

1 repayment schedule, pursuant to which the outstanding loans shall  
2 be repaid by June 30, 2020, as follows:

3 (a) Two hundred fifty-six million dollars (\$256,000,000) for  
4 transfer to the Public Transportation Account, to be allocated as  
5 follows:

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

8 (2) The remainder to the Transit and Intercity Rail Capital  
9 Program as authorized in Part 2 (commencing with Section 75220)  
10 of Division 44 of the Public Resources Code.

11 (b) Two hundred twenty-five million dollars (\$225,000,000)  
12 for transfer to the State Highway Account, for the State Highway  
13 Operation and Protection Program.

14 (c) Two hundred twenty-five million dollars (\$225,000,000) is  
15 hereby continuously appropriated without regard to fiscal year to  
16 the Controller for apportionment to cities and counties for local  
17 streets and roads pursuant to the formula in paragraph (3) of  
18 subdivision (a) of Section 2103 of the Streets and Highways Code.

19 SEC. 10. Section 63048.65 of the Government Code is  
20 repealed.

21 SEC. 11. Section 63048.65 is added to the Government Code,  
22 to read:

23 63048.65. (a) Prior to July 1, 2015, three hundred twenty-one  
24 million dollars (\$321,000,000) of the one billion two hundred  
25 million dollars (\$1,200,000,000) of loans from the Traffic  
26 Congestion Relief Fund to the General Fund was repaid using  
27 tribal gaming compact revenues. In 2016, an additional one  
28 hundred seventy-three million dollars (\$173,000,000) was repaid  
29 from the General Fund.

30 (b) The remaining seven hundred six million dollars  
31 (\$706,000,000) of loans from the Traffic Congestion Relief Fund  
32 to the General Fund shall be repaid pursuant to Section 14556.8.

33 SEC. 12. Section 63048.66 of the Government Code is  
34 repealed.

35 SEC. 13. Section 63048.67 of the Government Code is  
36 repealed.

37 SEC. 14. Section 63048.7 of the Government Code is repealed.

38 SEC. 15. Section 63048.75 of the Government Code is  
39 repealed.

40 SEC. 16. Section 63048.8 of the Government Code is repealed.

1 SEC. 17. Section 63048.85 of the Government Code is  
2 repealed.

3 SEC. 18. Section 43021 is added to the Health and Safety Code,  
4 to read:

5 43021. (a) Except as provided in subdivision (b), the  
6 retirement, replacement, retrofit, or repower of a self-propelled  
7 commercial motor vehicle, as defined in Section 34601 of the  
8 Vehicle Code, shall not be ~~required, directly or indirectly,~~ *required*  
9 until the later of the following:

10 (1) Thirteen years from the model year the engine and emission  
11 control system are first certified for use in self-propelled  
12 commercial motor vehicles by the state board or other applicable  
13 state and federal agencies.

14 (2) When the vehicle reaches the earlier of either 800,000  
15 vehicle miles traveled or 18 years from the model year the engine  
16 and emission control system are first certified for use in  
17 self-propelled commercial motor vehicles by the state board or  
18 other applicable state and federal agencies.

19 (b) This section does not apply to any of the following:

20 (1) Safety programs, including, but not limited to, those adopted  
21 pursuant to Section 34501 of the Vehicle Code.

22 (2) Voluntary incentive and grant programs, including, but not  
23 limited to, those that give preferential access to a facility to a  
24 particular vehicle or class of vehicles.

25 (3) Programs designed to address inspection of, tampering with,  
26 and maintenance of, emission control systems.

27 (4) Programs designed to address imminent health risks where  
28 evidence, unavailable at the time equipment is certified for use by  
29 the state board or other applicable state and federal agencies, is  
30 sufficient to show that immediate corrective action is necessary  
31 to prevent injury, illness, or death.

32 (c) This section only applies to laws or regulations adopted or  
33 amended after January 1, 2017.

34 (d) *It is the intent of the Legislature for this section to provide*  
35 *owners of self-propelled commercial motor vehicles, as defined*  
36 *in subdivision (a), certainty about the useful life of engines certified*  
37 *by the state board and other applicable agencies to meet required*  
38 *environmental standards for sale in the state. This section is not*  
39 *meant to otherwise restrict the authority of the state board or*  
40 *districts.*

1 (e) (1) The state board shall, by January 1, 2025, evaluate the  
2 impact of the provisions of this section on state and local clean  
3 air efforts to meet state and local clean air goals. The evaluation  
4 shall include a review of the following:

5 (A) Compliance with the truck and bus rule (Section 2025 of  
6 Title 13 of the California Code of Regulations).

7 (B) The benefits and impacts of measures enacted to improve  
8 local air quality impacts from stationary sources.

9 (C) State implementation plan compliance.

10 (2) As part of the study, the state board shall make  
11 recommendations to the Legislature on additional or different  
12 mechanisms for achieving those goals while recognizing the  
13 financial investments made by the effected entities. In developing  
14 the study, the state board shall take into account the report  
15 required in Section 38531 of the Health and Safety Code.

16 (3) The state board shall hold at least one public workshop  
17 prior to the completion of the study.

18 SEC. 19. Section 99312.1 of the Public Utilities Code is  
19 amended to read:

20 99312.1. (a) Revenues transferred to the Public Transportation  
21 Account pursuant to Sections 6051.8 and 6201.8 of the Revenue  
22 and Taxation Code for the State Transit Assistance Program are  
23 hereby continuously appropriated to the Controller for allocation  
24 as follows:

25 (1) Fifty percent for allocation to transportation planning  
26 agencies, county transportation commissions, and the San Diego  
27 Metropolitan Transit Development Board pursuant to Section  
28 99314.

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

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

36 (c) The revenues transferred to the Public Transportation  
37 Account for the State Transit Assistance Program that are  
38 attributable to subdivision (a) of Section 11053 of the Revenue  
39 and Taxation Code are hereby continuously appropriated to the

1 Controller, and, upon allocation pursuant to Sections 99313 and  
2 99314, shall only be expended on the following:

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

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

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

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

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

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

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

39 SEC. 20. Section 99312.3 is added to the Public Utilities Code,  
40 to read:

1 99312.3. Revenues transferred to the Public Transportation  
2 Account pursuant to paragraph (2) of subdivision (c) of Section  
3 6051.8 and paragraph (2) of subdivision (c) of Section 6201.8 of  
4 the Revenue and Taxation Code are hereby continuously  
5 appropriated to the Transportation Agency for distribution in the  
6 following manner:

7 (a) (1) Fifty percent of available annual revenues under this  
8 section shall be allocated by the Transportation Agency to the  
9 public agencies, including joint powers agencies, responsible for  
10 state-supported intercity rail services. A minimum of 25 percent  
11 of the funds available under this subdivision shall be allocated to  
12 each of the state's three intercity rail corridors that provide  
13 regularly scheduled intercity rail service.

14 (2) The Transportation Agency shall adopt guidelines governing  
15 the administration of the funds available under this subdivision,  
16 including provisions providing authority for loans of these funds  
17 by mutual agreement between intercity rail service corridors.

18 (b) (1) Fifty percent of available annual revenues under this  
19 section shall be allocated by the Transportation Agency to the  
20 public agencies, including joint powers agencies, responsible for  
21 commuter rail services. For the 2018–19 and 2019–20 fiscal years,  
22 20 percent of the funds available under this subdivision shall be  
23 allocated to each of the state's five commuter rail service providers  
24 that provide regularly scheduled commuter rail service.  
25 Commencing July 1, 2020, the funds available under this  
26 subdivision shall be allocated based on guidelines and a distribution  
27 formula adopted by the Transportation Agency.

28 (2) On or before July 1, 2019, the Transportation Agency shall  
29 prepare a draft of the proposed guidelines and distribution formula  
30 and make them available for public comment. In preparing the  
31 proposed guidelines and distribution formula, the agency shall  
32 consult with the state's five commuter rail service providers. The  
33 final guidelines and distribution formula shall be adopted on or  
34 before January 1, 2020. The guidelines shall include, but need not  
35 be limited to, provisions providing authority for loans of these  
36 funds by mutual agreement between commuter rail service  
37 providers and providing for baseline allocations to each provider.

38 (c) The funds made available by this section may be used for  
39 operations and capital improvements.

1 SEC. 21. Section 99312.4 is added to the Public Utilities Code,  
2 to read:

3 99312.4. Revenues transferred to the Public Transportation  
4 Account pursuant to subdivision (a) of Section 11053 of the  
5 Revenue and Taxation Code for the Transit and Intercity Rail  
6 Capital Program (Part 2 (commencing with Section 75220) of  
7 Division 44 of the Public Resources Code) shall be available for  
8 appropriation to that program pursuant to the annual Budget Act.

9 SEC. 22. Section 99314.9 is added to the Public Utilities Code,  
10 to read:

11 99314.9. The Controller shall compute quarterly proposed  
12 allocations for State Transit Assistance Program funds available  
13 for allocation pursuant to Sections 99313 and 99314. The  
14 Controller shall publish the allocations for each eligible recipient  
15 agency, including one list applicable to revenues allocated pursuant  
16 to subdivision (c) of Section 99312.1 and another list for revenues  
17 allocated from all other revenues in the Public Transportation  
18 Account that are designated for the State Transit Assistance  
19 Program.

20 SEC. 23. Section 6051.8 of the Revenue and Taxation Code  
21 is amended to read:

22 6051.8. (a) Except as provided by Section 6357.3, in addition  
23 to the taxes imposed by this part, for the privilege of selling  
24 tangible personal property at retail a tax is hereby imposed upon  
25 all retailers at the rate of 1.75 percent of the gross receipts of any  
26 retailer from the sale of all diesel fuel, as defined in Section 60022.

27 (b) Except as provided by Section 6357.3, in addition to the  
28 taxes imposed by this part and by subdivision (a), commencing  
29 November 1, 2017, for the privilege of selling tangible personal  
30 property at retail a tax is hereby imposed upon all retailers at the  
31 rate of 4 percent of the gross receipts of any retailer from the sale  
32 of all diesel fuel, as defined in Section 60022, sold at retail in this  
33 state.

34 (c) (1) Notwithstanding subdivision (b) of Section 7102, except  
35 as otherwise provided in paragraph (2), all of the revenues, less  
36 refunds, collected pursuant to this section shall be estimated by  
37 the State Board of Equalization, with the concurrence of the  
38 Department of Finance, and transferred quarterly to the Public  
39 Transportation Account in the State Transportation Fund for

1 allocation under the State Transit Assistance Program pursuant to  
2 Section 99312.1 of the Public Utilities Code.

3 (2) The revenues, less refunds, attributable to a rate of 0.5  
4 percent of the 4-percent increase in the rate pursuant to subdivision  
5 (b), amounting to one-eighth of revenues from the increase in the  
6 rate under that subdivision, shall be estimated by the State Board  
7 of Equalization, with the concurrence of the Department of Finance,  
8 and transferred quarterly to the Public Transportation Account in  
9 the State Transportation Fund for allocation by the Transportation  
10 Agency to intercity rail and commuter rail purposes pursuant to  
11 Section 99312.3 of the Public Utilities Code.

12 SEC. 24. Section 6201.8 of the Revenue and Taxation Code  
13 is amended to read:

14 6201.8. (a) Except as provided by Section 6357.3, in addition  
15 to the taxes imposed by this part, an excise tax is hereby imposed  
16 on the storage, use, or other consumption in this state of diesel  
17 fuel, as defined in Section 60022, at the rate of 1.75 percent of the  
18 sales price of the diesel fuel.

19 (b) Except as provided by Section 6357.3, in addition to the  
20 taxes imposed by this part and by subdivision (a), commencing  
21 November 1, 2017, an excise tax is hereby imposed on the storage,  
22 use, or other consumption in this state of diesel fuel, as defined in  
23 Section 60022, at the rate of 4 percent of the sales price of the  
24 diesel fuel.

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

32 (2) The revenues, less refunds, attributable to a rate of 0.5  
33 percent of the 4-percent increase in the rate pursuant to subdivision  
34 (b), amounting to one-eighth of revenues from the increase in the  
35 rate under that subdivision, shall be estimated by the State Board  
36 of Equalization, with the concurrence of the Department of Finance,  
37 and transferred quarterly to the Public Transportation Account in  
38 the State Transportation Fund for allocation by the Transportation  
39 Agency to intercity rail and commuter rail purposes pursuant to  
40 Section 99312.3 of the Public Utilities Code.

1 SEC. 25. Section 7360 of the Revenue and Taxation Code is  
2 amended to read:

3 7360. (a) (1) A tax of eighteen cents (\$0.18) is hereby imposed  
4 upon each gallon of fuel subject to the tax in Sections 7362, 7363,  
5 and 7364.

6 (2) If the federal fuel tax is reduced below the rate of nine cents  
7 (\$0.09) per gallon and federal financial allocations to this state for  
8 highway and exclusive public mass transit guideway purposes are  
9 reduced or eliminated correspondingly, the tax rate imposed by  
10 paragraph (1), on and after the date of the reduction, shall be  
11 recalculated by an amount so that the combined state rate under  
12 paragraph (1) and the federal tax rate per gallon equal twenty-seven  
13 cents (\$0.27).

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

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

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

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

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



1 (5) Commencing July 1, 2019, the adjustments in paragraphs  
2 (2) and (3) shall cease, and the rate imposed by this subdivision  
3 shall be the rate in paragraph (1).

4 (c) On and after November 1, 2017, in addition to the taxes  
5 imposed by subdivisions (a) and (b), a tax is hereby imposed upon  
6 each gallon of motor vehicle fuel, other than aviation gasoline,  
7 subject to the tax in Sections 7362, 7363, and 7364, in an amount  
8 equal to twelve cents (\$0.12) per gallon.

9 (d) On July 1, 2020, and every July 1 thereafter, the board shall  
10 adjust the taxes imposed by subdivisions (a), (b), and (c), with  
11 the adjustment to apply to both to the base tax rates specified in  
12 those provisions and to any previous adjustment in rates made  
13 pursuant to this subdivision, by increasing the taxes by a percentage  
14 amount equal to the increase in the California Consumer Price  
15 Index, as calculated by the Department of Finance with the  
16 resulting taxes rounded to the nearest one-tenth of one cent (\$0.01).  
17 The first adjustment pursuant to this subdivision shall be a  
18 percentage amount equal to the increase in the California Consumer  
19 Price Index from November 1, 2017, to November 1, 2019.  
20 Subsequent annual adjustments shall cover subsequent 12 month  
21 periods. The incremental change shall be added to the associated  
22 rate for that year.

23 (e) Any increases to the taxes imposed under subdivisions (a),  
24 (b), and (c) that are enacted by legislation subsequent to July 1,  
25 2017, shall be deemed to be changes to the base tax rates for  
26 purposes of the California Consumer Price Index calculation and  
27 adjustment performed pursuant to subdivision (d).

28 SEC. 26. Section 7361.2 is added to the Revenue and Taxation  
29 Code, to read:

30 7361.2. (a) For the privilege of storing, for the purpose of sale,  
31 each supplier, wholesaler, and retailer owning 1,000 or more  
32 gallons of tax-paid motor vehicle fuel on November 1, 2017, shall  
33 pay a storage tax, the rate of which shall be determined by the  
34 board pursuant to the difference in the rate of the tax on motor  
35 vehicle fuel in effect on October 31, 2017, and the rate in effect  
36 on November 1, 2017, on tax-paid motor vehicle fuel in storage  
37 according to the volumetric measure thereof.

38 (b) For purposes of this section:

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

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

4 (3) "Storing" includes the ownership or possession of tax-paid  
5 motor vehicle fuel outside of the bulk transfer/terminal system,  
6 including the holding of tax-paid motor vehicle fuel for sale at  
7 wholesale or retail locations stored in a container of any kind,  
8 including railroad tank cars and trucks or trailer cargo tanks.

9 "Storing" also includes tax-paid motor vehicle fuel purchased from  
10 and invoiced by the seller, and tax-paid motor vehicle fuel removed  
11 from a terminal or entered into by a supplier, prior to the date  
12 specified in subdivision (a) and in transit on that date.

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

16 SEC. 27. Section 7653.2 is added to the Revenue and Taxation  
17 Code, to read:

18 7653.2. On or before January 1, 2018, each person subject to  
19 the storage tax imposed under Section 7361.2 shall prepare and  
20 file with the board, in a form prescribed by the board, a return  
21 showing the total number of gallons of tax-paid motor vehicle fuel  
22 owned by the person on November 1, 2017, the amount of the  
23 storage tax, and any other information that the board deems  
24 necessary for the proper administration of this part. The return  
25 shall be accompanied by a remittance payable to the board in the  
26 amount of tax due.

27 SEC. 28. Section 8352.4 of the Revenue and Taxation Code  
28 is amended to read:

29 8352.4. (a) Subject to Sections 8352 and 8352.1, and except  
30 as otherwise provided in subdivision (b), there shall be transferred  
31 from the money deposited to the credit of the Motor Vehicle Fuel  
32 Account to the Harbors and Watercraft Revolving Fund, for  
33 expenditure in accordance with Division 1 (commencing with  
34 Section 30) of the Harbors and Navigation Code, the sum of six  
35 million six hundred thousand dollars (\$6,600,000) per annum,  
36 representing the amount of money in the Motor Vehicle Fuel  
37 Account attributable to taxes imposed on distributions of motor  
38 vehicle fuel used or usable in propelling vessels. The actual amount  
39 shall be calculated using the annual reports of registered boats  
40 prepared by the Department of Motor Vehicles for the United

1 States Coast Guard and the formula and method of the December  
2 1972 report prepared for this purpose and submitted to the  
3 Legislature on December 26, 1972, by the Director of  
4 Transportation. If the amount transferred during each fiscal year  
5 is in excess of the calculated amount, the excess shall be  
6 retransferred from the Harbors and Watercraft Revolving Fund to  
7 the Motor Vehicle Fuel Account. If the amount transferred is less  
8 than the amount calculated, the difference shall be transferred from  
9 the Motor Vehicle Fuel Account to the Harbors and Watercraft  
10 Revolving Fund. No adjustment shall be made if the computed  
11 difference is less than fifty thousand dollars (\$50,000), and the  
12 amount shall be adjusted to reflect any temporary or permanent  
13 increase or decrease that may be made in the rate under the Motor  
14 Vehicle Fuel Tax Law. Payments pursuant to this section shall be  
15 made prior to payments pursuant to Section 8352.2.

16 (b) (1) Commencing July 1, 2012, the revenues attributable to  
17 the taxes imposed pursuant to subdivision (b) of Section 7360 and  
18 otherwise to be deposited in the Harbors and Watercraft Revolving  
19 Fund pursuant to subdivision (a) shall instead be transferred to the  
20 General Fund.

21 (2) Commencing November 1, 2017, the revenues attributable  
22 to the taxes imposed pursuant to subdivision (c) of Section 7360,  
23 any adjustment pursuant to subdivision (d) of Section 7360, and  
24 Section 7361.2, and otherwise to be deposited in the Harbors and  
25 Watercraft Revolving Fund pursuant to subdivision (a), shall  
26 instead be transferred to the State Parks and Recreation Fund to  
27 be used for state parks, off-highway vehicle programs, or boating  
28 programs.

29 SEC. 29. Section 8352.5 of the Revenue and Taxation Code  
30 is amended to read:

31 8352.5. (a) (1) Subject to Sections 8352 and 8352.1, and  
32 except as otherwise provided in paragraph (1) of subdivision (b),  
33 there shall be transferred from the money deposited to the credit  
34 of the Motor Vehicle Fuel Account to the Department of Food and  
35 Agriculture Fund, during the second quarter of each fiscal year,  
36 an amount equal to the estimate contained in the most recent report  
37 prepared pursuant to this section.

38 (2) The amounts are not subject to Section 6357 with respect  
39 to the collection of sales and use taxes thereon, and represent the  
40 portion of receipts in the Motor Vehicle Fuel Account during a

1 calendar year that were attributable to agricultural off-highway  
2 use of motor vehicle fuel which is subject to refund pursuant to  
3 Section 8101, less gross refunds allowed by the Controller during  
4 the fiscal year ending June 30 following the calendar year to  
5 persons entitled to refunds for agricultural off-highway use  
6 pursuant to Section 8101. Payments pursuant to this section shall  
7 be made prior to payments pursuant to Section 8352.2.

8 (b) (1) Commencing July 1, 2012, the revenues attributable to  
9 the taxes imposed pursuant to subdivision (b) of Section 7360 and  
10 otherwise to be deposited in the Department of Food and  
11 Agriculture Fund pursuant to subdivision (a) shall instead be  
12 transferred to the General Fund.

