and 60050.2 of the Revenue and Taxation Code shall be deposited in the Road Maintenance and Rehabilitation Account created pursuant to Section 2030.

SEC. 27. Section 2192.4 is added to the Streets and Highways Code, to read:

2192.4. (a) The Trade Corridor Enhancement Account is hereby created in the State Transportation Fund. Funds deposited in the Trade Corridor Enhancement Account shall be used in the same manner as Proposition 1B bond funds consistent with the Trade Corridors Improvement Fund program as authorized by Section 2192.

(b) Funds may be used for construction and support costs.



SEC. 28. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide additional funding for road maintenance, road rehabilitation, and other transportation purposes and to enact necessary related efficiency measures as quickly as possible, it is necessary that this act take effect immediately.

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160704620554BILL

LEGISLATIVE COUNSEL'S DIGEST

Bill No.

as introduced, _____.

General Subject: 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. Existing law, as of July 1, 2011, increases the sales and use tax on diesel fuel and decreases the excise tax, and reduces the sales and use tax on motor vehicle fuel (gasoline) and increases the excise tax, as provided, and requires the State Board of



Equalization to annually modify both the gasoline and diesel fuel excise tax rates on a going-forward basis so that the various changes in the taxes are revenue neutral.

This bill, on July 1, 2017, would increase the motor vehicle fuel (gasoline) excise tax by \$0.06 per gallon and the diesel fuel excise tax by \$0.11 per gallon. The bill would eliminate the annual rate adjustments by the State Board of Equalization to maintain revenue neutrality, and instead require the board to adjust gasoline and diesel fuel excise tax rates annually for inflation, beginning in 2018. The bill would impose associated storage taxes. The bill would also impose a road improvement charge of \$65 on every vehicle subject to registration fees.

This bill would create the Road Maintenance and Accountability Program to address deferred maintenance on the state highway system and the local street and road system and for other specified purposes. 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 the \$0.11 per gallon increase in the diesel fuel excise tax, future inflation adjustments to the gasoline and diesel excise tax rates, and the road improvement charge. The bill would provide for revenues attributable to the \$0.06 increase in the gasoline excise tax to be distributed under an existing formula.

The bill would set aside \$250,000,000 annually from the program for a local partnership 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, with any unallocated funds to be redistributed by a specified formula to all cities and counties annually.

The bill would also set aside \$200,000,000 annually from the program for the Trade Corridor Enhancement Account created by the bill to fund trade corridor improvement projects.

The bill would continuously appropriate 40% of the remaining revenues from the program to be apportioned by the Controller to cities and counties by a specified formula, and would require 60% of the remaining revenues from the program to be transferred to the State Highway Account for expenditure by the Department of Transportation for maintenance of the state highway system or allocation to projects in the State Highway Operation and Protection Program.

The bill would impose various accountability and efficiency requirements on the department and local agencies receiving funds under the Road Maintenance and Accountability Program. The bill and would require the California Transportation Commission to annually evaluate the department and each city and county receiving the new revenues from the program for effectiveness in reducing deferred maintenance and improving road conditions and meeting other performance goals, as specified. The bill would authorize the commission to withhold future allocations of funds or to reapportion funds to other agencies under certain conditions. 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 85.



(2) 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 specified amounts of the annual proceeds of the fund to various purposes, including 10% for the Transit and Intercity Rail Capital Program administered by the Transportation Agency. Existing law provides that the program shall have a programmatic goal of providing at least 25% of available funding to projects benefiting disadvantaged communities.

This bill, in each fiscal year in which the annual Budget Act includes an appropriation for this program that is in addition to the amount that is otherwise continuously appropriated to the program, would require at least 50% of the funding provided by the annual Budget Act to be allocated to projects benefiting disadvantaged communities.

This bill would also create the Low Carbon Road Program to provide capital funds to cities, counties, and tribal governments for road projects to reduce greenhouse gas emissions and improve mobility, as specified. The bill would require the Department of Transportation to evaluate and select applications for funding from funds that may be made available from the Greenhouse Gas Reduction Fund for the program. The bill would require at least 50% of available funding from the Greenhouse Gas Reduction Fund for this program to be allocated to projects benefiting disadvantaged communities.

(3) Article XXII of the California Constitution provides that the State of California and all other governmental entities shall be allowed the choice to contract



for architectural and engineering services for all public works of improvement as an alternative to the employment of civil service employees to perform those services.

This bill would require the Department of Transportation to increase its annual use of contract staff resources so that 20% of its capital outlay staff consists of contract resources by the 2020–21 fiscal year.

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

This bill acknowledges, as of June 30, 2016, \$879,000,000 in outstanding loans, and requires this amount to be repaid from the General Fund by June 30, 2020, to the Traffic Congestion Relief Fund for allocation to the Traffic Congestion Relief Program, the Trade Corridor Enhancement Account created by the bill, the Public Transportation Account, and the State Highway Account, as specified. The bill also closes out the Traffic Congestion Relief Program as of June 30, 2016, and provides that projects without approved applications shall no longer be eligible for funding under the program.

(5) Existing law provides for the state to receive certain compact assets, as defined, from designated tribal compacts relative to Indian gaming, and authorized the compact assets to be sold by the Infrastructure and Economic Development Bank to a special purpose trust in order to generate state revenues. Existing law designated certain of these revenues to be used to repay certain loans of transportation funds that were made to the General Fund.

This bill would delete the references to the special purpose trust and revise payments to various transportation accounts to be made from compact assets. The bill would repeal various other related provisions.



(6) Existing law sets forth the requirements for solicitation and evaluation of bids and the awarding of contracts by state agencies for public works of improvement. Existing law authorizes the Department of Transportation to alternatively use the Construction Manager/General Contractor project delivery method, as specified, for no more than 6 transportation projects.

This bill would authorize use of this project delivery method for no more than 12 transportation projects.

(7) The California Environmental Quality Act (CEQA) requires a lead agency to prepare, or cause to be prepared, and certify the completion of an environmental impact report on a project, as defined, that it proposes to carry out or approve that may have a significant effect on the environment, as defined, or to adopt a negative declaration if it finds that the project will not have that effect, subject to certain exceptions.

This bill would provide that CEQA does not apply to a project, or the issuance of a permit for a project, that consists of the inspection, maintenance, repair, rehabilitation, replacement, or removal of existing transportation infrastructure, as specified, or to the addition of an auxiliary lane or bikeway to existing transportation infrastructure under certain conditions.

The bill would also create the Advanced Mitigation Program in the Department of Transportation to implement environmental mitigation measures in advance of future transportation projects. The bill would require the department to set aside certain amounts of future appropriations for this purpose.



(8) Existing law authorizes the Department of Transportation and regional transportation agencies, as defined, to enter into comprehensive development lease agreements with public and private entities, or consortia of those entities, for certain transportation projects that may charge certain users of those projects tolls and user fees, subject to various terms and requirements. These arrangements are commonly known as public-private partnerships. Existing law provides that a lease agreement may not be entered into under these provisions on or after January 1, 2017.

This bill would extend this authorization until January 1, 2027, and would delete obsolete cross-references and make technical changes to these provisions.

(9) Existing federal law requires the United States Secretary of Transportation to carry out a surface transportation project delivery pilot 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 it assumed as a participant in the pilot program.

This bill would delete the January 1, 2017, repeal date and thereby extend these provisions indefinitely.

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

Vote: 2/3. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