13 (2) Commencing November 1, 2017, the revenues attributable  
14 to the taxes imposed pursuant to subdivision (c) of Section 7360,  
15 as adjusted pursuant to subdivision (d) of Section 7360, and Section  
16 7361.2 shall be deposited in the Department of Food and  
17 Agriculture Fund.

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

28 SEC. 30. Section 8352.6 of the Revenue and Taxation Code  
29 is amended to read:

30 8352.6. (a) (1) Subject to Section 8352.1, and except as  
31 otherwise provided in paragraphs (2) and (3), on the first day of  
32 every month, there shall be transferred from moneys deposited to  
33 the credit of the Motor Vehicle Fuel Account to the Off-Highway  
34 Vehicle Trust Fund created by Section 38225 of the Vehicle Code  
35 an amount attributable to taxes imposed upon distributions of motor  
36 vehicle fuel used in the operation of motor vehicles off highway  
37 and for which a refund has not been claimed. Transfers made  
38 pursuant to this section shall be made prior to transfers pursuant  
39 to Section 8352.2.

1 (2) (A) Commencing July 1, 2012, the revenues attributable to  
2 the taxes imposed pursuant to subdivision (b) of Section 7360 and  
3 otherwise to be deposited in the Off-Highway Vehicle Trust Fund  
4 pursuant to paragraph (1) shall instead be transferred to the General  
5 Fund.

6 (B) Commencing November 1, 2017, the revenues attributable  
7 to the taxes imposed pursuant to subdivision (c) of Section 7360,  
8 any adjustment pursuant to subdivision (d) of Section 7360, and  
9 Section 7361.2, and otherwise to be deposited in the Off-Highway  
10 Vehicle Trust Fund pursuant to subdivision (a), shall instead be  
11 transferred to the State Parks and Recreation Fund to be used for  
12 state parks, off-highway vehicle programs, or boating programs.

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

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

27 (1) The number of vehicles registered as off-highway motor  
28 vehicles as required by Division 16.5 (commencing with Section  
29 38000) of the Vehicle Code.

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

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

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

38 (c) It is the intent of the Legislature that transfers from the Motor  
39 Vehicle Fuel Account to the Off-Highway Vehicle Trust Fund  
40 should reflect the full range of motorized vehicle use off highway

1 for both motorized recreation and motorized off-road access to  
2 other recreation opportunities. Therefore, the Legislature finds that  
3 the fuel tax baseline established in subdivision (b), attributable to  
4 off-highway estimates of use as of the 2006–07 fiscal year,  
5 accounts for the three categories of vehicles that have been found  
6 over the years to be users of fuel for off-highway motorized  
7 recreation or motorized access to nonmotorized recreational  
8 pursuits. These three categories are registered off-highway  
9 motorized vehicles, registered street-legal motorized vehicles used  
10 off highway, and unregistered off-highway motorized vehicles.

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

19 (e) In the 2014–15 fiscal year, the Department of Transportation,  
20 in consultation with the Department of Parks and Recreation and  
21 the Department of Motor Vehicles, shall undertake a study to  
22 determine the appropriate adjustment to the amount transferred  
23 pursuant to subdivision (b) and to update the estimate of the amount  
24 attributable to taxes imposed upon distributions of motor vehicle  
25 fuel used in the operation of motor vehicles off highway and for  
26 which a refund has not been claimed. The department shall provide  
27 a copy of this study to the Legislature no later than January 1,  
28 2016.

29 SEC. 31. Chapter 6 (commencing with Section 11050) is added  
30 to Part 5 of Division 2 of the Revenue and Taxation Code, to read:

31

32 CHAPTER 6. TRANSPORTATION IMPROVEMENT FEE

33

34 11050. For purposes of this chapter, the following terms have  
35 the following meanings:

36 (a) “Transportation purposes” means both of the following:

37 (1) The research, planning, construction, improvement,  
38 maintenance, and operation of public streets and highways (and  
39 their related public facilities for nonmotorized traffic), including  
40 the mitigation of their environmental effects, the payment for

1 property taken or damaged for the foregoing purposes, and the  
2 administrative costs necessarily incurred in the foregoing purposes.

3 (2) The research, planning, construction, improvement,  
4 maintenance, and operation of public transportation systems (and  
5 their related equipment and fixed facilities), including the  
6 mitigation of their environmental effects, the payment for property  
7 taken or damaged for the foregoing purposes, and the  
8 administrative costs necessarily incurred in the foregoing purposes.

9 (b) "Transportation improvement fee" means a supplemental  
10 charge added to the fee imposed pursuant to Chapter 2  
11 (commencing with Section 10751).

12 (c) "Vehicle" means every vehicle that is subject to the fee in  
13 Chapter 2 (commencing with Section 10751), except the following:

14 (1) A commercial vehicle with an unladen weight of more than  
15 10,000 pounds.

16 (2) A vehicle exempted pursuant to the Vehicle Code from the  
17 payment of registration fees.

18 (3) A vehicle for which a certificate of nonoperation has been  
19 filed with the Department of Motor Vehicles pursuant to Section  
20 4604 of the Vehicle Code, during the period of time covered by  
21 the certificate.

22 (4) A vehicle described in Section 5004 of the Vehicle Code.

23 11051. (a) In addition to any other fee imposed on a vehicle  
24 by this code or the Vehicle Code, a transportation improvement  
25 fee is hereby imposed on each vehicle as defined in subdivision  
26 (b) of Section 11050 effective on January 1, 2018, or as soon after  
27 that date as the department is able to commence collection of the  
28 fee. The transportation improvement fee shall be in the amounts  
29 specified in Section 11052.

30 (b) The department shall collect the fee at the same time and in  
31 the same manner as the department collects the vehicle registration  
32 fee pursuant to Section 9250 of the Vehicle Code.

33 (c) The fee imposed pursuant to this chapter is imposed for the  
34 privilege of a resident of California to operate upon the public  
35 highways a vehicle or trailer coach, the registrant of which is  
36 subject to the fee under Chapter 2 (commencing with Section  
37 10751).

38 (d) The revenues from the transportation improvement fee  
39 imposed by this chapter shall be available for expenditure only on  
40 transportation purposes as provided in Section 11053.

1 11052. (a) The annual amount of the transportation  
2 improvement fee shall be based on the market value of the vehicle,  
3 as determined by the department pursuant to Sections 10753,  
4 10753.2, and 10753.5, using the following schedule:

5 (1) Vehicles with a vehicle market value range between zero  
6 dollars (\$0) and four thousand nine hundred ninety-nine dollars  
7 (\$4,999), a fee of twenty-five dollars (\$25).

8 (2) Vehicles with a vehicle market value range between five  
9 thousand dollars (\$5,000) and twenty-four thousand nine hundred  
10 ninety-nine dollars (\$24,999), a fee of fifty dollars (\$50).

11 (3) Vehicles with a vehicle market value range between  
12 twenty-five thousand dollars (\$25,000) and thirty-four thousand  
13 nine hundred ninety-nine dollars (\$34,999), a fee of one hundred  
14 dollars (\$100).

15 (4) Vehicles with a vehicle market value range between  
16 thirty-five thousand dollars (\$35,000) and fifty-nine thousand nine  
17 hundred ninety-nine dollars (\$59,999), a fee of one hundred fifty  
18 dollars (\$150).

19 (5) Vehicles with a vehicle market value range of sixty thousand  
20 dollars (\$60,000) and higher, a fee of one hundred seventy-five  
21 dollars (\$175).

22 (b) On January 1, 2020, and every January 1 thereafter, the  
23 department shall adjust the transportation improvement fee imposed  
24 under subdivision (a) by increasing the fee for each vehicle market  
25 range in an amount equal to the increase in the California  
26 Consumer Price Index for the prior year, except the first adjustment  
27 shall cover the prior two years, as calculated by the Department  
28 of Finance, with amounts equal to or greater than fifty cents (\$0.50)  
29 rounded to the highest whole dollar. The incremental change shall  
30 be added to the associated fee rate for that year.

31 (c) Any changes to the transportation improvement fee imposed  
32 in subdivision (a) that are enacted by the Legislature subsequent  
33 to January 1, 2018, shall be deemed to be changes to the base fee  
34 for purposes of the California Consumer Price Index calculation  
35 and adjustment performed pursuant to subdivision (b).

36 11053. Revenues from the transportation improvement fee,  
37 after deduction of the department's administrative costs related to  
38 this chapter, shall be transferred by the department to the Controller  
39 for deposit as follows:



1 (a) Commencing with the 2017-18 fiscal year, three hundred  
2 fifty million dollars (\$350,000,000), plus an annual increase for  
3 inflation as determined in subdivision (b) of Section 11052 for this  
4 proportional share, shall annually be deposited into the Public  
5 Transportation Account. The Controller shall, each month, set  
6 aside one-twelfth of this amount, to accumulate a total of three  
7 hundred fifty million dollars (\$350,000,000) in each fiscal year or  
8 the appropriate adjusted amount. For each fiscal year commencing  
9 with the 2017-18 fiscal year, the annual Budget Act shall include  
10 an appropriation for 70 percent of these revenues to be allocated  
11 to the Transit and Intercity Rail Capital Program (Part 2  
12 (commencing with Section 75220) of Division 44 of the Public  
13 Resources Code), pursuant to Section 99312.4 of the Public  
14 Utilities Code. The remaining 30 percent of these revenues shall  
15 be continuously appropriated to the Controller for allocation under  
16 the State Transit Assistance program, pursuant to subdivision (c)  
17 of Section 99312.1 of the Public Utilities Code.

18 (b) Commencing with the 2017-18 fiscal year, two hundred  
19 fifty million dollars (\$250,000,000) shall annually be deposited  
20 into the State Highway Account for appropriation by the annual  
21 Budget Act to the Congested Corridor Program created pursuant  
22 to Section 2391 of the Streets and Highways Code. The Controller  
23 shall, each month, set aside one-twelfth of this amount, to  
24 accumulate a total of two hundred fifty million dollars  
25 (\$250,000,000) in each fiscal year.

26 (c) The remaining revenues after the transfers made in  
27 subdivisions (a) and (b) shall be deposited into the Road  
28 Maintenance and Rehabilitation Account created pursuant to  
29 Section 2031 of the Streets and Highway Code.

30 SEC. 32. Section 60050 of the Revenue and Taxation Code is  
31 amended to read:

32 60050. (a) (1) A tax of sixteen cents (\$0.16) is hereby imposed  
33 upon each gallon of diesel fuel subject to the tax in Sections 60051,  
34 60052, and 60058.

35 (2) If the federal fuel tax is reduced below the rate of fifteen  
36 cents (\$0.15) per gallon and federal financial allocations to this  
37 state for highway and exclusive public mass transit guideway  
38 purposes are reduced or eliminated correspondingly, the tax rate  
39 imposed by paragraph (1) shall be increased by an amount so that  
40 the combined state rate under paragraph (1) and the federal tax

1 rate per gallon equal what it would have been in the absence of  
2 the federal reduction.

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

6 (b) On and after November 1, 2017, in addition to the tax  
7 imposed pursuant to subdivision (a), an additional tax of twenty  
8 cents (\$0.20) is hereby imposed upon each gallon of diesel fuel  
9 subject to the tax in Sections 60051, 60052, and 60058.

10 (c) On July 1, 2020, and every July 1 thereafter, the State Board  
11 of Equalization shall adjust the taxes imposed by subdivisions (a),  
12 and (b), with the adjustment to apply to both to the base tax rates  
13 specified in those provisions and to any previous adjustment in  
14 rates made pursuant to this subdivision, by increasing the taxes by  
15 a percentage amount equal to the increase in the California  
16 Consumer Price Index, as calculated by the Department of Finance  
17 with the resulting taxes rounded to the nearest one-tenth of one  
18 cent (\$0.01). The first adjustment pursuant to this subdivision shall  
19 be a percentage amount equal to the increase in the California  
20 Consumer Price Index from November 1, 2017, to November 1,  
21 2019. Subsequent annual adjustments shall cover subsequent 12  
22 month periods. The incremental change shall be added to the  
23 associated rate for that year.

24 (d) Any changes to the taxes imposed under this section that  
25 are enacted by legislation subsequent to July 1, 2017, shall be  
26 deemed to be changes to the base tax rates for purposes of the  
27 California Consumer Price Index calculation and adjustment  
28 performed pursuant to paragraph (1).

29 SEC. 33. Section 60050.2 is added to the Revenue and Taxation  
30 Code, to read:

31 60050.2. (a) For the privilege of storing, for the purpose of  
32 sale, each supplier, wholesaler, and retailer owning 1,000 or more  
33 gallons of tax-paid diesel fuel on November 1, 2017, shall pay a  
34 storage tax of twenty cents (\$0.20) per gallon of tax-paid diesel  
35 fuel in storage according to the volumetric measure thereof.

36 (b) For purposes of this section:

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

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

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

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

13 SEC. 34. Section 60201.4 is added to the Revenue and Taxation  
14 Code, to read:

15 60201.4. On or before January 1, 2018, each person subject to  
16 the storage tax imposed under Section 60050.2 shall prepare and  
17 file with the board, in a form prescribed by the board, a return  
18 showing the total number of gallons of tax-paid diesel fuel owned  
19 by the person on November 1, 2017, the amount of the storage  
20 tax, and any other information that the board deems necessary for  
21 the proper administration of this part. The return shall be  
22 accompanied by a remittance payable to the board in the amount  
23 of tax due.

24 SEC. 35. Article 2.5 (commencing with Section 800) is added  
25 to Chapter 4 of Division 1 of the Streets and Highways Code, to  
26 read:

27

28

29

#### Article 2.5. Advance Mitigation Program

30

31 800. (a) The Advance Mitigation Program is hereby created  
32 to enhance communications between the department and  
33 stakeholders to protect natural resources through project mitigation,  
34 to meet or exceed applicable environmental requirements, to  
35 accelerate project delivery, and to fully mitigate environmental  
36 impacts from transportation infrastructure projects. The department  
37 shall consult on all activities pursuant to this article with the  
38 Department of Fish and Wildlife, including activities pursuant to  
39 Chapter 9 (commencing with Section 1850) of Division 2 of the  
Fish and Game Code.

1 (b) Commencing with the 2017–18 fiscal year, and for a period  
2 of four years, the department shall set aside no less than thirty  
3 million dollars (\$30,000,000) annually for the Advance Mitigation  
4 Program from the annual appropriations for the State  
5 Transportation Improvement Program and the State Highway  
6 Operation and Protection Program for the planning and  
7 implementation of projects in the Advanced Mitigation Program.

8 (c) The annual Budget Act and subsequent legislation may  
9 establish additional provisions and requirements for the program.

10 SEC. 36. Chapter 2 (commencing with Section 2030) is added  
11 to Division 3 of the Streets and Highways Code, to read:

12  
13 CHAPTER 2. ROAD MAINTENANCE AND REHABILITATION  
14 PROGRAM  
15

16 2030. (a) The Road Maintenance and Rehabilitation Program  
17 is hereby created to address deferred maintenance on the state  
18 highway system and the local street and road system. Funds made  
19 available by the program shall be prioritized for expenditure on  
20 basic road maintenance and road rehabilitation projects, and on  
21 critical safety projects.

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

24 (A) Road maintenance and rehabilitation.

25 (B) Safety projects.

26 (C) Railroad grade separations.

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

31 (E) Traffic control devices.

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

35 (c) To the extent possible and cost effective, and where feasible,  
36 the department and cities and counties receiving funds under the  
37 program shall use advanced technologies and material recycling  
38 techniques that reduce the cost of maintaining and rehabilitating  
39 the streets and highways, and that exhibit reduced levels of

1 greenhouse gas emissions through material choice and construction  
2 method.

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

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

20 (f) To the extent beneficial, cost effective, and practicable in  
21 the context of facility type, right-of-way, project scope, and quality  
22 of nearby alternative facilities, and where feasible, the department  
23 and cities and counties receiving funds under the program shall  
24 incorporate complete street elements into projects funded by the  
25 program, including, but not limited to, elements that improve the  
26 quality of bicycle and pedestrian facilities and that improve safety  
27 for all users of transportation facilities.

28 (g) For purposes of funds directed to the State Highway  
29 Operation and Protection Program, the guidelines and reporting  
30 provisions shall be consistent with Section 14526.5 of the  
31 Government Code.

32 (h) Guidelines adopted by the commission to facilitate the  
33 allocation of funds in the account shall be exempt from the  
34 Administrative Procedure Act (Chapter 3.5 (commencing with  
35 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
36 Code).

37 2031. The following revenues shall be deposited in the Road  
38 Maintenance and Rehabilitation Account, which is hereby created  
39 in the State Transportation Fund:

1 (a) Notwithstanding subdivision (b) of Section 2103 and  
2 pursuant to subdivision (a) of Section 2103.1, the portion of the  
3 revenues in the Highway Users Tax Account attributable to the  
4 increases in the motor vehicle fuel excise tax pursuant to  
5 subdivision (c) of Section 7360 of the Revenue and Taxation Code,  
6 as adjusted pursuant to subdivision (d) of that section.

7 (b) The revenues from the portion of the transportation  
8 improvement fee pursuant to subdivision (c) of Section 11053 of  
9 the Revenue and Taxation Code.

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

13 (d) Notwithstanding subdivision (b) of Section 2103 and  
14 pursuant to paragraph (2) of subdivision (b) of Section 2103.1,  
15 one-half of the revenues attributable to the increase in the diesel  
16 fuel excise tax pursuant to subdivisions (b) and (c) of Section  
17 60050 of the Revenue and Taxation Code.

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

19 2031.5. For each fiscal year, the annual Budget Act shall  
20 contain an appropriation from the Road Maintenance and  
21 Rehabilitation Account for the costs of administering this chapter.

22 2032. (a) (1) After deducting the amounts appropriated in the  
23 annual Budget Act, as provided in Section 2031.5, two hundred  
24 million dollars (\$200,000,000) of the remaining revenues deposited  
25 in the Road Maintenance and Rehabilitation Account shall be set  
26 aside annually for counties that have sought and received voter  
27 approval of taxes or that have imposed fees, including uniform  
28 developer fees as defined by subdivision (b) of Section 8879.67  
29 of the Government Code, which taxes or fees are dedicated solely  
30 to transportation improvements. The Controller shall each month  
31 set aside one-twelfth of this amount, to accumulate a total of two  
32 hundred million dollars (\$200,000,000) in each fiscal year.

33 (2) Eligible projects under this subdivision shall include, but  
34 not are limited to, sound walls for a freeway that was built prior  
35 to 1987 without sound walls and with or without high occupancy  
36 vehicle lanes if the completion of the sound walls has been deferred  
37 due to lack of available funding for at least twenty years and a  
38 noise barrier scope summary report has been completed within the  
39 last twenty years.

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

6 (b) After deducting the amounts appropriated in the annual  
7 Budget Act pursuant to Section 2031.5 and the amount allocated  
8 in subdivision (a), beginning in the 2017–18 fiscal year, one  
9 hundred million dollars (\$100,000,000) of the remaining revenues  
10 shall be available annually for expenditure, upon appropriation by  
11 the Legislature, on the Active Transportation Program created  
12 pursuant to Chapter 8 (commencing with Section 2380) of Division  
13 3 to be allocated by the California Transportation Commission  
14 pursuant to Section 2381. The Controller shall each month set  
15 aside one-twelfth of this amount, to accumulate a total of one  
16 hundred million dollars (\$100,000,000) in each fiscal year.

17 (c) After deducting the amounts appropriated in the annual  
18 Budget Act pursuant to Section 2031.5 and the amounts allocated  
19 in subdivisions (a) and (b), beginning in the 2017–18 fiscal year,  
20 four hundred million dollars (\$400,000,000) of the remaining  
21 revenues shall be available annually for expenditure, upon  
22 appropriation by the Legislature, by the department for bridge and  
23 culvert maintenance and rehabilitation. The Controller shall each  
24 month set aside one-twelfth of this amount, to accumulate a total  
25 of four hundred million dollars (\$400,000,000) in each fiscal year.

26 (d) After deducting the amounts appropriated in the annual  
27 Budget Act pursuant to Section 2031.5 and the amounts allocated  
28 in subdivisions (a), (b), and (c), beginning in the 2017–18 fiscal  
29 year, twenty-five million dollars (\$25,000,000) of the remaining  
30 revenues shall be transferred annually to the State Highway  
31 Account for expenditure, upon appropriation by the Legislature,  
32 to supplement the freeway service patrol program. The Controller  
33 shall each month set aside one-twelfth of this amount, to  
34 accumulate a total of twenty-five million dollars (\$25,000,000) in  
35 each fiscal year.

36 (e) After deducting the amounts appropriated in the annual  
37 Budget Act pursuant to Section 2031.5 and the amounts allocated  
38 in subdivisions (a), (b), (c), and (d), in the 2017–18, 2018–19,  
39 2019–20, 2020–21, and 2021–22 fiscal years, from revenues in  
40 the Road Maintenance and Rehabilitation Account that are not

1 subject to Article XIX of the California Constitution, five million  
2 dollars (\$5,000,000) shall be appropriated in each fiscal year to  
3 the California Workforce Development Board to assist local  
4 agencies to implement policies to promote preapprenticeship  
5 training programs to carry out the projects that are funded by the  
6 account pursuant to Section 2038. Funds appropriated pursuant to  
7 this subdivision in the Budget Act but remaining unexpended at  
8 the end of each applicable fiscal year shall be reappropriated for  
9 the same purposes in the following year's Budget Act, but all funds  
10 appropriated or reappropriated pursuant to this subdivision in the  
11 Budget Act shall be liquidated no later than June 30, 2027.

12 (f) After deducting the amounts appropriated in the annual  
13 Budget Act pursuant to Section 2031.5 and the amounts allocated  
14 in subdivisions (a), (b), (c), (d), and (e), beginning in the 2017-18  
15 fiscal year, twenty-five million dollars (\$25,000,000) of the  
16 remaining revenues shall be available annually for expenditure,  
17 upon appropriation by the Legislature, by the department for local  
18 planning grants, as described in Section 2033.5. The Controller  
19 shall each month set aside one-twelfth of this amount, to  
20 accumulate a total of twenty-five million dollars (\$25,000,000) in  
21 each fiscal year.

22 (g) After deducting the amounts appropriated in the annual  
23 Budget Act pursuant to Section 2031.5 and the amounts allocated  
24 in subdivisions (a), (b), (c), (d), (e), and (f), beginning in the  
25 2017-18 fiscal year and each fiscal year thereafter, from the  
26 remaining revenues, five million dollars (\$5,000,000) shall be  
27 available, upon appropriation, to the University of California for  
28 the purpose of conducting transportation research and two million  
29 dollars (\$2,000,000) shall be available, upon appropriation, to the  
30 California State University for the purpose of conducting  
31 transportation research and transportation-related workforce  
32 education, training, and development. Prior to the start of each  
33 fiscal year, the Secretary of Transportation and the chairs of the  
34 Assembly Committee on Transportation and the Senate Committee  
35 on Transportation and Housing may set out a recommended priority  
36 list of research components to be addressed in the upcoming fiscal  
37 year.

38 (h) Notwithstanding Section 13340 of the Government Code,  
39 the balance of the revenues deposited in the Road Maintenance



1 and Rehabilitation Account are hereby continuously appropriated  
2 as follows:

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

6 (2) Fifty percent for apportionment to cities and counties by the  
7 Controller pursuant to the formula in clauses (i) and (ii) of  
8 subparagraph (C) of paragraph (3) of subdivision (a) of Section  
9 2103 for the purposes authorized by this chapter.

10 2032.5. (a) It is the intent of the Legislature that the  
11 Department of Transportation and local governments are held  
12 accountable for the efficient investment of public funds to maintain  
13 the public highways, streets, and roads, and are accountable to the  
14 people through performance goals that are tracked and reported.

15 (b) The department shall annually report to the commission  
16 relative to the expenditures made with funds received pursuant to  
17 subdivision (c) of, and paragraph (1) of subdivision (g) of, Section  
18 2032, and the progress made and achievement of the performance  
19 goals outlined in subdivision (n) of Section 1 of the act adding this  
20 section.

21 (c) For each fiscal year in which the department receives an  
22 allocation of funds described in subdivision (b), the department  
23 shall submit documentation to the commission that includes a  
24 description and the location of each completed project, the amount  
25 of funds expended on the project, the completion date, and the  
26 project's estimated useful life. Annually, the commission shall  
27 evaluate the effectiveness of the department in reducing deferred  
28 maintenance and improving road conditions on the state highway  
29 system, as demonstrated by the progress made by the goals set  
30 forth in subdivision (n) of Section 1 of the act enacting this section.  
31 The commission may make recommendations for improvement  
32 and may withhold future project allocations if it determines  
33 program funds are not being appropriately spent. The commission  
34 shall annually include any findings in its annual report to the  
35 Legislature pursuant to Section 14535 of the Government Code.

36 (d) The department shall implement efficiency measures with  
37 the goal to generate at least one hundred million dollars  
38 (\$100,000,000) per year in savings to invest in maintenance and  
39 rehabilitation of the state highway system. These savings shall be  
40 reported to the commission.

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

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

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

11 2033.5. The department, from funds made available pursuant  
12 to subdivision (f) of Section 2032, shall allocate local planning  
13 grants to encourage local and regional planning that furthers state  
14 goals, including, but not limited to, the goals and best practices  
15 cited in the regional transportation guidelines adopted by the  
16 commission pursuant to Sections 14522 to 14522.3, inclusive, of  
17 the Government Code. The department shall develop a grant guide  
18 and shall consult with the State Air Resources Board, the  
19 Governor's Office of Planning and Research, and the Department  
20 of Housing and Community Development in the development of  
21 the grant guide, and shall provide status reports as it administers  
22 these funds. The grant guide shall be exempt from the  
23 Administrative Procedure Act (Chapter 3.5 (commencing with  
24 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
25 Code).

26 2034. (a) (1) Prior to receiving an apportionment of funds  
27 under the program pursuant to paragraph (2) of subdivision (h) of  
28 Section 2032 from the Controller in a fiscal year, an eligible city  
29 or county shall submit to the commission a list of projects proposed  
30 to be funded with these funds pursuant to an adopted city or county  
31 budget. All projects proposed to receive funding shall be included  
32 in a city or county budget that is adopted by the applicable city  
33 council or county board of supervisors at a regular public meeting.  
34 The list of projects proposed to be funded with these funds shall  
35 include a description and the location of each proposed project, a  
36 proposed schedule for the project's completion, and the estimated  
37 useful life of the improvement. The project list shall not limit the  
38 flexibility of an eligible city or county to fund projects in  
39 accordance with local needs and priorities so long as the projects  
40 are consistent with subdivision (b) of Section 2030.

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

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

13 2036. (a) Cities and counties shall maintain their existing  
14 commitment of local funds for street, road, and highway purposes  
15 in order to remain eligible for an allocation or apportionment of  
16 funds pursuant to Section 2032.

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

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

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

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

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

22 2037. A city or county may spend its apportionment of funds  
23 under the program on transportation priorities other than those  
24 allowable pursuant to this chapter if the city's or county's average  
25 Pavement Condition Index meets or exceeds 80.

26 2038. The California Workforce Development Board shall  
27 develop guidelines for public agencies receiving Road Maintenance  
28 and Rehabilitation Account funds to participate in, invest in, or  
29 partner with, new or existing preapprenticeship training programs  
30 established pursuant to subdivision (e) of Section 14230 of the  
31 Unemployment Insurance Code. The department and local agencies  
32 that receive Road Maintenance and Rehabilitation Account funds  
33 pursuant to this chapter shall, not later than July 1, 2023, follow  
34 the guidelines set forth by the board. The board shall also establish  
35 a preapprenticeship development and training grant program,  
36 beginning January 1, 2019, pursuant to subdivision (e) of Section  
37 14230 of the Unemployment Insurance Code. Local public agencies  
38 that receive Road Maintenance and Rehabilitation Account funds  
39 pursuant to this chapter are eligible to compete for such grants and  
40 may apply in partnership with other agencies and entities, including

1 those with existing preapprenticeship programs. Successful grant  
2 applicants shall, to the extent feasible:

3 (a) Follow the multicraft core curriculum implemented by the  
4 State Department of Education for its pilot project with the  
5 California Partnership Academies and by the California Workforce  
6 Development Board and local boards.

7 (b) Include a plan for outreach to and retention of women  
8 participants in the preapprenticeship program to help increase the  
9 representation of women in the building and construction trades.

10 (c) Include a plan for outreach to and retention of minority  
11 participants and underrepresented subgroups in the  
12 preapprenticeship program to help increase their representation in  
13 the building and construction trades.

14 (d) Include a plan for outreach to and retention of disadvantaged  
15 youth participants in the preapprenticeship program to help increase  
16 their employment opportunities in the building and construction  
17 trades.

18 (e) Include a plan for outreach to individuals in the local labor  
19 market area and to formerly incarcerated individuals to provide  
20 pathways to employment and training.

21 (f) Coordinate with local state-approved apprenticeship  
22 programs, local building trade councils, and to the extent possible  
23 the California Conservation Corps and certified community  
24 conservation corps, so individuals who have completed these  
25 programs have a pathway to continued employment.

26 SEC. 37. Section 2103.1 is added to the Streets and Highways  
27 Code, to read:

28 2103.1. (a) Notwithstanding subdivision (b) of Section 2103,  
29 the portion of revenues in the Highway Users Tax Account  
30 attributable to the increases in the motor vehicle fuel excise tax  
31 pursuant to subdivision (c) of Section 7360 of the Revenue and  
32 Taxation Code, as adjusted pursuant to subdivision (d) of that  
33 section, shall be transferred to the Road Maintenance and  
34 Rehabilitation Account pursuant to Section 2031.

35 (b) Notwithstanding subdivision (b) of Section 2103, the portion  
36 of revenues in the Highway Users Tax Account attributable to the  
37 increase in the diesel fuel excise tax pursuant to subdivision (b)  
38 of Section 60050 of the Revenue and Taxation Code, as adjusted  
39 pursuant to subdivision (c) of that section, shall be transferred as  
40 follows:

1 (1) Fifty percent to the Trade Corridors Enhancement Account  
2 pursuant to Section 2192.4.

3 (2) Fifty percent to the Road Maintenance and Rehabilitation  
4 Account pursuant to Section 2031.

5 (c) Notwithstanding subdivision (b) of Section 2103, the portion  
6 of the revenues in the Highway Users Tax Account attributable to  
7 the storage taxes imposed pursuant to Sections 7361.2 and 60050.2  
8 of the Revenue and Taxation Code shall be deposited in the Road  
9 Maintenance and Rehabilitation Account created pursuant to  
10 Section 2031.

11 SEC. 38. Section 2104 of the Streets and Highways Code is  
12 amended to read:

13 2104. Notwithstanding Section 13340 of the Government Code,  
14 a sum equal to the net revenue derived from 11.3 percent of the  
15 per gallon tax under the Motor Vehicle Fuel License Tax Law  
16 (Part 2 (commencing with Section 7301) of Division 2), 1.80 cents  
17 (\$0.0180) under the Use Fuel Tax Law (Part 3 (commencing with  
18 Section 8601) of Division 2), and 11.5 percent of the per gallon  
19 tax under the Diesel Fuel Tax Law (Part 31 (commencing with  
20 Section 60001) of Division 2) of the Revenue and Taxation Code,  
21 shall be apportioned among the counties, as follows:

22 (a) Each county shall be paid one thousand six hundred  
23 sixty-seven dollars (\$1,667) during each calendar month, which  
24 amount shall be expended exclusively for engineering costs and  
25 administrative expenses with respect to county roads.

26 (b) A sum equal to the total of all reimbursable snow removal  
27 or snow grooming, or both, costs filed pursuant to subdivision (d)  
28 of Section 2152, or seven million dollars (\$7,000,000), whichever  
29 is less, shall be apportioned in 12 approximately equal monthly  
30 apportionments for snow removal or snow grooming, or both, on  
31 county roads, as provided in Section 2110.

32 (c) A sum equal to five hundred thousand dollars (\$500,000)  
33 shall be apportioned in 12 approximately equal monthly  
34 apportionments, as provided in Section 2110.5.

35 (d) (1) Seventy-five percent of the funds payable under this  
36 section shall be apportioned among the counties monthly in the  
37 respective proportions that the number of fee-paid and exempt  
38 vehicles which are registered in each county bears to the total  
39 number of fee-paid and exempt vehicles registered in the state.

1 (2) For purposes of apportionment under this subdivision, the  
2 Department of Motor Vehicles shall, as soon as possible after the  
3 last day of each calendar month, furnish to the Controller a verified  
4 statement showing the number of fee-paid and exempt vehicles  
5 which are registered in each county and in the state as of the last  
6 day of each calendar month as reflected by the records of the  
7 Department of Motor Vehicles.

8 (e) Of the remaining money payable, there shall be paid to each  
9 eligible county an amount that is computed monthly as follows:  
10 The number of miles of maintained county roads in each county  
11 shall be multiplied by sixty dollars (\$60); from the resultant  
12 amount, there shall be deducted the amount received by each  
13 county under subdivision (d) and the remainder, if any, shall be  
14 paid to each county.

15 (f) The remaining money payable, after the foregoing  
16 apportionments, shall be apportioned among the counties in the  
17 same proportion as the money referred to in subdivision (d).

18 (g) (1) Transfers of revenues from the Highway Users Tax  
19 Account to counties pursuant to this section collected during the  
20 months of March, April, May, June, and July of 2008, shall be  
21 made with the transfer of August 2008 revenues in September of  
22 2008. This suspension shall not apply to a county with a population  
23 of less than 40,000.

24 (2) For the purpose of meeting the cash obligations associated  
25 with ongoing budgeted costs, a county may make use of any cash  
26 balance in its county road fund, including that resulting from the  
27 receipt of funds pursuant to the Highway Safety, Traffic Reduction,  
28 Air Quality, and Port Security Bond Act of 2006 (Chapter 12.49  
29 (commencing with Section 8879.20) of Division 1 of Title 2 of  
30 the Government Code (hereafter bond act)) for local streets and  
31 roads maintenance, during the period of this suspension, without  
32 the use of this cash being reflected as an expenditure of bond act  
33 funds, provided the cash is replaced once this suspension is repaid  
34 in September of 2008. Counties may accrue the revenue received  
35 in September 2008 as repayment of these suspensions for the  
36 months of April, May, and June of 2008 back to the 2007-08 fiscal  
37 year. Nothing in this paragraph shall change the fact that  
38 expenditures must be accrued and reflected from the appropriate  
39 funding sources for which the moneys were received and meet all  
40 the requirements of those funding sources.

1 (h) (1) The transfer of revenues from the Highway Users Tax  
2 Account to counties pursuant to this section that are collected  
3 during the months of January, February, and March 2009, shall be  
4 made with the transfer of April 2009 revenues in May 2009.

5 (2) For the purpose of meeting the cash obligations associated  
6 with ongoing budgeted costs, a county may make use of any cash  
7 balance in its county road fund, including that resulting from the  
8 receipt of funds pursuant to the Highway Safety, Traffic Reduction,  
9 Air Quality, and Port Security Bond Act of 2006 (Chapter 12.49  
10 (commencing with Section 8879.20) of Division 1 of Title 2 of  
11 the Government Code (bond act)) for local streets and roads  
12 maintenance during the period of this suspension, provided the  
13 cash is replaced once this suspension is repaid in May of 2009.

14 (3) This subdivision shall not affect any requirement that an  
15 expenditure is required to be accrued and reflected from the  
16 appropriate funding source for which the money was received and  
17 to meet all the requirements of its funding source.

18 SEC. 39. Section 2105 of the Streets and Highways Code is  
19 amended to read:

20 2105. Notwithstanding Section 13340 of the Government Code,  
21 in addition to the apportionments prescribed by Sections 2104,  
22 2106, and 2107, from the revenues derived from a per gallon tax  
23 imposed pursuant to Section 7360 of the Revenue and Taxation  
24 Code, and a per gallon tax imposed pursuant to Sections 8651,  
25 8651.5, and 8651.6 of the Revenue and Taxation Code, and a per  
26 gallon tax imposed pursuant to Sections 60050 and 60115 of the  
27 Revenue and Taxation Code, the following apportionments shall  
28 be made:

29 (a) A sum equal to 5.8 percent of the per gallon tax under  
30 Section 7360 of the Revenue and Taxation Code, 11.5 percent of  
31 any per gallon tax in excess of nine cents (\$0.09) per gallon under  
32 Sections 8651, 8651.5, and 8651.6 of the Revenue and Taxation  
33 Code, and 6.5 percent of the per gallon tax under Sections 60050  
34 and 60115 of the Revenue and Taxation Code, shall be apportioned  
35 among the counties, including a city and county.

36 The amount of apportionment to each county, including a city  
37 and county, during a fiscal year shall be calculated as follows:

38 (1) One million dollars (\$1,000,000) for apportionment to all  
39 counties, including a city and county, in proportion to each county's  
40 receipts during the prior fiscal year under Sections 2104 and 2106.



1 (2) One million dollars (\$1,000,000) for apportionment to all  
2 counties, including a city and county, as follows:

3 (A) Seventy-five percent in the proportion that the number of  
4 fee-paid and exempt vehicles which are registered in the county  
5 bears to the number of fee-paid and exempt vehicles registered in  
6 the state.

7 (B) Twenty-five percent in the proportion that the number of  
8 miles of maintained county roads in the county bears to the miles  
9 of maintained county roads in the state.

10 (3) For each county, determine its factor which is the higher  
11 amount calculated pursuant to paragraph (1) or (2) divided by the  
12 sum of the higher amounts for all of the counties.

13 (4) The amount to be apportioned to each county is equal to its  
14 factor multiplied by the amount available for apportionment.

15 (b) A sum equal to 5.8 percent of the per gallon tax under  
16 Section 7360 of the Revenue and Taxation Code, 11.5 percent of  
17 any per gallon tax in excess of nine cents (\$0.09) per gallon under  
18 Sections 8651, 8651.5, and 8651.6 of the Revenue and Taxation  
19 Code, and 6.5 percent of the per gallon tax under Sections 60050  
20 and 60115 of the Revenue and Taxation Code, shall be apportioned  
21 to cities, including a city and county, in the proportion that the  
22 total population of the city bears to the total population of all the  
23 cities in the state.

24 (c) (1) Transfers of revenues from the Highway Users Tax  
25 Account to counties or cities pursuant to this section collected  
26 during the months of March, April, May, June, and July of 2008,  
27 shall be made with the transfer of August 2008 revenues in  
28 September of 2008. This suspension shall not apply to a county  
29 with a population of less than 40,000.

30 (2) For the purpose of meeting the cash obligations associated  
31 with ongoing budgeted costs, a city or county may make use of  
32 any cash balance in the city account that is designated for the  
33 receipt of state funds allocated for local streets and roads or the  
34 county road fund, including that resulting from the receipt of funds  
35 pursuant to the Highway Safety, Traffic Reduction, Air Quality,  
36 and Port Security Bond Act of 2006 (Chapter 12.49 (commencing  
37 with Section 8879.20) of Division 1 of Title 2 of the Government  
38 Code (hereafter bond act)) for local streets and roads maintenance,  
39 during the period of this suspension, without the use of this cash  
40 being reflected as an expenditure of bond act funds, provided the

1 cash is replaced once this suspension is repaid in September of  
2 2008. Counties and cities may accrue the revenue received in  
3 September 2008 as repayment of these suspensions for the months  
4 of April, May, and June of 2008 back to the 2007–08 fiscal year.  
5 Nothing in this paragraph shall change the fact that expenditures  
6 must be accrued and reflected from the appropriate funding sources  
7 for which the moneys were received and meet all the requirements  
8 of those funding sources.

9 (d) (1) The transfer of revenues from the Highway Users Tax  
10 Account to counties or cities pursuant to this section collected  
11 during the months of January, February, and March 2009 shall be  
12 made with the transfer of April 2009 revenues in May 2009.

13 (2) For the purpose of meeting the cash obligations associated  
14 with ongoing budgeted costs, a city or county may make use of  
15 any cash balance in the city account that is designated for the  
16 receipt of state funds allocated for local streets and roads or the  
17 county road fund, including that resulting from the receipt of funds  
18 pursuant to the Highway Safety, Traffic Reduction, Air Quality,  
19 and Port Security Bond Act of 2006 (Chapter 12.49 (commencing  
20 with Section 8879.20) of Division 1 of Title 2 of the Government  
21 Code (bond act)) for local streets and roads maintenance, during  
22 the period of this suspension, and the use of this cash shall not be  
23 considered as an expenditure of bond act funds, if the cash is  
24 replaced when the payments that are suspended pursuant to this  
25 subdivision are repaid in May 2009.

26 (3) This subdivision shall not affect any requirement that an  
27 expenditure is required to be accrued and reflected from the  
28 appropriate funding source for which the money was received and  
29 to meet all the requirements of its funding source.

30 SEC. 40. Section 2106 of the Streets and Highways Code is  
31 amended to read:

32 2106. Notwithstanding Section 13340 of the Government Code,  
33 a sum equal to the net revenue derived from 5.3 percent of the per  
34 gallon tax under the Motor Vehicle Fuel License Tax Law (Part 2  
35 (commencing with Section 7301) of Division 2 of the Revenue  
36 and Taxation Code) shall be apportioned monthly from the  
37 Highway Users Tax Account in the Transportation Tax Fund  
38 among the counties and cities as follows:

- 1 (a) Four hundred dollars (\$400) per month shall be apportioned  
2 to each city and city and county and eight hundred dollars (\$800)  
3 per month shall be apportioned to each county and city and county.
- 4 (b) On the last day of each month, the sum of six hundred  
5 thousand dollars (\$600,000) shall be transferred to the State  
6 Highway Account in the State Transportation Fund for the Active  
7 Transportation Program pursuant to Chapter 8 (commencing with  
8 Section 2380). For each month in the 2013–14 fiscal year that has  
9 passed prior to the enactment of the bill adding this sentence, six  
10 hundred thousand dollars (\$600,000) shall be immediately  
11 transferred from the Bicycle Transportation Account to the State  
12 Highway Account in the State Transportation Fund for the Active  
13 Transportation Program, less any amount already expended for  
14 that program from the Bicycle Transportation Account during the  
15 2013–14 fiscal year.
- 16 (c) The balance shall be apportioned, as follows:
- 17 (1) A base sum shall be computed for each county by using the  
18 same proportions of fee-paid and exempt vehicles as are established  
19 for purposes of apportionment of funds under subdivision (d) of  
20 Section 2104.
- 21 (2) For each county, the percentage of the total assessed  
22 valuation of tangible property subject to local tax levies within the  
23 county which is represented by the assessed valuation of tangible  
24 property outside the incorporated cities of the county shall be  
25 applied to its base sum, and the resulting amount shall be  
26 apportioned to the county. The assessed valuation of taxable  
27 tangible property, for purposes of this computation, shall be that  
28 most recently used for countywide tax levies as reported to the  
29 Controller by the State Board of Equalization. If an incorporation  
30 or annexation is legally completed following the base sum  
31 computation, the new city's assessed valuation shall be deducted  
32 from the county's assessed valuation, the estimate of which may  
33 be provided by the State Board of Equalization.
- 34 (3) The difference between the base sum for each county and  
35 the amount apportioned to the county shall be apportioned to the  
36 cities of that county in the proportion that the population of each  
37 city bears to the total population of all the cities in the county.  
38 Populations used for determining apportionment of money under  
39 Section 2107 are to be used for purposes of this section.

1 (d) (1) Transfers of revenues from the Highway Users Tax  
2 Account to counties or cities pursuant to this section collected  
3 during the months of March, April, May, June, and July of 2008,  
4 shall be made with the transfer of August 2008 revenues in  
5 September of 2008. This suspension shall not apply to a county  
6 with a population of less than 40,000.

7 (2) For the purpose of meeting the cash obligations associated  
8 with ongoing budgeted costs, a city or county may make use of  
9 any cash balance in the city account that is designated for the  
10 receipt of state funds allocated for local streets and roads or the  
11 county road fund, including that resulting from the receipt of funds  
12 pursuant to the Highway Safety, Traffic Reduction, Air Quality,  
13 and Port Security Bond Act of 2006 (Chapter 12.49 (commencing  
14 with Section 8879.20) of Division 1 of Title 2 of the Government  
15 Code (hereafter bond act)) for local streets and roads maintenance,  
16 during the period of this suspension, without the use of this cash  
17 being reflected as an expenditure of bond act funds, provided the  
18 cash is replaced once this suspension is repaid in September of  
19 2008. Counties and cities may accrue the revenue received in  
20 September 2008 as repayment of these suspensions for the months  
21 of April, May, and June of 2008 back to the 2007–08 fiscal year.  
22 Nothing in this paragraph shall change the fact that expenditures  
23 must be accrued and reflected from the appropriate funding sources  
24 for which the moneys were received and meet all the requirements  
25 of those funding sources.

26 (e) (1) The transfer of revenues from the Highway Users Tax  
27 Account to counties or cities pursuant to this section collected  
28 during the months of January, February, and March 2009, shall be  
29 made with the transfer of April 2009 revenues in May 2009.

30 (2) For the purpose of meeting the cash obligations associated  
31 with ongoing budgeted costs, a city or county may make use of  
32 any cash balance in the city account that is designated for the  
33 receipt of state funds allocated for local streets and roads or the  
34 county road fund, including that resulting from the receipt of funds  
35 pursuant to the Highway Safety, Traffic Reduction, Air Quality,  
36 and Port Security Bond Act of 2006 (Chapter 12.49 (commencing  
37 with Section 8879.20) of Division 1 of Title 2 of the Government  
38 Code (bond act)) for local streets and roads maintenance, during  
39 the period of this suspension, and the use of this cash shall not be  
40 considered as an expenditure of bond act funds, if the cash is

1 replaced when the payments that are suspended pursuant to this  
2 subdivision are repaid in May 2009.

3 (3) This subdivision shall not affect any requirement that an  
4 expenditure is required to be accrued and reflected from the  
5 appropriate funding source for which the money was received and  
6 to meet all the requirements of its funding source.

7 SEC. 41. Section 2107 of the Streets and Highways Code is  
8 amended to read:

9 2107. (a) Notwithstanding Section 13340 of the Government  
10 Code, a sum equal to the net revenues derived from 7.3 percent of  
11 the per gallon tax under the Motor Vehicle Fuel License Tax Law  
12 (Part 2 (commencing with Section 7301) of Division 2), 2.59 cents  
13 (\$0.0259) under the Use Fuel Tax Law (Part 3 (commencing with  
14 Section 8601) of Division 2), and 11.5 percent under the Diesel  
15 Fuel Tax Law (Part 31 (commencing with Section 60001) of  
16 Division 2) of the Revenue and Taxation Code, shall be  
17 apportioned monthly to the cities and cities and counties of this  
18 state from the Highway Users Tax Account in the Transportation  
19 Tax Fund as provided in this section.

20 (b) From the sum determined pursuant to subdivision (a), the  
21 Controller shall allocate annually to each city that has filed a report  
22 containing the information prescribed by subdivision (c) of Section  
23 2152, and that had expenditures in excess of five thousand dollars  
24 (\$5,000) during the preceding fiscal year for snow removal, an  
25 amount equal to one-half of the amount of its expenditures for  
26 snow removal in excess of five thousand dollars (\$5,000) during  
27 that fiscal year.

28 (c) The balance of the sum determined pursuant to subdivision  
29 (a) from the Highway Users Tax Account shall be allocated to  
30 each city, including city and county, in the proportion that the total  
31 population of the city bears to the total population of all the cities  
32 in this state.

33 (d) (1) For the purpose of this section, except as otherwise  
34 provided in paragraph (2), the population in each city is the  
35 population determined for that city in the manner specified in  
36 Section 11005.3 of the Revenue and Taxation Code.

37 (2) Commencing with the ninth fiscal year of a city described  
38 in subdivision (a) of Section 11005.3 of the Revenue and Taxation  
39 Code, the sixth fiscal year of a city described in subdivision (b) of  
40 Section 11005.3 of the Revenue and Taxation Code, and the 61st

1 month of the city described in subdivision (c) of Section 11005.3  
2 of the Revenue and Taxation Code, the population in each city is  
3 the actual population of that city, as defined in subdivision (e) of  
4 Section 11005.3 of the Revenue and Taxation Code.

5 (e) (1) Transfers of revenues from the Highway Users Tax  
6 Account to cities pursuant to this section collected during the  
7 months of March, April, May, June, and July of 2008, shall be  
8 made with the transfer of August 2008 revenues in September of  
9 2008.

10 (2) For the purpose of meeting the cash obligations associated  
11 with ongoing budgeted costs, a city may make use of any cash  
12 balance in the city account that is designated for the receipt of state  
13 funds allocated for local streets and roads, including that resulting  
14 from the receipt of funds pursuant to the Highway Safety, Traffic  
15 Reduction, Air Quality, and Port Security Bond Act of 2006  
16 (Chapter 12.49 (commencing with Section 8879.20) of Division  
17 1 of Title 2 of the Government Code (hereafter bond act)) for local  
18 streets and roads maintenance, during the period of this suspension,  
19 without the use of this cash being reflected as an expenditure of  
20 bond act funds, provided the cash is replaced once this suspension  
21 is repaid in September of 2008. Cities may accrue the revenue  
22 received in September 2008 as repayment of these suspensions for  
23 the months of April, May, and June of 2008 back to the 2007-08  
24 fiscal year. Nothing in this paragraph shall change the fact that  
25 expenditures must be accrued and reflected from the appropriate  
26 funding sources for which the moneys were received and meet all  
27 the requirements of those funding sources.

28 (f) (1) A transfer of revenues from the Highway Users Tax  
29 Account to cities pursuant to this section collected during the  
30 months of January, February, and March 2009, shall be made with  
31 the transfer of April 2009 revenues in May 2009.

32 (2) For the purpose of meeting the cash obligations associated  
33 with ongoing budgeted costs, a city may make use of any cash  
34 balance in the city account that is designated for the receipt of state  
35 funds allocated for local streets and roads, including that resulting  
36 from the receipt of funds pursuant to the Highway Safety, Traffic  
37 Reduction, Air Quality, and Port Security Bond Act of 2006  
38 (Chapter 12.49 (commencing with Section 8879.20) of Division  
39 1 of Title 2 of the Government Code (bond act)) for local streets  
40 and roads maintenance, during the period of this suspension, and

1 the use of this cash shall not be reflected as an expenditure of bond  
2 act funds, if the cash is replaced once this suspension is repaid in  
3 May 2009.

4 (3) This subdivision shall not affect any requirement that an  
5 expenditure is required to be accrued and reflected from the  
6 appropriate funding sources for which the moneys were received  
7 and to meet all the requirements of those funding sources.

8 SEC. 42. Section 2192.4 is added to the Streets and Highways  
9 Code, to read:

10 2192.4. The Trade Corridor Enhancement Account is hereby  
11 created in the State Transportation Fund to receive funds from  
12 subdivision (b) of Section 60050 of the Revenue and Taxation  
13 Code, as adjusted. Funds in the account shall be available for  
14 expenditure upon appropriation by the Legislature for  
15 corridor-based freight projects nominated by local agencies and  
16 the state.

17 SEC. 43. The Legislature finds and declares all of the  
18 following:

19 (a) Californians know congestion. For decades, California has  
20 been home to five or six of the nation's most congested travel  
21 corridors, which are located in Los Angeles, the San  
22 Francisco-Oakland-San Jose Bay Area, the Inland Empire, San  
23 Diego, and increasingly, in the central valley. While congestion  
24 is a vexing challenge in a state that is home to nearly 40 million  
25 people and that adds nearly a half-million people each year, regions  
26 and localities are finding new ways to address congestion in highly  
27 traveled corridors by undertaking long-term, comprehensive, and  
28 multimodal approaches that seek to reduce congestion by  
29 expanding travel choices, improving the quality of life, and  
30 preserving the local community character within the corridor.

31 (b) Examples of this more comprehensive approach to improving  
32 congestion in highly traveled corridors include, but are not limited  
33 to, programs in the following regions:

34 (1) The North Coast Corridor improvements along Route 5 and  
35 the parallel rail corridor in the County of San Diego.

36 (2) The Route 91 and Metrolink rail corridor improvements in  
37 the County of Riverside.

38 (3) Emerging solutions for the Route 101 and Caltrain corridor  
39 connecting Silicon Valley with San Francisco.

1 (4) Multimodal approaches for the Route 101 and SMART rail  
2 corridor between the Counties of Marin and Sonoma.

3 (5) Comprehensive solutions for the Route 405 Corridor in the  
4 County of Los Angeles.

5 (c) The state recognizes the benefits to mobility, quality of life,  
6 and the environment through comprehensive, multimodal proposals  
7 that address mobility, community, and environmental challenges  
8 along highly traveled corridors. Therefore, the Solutions for  
9 Congested Corridors Program is being created to support  
10 collaborative and comprehensive proposals to address these  
11 challenges.

12 SEC. 44. Chapter 8.5 (commencing with Section 2390) is added  
13 to Division 3 of the Streets and Highways Code, to read:

14  
15 CHAPTER 8.5. CONGESTED CORRIDORS

16  
17 2390. The Solutions for Congested Corridors Program is hereby  
18 created.

19 2391. Pursuant to subdivision (b) of Section 11053 of the  
20 Revenue and Taxation Code, two hundred fifty million dollars  
21 (\$250,000,000) in the State Highway Account shall be available  
22 for appropriation to the Department of Transportation in each  
23 annual Budget Act for the Solutions for Congested Corridors  
24 Program. Funds made available for the program shall be allocated  
25 by the California Transportation Commission to projects designed  
26 to achieve a balanced set of transportation, environmental, and  
27 community access improvements within highly congested travel  
28 corridors throughout the state. Funding shall be available for  
29 projects that make specific performance improvements and are  
30 part of a comprehensive corridor plan designed to reduce  
31 congestion in highly traveled corridors by providing more  
32 transportation choices for residents, commuters, and visitors to the  
33 area of the corridor while preserving the character of the local  
34 community and creating opportunities for neighborhood  
35 enhancement projects. In order to mitigate increases in vehicle  
36 miles traveled, greenhouse gases, and air pollution, highway lane  
37 capacity-increasing projects funded by this program shall be limited  
38 to high-occupancy vehicle lanes, managed lanes as defined in  
39 Section 14106 of the Government Code, and other non-general  
40 purpose lane improvements primarily designed to improve safety



1 for all modes of travel, such as auxiliary lanes, truck climbing  
2 lanes, or dedicated bicycle lanes. Project elements within the  
3 corridor plans may include improvements to state highways, local  
4 streets and roads, public transit facilities, bicycle and pedestrian  
5 facilities, and restoration or preservation work that protects critical  
6 local habitat or open space.

7 2392. A regional transportation planning agency or county  
8 transportation commission or authority responsible for preparing  
9 a regional transportation improvement plan under Section 14527  
10 of the Government Code or the department may nominate projects  
11 for funding through the program that are consistent with the policy  
12 objectives of the program as set forth in this chapter. The  
13 commission shall allocate no more than one-half of the funds  
14 available each year to projects nominated exclusively by the  
15 department. Preference shall be given to corridor plans that  
16 demonstrate that the plans and the specific project improvements  
17 to be undertaken are the result of collaboration between the  
18 department and local or regional partners that reflect a  
19 comprehensive approach to addressing congestion and  
20 quality-of-life issues within the affected corridor through  
21 investment in transportation and related environmental solutions.  
22 Collaboration between the partners may be demonstrated by a  
23 project being jointly nominated by both the regional agency and  
24 the department.

25 2393. A project nomination shall include documentation  
26 regarding the quantitative and qualitative measures validating the  
27 project's consistency with the policy objectives of the program as  
28 set forth in this chapter. In addition to being included in a corridor  
29 plan, a nominated project shall also be included in the region's  
30 regional transportation plan. Projects within the boundaries of a  
31 metropolitan planning organization must be included in an adopted  
32 regional transportation plan that includes a sustainable communities  
33 strategy determined by the State Air Resources Board to achieve  
34 the region's greenhouse gas emissions reduction targets.

35 2394. The commission shall allocate program funds to projects  
36 after reviewing the corridor plans submitted by the regional  
37 agencies or the department and making a determination that a  
38 proposed project is consistent with the objectives of the corridor  
39 plan. In addition to making a consistency determination with

1 respect to project nominations, the commission shall score the  
2 proposed projects on the following criteria:

- 3 (a) Safety.
- 4 (b) Congestion.
- 5 (c) Accessibility.
- 6 (d) Economic development and job creation and retention.
- 7 (e) Furtherance of state and federal ambient air standards and  
8 greenhouse gas emissions reduction standards pursuant to the  
9 California Global Warming Solutions Act of 2006 (Division 25.5  
10 (commencing with Section 38550) of the Health and Safety Code)  
11 and Senate Bill 375 (Chapter 728 of the Statutes of 2008).
- 12 (f) Efficient land use.
- 13 (g) Matching funds.
- 14 (h) Project deliverability.

15 2395. The commission shall adopt an initial program of projects  
16 to be funded through the initial appropriation for the program. The  
17 initial program may cover a multiyear programming period.  
18 Subsequent programs of projects shall be adopted on a biennial  
19 basis consistent with available funds for the program, and may  
20 include updates to programs of projects previously adopted.

21 2396. The commission, in consultation with the State Air  
22 Resources Board, shall develop and adopt guidelines for the  
23 program consistent with the requirements of this chapter.  
24 Guidelines adopted by the commission shall be exempt from the  
25 Administrative Procedure Act (Chapter 3.5 (commencing with  
26 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
27 Code). Prior to adopting the guidelines, the commission shall  
28 conduct at least one public hearing in northern California and one  
29 public hearing in southern California to review and provide an  
30 opportunity for public comment. The commission shall adopt the  
31 final guidelines no sooner than 30 days after the commission  
32 provides the proposed guidelines to the Joint Legislative Budget  
33 Committee and the transportation policy committees in the Senate  
34 and the Assembly.

35 2397. On or before March 1, 2019, and annually thereafter, the  
36 commission shall provide project update reports on the  
37 development and implementation of the program described in this  
38 chapter in its annual report to the Legislature prepared pursuant  
39 to Section 14535 of the Government Code. A copy of the report  
40 shall be provided to the Joint Legislative Budget Committee and

1 the transportation policy committees of both houses of the  
2 Legislature. The report, at a minimum, shall include information  
3 on each project that received funding under the program, including,  
4 but not limited to, all of the following:

5 (a) A summary describing the overall progress of the project  
6 since the initial award.

7 (b) Expenditures to date for all project phase costs.

8 (c) A summary of milestones achieved during the prior year  
9 and milestones expected to be reached in the coming year.

10 (d) An assessment of how the project is meeting the quantitative  
11 and qualitative measurements identified in the project nomination,  
12 as outlined in Section 2393.

13 SEC. 45. Section 4000.15 is added to the Vehicle Code, to  
14 read:

15 4000.15. (a) Effective January 1, 2020, the department shall  
16 confirm, prior to the initial registration or the transfer of ownership  
17 and registration of a diesel-fueled vehicle with a gross vehicle  
18 weight rating of more than 14,000 pounds, that the vehicle is  
19 compliant with, or exempt from, applicable air pollution control  
20 technology requirements pursuant to Division 26 (commencing  
21 with Section 39000) of the Health and Safety Code and regulations  
22 of the State Air Resources Board adopted pursuant to that division.

23 (b) Except as otherwise provided in subdivision (c), for  
24 diesel-fueled vehicles subject to Section 43018 of the Health and  
25 Safety Code, as applied to the reduction of emissions of diesel  
26 particulate matter, oxides of nitrogen, and other criteria pollutants  
27 from in-use diesel-fueled vehicles, and Section 2025 of Title 13  
28 of the California Code of Regulations as it read January 1, 2017,  
29 or as subsequently amended:

30 (1) The department shall refuse registration, or renewal or  
31 transfer of registration, for a diesel-fueled vehicle with a gross  
32 vehicle weight rating of 14,001 pounds to 26,000 pounds for the  
33 following vehicle model years:

34 (A) Effective January 1, 2020, vehicle model years 2004 and  
35 older.

36 (B) Effective January 1, 2021, vehicle model years 2007 and  
37 older.

38 (C) Effective January 1, 2023, vehicle model years 2010 and  
39 older.

1 (2) The department shall refuse registration, or renewal or  
2 transfer of registration, for a diesel-fueled vehicle with a gross  
3 vehicle weight rating of more than 26,000 pounds for the following  
4 vehicle model years:

5 (A) Effective January 1, 2020, vehicle model years 2000 and  
6 older.

7 (B) Effective January 1, 2021, vehicle model years 2005 and  
8 older.

9 (C) Effective January 1, 2022, vehicle model years 2007 and  
10 older.

11 (D) Effective January 1, 2023, vehicle model years 2010 and  
12 older.

13 (c) (1) As determined by the State Air Resources Board,  
14 notwithstanding effective dates and vehicle model years identified  
15 in subdivision (b), the department may allow registration, or  
16 renewal or transfer of registration, for a diesel-fueled vehicle that  
17 has been reported to the State Air Resources Board, and is using  
18 an approved exemption, or is compliant with applicable air  
19 pollution control technology requirements pursuant to Division  
20 26 (commencing with Section 39000) of the Health and Safety  
21 Code and regulations of the State Air Resources Board adopted  
22 pursuant to that division, including vehicles equipped with the  
23 required model year emissions equivalent engine or otherwise  
24 using an approved compliance option.

25 (2) The State Air Resources Board shall notify the department  
26 of the vehicles allowed to be registered pursuant to this subdivision.

27 SEC. 46. Section 4156 of the Vehicle Code is amended to read:

28 4156. (a) Notwithstanding any other provision of this code,  
29 and except as provided in subdivision (b), the department in its  
30 discretion may issue a temporary permit to operate a vehicle when  
31 a payment of fees has been accepted in an amount to be determined  
32 by, and paid to the department, by the owner or other person in  
33 lawful possession of the vehicle. The permit shall be subject to the  
34 terms and conditions, and shall be valid for the period of time, that  
35 the department shall deem appropriate under the circumstances.

36 (b) (1) The department shall not issue a temporary permit  
37 pursuant to subdivision (a) to operate a vehicle for which a  
38 certificate of compliance is required pursuant to Section 4000.3,  
39 and for which that certificate of compliance has not been issued,  
40 unless the department is presented with sufficient evidence, as

1 determined by the department, that the vehicle has failed its most  
2 recent smog check inspection.

3 (2) Only one temporary permit may be issued pursuant to this  
4 subdivision to a vehicle owner in a two-year period.

5 (3) A temporary permit issued pursuant to paragraph (1) is valid  
6 for either 60 days after the expiration of the registration of the  
7 vehicle or 60 days after the date that vehicle is removed from  
8 nonoperation, whichever is applicable at the time that the temporary  
9 permit is issued.

10 (4) A temporary permit issued pursuant to paragraph (1) is  
11 subject to Section 9257.5.

12 (c) (1) The department may issue a temporary permit pursuant  
13 to subdivision (a) to operate a vehicle for which registration may  
14 be refused pursuant to Section 4000.15.

15 (2) Only one temporary permit may be issued pursuant to this  
16 subdivision for any vehicle, unless otherwise approved by the State  
17 Air Resources Board.

18 (3) A temporary permit issued pursuant to paragraph (1) is valid  
19 for either 90 days after the expiration of the registration of the  
20 vehicle or 90 days after the date that vehicle is removed from  
21 nonoperation, whichever is applicable at the time the temporary  
22 permit is issued.

23 (4) A temporary permit issued pursuant to paragraph (1) is  
24 subject to Section 9257.5.

25 SEC. 47. Section 9250.6 is added to the Vehicle Code, to read:

26 9250.6. (a) In addition to any other fees specified in this code,  
27 or the Revenue and Taxation Code, commencing July 1, 2020, a  
28 road improvement fee of one hundred dollars (\$100) shall be paid  
29 to the department for registration or renewal of registration of  
30 every zero-emission motor vehicle model year 2020 and later  
31 subject to registration under this code, except those motor vehicles  
32 that are expressly exempted under this code from payment of  
33 registration fees.

34 (b) On January 1, 2021, and every January 1 thereafter, the  
35 Department of Motor Vehicles shall adjust the road improvement  
36 fee imposed under subdivision (a) by increasing the fee in an  
37 amount equal to the increase in the California Consumer Price  
38 Index for the prior year, except the first adjustment shall cover the  
39 prior six months, as calculated by the Department of Finance, with  
40 amounts equal to or greater than fifty cents (\$0.50) rounded to the

1 highest whole dollar. The incremental change shall be added to  
2 the associated fee rate for that year.

3 (c) Any changes to the road improvement fee imposed by  
4 subdivision (a) that are enacted by legislation subsequent to July  
5 1, 2017, shall be deemed to be changes to the base fee rate for  
6 purposes of the California Consumer Price Index calculation and  
7 adjustment performed pursuant to subdivision (b).

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

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

15 (f) The road improvement fee required pursuant to this section  
16 does not apply to the initial registration after the purchase of a new  
17 zero-emission motor vehicle.

18 (g) For purposes of this section, "zero-emission motor vehicle"  
19 means a motor vehicle as described in subdivision (d) of Section  
20 44258 of the Health and Safety Code, or any other motor vehicle  
21 that is able to operate on any fuel other than gasoline or diesel fuel.

22 SEC. 48. (a) On or before January 1, 2019, the Institute for  
23 Transportation Studies at the University of California, Davis is  
24 requested to prepare and submit to the Governor and the Legislature  
25 a report that makes recommendations on potential methodologies  
26 to raise revenue from zero-emission and low-emission vehicle  
27 owners to achieve the state's transportation electrification, clean  
28 air, and climate targets established under law while also ensuring  
29 those vehicle owners pay their fair share of any costs borne by  
30 motorists to fund improvements to the transportation system.

31 (b) The report shall examine all fees, taxes, and incentives for  
32 zero- and low-emission vehicles, and other vehicles, and shall  
33 make recommendations for options that ensure the purchase and  
34 ownership of zero- and low-emission vehicles are properly  
35 incentivized to assist in meeting state clean air and climate targets,  
36 while also ensuring appropriate levels of funding for roads and  
37 transportation.

38 (c) The study shall assess annual fees on zero-emission vehicles  
39 or other vehicles not otherwise subject to state fuel excise or use  
40 taxes and compare that to the average annual state fuel excise tax

1 assessed on gasoline or diesel vehicles with equivalent fuel  
2 economy.

3 (d) The Institute shall consult with the State Air Resources  
4 Board, the Department of Transportation, the Department of Motor  
5 Vehicles, and the State Board of Equalization in preparing the  
6 report.

7 (e) This report shall be submitted in compliance with Section  
8 9795 of the Government Code.

9 SEC. 49. Guidelines adopted to implement transportation  
10 programs in this act by the California Transportation Commission,  
11 the Department of Transportation, the Transportation Agency, or  
12 any other state agency shall be exempt from the Administrative  
13 Procedure Act (Chapter 3.5 (commencing with Section 11340) of  
14 Part 1 of Division 3 of Title 2 of the Government Code).

15 SEC. 50. This act is an urgency statute necessary for the  
16 immediate preservation of the public peace, health, or safety within  
17 the meaning of Article IV of the Constitution and shall go into  
18 immediate effect. The facts constituting the necessity are:

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

**Introduced by Senator Roth**  
(Principal coauthor: Assembly Member Cervantes)

December 5, 2016

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An act to amend Section 97.70 of the Revenue and Taxation Code, relating to local government finance.

LEGISLATIVE COUNSEL'S DIGEST

SB 37, as introduced, Roth. Local government finance: property tax revenue allocations: vehicle license fee adjustments.

Existing property tax law requires the county auditor, in each fiscal year, to allocate property tax revenue to local jurisdictions in accordance with specified formulas and procedures, and generally provides that each jurisdiction be allocated an amount equal to the total of the amount of revenue allocated to that jurisdiction in the prior fiscal year, subject to certain modifications, and that jurisdiction's portion of the annual tax increment, as defined.

Existing property tax law also requires that, for purposes of determining property tax revenue allocations in each county for the 1992-93 and 1993-94 fiscal years, the amounts of property tax revenue deemed allocated in the prior fiscal year to the county, cities, and special districts be reduced in accordance with certain formulas. It requires that the revenues not allocated to the county, cities, and special districts as a result of these reductions be transferred to the Educational Revenue Augmentation Fund in that county for allocation to school districts, community college districts, and the county office of education.

Beginning with the 2004-05 fiscal year and for each fiscal year thereafter, existing law requires that each city, county, and city and county receive additional property tax revenues in the form of a vehicle license fee adjustment amount, as defined, from a Vehicle License Fee



Property Tax Compensation Fund that exists in each county treasury. Existing law requires that these additional allocations be funded from ad valorem property tax revenues otherwise required to be allocated to educational entities.

This bill would modify these reduction and transfer provisions for a city incorporating after January 1, 2004, and on or before January 1, 2012, for the 2017-18 fiscal year and for each fiscal year thereafter, by providing for a vehicle license fee adjustment amount calculated on the basis of changes in assessed valuation.

By imposing additional duties upon local tax officials with respect to the allocation of ad valorem property tax revenues, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

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

1 SECTION 1. Section 97.70 of the Revenue and Taxation Code  
2 is amended to read:  
3 97.70. Notwithstanding any other law, for the 2004-05 fiscal  
4 year and for each fiscal year thereafter, all of the following apply:  
5 (a) (1) (A) The auditor shall reduce the total amount of ad  
6 valorem property tax revenue that is otherwise required to be  
7 allocated to a county's Educational Revenue Augmentation Fund  
8 by the countywide vehicle license fee adjustment amount.  
9 (B) If, for the fiscal year, after complying with Section 97.68  
10 there is not enough ad valorem property tax revenue that is  
11 otherwise required to be allocated to a county Educational Revenue  
12 Augmentation Fund for the auditor to complete the allocation  
13 reduction required by subparagraph (A), the auditor shall  
14 additionally reduce the total amount of ad valorem property tax  
15 revenue that is otherwise required to be allocated to all school  
16 districts and community college districts in the county for that

1 fiscal year by an amount equal to the difference between the  
2 countywide vehicle license fee adjustment amount and the amount  
3 of ad valorem property tax revenue that is otherwise required to  
4 be allocated to the county Educational Revenue Augmentation  
5 Fund for that fiscal year. This reduction for each school district  
6 and community college district in the county shall be the percentage  
7 share of the total reduction that is equal to the proportion that the  
8 total amount of ad valorem property tax revenue that is otherwise  
9 required to be allocated to the school district or community college  
10 district bears to the total amount of ad valorem property tax revenue  
11 that is otherwise required to be allocated to all school districts and  
12 community college districts in a county. For purposes of this  
13 subparagraph, "school districts" and "community college districts"  
14 do not include any districts that are excess tax school entities, as  
15 defined in Section 95.

16 (2) The countywide vehicle license fee adjustment amount shall  
17 be allocated to the Vehicle License Fee Property Tax Compensation  
18 Fund that shall be established in the treasury of each county.

19 (b) (1) The auditor shall allocate moneys in the Vehicle License  
20 Fee Property Tax Compensation Fund according to the following:

21 (A) Each city in the county shall receive its vehicle license fee  
22 adjustment amount.

23 (B) Each county and city and county shall receive its vehicle  
24 license fee adjustment amount.

25 (2) The auditor shall allocate one-half of the amount specified  
26 in paragraph (1) on or before January 31 of each fiscal year, and  
27 the other one-half on or before May 31 of each fiscal year.

28 (c) For purposes of this section, all of the following apply:

29 (1) "Vehicle license fee adjustment amount" for a particular  
30 city, county, or a city and county means, subject to an adjustment  
31 under paragraph (2) and Section 97.71, all of the following:

32 (A) For the 2004-05 fiscal year, an amount equal to the  
33 difference between the following two amounts:

34 (i) The estimated total amount of revenue that would have been  
35 deposited to the credit of the Motor Vehicle License Fee Account  
36 in the Transportation Tax Fund, including any amounts that would  
37 have been certified to the Controller by the auditor of the County  
38 of Ventura under subdivision (j) of Section 98.02, as that section  
39 read on January 1, 2004, for distribution under the law as it read  
40 on January 1, 2004, to the county, city and county, or city for the

1 2004-05 fiscal year if the fee otherwise due under the Vehicle  
2 License Fee Law ~~(Pt. (Part 5 (commencing with Section 10701)~~  
3 ~~of Div. Division 2)~~ was 2 percent of the market value of a vehicle,  
4 as specified in ~~Section Sections~~ 10752 and 10752.1 as those  
5 sections read on January 1, 2004.

6 (ii) The estimated total amount of revenue that is required to be  
7 distributed from the Motor Vehicle License Fee Account in the  
8 Transportation Tax Fund to the county, city and county, and each  
9 city in the county for the 2004-05 fiscal year under Section 11005,  
10 as that section read on the operative date of the act that amended  
11 this clause.

12 (B) (i) Subject to an adjustment under clause (ii), for the  
13 2005-06 fiscal year, the sum of the following two amounts:

14 (I) The difference between the following two amounts:

15 ~~(Ia)~~

16 (ia) The actual total amount of revenue that would have been  
17 deposited to the credit of the Motor Vehicle License Fee Account  
18 in the Transportation Tax Fund, including any amounts that would  
19 have been certified to the Controller by the auditor of the County  
20 of Ventura under subdivision (j) of Section 98.02, as that section  
21 read on January 1, 2004, for distribution under the law as it read  
22 on January 1, 2004, to the county, city and county, or city for the  
23 2004-05 fiscal year if the fee otherwise due under the Vehicle  
24 License Fee Law (Part 5 (commencing with Section 10701) of  
25 Division 2) was 2 percent of the market value of a vehicle, as  
26 specified in Sections 10752 and 10752.1 as those sections read on  
27 January 1, 2004.

28 ~~(Ib)~~

29 (ib) The actual total amount of revenue that was distributed  
30 from the Motor Vehicle License Fee Account in the Transportation  
31 Tax Fund to the county, city and county, and each city in the county  
32 for the 2004-05 fiscal year under Section 11005, as that section  
33 read on the operative date of the act that amended this  
34 ~~sub-subclause. subsubclause.~~

35 (II) The product of the following two amounts:

36 ~~(IIa)~~

37 (ia) The amount described in subclause (I).

38 ~~(IIb)~~

39 (ib) The percentage change from the prior fiscal year to the  
40 current fiscal year in gross taxable assessed valuation within the

1 jurisdiction of the entity, as reflected in the equalized assessment  
2 roll for those fiscal years. For the first fiscal year for which a  
3 change in a city's jurisdictional boundaries first applies, the  
4 percentage change in gross taxable assessed valuation from the  
5 prior fiscal year to the current fiscal year shall be calculated solely  
6 on the basis of the city's previous jurisdictional boundaries, without  
7 regard to the change in that city's jurisdictional boundaries. For  
8 each following fiscal year, the percentage change in gross taxable  
9 assessed valuation from the prior fiscal year to the current fiscal  
10 year shall be calculated on the basis of the city's current  
11 jurisdictional boundaries.

12 (ii) The amount described in clause (i) shall be adjusted as  
13 follows:

14 (I) If the amount described in subclause (I) of clause (i) for a  
15 particular city, county, or city and county is greater than the amount  
16 described in subparagraph (A) for that city, county, or city and  
17 county, the amount described in clause (i) shall be increased by  
18 an amount equal to this difference.

19 (II) If the amount described in subclause (I) of clause (i) for a  
20 particular city, county, or city and county is less than the amount  
21 described in subparagraph (A) for that city, county, or city and  
22 county, the amount described in clause (i) shall be decreased by  
23 an amount equal to this difference.

24 (C) For the 2006–07 fiscal year and for each fiscal year  
25 thereafter, the sum of the following two amounts:

26 (i) The vehicle license fee adjustment amount for the prior fiscal  
27 year, if Section 97.71 and clause (ii) of subparagraph (B) did not  
28 apply for that fiscal year, for that city, county, and city and county.

29 (ii) The product of the following two amounts:

30 (I) The amount described in clause (i).

31 (II) The percentage change from the prior fiscal year to the  
32 current fiscal year in gross taxable assessed valuation within the  
33 jurisdiction of the entity, as reflected in the equalized assessment  
34 roll for those fiscal years. For the first fiscal year for which a  
35 change in a city's jurisdictional boundaries first applies, the  
36 percentage change in gross taxable assessed valuation from the  
37 prior fiscal year to the current fiscal year shall be calculated solely  
38 on the basis of the city's previous jurisdictional boundaries, without  
39 regard to the change in that city's jurisdictional boundaries. For  
40 each following fiscal year, the percentage change in gross taxable

1 assessed valuation from the prior fiscal year to the current fiscal  
2 year shall be calculated on the basis of the city's current  
3 jurisdictional boundaries.

4 (2) Notwithstanding paragraph (1), "vehicle license fee  
5 adjustment amount," for a city incorporating after January 1,  
6 2004, and on or before January 1, 2012, means the following:

7 (A) For the 2017–18 fiscal year, the quotient derived from the  
8 following fraction:

9 (i) The numerator is the product of the following two amounts:

10 (I) The sum of the most recent vehicle license fee adjustment  
11 amounts determined for all cities in the county.

12 (II) The population of the incorporating city.

13 (ii) The denominator is the sum of the populations of all cities  
14 in the county.

15 (B) For the 2018–19 fiscal year, and for each fiscal year  
16 thereafter, the sum of the following two amounts:

17 (i) The vehicle license fee adjustment amount for the prior fiscal  
18 year.

19 (ii) The product of the following two amounts:

20 (I) The amount described in clause (i).

21 (II) The percentage change from the prior fiscal year to the  
22 current fiscal year in gross taxable assessed valuation within the  
23 jurisdiction of the entity, as reflected in the equalized assessment  
24 roll for those fiscal years.

25 ~~(2)~~

26 (3) For the 2013–14 fiscal year, the vehicle license fee  
27 adjustment amount that is determined under subparagraph (C) of  
28 paragraph (1) for the County of Orange shall be increased by  
29 fifty-three million dollars (\$53,000,000). For the 2014–15 fiscal  
30 year and each fiscal year thereafter, the calculation of the vehicle  
31 license fee adjustment amount for the County of Orange under  
32 subparagraph (C) of paragraph (1) shall be based on a prior fiscal  
33 year amount that reflects the full amount of this one-time increase  
34 of fifty-three million dollars (\$53,000,000).

35 ~~(3)~~

36 (4) "Countywide vehicle license fee adjustment amount" means,  
37 for any fiscal year, the total sum of the amounts described in  
38 paragraphs ~~(1)~~ (1), (2), and ~~(2)~~ (3) for a county or city and county,  
39 and each city in the county.

40 ~~(4)~~

1 (5) On or before June 30 of each fiscal year, the auditor shall  
2 report to the Controller the vehicle license fee adjustment amount  
3 for the county and each city in the county for that fiscal year.

4 (d) For the 2005–06 fiscal year and each fiscal year thereafter,  
5 the amounts determined under subdivision (a) of Section 96.1, or  
6 any successor to that provision, shall not reflect, for a preceding  
7 fiscal year, any portion of any allocation required by this section.

8 (e) For purposes of Section 15 of Article XI of the California  
9 Constitution, the allocations from a Vehicle License Fee Property  
10 Tax Compensation Fund constitute successor taxes that are  
11 otherwise required to be allocated to counties and cities, and as  
12 successor taxes, the obligation to make those transfers as required  
13 by this section shall not be extinguished nor disregarded in any  
14 manner that adversely affects the security of, or the ability of, a  
15 county or city to pay the principal and interest on any debts or  
16 obligations that were funded or secured by that city's or county's  
17 allocated share of motor vehicle license fee revenues.

18 (f) This section shall not be construed to do any of the following:

19 (1) Reduce any allocations of excess, additional, or remaining  
20 funds that would otherwise have been allocated to county  
21 superintendents of schools, cities, counties, and cities and counties  
22 pursuant to clause (i) of subparagraph (B) of paragraph (4) of  
23 subdivision (d) of Sections 97.2 and 97.3 or Article 4 (commencing  
24 with Section 98) had this section not been enacted. The allocations  
25 required by this section shall be adjusted to comply with this  
26 paragraph.

27 (2) Require an increased ad valorem property tax revenue  
28 allocation or increased tax increment allocation to a community  
29 redevelopment agency.

30 (3) Alter the manner in which ad valorem property tax revenue  
31 growth from fiscal year to fiscal year is otherwise determined or  
32 allocated in a county.

33 (4) Reduce ad valorem property tax revenue allocations required  
34 under Article 4 (commencing with Section 98).

35 (g) Tax exchange or revenue sharing agreements, entered into  
36 prior to the operative date of this section, between local agencies  
37 or between local agencies and nonlocal agencies are deemed to be  
38 modified to account for the reduced vehicle license fee revenues  
39 resulting from the act that added this section. These agreements  
40 are modified in that these reduced revenues are, in kind and in lieu

1 thereof, replaced with ad valorem property tax revenue from a  
2 Vehicle License Fee Property Tax Compensation Fund or an  
3 Educational Revenue Augmentation Fund.

4 SEC. 2. If the Commission on State Mandates determines that  
5 this act contains costs mandated by the state, reimbursement to  
6 local agencies and school districts for those costs shall be made  
7 pursuant to Part 7 (commencing with Section 17500) of Division  
8 4 of Title 2 of the Government Code.

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AMENDED IN SENATE MARCH 20, 2017

**SENATE BILL**

**No. 39**

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**Introduced by Senator Roth**

*(Principal coauthors: Assembly Members Cervantes and Obernolte)*

*(Coauthor: Assembly Member Rodriguez)*

December 5, 2016

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An act to add Section 69614.5 to the Government Code, relating to judgeships.

LEGISLATIVE COUNSEL'S DIGEST

SB 39, as amended, Roth. Suspension and allocation of judgeships.

Existing law specifies the number of judges for the superior court of each county. Existing law allocates additional judgeships to the various counties in accordance with uniform standards for factually determining additional judicial need in each county, as updated and approved by the Judicial Council, pursuant to the Update of Judicial Needs Study, based on specified criteria, including, among others, workload standards that represent the average amount of time of bench and nonbench work required to resolve each case type.

This bill would require the suspension of 4 vacant judgeships, as defined, in superior courts with more authorized judgeships than their assessed judicial need. The bill would require the allocation of 4 judgeships to superior courts with fewer authorized judgeships than their assessed judicial need and would require the judgeships to be funded using existing appropriations for the compensation of superior court judges. The bill would require the suspension to be in accordance with a methodology approved by the Judicial Council, as specified, and would require the determination of a superior court's assessed judicial need to be in accordance with the above uniform standards and be based



on the criteria described above. The bill would require the Judicial Council, if a vacant judgeship is eligible for suspension, to promptly notify the applicable courts, the Legislature, and the Governor that the judgeship will be suspended, subject to approval by the Governor.

This bill would also make a statement of legislative intent regarding the authority of the Legislature, the Governor, and the Chief Justice of California.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

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

1 SECTION 1. It is the intent of the Legislature that this act shall  
2 not be construed to limit any of the following:

3 (a) The authority of the Legislature to create and fund new  
4 judgeships pursuant to Section 4 of Article VI of the California  
5 Constitution.

6 (b) The authority of the Governor to appoint a person to fill a  
7 vacancy pursuant to subdivision (c) of Section 16 of Article VI of  
8 the California Constitution.

9 (c) The authority of the Chief Justice of California to assign  
10 judges pursuant to subdivision (e) of Section 6 of Article VI of the  
11 California Constitution.

12 SEC. 2. Section 69614.5 is added to the Government Code, to  
13 read:

14 69614.5. (a) To provide for a more equitable distribution of  
15 judgeships, and pursuant to the requirements described in  
16 subdivision (d), both of the following actions shall occur:

17 (1) Four vacant judgeships shall be suspended in superior courts  
18 with more authorized judgeships than their assessed judicial need  
19 pursuant to subdivision (c).

20 (2) Four judgeships shall be allocated to superior courts with  
21 fewer authorized judgeships than their assessed judicial need  
22 pursuant to subdivision (c). The four judgeships shall be funded  
23 using existing appropriations for the compensation of superior  
24 court judges.

25 (b) The suspension of vacant judgeships pursuant to subdivision  
26 (a) shall be in accordance with a methodology approved by the  
27 Judicial Council after solicitation of public comments.

1 (c) The determination of a superior court's assessed judicial  
2 need shall be in accordance with the uniform standards for factually  
3 determining additional judicial need in each county, as updated  
4 and approved by the Judicial Council, pursuant to the Update of  
5 Judicial Needs Study, based on the criteria set forth in subdivision  
6 (b) of Section 69614.

7 (d) If a judgeship in a superior court becomes vacant, the Judicial  
8 Council shall determine whether the judgeship is eligible for  
9 suspension under the methodology, standards, and criteria  
10 described in subdivisions (b) and (c). If the judgeship is eligible  
11 for suspension, the Judicial Council shall promptly notify the  
12 applicable courts, the Legislature, and the Governor that the vacant  
13 judgeship shall be suspended, subject to approval by the Governor  
14 in compliance with subdivision (c) of Section 16 of Article VI of  
15 the California Constitution.

16 (e) (1) For purposes of this section only, a judgeship ~~shall~~  
17 ~~become~~ *is* "vacant" when an incumbent judge relinquishes the  
18 office through resignation, retirement, death, removal, or  
19 confirmation to an appellate court judgeship during either of the  
20 following:

21 (A) At any time before the deadline to file a declaration of  
22 intention to become a candidate for a judicial office pursuant to  
23 Section 8023 of the Elections Code.

24 (B) After the deadline to file a declaration of intention to become  
25 a candidate for a judicial office pursuant to Section 8023 of the  
26 Elections Code if no candidate submits qualifying nomination  
27 papers by the deadline pursuant to Section 8020 of the Elections  
28 Code.

29 (2) For purposes of this section, a judgeship ~~shall not become~~  
30 *is not* "vacant" when an incumbent judge relinquishes the office  
31 as a result of being defeated in an election for that office.

32 (f) For purposes of this section only, the "suspension" of a  
33 vacant judgeship means that the vacant judgeship may not be filled  
34 by appointment or election, notwithstanding any other law, unless  
35 an appropriation by the Legislature is made for the judgeship.

36 (g) A court in which a vacant judgeship is suspended shall not  
37 have the court's funding allocation reduced or any of its funding

- 1 shifted or transferred as a result of, or in connection with, the
- 2 suspension of a vacant judgeship pursuant to this section.

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**Introduced by Senator Allen**February 7, 2017

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An act to amend Sections 5090.10, 5090.11, 5090.15, 5090.24, 5090.30, 5090.31, 5090.32, 5090.34, 5090.35, 5090.43, 5090.60, 5090.61, and 5090.70 of, and to add Sections 5090.13, 5090.14, and 5090.39 to, the Public Resources Code, to amend Section 8352.6 of the Revenue and Taxation Code, and to amend Section 38225 of the Vehicle Code, relating to state parks, and declaring the urgency thereof, to take effect immediately.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 249, as introduced, Allen. Off-highway motor vehicle recreation.

(1) The Off-Highway Motor Vehicle Recreation Act of 2003 creates the Division of Off-Highway Motor Vehicle Recreation within the Department of Parks and Recreation. The act gives the division certain duties and responsibilities, including the planning, acquisition, development, conservation, and restoration of lands in state vehicular recreation areas. Existing law requires the division to develop and implement a grant and cooperative agreement program with other agencies funded from no more than  $\frac{1}{2}$  of the revenues in the Off-Highway Vehicle Trust Fund, with specified percentages of these revenues to be available, upon appropriation, for various purposes related to off-highway vehicles. Existing law requires the remaining revenues in the Off-Highway Vehicle Trust Fund to be available for the support of the division and for the planning, acquisition, development, construction, maintenance, administration, operation, restoration, and conservation of lands in state vehicular recreation areas and certain other areas. The act is repealed on January 1, 2018.

This bill would revise and recast various provisions of the act. The bill would expand the duties of the division by requiring it to, among other things, (1) prepare program and strategic planning reports regarding units of the state park system, as specified, (2) post on the department's Internet Web site all plans, reports, and studies developed pursuant to the act's provisions, as specified, (3) in consultation with specified bodies and departments, update the 2008 Soil Conservation Guidelines and Standards to establish a generic and measurable soil conservation standard by December 31, 2020, and update that standard every 5 years thereafter, (4) implement a monitoring program, as defined, to monitor the condition of soils, wildlife, and vegetation habitats in each state vehicular recreation area each year, as specified, and (5) identify and protect sensitive natural, cultural, and archaeological resources within state vehicular recreations areas as natural and cultural preserves closed to off-highway vehicle recreation use. The bill would require the division to take other specified measures to protect natural and cultural preserves within state vehicular recreation areas, including measures to mitigate harmful impacts to these areas and to protect them from off-highway vehicle recreation use, as specified. The bill would require the Director of Parks and Recreation to assemble a science advisory team to advise and assist the department and the division in meeting the natural and cultural resource conservation purposes of the act, as specified. The bill would also prohibit any expansion of an existing, or development of any new, state vehicular recreation area or allocation of grant program funds for new or expanded units of the system until the science advisory team completes its review and submits its recommendations to the department, and the department implements the recommendations. The bill would change the repeal date for the act to January 1, 2023, thereby extending the act's provisions until that date.

(2) Existing law, until January 1, 2018, creates the Off-Highway Vehicle Trust Fund. Existing law provides for deposit of various revenues in the fund, including a portion of gasoline excise tax revenues attributable to off-highway vehicle use and \$33 in annual special charges imposed, until January 1, 2018, on off-highway motor vehicles subject to identification, which charges are collected by the Department of Motor Vehicles. Existing law, until January 1, 2018, requires the moneys in the trust fund to be used for the Off-Highway Motor Vehicle Recreation Program. Existing law, until January 1, 2018, also requires an annual service fee of \$7 to be paid to the Department of Motor

Vehicles for deposit in the Motor Vehicle Account for the issuance or renewal of identification of off-highway motor vehicles.

This bill would extend the Off-Highway Vehicle Trust Fund until January 1, 2023, and would also similarly extend the \$33 annual special charge and the \$7 identification fee.

(3) Existing law requires any money temporarily transferred from the Off-Highway Vehicle Trust Fund to the General Fund to be reimbursed, without interest, within 2 fiscal years of the transfer.

This bill would delete this provision.

(4) Existing law imposes an excise tax on gasoline. Existing law requires a portion of the moneys attributable to the excise tax on gasoline related to specified off-highway motor vehicles and off-highway vehicle activities to be transferred monthly from the Motor Vehicle Fuel Account to the Off-Highway Vehicle Trust Fund. Existing law requires the amount of money transferred to be based upon the percentage of total fuel tax revenues transferred for this purpose in the 2006–07 fiscal year, but authorizes the Department of Transportation, in cooperation with the Department of Parks and Recreation and the Department of Motor Vehicles, to adjust the amount transferred every 5 years, beginning in the 2013–14 fiscal year. Existing law specifies the factors to be considered in making an adjustment from the 2006–07 fiscal year baseline, including the number of off-highway vehicles paying identification fees, the number of registered street-legal vehicles anticipated to be used off highway, attendance at state vehicular recreation areas, and off-highway recreation use on federal lands.

This bill would revise the method of calculating the gasoline excise taxes attributable to off-highway vehicle use. The bill would require an estimate to be made every 5 years of gasoline excise tax revenue paid by motor vehicles when actually used off highway for motorized recreation and by motor vehicles when actually used off highway to access nonmotorized recreation. The bill would delete the use of factors based on vehicle populations and attendance at state vehicular recreation areas. The bill would delete the reference to the 2006–07 fiscal year baseline.

This bill would initially require these fuel taxes to be transferred to the State Parks and Recreation Fund. The bill would require the Director of the Department of Parks and Recreation, in consultation with the State Park and Recreation Commission, to include, in the annual budget submitted by the Governor to the Legislature, a proposed allocation of fuel taxes for the purposes of the department, including support for state

parcs and the Off-Highway Motor Vehicle Recreation Program. The bill, upon enactment of the Budget Act, would require the portion of fuel tax revenues allocated by the Budget Act for purposes of the Off-Highway Motor Vehicle Recreation Program to be transferred to the Off-Highway Vehicle Trust Fund. The bill would make statements of legislative intent in this regard.

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

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

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

1 SECTION 1. Section 5090.10 of the Public Resources Code  
2 is amended to read:

3 5090.10. "Conservation"—~~means~~ and "conserve" mean  
4 activities, practices, and programs that *protect and* sustain soils,  
5 plants, wildlife, ~~and their habitat~~ *habitats, and cultural resources*  
6 in accordance with the standards adopted pursuant to Section  
7 5090.35.

8 SEC. 2. Section 5090.11 of the Public Resources Code is  
9 amended to read:

10 5090.11. "Restoration"—~~means~~, and "restore" mean, upon  
11 closure of the unit or any portion thereof, the restoration of land  
12 to the contours, the plant communities, and the plant covers  
13 comparable to those on surrounding lands or at least those that  
14 existed prior to off-highway motor vehicle use.

15 SEC. 3. Section 5090.13 is added to the Public Resources Code,  
16 to read:

17 5090.13. "Monitoring program" means a program adopted by  
18 the department that provides periodic evaluations of monitoring  
19 results to assess the adequacy of conservation and restoration  
20 actions to inform adaptive management strategies. A monitoring  
21 program includes, but is not limited to, all of the following at each  
22 individual system unit:

23 (a) Surveys to determine the status of natural and cultural  
24 resources.

25 (b) Periodic assessments of the effectiveness of protection and  
26 restoration measures currently in place.

1 (c) Progress reports on the implementation of conservation and  
2 restoration measures, the designation and management of cultural  
3 and natural preserves, and alternative management strategies.

4 (d) A schedule for conducting monitoring activities.

5 SEC. 4. Section 5090.14 is added to the Public Resources Code,  
6 to read:

7 5090.14. "Adaptive management" means to use the results of  
8 information gathered through a monitoring program or scientific  
9 research and regulatory standards to adjust management strategies  
10 and practices at individual system units to ensure conservation and  
11 protection of natural and cultural resources.

12 SEC. 5. Section 5090.15 of the Public Resources Code is  
13 amended to read:

14 5090.15. (a) There is in the department the Off-Highway Motor  
15 Vehicle Recreation Commission, consisting of nine members, five  
16 of whom shall be appointed by the Governor and subject to Senate  
17 confirmation, two of whom shall be appointed by the Senate  
18 Committee on Rules, and two of whom shall be appointed by the  
19 Speaker of the Assembly.

20 (b) ~~In order to be~~ *Persons* appointed to the ~~commission, a~~  
21 ~~nominee shall represent one or more of the following groups:~~  
22 *commission shall have expertise, or work or volunteer experience,*  
23 *or both, in one or more of the following areas:*

24 (1) ~~Off-highway vehicle recreation interests:~~ *recreation.*

25 (2) ~~Biological or soil scientists:~~ *sciences.*

26 (3) ~~Groups or associations of predominantly rural landowners:~~

27 (3) *The legal and practical aspects of rural landownership and*  
28 *management.*

29 (4) Law enforcement.

30 (5) ~~Environmental protection organizations:~~ *and cultural*  
31 *resource protection.*

32 (6) ~~Nonmotorized recreation interests:~~ *outdoors recreation.*

33 ~~H~~

34 (c) *It is the intent of the Legislature that appointees to the*  
35 *commission represent all of the groups primary qualifications*  
36 *delineated in paragraphs (1) to (6); (6) of subdivision (b), inclusive,*  
37 *to the extent possible: possible, at all times and that no more than*  
38 *two commissioners may serve under the same qualification at any*  
39 *time.*



1 ~~(e) Whenever a reference is made to the State Park and~~  
2 ~~Recreation Commission pertaining to a duty, power, purpose,~~  
3 ~~responsibility, or jurisdiction of the State Park and Recreation~~  
4 ~~Commission with respect to the state vehicular recreation areas,~~  
5 ~~as established by this chapter, it is a reference to, and means, the~~  
6 ~~Off-Highway Motor Vehicle Recreation Commission.~~

7 SEC. 6. Section 5090.24 of the Public Resources Code is  
8 amended to read:

9 5090.24. The commission has the following ~~particular~~ duties  
10 and responsibilities:

11 (a) Be fully informed regarding all governmental activities  
12 affecting the program.

13 (b) ~~Meet at least four times per year periodically~~ at various  
14 locations throughout the state to receive comments on the  
15 implementation of the program. Establish an annual calendar of  
16 proposed meetings at the beginning of each calendar year. ~~The~~  
17 ~~meetings shall include a public meeting, before the beginning of~~  
18 ~~each grant program cycle, to collect public input concerning the~~  
19 ~~program, recommendations for program improvements, and~~  
20 ~~specific project needs for the system.~~

21 (c) ~~Hold a public hearing to receive~~ *Receive* public comment  
22 regarding any proposed substantial acquisition or development  
23 project at a location in close geographic proximity to the ~~project,~~  
24 ~~unless a hearing consistent with federal law or regulation has~~  
25 ~~already been held regarding the project.~~ *project.*

26 (d) Consider, upon the request of any owner or tenant, whose  
27 property is in the vicinity of any land in the system, any ~~alleged~~  
28 adverse impacts occurring on that person's property from the  
29 operation of off-highway motor vehicles and recommend to the  
30 division suitable measures for the prevention of any adverse impact  
31 determined by the commission to be occurring, and suitable  
32 measures for the restoration of adversely impacted property.

33 (e) Review and comment annually to the director on the  
34 proposed budget of expenditures from the fund.

35 (f) Review *and comment on* all plans for new and expanded  
36 local and regional vehicle recreation areas that have applied for  
37 grant funds.

38 (g) Review and comment on ~~the strategic plan~~ *plans periodically*  
39 developed by the ~~division pursuant to Section 5090.32.~~ *division.*

1 (h) Prepare and submit a program report to the Governor, the  
2 Assembly Water, Parks, and Wildlife Committee, the Senate  
3 Committee on Natural Resources and Water, and the Committee  
4 on Appropriations of each house on or before January 1, 2011,  
5 and every three years thereafter. The report shall be adopted by  
6 the commission after discussing the contents during two or more  
7 public meetings. The report shall address the status of the program  
8 and off-highway motor vehicle recreation, including all of the  
9 following:

10 (1) The results of the strategic planning process completed  
11 pursuant to subdivision (f) of Section 5090.32.

12 (2) The condition of natural and cultural resources of areas and  
13 trails receiving state off-highway motor vehicle funds and the  
14 resolution of conflicts of use in those areas and trails.

15 (3) The status and accomplishments of funds appropriated for  
16 restoration pursuant to paragraph (2) of subdivision (b) of Section  
17 5090.50.

18 (4) A summary of resource monitoring data compiled and  
19 restoration work completed.

20 (5) Actions taken by the division and department since the last  
21 program report to discourage and decrease trespass of off-highway  
22 motor vehicles on private property.

23 (6) Other relevant program-related environmental issues that  
24 have arisen since the last program report.

25 (h) Make other recommendations to the deputy director  
26 regarding the off-highway motor vehicle recreation program.

27 SEC. 7. Section 5090.30 of the Public Resources Code is  
28 amended to read:

29 5090.30. There is in the department the Division of  
30 Off-Highway Motor Vehicle Recreation. Whenever any reference  
31 is made to the Office of Off-Highway Motor Vehicle Recreation,  
32 it shall be deemed to be a reference to, and to mean, the division.  
33 Section 507.1 does not apply to the division.

34 SEC. 8. Section 5090.31 of the Public Resources Code is  
35 amended to read:

36 5090.31. The division shall be under the direction of a deputy  
37 director appointed by the director. The deputy director shall have  
38 no responsibilities other than directing and managing the division  
39 and the program. *director. The deputy director shall be part of the*  
40 *department's management team.*

1 SEC. 9. Section 5090.32 of the Public Resources Code is  
2 amended to read:

3 5090.32. ~~The~~ *Under the general direction of the department,*  
4 *the division has the following duties and responsibilities:*

5 (a) Planning, acquisition, development, conservation, and  
6 restoration of lands in the state vehicular recreation areas.

7 (b) Direct management, maintenance, administration, and  
8 operation of lands in the state vehicular recreation areas.

9 (c) Provide for law enforcement and appropriate public safety  
10 activities.

11 (d) Implementation of all aspects of the program.

12 (e) Ensure program compliance with the California  
13 Environmental Quality Act (Division 13 (commencing with Section  
14 21000)) in state vehicular recreation areas.

15 (f) Provide staff assistance to the commission.

16 (g) ~~Prepare and implement~~ *Prepare, implement, and periodically*  
17 *update plans for lands in, or proposed to be included in, state*  
18 *vehicular recreation areas, including new state vehicular recreation*  
19 *areas. However, a plan shall need not be prepared or updated in*  
20 *any instance specified in subdivision (c) of Section 5002.2: 5002.2,*  
21 *except for unauthorized or otherwise unintended off-highway trails*  
22 *or expansion areas, which shall not be considered an existing*  
23 *facility or use under this section.*

24 (h) Conduct, or cause to be conducted, surveys, and prepare, or  
25 cause to be prepared, studies that are necessary or desirable for  
26 implementing the program.

27 (i) Recruit and utilize volunteers to further the objectives of the  
28 program.

29 (j) Prepare and coordinate safety and education programs.

30 (k) Provide for the enforcement of Division 16.5 (commencing  
31 with Section 38000) of the Vehicle Code and other laws regulating  
32 the use or equipment of off-highway motor vehicles in all areas  
33 acquired, maintained, or operated by funds from the fund; however,  
34 the Department of the California Highway Patrol shall have  
35 responsibility for enforcement on highways.

36 ~~(l) Complete by January 1, 2009, a strategic planning process~~  
37 ~~that will identify future off-highway motor vehicle recreational~~  
38 ~~needs, including, but not limited to, potential off-highway motor~~  
39 ~~vehicle parks in urban areas to properly direct vehicle operators~~  
40 ~~away from illegal or environmentally sensitive areas. This strategic~~

1 ~~planning process shall take into consideration, at a minimum,~~  
2 ~~environmental constraints, infrastructure requirements,~~  
3 ~~demographic limitations, and local, state, and federal land use~~  
4 ~~planning processes. The strategic plan shall be reviewed by the~~  
5 ~~commission and updated periodically.~~

6 *(l) Ensure protection of natural and cultural resources,*  
7 *including by setting unit capacity limits pursuant to Sections*  
8 *5001.96 and 5019.5.*

9 *(m) Prepare program and strategic planning reports, including*  
10 *annually reporting the number and type of injuries and accidents*  
11 *and the number and type of citations and other enforcement actions*  
12 *taken at system units, disaggregated by individual unit.*

13 *(n) Post on the department's Internet Web site all plans, reports,*  
14 *and studies developed pursuant to this chapter, including those*  
15 *regarding conservation, restoration, monitoring, and adaptive*  
16 *management of system units, disaggregated by individual unit.*

17 *(o) Complete other duties as determined by the director.*

18 SEC. 10. Section 5090.34 of the Public Resources Code is  
19 amended to read:

20 5090.34. (a) In cooperation with the commission, the division  
21 shall make available on the division's Internet Web site information  
22 regarding off-highway motor vehicle recreation opportunities,  
23 pertinent laws and regulations, and responsible use of the system.  
24 At a minimum, the Web site shall include the following:

25 (1) The text of laws and regulations relating to the program and  
26 operation of off-highway vehicles.

27 (2) A statewide map and regional maps of federal, state, and  
28 local off-highway vehicle recreation areas and facilities in the  
29 state, including links to maps of federal off-highway vehicle routes  
30 resulting from the route designation process.

31 (3) Information concerning safety, education, and trail etiquette.

32 (4) Information to prevent trespass, damage to public and private  
33 property, and damage to natural resources, including penalties and  
34 liability associated with trespass and damage caused.

35 (b) The division shall ~~create~~ *create, and make available for*  
36 *distribution*, a guidebook of federal, state, and local off-highway  
37 vehicle recreation opportunities that includes contact information  
38 where current specific maps and information for each facility can  
39 be located. Contact information may include *Internet* Web site  
40 addresses, telephone numbers, and addresses of offices where maps

1 can be accessed. The guidebook shall also include the address of  
2 the *Internet* Web site where the information in subdivision (a) may  
3 be found.

4 ~~(c) The division shall work with retailers of off-highway motor  
5 vehicles and off-highway recreation associations to distribute the  
6 guidebook developed under subdivision (b) and to increase  
7 awareness of the resources available on the division's Internet  
8 Web site.~~

9 SEC. 11. Section 5090.35 of the Public Resources Code is  
10 amended to read:

11 5090.35. (a) The protection of public safety, the appropriate  
12 utilization of lands, and the conservation of ~~land~~ *natural and*  
13 *cultural* resources are of the highest priority in the management  
14 of the state vehicular recreation ~~areas; and, accordingly, areas.~~  
15 *Accordingly*, the division shall ~~promptly repair and continuously~~  
16 ~~maintain areas and trails, anticipate and prevent accelerated and~~  
17 ~~unnatural erosion, and restore lands damaged by erosion to the~~  
18 ~~extent possible: take steps necessary to prevent damage to natural~~  
19 ~~and cultural resources in these areas. When damage occurs in a~~  
20 ~~state vehicular recreation area that is inconsistent with natural~~  
21 ~~and cultural resources protection plans, the division shall promptly~~  
22 ~~close the area. That area shall remain closed until it is repaired~~  
23 ~~and restored and effective adaptive management measures are~~  
24 ~~implemented to prevent repeated or continuous damage. The area~~  
25 ~~shall be permanently closed if repeated or continuous damage~~  
26 ~~cannot be prevented.~~

27 (b) (1) The division, in consultation with the United States  
28 Natural Resource Conservation Service, the United States  
29 Geological Survey, the United States Forest Service, the United  
30 States Bureau of Land Management, *the United States Fish and*  
31 *Wildlife Service, the California Department of Fish and Wildlife,*  
32 and the California Department of Conservation shall update the  
33 ~~1991~~ 2008 Soil Conservation Guidelines and Standards to establish  
34 a generic and measurable soil ~~conservation~~ *conservation*, standard  
35 by March 1, 2006, at least sufficient to allow restoration of  
36 off-highway motor vehicle areas and trails. ~~The 1991 Soil~~  
37 ~~Conservation Guidelines and Standards shall remain in effect until~~  
38 ~~they are updated pursuant to this subdivision. December 31, 2020,~~  
39 ~~and shall update the standard at least every five years thereafter.~~

1     (2) ~~Upon a determination~~ *If the division determines* that the soil  
2 conservation standards and habitat protection plans are not being  
3 met in any portion of any state vehicular recreation ~~area area~~, the  
4 division shall ~~temporarily close and restore~~ the noncompliant  
5 portion ~~to repair and prevent accelerated erosion, until the soil~~  
6 ~~conservation standards are met.~~ *pursuant to subdivision (a).*

7     (3) ~~Upon a determination~~ *If the division determines* that the soil  
8 conservation standards cannot be met in any portion of any state  
9 vehicular recreation ~~area area~~, the division shall *permanently close*  
10 ~~and restore~~ the noncompliant portion ~~pursuant to Section 5090.11.~~  
11 *pursuant to subdivision (a).*

12     (c) (1) The division shall ~~make compile, and update at least~~  
13 *every five years thereafter*, an inventory of wildlife ~~populations~~  
14 ~~and their and native plant populations, including wildlife habitats~~  
15 ~~and vegetation communities~~ in each state vehicular recreation area  
16 and shall prepare a wildlife habitat protection ~~program plan~~ to  
17 ~~sustain conserve~~ a viable species composition specific to each state  
18 vehicular recreation area ~~by July 1, 1989.~~ *consistent with*  
19 *recommendations of the science advisory team established pursuant*  
20 *to Section 5090.39.*

21     (2) If the division determines that the *wildlife* habitat protection  
22 ~~program plan~~ is not being met in any portion of any state vehicular  
23 recreation area, the division shall close *and restore* the  
24 noncompliant portion ~~temporarily until the habitat protection~~  
25 ~~program is met.~~ *pursuant to subdivision (a).*

26     (3) If the division determines that the *wildlife* habitat protection  
27 ~~program plan~~ cannot be met in any portion of any state vehicular  
28 recreation area, the division shall *permanently close and restore*  
29 ~~that the~~ noncompliant portion ~~pursuant to Section 5090.11.~~  
30 *pursuant to subdivision (a).*

31     (d) The division shall *implement a monitoring program to*  
32 *monitor the condition of soils and wildlife habitat soils, wildlife,*  
33 *and vegetation habitats* in each state vehicular recreation area each  
34 year in order to determine whether the soil conservation standards  
35 and *wildlife* habitat protection ~~programs plans~~ are being met.

36     (e) The division shall not fund trail construction unless the trail  
37 is capable of complying with the conservation specifications  
38 prescribed in subdivisions (b) and (c). The division shall not fund  
39 trail construction where conservation is not feasible.

1 (f) The division shall ~~monitor~~ *identify* and protect ~~cultural and~~  
2 *sensitive natural, cultural, and* archaeological resources within  
3 the state vehicular recreation ~~areas~~. *areas as natural and cultural*  
4 *preserves closed to off-highway vehicle recreation use.*

5 SEC. 12. Section 5090.39 is added to the Public Resources  
6 Code, to read:

7 5090.39. (a) The director shall assemble a science advisory  
8 team to advise and assist the department and the division in meeting  
9 the natural and cultural resource conservation purposes of this  
10 chapter. At the request of the director, the science advisory team  
11 shall convene to identify, develop, and prioritize pertinent subjects  
12 for investigation and review, compile the best readily available  
13 and applicable scientific information, and describe the gaps in that  
14 information, if any.

15 (b) The science advisory team shall be composed of the  
16 following:

17 (1) Staff from the department, the Department of Fish and  
18 Wildlife, the Department of Conservation, and the State Water  
19 Resources Control Board.

20 (2) Staff from appropriate federal agencies to the extent that  
21 they are able to participate.

22 (3) Five to seven members who are scientists with expertise in  
23 soils, geomorphology, natural resource conservation, biology,  
24 botany, ecology, historical and cultural resources, or land use  
25 management systems. These members should also be familiar with  
26 off-highway motor vehicle recreation.

27 (c) Meetings of the science advisory team shall be open to the  
28 public and the public shall be given an opportunity to comment  
29 on the work of the team. The team shall consider relevant  
30 information from local communities, public agencies, public and  
31 nonprofit land management agencies, and other interested parties  
32 at its meetings.

33 (d) Among other subjects, as determined by the science advisory  
34 team or the director, the team shall investigate and, using the best  
35 available science, make recommendations to the department  
36 regarding all of the following:

37 (1) The soil conservation standards and measures necessary to  
38 avoid erosion damage.

1 (2) Habitat and wildlife assessment protocols appropriate to  
2 ensure accurate inventories of natural resources at every individual  
3 system unit.

4 (3) Habitat protection standards necessary for the protection,  
5 conservation, and restoration of natural and cultural resources,  
6 including sensitive species.

7 (4) Monitoring, evaluation, and corrective action practices  
8 necessary to support necessary adaptive management changes in  
9 response to reasonably foreseen events and unforeseen  
10 circumstances at individual system units.

11 (e) The science advisory team shall consider and recommend  
12 actions to ensure consistency in the management of system units  
13 with other resource protection plans, including, but not limited to,  
14 the state wildlife action plan, natural community conservation  
15 plans, regional conservation investment strategies, wildlife corridor  
16 plans, and other regional land use and resource conservation plans.

17 (f) The science advisory team shall complete its initial review  
18 and submit recommendations to the director by no later than July  
19 1, 2020.

20 SEC. 13. Section 5090.43 of the Public Resources Code is  
21 amended to read:

22 ~~5090.43. (a) State vehicular recreation areas shall be~~  
23 ~~established on lands where there are quality recreational~~  
24 ~~opportunities for off-highway motor vehicles and in accordance~~  
25 ~~with the requirements of Section 5090.35. Areas shall be~~  
26 ~~developed, managed, and operated for the purpose of making the~~  
27 ~~fullest public use of the outdoor recreational opportunities present.~~  
28 ~~The natural and cultural elements of the environment may be~~  
29 ~~managed or modified to enhance the recreational experience~~  
30 ~~consistent with the requirements of Section 5090.35.~~

31 ~~(b) Lands for state vehicular recreation areas shall be selected~~  
32 ~~for acquisition so as to minimize the need for establishing sensitive~~  
33 ~~areas.~~

34 ~~(c) After January 1, 1988, no new~~

35 *5090.43. (a) Lands for state vehicular recreation areas shall*  
36 *be selected to avoid or minimize impacts to natural or cultural*  
37 *resources.*

38 *(b) All unavoidable impacts to natural or cultural resources in*  
39 *new, expanded, and existing state vehicular recreation areas shall*  
40 *be mitigated to a level of insignificance by implementing*



1 appropriate mitigation measures, including permanently protecting  
2 lands that provide comparable natural and cultural resources and  
3 values. Section 21081 does not apply to establishing new, or  
4 expanding existing, state vehicular recreation areas. State  
5 vehicular recreation areas shall incorporate all mitigation and  
6 permit recommendations or requirements of the Department of  
7 Fish and Wildlife and the United States Fish and Wildlife Service.

8 (c) The use of funds from the Off-Highway Vehicle Trust Fund  
9 or any other source to purchase land for a state vehicular  
10 recreation area shall not predetermine that the land is appropriate  
11 for off-highway vehicle recreation.

12 (d) To ensure consistent protection of natural and cultural  
13 resources across all state parks, including state vehicular  
14 recreation areas, cultural or natural preserves or state wildernesses  
15 shall be established within state vehicular recreation areas. ~~To~~  
16 ~~protect natural and cultural values, sensitive areas within state~~  
17 ~~vehicular recreation areas may be designated by the division if the~~  
18 ~~Off-Highway Motor Vehicle Recreation Commission holds a public~~  
19 ~~hearing and makes a recommendation therefor. These sensitive~~  
20 areas shall be managed by the division in accordance with Sections  
21 5019.71 and 5019.74, which define the purpose and management  
22 of natural and cultural preserves.

23 If

24 (e) If off-highway motor vehicle use results in damage to any  
25 natural or cultural values, ~~preserve or values protected therein,~~  
26 appropriate measures shall be promptly taken to protect these lands  
27 from any further damage. ~~These measures may include the erection~~  
28 ~~of physical barriers and shall include the restoration of natural~~  
29 ~~resources and the repair of damage to cultural resources. damage,~~  
30 ~~restore damaged lands, and take measures to prevent future~~  
31 ~~damage, including the erection of physical barriers.~~

32 SEC. 14. Section 5090.60 of the Public Resources Code is  
33 amended to read:

34 5090.60. The fund consists of deposits from the following  
35 sources:

36 (a) Revenues from fuel taxes transferred from the Motor Vehicle  
37 Fuel Account in the Transportation Tax Fund. State Parks and  
38 Recreation Fund, pursuant to subdivision (b) of Section 8352.6 of  
39 the Revenue and Taxation Code.

1 (b) Fees paid pursuant to subdivision (b) of Section 38225 of  
2 the Vehicle Code.

3 (c) Unexpended service fees.

4 (d) Fees and other proceeds collected at state vehicular  
5 recreation areas, as provided in subdivision (c) of Section 5010.

6 (e) Reimbursements.

7 (f) Revenues and income from any other source required by law  
8 to be deposited in the fund.

9 SEC. 15. Section 5090.61 of the Public Resources Code is  
10 amended to read:

11 5090.61. Moneys in the fund shall be available, upon  
12 appropriation by the Legislature, as follows:

13 (a) An amount, not to exceed 50 percent of the annual revenues  
14 to the fund, shall be available for grants and cooperative agreements  
15 pursuant to Article 5 (commencing with Section 5090.50).

16 (b) (1) The remainder of the annual revenues to the fund shall  
17 be available for the support of the division in implementing the  
18 off-highway motor vehicle recreation program and for the planning,  
19 acquisition, development, *mitigation*, construction, maintenance,  
20 administration, operation, restoration, and conservation of lands  
21 in the system.

22 (2) As used in this subdivision, "support of the division"  
23 includes functions performed outside of the division by others on  
24 behalf of the division, including *a prorated share of the*  
25 *department's common overhead and other costs* incurred on behalf  
26 of the division for personnel management and training, accounting,  
27 and fiscal analysis, records, purchasing, public information  
28 activities, consultation of professional scientists and reclamation  
29 experts for the purposes of Section 5090.35, and legal services.  
30 ~~"Support of the division" does not include costs incurred by, or~~  
31 ~~attributable to, the director or the director's immediate staff, or~~  
32 ~~their salaries.~~

33 SEC. 16. Section 5090.70 of the Public Resources Code is  
34 amended to read:

35 5090.70. (a) This chapter shall remain in effect only until  
36 January 1, ~~2018~~, 2023, and as of that date is repealed, unless a  
37 later enacted ~~statute~~, *statute* that is enacted before January 1, ~~2018~~,  
38 2023, deletes or extends that date.

39 (b) *No expansion of an existing, or development of any new,*  
40 *state vehicular recreation area or allocation of grant program*

1 *funds for new or expanded units of the system shall be undertaken*  
2 *or approved until the science advisory team completes its initial*  
3 *review and submits its recommendation to the department, pursuant*  
4 *to Section 5090.39, and the department implements the team's*  
5 *recommendations.*

6 SEC. 17. Section 8352.6 of the Revenue and Taxation Code  
7 is amended to read:

8 8352.6. (a) (1) Subject to Section 8352.1, and except as  
9 otherwise provided in paragraphs (2) and (3), on the first day of  
10 every month, there shall be transferred from moneys deposited to  
11 the credit of the Motor Vehicle Fuel Account to the ~~Off-Highway~~  
12 ~~Vehicle Trust~~ *State Parks and Recreation* Fund created by Section  
13 ~~38225 5010~~ of the ~~Vehicle~~ *Public Resources* Code an amount  
14 attributable to taxes imposed upon distributions of motor vehicle  
15 fuel used in the operation of motor vehicles off highway and for  
16 which a refund has not been claimed. Transfers made pursuant to  
17 this section shall be made prior to transfers pursuant to Section  
18 8352.2.

19 (2) ~~Commencing July 1, 2012, the~~ *The* revenues attributable to  
20 the taxes imposed pursuant to subdivision (b) of Section 7360 ~~and~~  
21 ~~Section 7361.1~~ and otherwise to be deposited in the ~~Off-Highway~~  
22 ~~Vehicle Trust~~ *State Parks and Recreation* Fund pursuant to  
23 paragraph (1) shall instead be transferred to the General Fund. ~~The~~  
24 ~~revenues attributable to the taxes imposed pursuant to subdivision~~  
25 ~~(b) of Section 7360 and Section 7361.1 that were deposited in the~~  
26 ~~Off-Highway Vehicle Trust Fund in the 2010-11 and 2011-12~~  
27 ~~fiscal years shall be transferred to the General Fund.~~

28 (3) The Controller shall withhold eight hundred thirty-three  
29 thousand dollars (\$833,000) from the monthly transfer to the  
30 ~~Off-Highway Vehicle Trust~~ *State Parks and Recreation* Fund  
31 pursuant to paragraph (1), and transfer that amount to the General  
32 Fund.

33 (b) *The Director of Parks and Recreation, in consultation with*  
34 *the State Park and Recreation Commission, shall include, in the*  
35 *annual budget to be submitted by the Governor to the Legislature,*  
36 *a proposed allocation of fuel taxes transferred to the State Parks*  
37 *and Recreation Fund pursuant to this section for the purposes of*  
38 *the department, including support for state parks and the*  
39 *Off-Highway Motor Vehicle Recreation Program established*  
40 *pursuant to Chapter 1.25 (commencing with Section 5090.01) of*

1 *Division 5 of the Public Resources Code. Upon enactment of the*  
2 *Budget Act, moneys to be allocated pursuant to the budget for the*  
3 *purposes of the Off-Highway Motor Vehicle Recreation Program*  
4 *shall be transferred to the Off-Highway Vehicle Trust Fund created*  
5 *by Section 38225 of the Vehicle Code.*

6 ~~(b)~~

7 ~~(c) The amount transferred to the Off-Highway Vehicle Trust~~  
8 ~~Fund pursuant to paragraph (1) of subdivision (a), as a percentage~~  
9 ~~of the Motor Vehicle Fuel Account, (a) shall be equal to the~~  
10 ~~percentage transferred in the 2006-07 fiscal year. Every five years,~~  
11 ~~starting in the 2013-14 fiscal year, the percentage transferred may~~  
12 ~~be adjusted by the Department of Transportation in cooperation~~  
13 ~~with the Department of Parks and Recreation and the Department~~  
14 ~~of Motor Vehicles. Adjustments shall be based on, but not limited~~  
15 ~~to, the changes in the following factors since the 2006-07 fiscal~~  
16 ~~year or the last adjustment, whichever is more recent: motor vehicle~~  
17 ~~fuel tax revenue paid by motor vehicles when actually used off~~  
18 ~~highway for motorized recreation at units of the system, as defined~~  
19 ~~in Section 5090.09 of the Public Resources Code, and by motor~~  
20 ~~vehicles when actually used off highway to access nonmotorized~~  
21 ~~recreation, whether or not that recreation is in a unit of the state~~  
22 ~~park system. To calculate the amount of the transfer, an estimate~~  
23 ~~shall be made every five years by the Department of~~  
24 ~~Transportation, in cooperation with the Department of Parks and~~  
25 ~~Recreation and the Department of Motor Vehicles, of the fuel tax~~  
26 ~~revenues attributable to the following vehicles solely while in~~  
27 ~~off-highway use:~~

28 ~~(1) The number of vehicles registered—Vehicles identified with~~  
29 ~~the Department of Motor Vehicles as off-highway motor vehicles~~  
30 ~~as required by Division 16.5 (commencing with Section 38000)~~  
31 ~~of the Vehicle Code.~~

32 ~~(2) The number of registered—Registered street-legal vehicles~~  
33 ~~that are anticipated to be used off-highway, highway for motorized~~  
34 ~~recreation at units of the system, as defined in Section 5090.09 of~~  
35 ~~the Public Resources Code, and registered street-legal vehicles~~  
36 ~~used off highway to access nonmotorized recreation, including~~  
37 ~~four-wheel drive vehicles, all-wheel drive vehicles, and dual-sport~~  
38 ~~motorcycles.~~

39 ~~(3) Attendance at the state vehicular recreation areas.~~

40 ~~(4) Off-highway recreation use~~

1 (3) *Vehicles used off highway for motorized recreation or used*  
2 *off highway to access nonmotorized recreation on federal lands*  
3 *as indicated by the United States Forest Service's National Visitor*  
4 *Use Monitoring and the United States Bureau of Land*  
5 *Management's Recreation Management Information System*  
6 *System, to the extent not otherwise accounted for in paragraph (1)*  
7 *or (2).*

8 (e)

9 (d) *It is the intent of the Legislature that transfers from the Motor*  
10 *Vehicle Fuel Account to the Off-Highway Vehicle Trust Fund*  
11 *pursuant to subdivision (a) should reflect the full range of*  
12 *motorized vehicle use off highway for both motorized recreation*  
13 *on any part of the system, as defined in Section 5090.09 of the*  
14 *Public Resources Code, and motorized off-road off-highway access*  
15 *to other recreation opportunities. Therefore, the Legislature finds*  
16 *that the fuel tax baseline established in subdivision (b), attributable*  
17 *to off-highway estimates of use as of the 2006-07 fiscal year,*  
18 *accounts for the three categories of vehicles that have been found*  
19 *over the years to be users of fuel for off-highway motorized*  
20 *recreation or motorized access to nonmotorized recreational*  
21 *pursuits. These three categories are registered off-highway*  
22 *motorized vehicles, registered street-legal motorized vehicles used*  
23 *off highway, and unregistered off-highway motorized vehicles.*  
24 *nonmotorized recreation.*

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

33 (e) *It is the intent of the Legislature that the motor vehicle fuel*  
34 *tax revenues transferred pursuant to paragraph (1) of subdivision*  
35 *(a) that are associated with off-highway access to nonmotorized*  
36 *recreation should be used to augment funding available to the*  
37 *state park system for road improvements pursuant to Section*  
38 *2107.7 of the Streets and Highways Code, and to support*  
39 *transportation and access to the state park system and other*  
40 *appropriate public recreation areas for underserved populations*

1 *by, among other things, implementing a grant program for*  
2 *nonmotorized recreation and education opportunities.*

3 (e)

4 (f) In the 2014–15 fiscal year, the Department of Transportation,  
5 in consultation with the Department of Parks and Recreation and  
6 the Department of Motor Vehicles, shall undertake a study to  
7 determine the appropriate adjustment to the amount transferred  
8 pursuant to subdivision-(b) (c) and to update the estimate of the  
9 amount attributable to taxes imposed upon distributions of motor  
10 vehicle fuel used in the operation of motor vehicles off highway  
11 and for which a refund has not been claimed. The department shall  
12 provide a copy of this study to the Legislature no later than January  
13 1, 2016.

14 SEC. 18. Section 38225 of the Vehicle Code is amended to  
15 read:

16 38225. (a) A service fee of seven dollars (\$7) shall be paid to  
17 the department for the issuance or renewal of identification of  
18 off-highway motor vehicles subject to identification, except as  
19 expressly exempted under this division.

20 (b) In addition to the service fee required by subdivision (a), a  
21 special fee of thirty-three dollars (\$33) shall be paid at the time of  
22 payment of the service fee for the issuance or renewal of an  
23 identification plate or device.

24 (c) ~~All money transferred pursuant to Section 8352.6 of the~~  
25 ~~Revenue and Taxation Code, all fees received by the department~~  
26 ~~pursuant to subdivision-(b); (b) and all day use, overnight use, or~~  
27 ~~annual or biennial use fees for state vehicular recreation areas~~  
28 ~~received by the Department of Parks and Recreation shall be~~  
29 ~~deposited in the Off-Highway Vehicle Trust Fund, which is hereby~~  
30 ~~created. In addition, the moneys allocated pursuant to subdivision~~  
31 ~~(b) of Section 8352.6 of the Revenue and Taxation Code for the~~  
32 ~~purposes of the off-highway motor vehicle recreation program in~~  
33 ~~each Budget Act shall be transferred to the fund. There shall be a~~  
34 ~~separate reporting of special fee revenues by vehicle type, including~~  
35 ~~four-wheeled vehicles, all-terrain vehicles, motorcycles, and~~  
36 ~~snowmobiles. All money described in this subdivision shall be~~  
37 ~~deposited in the fund, and, upon appropriation by the Legislature,~~  
38 ~~shall be allocated according to Section 5090.61 of the Public~~  
39 ~~Resources Code.~~

1 ~~(d) Any money temporarily transferred by the Legislature from~~  
2 ~~the Off-Highway Vehicle Trust Fund to the General Fund shall be~~  
3 ~~reimbursed, without interest, by the Legislature within two fiscal~~  
4 ~~years of the transfer.~~

5 ~~(e)~~

6 ~~(d) This section shall remain in effect only until January 1, 2018;~~  
7 ~~2023, and as of that date is repealed, unless a later enacted statute,~~  
8 ~~that is enacted before January 1, 2018, 2023, deletes or extends~~  
9 ~~that date. Any unencumbered funds remaining in the Off-Highway~~  
10 ~~Vehicle Trust Fund on January 1, 2018, 2023, shall be transferred~~  
11 ~~to the General Fund.~~

12 SEC. 19. This act is an urgency statute necessary for the  
13 immediate preservation of the public peace, health, or safety within  
14 the meaning of Article IV of the California Constitution and shall  
15 go into immediate effect. The facts constituting the necessity are:

16 In order to make necessary changes to funding mechanisms for  
17 off-highway vehicle programs and related purposes as quickly as  
18 possible, it is necessary that this act take effect immediately.

**Introduced by Senator Roth**  
(Principal coauthor: Assembly Member Waldron)  
(Coauthor: Assembly Member Cervantes)

February 15, 2017

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An act to amend Sections 360, 361.5, 366.21, 366.22, and 366.25 of the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 438, as introduced, Roth. Juveniles: legal guardianship: successor guardian.

Existing law establishes the jurisdiction of the juvenile court, which may adjudge children to be dependents of the court under certain circumstances, including when the child suffered or there is a substantial risk that the child will suffer serious physical harm, or a parent fails to provide the child with adequate food, clothing, shelter, or medical treatment. Existing law establishes the grounds for removal of a dependent child from the custody of his or her parents or guardian, and establishes procedures to determine temporary and permanent placement of a dependent child. Existing law prescribes various hearings, including specified review hearings, and other procedures for these purposes. Whenever a court orders a hearing to terminate parental rights to, or to establish legal guardianship of, a dependent child to be held, existing law requires the court to direct the agency supervising the child and the county adoption agency, or the State Department of Social Services when it is acting as an adoption agency, to prepare an assessment and requires this assessment to include, among other things, a preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or legal guardian, as specified.



This bill would authorize this preliminary assessment of a legal guardian to include the development of a plan for a successor guardian in the case of incapacity or death of the guardian.

If the court finds that a child comes within the jurisdiction of the juvenile court and the parent has advised the court that the parent is not interested in family maintenance or reunifications services, existing law authorizes the juvenile court to order a legal guardianship, appoint a legal guardian, and issue letters of guardianship, in addition to or in lieu of adjudicating the child a dependent child of the court, if the court determines that a guardianship is in the best interest of the child, provided that the parent and the child agree to the guardianship, as specified. Existing law prohibits the court from appointing a legal guardian until a specified assessment is read and considered by the court.

This bill would authorize the court to consider, at this hearing, any plan for a successor guardian submitted to the court.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

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

- 1 SECTION 1. Section 360 of the Welfare and Institutions Code
- 2 is amended to read:
- 3 360. After receiving and considering the evidence on the proper
- 4 disposition of the case, the juvenile court may enter judgment as
- 5 follows:
- 6 (a) (1) Notwithstanding any other ~~provision of~~ law, if the court
- 7 finds that the child is a person described by Section 300 and the
- 8 parent has advised the court that the parent is not interested in
- 9 family maintenance or family reunification services, it may, in
- 10 addition to or in lieu of adjudicating the child a dependent child
- 11 of the court, order a legal guardianship, appoint a legal guardian,
- 12 and issue letters of guardianship, if the court determines that a
- 13 guardianship is in the best interest of the child, provided the parent
- 14 and the child agree to the guardianship, unless the child's age or
- 15 physical, emotional, or mental condition prevents the child's
- 16 meaningful response. The court shall advise the parent and the
- 17 child that no reunification services will be provided as a result of
- 18 the establishment of a guardianship. The proceeding for the
- 19 appointment of a guardian shall be in the juvenile court.

1 ~~Any~~

2 (2) *Any* application for termination of guardianship shall be  
3 filed in juvenile court in a form as may be developed by the Judicial  
4 Council pursuant to Section 68511 of the Government Code.  
5 Sections 366.4 and 388 shall apply to this order of guardianship.

6 ~~No~~

7 (3) A person shall *not* be appointed a legal guardian under this  
8 section until an assessment as specified in subdivision (g) of  
9 Section 361.5 is read and considered by the court and reflected in  
10 the minutes of the court. *The court may consider any plan for a*  
11 *successor guardian submitted to the court.*

12 ~~On~~

13 (4) *On* and after the date that the director executes a declaration  
14 pursuant to Section 11217, if the court appoints an approved  
15 relative caregiver as the child's legal guardian, the child has been  
16 in the care of that approved relative for a period of six consecutive  
17 months under a voluntary placement agreement, and the child  
18 otherwise meets the conditions for federal financial participation,  
19 the child shall be eligible for aid under the Kin-GAP Program as  
20 provided in Article 4.7 (commencing with Section 11385) of  
21 Chapter 2. The nonfederally eligible child placed with an approved  
22 relative caregiver who is appointed as the child's legal guardian  
23 shall be eligible for aid under the state-funded Kin-GAP Program,  
24 as provided for in Article 4.5 (commencing with Section 11360)  
25 of Chapter 2.

26 ~~The~~

27 (5) *The* person responsible for preparing the assessment may  
28 be called and examined by any party to the guardianship  
29 proceeding.

30 (b) If the court finds that the child is a person described by  
31 Section 300, it may, without adjudicating the child a dependent  
32 child of the court, order that services be provided to keep the family  
33 together and place the child and the child's parent or guardian  
34 under the supervision of the social worker for a time period  
35 consistent with Section 301.

36 (c) If the family subsequently is unable or unwilling to cooperate  
37 with the services being provided, the social worker may file a  
38 petition with the juvenile court pursuant to Section 332 alleging  
39 that a previous petition has been sustained and that disposition  
40 pursuant to subdivision (b) has been ineffective in ameliorating

1 the situation requiring the child welfare services. Upon hearing  
2 the petition, the court shall order either that the petition shall be  
3 dismissed or that a new disposition hearing shall be held pursuant  
4 to subdivision (d).

5 (d) If the court finds that the child is a person described by  
6 Section 300, it may order and adjudge the child to be a dependent  
7 child of the court.

8 SEC. 2. Section 361.5 of the Welfare and Institutions Code is  
9 amended to read:

10 361.5. (a) Except as provided in subdivision (b), or when the  
11 parent has voluntarily relinquished the child and the relinquishment  
12 has been filed with the State Department of Social Services, or  
13 upon the establishment of an order of guardianship pursuant to  
14 Section 360, or when a court adjudicates a petition under Section  
15 329 to modify the court's jurisdiction from delinquency jurisdiction  
16 to dependency jurisdiction pursuant to subparagraph (A) of  
17 paragraph (2) of subdivision (b) of Section 607.2 and the parents  
18 or guardian of the ward have had reunification services terminated  
19 under the delinquency jurisdiction, whenever a child is removed  
20 from a parent's or guardian's custody, the juvenile court shall order  
21 the social worker to provide child welfare services to the child and  
22 the child's mother and statutorily presumed father or guardians.  
23 Upon a finding and declaration of paternity by the juvenile court  
24 or proof of a prior declaration of paternity by any court of  
25 competent jurisdiction, the juvenile court may order services for  
26 the child and the biological father, if the court determines that the  
27 services will benefit the child.

28 (1) Family reunification services, when provided, shall be  
29 provided as follows:

30 (A) Except as otherwise provided in subparagraph (C), for a  
31 child who, on the date of initial removal from the physical custody  
32 of his or her parent or guardian, was three years of age or older,  
33 court-ordered services shall be provided beginning with the  
34 dispositional hearing and ending 12 months after the date the child  
35 entered foster care as provided in Section 361.49, unless the child  
36 is returned to the home of the parent or guardian.

37 (B) For a child who, on the date of initial removal from the  
38 physical custody of his or her parent or guardian, was under three  
39 years of age, court-ordered services shall be provided for a period  
40 of six months from the dispositional hearing as provided in

1 subdivision (e) of Section 366.21, but no longer than 12 months  
2 from the date the child entered foster care, as provided in Section  
3 361.49, unless the child is returned to the home of the parent or  
4 guardian.

5 (C) For the purpose of placing and maintaining a sibling group  
6 together in a permanent home should reunification efforts fail, for  
7 a child in a sibling group whose members were removed from  
8 parental custody at the same time, and in which one member of  
9 the sibling group was under three years of age on the date of initial  
10 removal from the physical custody of his or her parent or guardian,  
11 court-ordered services for some or all of the sibling group may be  
12 limited as set forth in subparagraph (B). For the purposes of this  
13 paragraph, "a sibling group" shall mean two or more children who  
14 are related to each other as full or half siblings.

15 (2) Any motion to terminate court-ordered reunification services  
16 prior to the hearing set pursuant to subdivision (f) of Section 366.21  
17 for a child described by subparagraph (A) of paragraph (1), or  
18 prior to the hearing set pursuant to subdivision (e) of Section  
19 366.21 for a child described by subparagraph (B) or (C) of  
20 paragraph (1), shall be made pursuant to the requirements set forth  
21 in subdivision (c) of Section 388. A motion to terminate  
22 court-ordered reunification services shall not be required at the  
23 hearing set pursuant to subdivision (e) of Section 366.21 if the  
24 court finds by clear and convincing evidence one of the following:

25 (A) That the child was removed initially under subdivision (g)  
26 of Section 300 and the whereabouts of the parent are still unknown.

27 (B) That the parent has failed to contact and visit the child.

28 (C) That the parent has been convicted of a felony indicating  
29 parental unfitness.

30 (3) (A) Notwithstanding subparagraphs (A), (B), and (C) of  
31 paragraph (1), court-ordered services may be extended up to a  
32 maximum time period not to exceed 18 months after the date the  
33 child was originally removed from physical custody of his or her  
34 parent or guardian if it can be shown, at the hearing held pursuant  
35 to subdivision (f) of Section 366.21, that the permanent plan for  
36 the child is that he or she will be returned and safely maintained  
37 in the home within the extended time period. The court shall extend  
38 the time period only if it finds that there is a substantial probability  
39 that the child will be returned to the physical custody of his or her  
40 parent or guardian within the extended time period or that

1 reasonable services have not been provided to the parent or  
2 guardian. In determining whether court-ordered services may be  
3 extended, the court shall consider the special circumstances of an  
4 incarcerated or institutionalized parent or parents, parent or parents  
5 court-ordered to a residential substance abuse treatment program,  
6 or a parent who has been arrested and issued an immigration hold,  
7 detained by the United States Department of Homeland Security,  
8 or deported to his or her country of origin, including, but not  
9 limited to, barriers to the parent's or guardian's access to services  
10 and ability to maintain contact with his or her child. The court  
11 shall also consider, among other factors, good faith efforts that the  
12 parent or guardian has made to maintain contact with the child. If  
13 the court extends the time period, the court shall specify the factual  
14 basis for its conclusion that there is a substantial probability that  
15 the child will be returned to the physical custody of his or her  
16 parent or guardian within the extended time period. The court also  
17 shall make findings pursuant to subdivision (a) of Section 366 and  
18 subdivision (e) of Section 358.1.

19 (B) When counseling or other treatment services are ordered,  
20 the parent or guardian shall be ordered to participate in those  
21 services, unless the parent's or guardian's participation is deemed  
22 by the court to be inappropriate or potentially detrimental to the  
23 child, or unless a parent or guardian is incarcerated or detained by  
24 the United States Department of Homeland Security and the  
25 corrections facility in which he or she is incarcerated does not  
26 provide access to the treatment services ordered by the court, or  
27 has been deported to his or her country of origin and services  
28 ordered by the court are not accessible in that country. Physical  
29 custody of the child by the parents or guardians during the  
30 applicable time period under subparagraph (A), (B), or (C) of  
31 paragraph (1) shall not serve to interrupt the running of the time  
32 period. If at the end of the applicable time period, a child cannot  
33 be safely returned to the care and custody of a parent or guardian  
34 without court supervision, but the child clearly desires contact with  
35 the parent or guardian, the court shall take the child's desire into  
36 account in devising a permanency plan.

37 (C) In cases where the child was under three years of age on  
38 the date of the initial removal from the physical custody of his or  
39 her parent or guardian or is a member of a sibling group as  
40 described in subparagraph (C) of paragraph (1), the court shall

1 inform the parent or guardian that the failure of the parent or  
2 guardian to participate regularly in any court-ordered treatment  
3 programs or to cooperate or avail himself or herself of services  
4 provided as part of the child welfare services case plan may result  
5 in a termination of efforts to reunify the family after six months.  
6 The court shall inform the parent or guardian of the factors used  
7 in subdivision (e) of Section 366.21 to determine whether to limit  
8 services to six months for some or all members of a sibling group  
9 as described in subparagraph (C) of paragraph (1).

10 (4) (A) Notwithstanding paragraph (3), court-ordered services  
11 may be extended up to a maximum time period not to exceed 24  
12 months after the date the child was originally removed from  
13 physical custody of his or her parent or guardian if it is shown, at  
14 the hearing held pursuant to subdivision (b) of Section 366.22,  
15 that the permanent plan for the child is that he or she will be  
16 returned and safely maintained in the home within the extended  
17 time period. The court shall extend the time period only if it finds  
18 that it is in the child's best interest to have the time period extended  
19 and that there is a substantial probability that the child will be  
20 returned to the physical custody of his or her parent or guardian  
21 who is described in subdivision (b) of Section 366.22 within the  
22 extended time period, or that reasonable services have not been  
23 provided to the parent or guardian. If the court extends the time  
24 period, the court shall specify the factual basis for its conclusion  
25 that there is a substantial probability that the child will be returned  
26 to the physical custody of his or her parent or guardian within the  
27 extended time period. The court also shall make findings pursuant  
28 to subdivision (a) of Section 366 and subdivision (e) of Section  
29 358.1.

30 (B) When counseling or other treatment services are ordered,  
31 the parent or guardian shall be ordered to participate in those  
32 services, in order for substantial probability to be found. Physical  
33 custody of the child by the parents or guardians during the  
34 applicable time period under subparagraph (A), (B), or (C) of  
35 paragraph (1) shall not serve to interrupt the running of the time  
36 period. If at the end of the applicable time period, the child cannot  
37 be safely returned to the care and custody of a parent or guardian  
38 without court supervision, but the child clearly desires contact with  
39 the parent or guardian, the court shall take the child's desire into  
40 account in devising a permanency plan.

1 (C) Except in cases where, pursuant to subdivision (b), the court  
2 does not order reunification services, the court shall inform the  
3 parent or parents of Section 366.26 and shall specify that the  
4 parent's or parents' parental rights may be terminated.

5 (b) Reunification services need not be provided to a parent or  
6 guardian described in this subdivision when the court finds, by  
7 clear and convincing evidence, any of the following:

8 (1) That the whereabouts of the parent or guardian are unknown.  
9 A finding pursuant to this paragraph shall be supported by an  
10 affidavit or by proof that a reasonably diligent search has failed  
11 to locate the parent or guardian. The posting or publication of  
12 notices is not required in that search.

13 (2) That the parent or guardian is suffering from a mental  
14 disability that is described in Chapter 2 (commencing with Section  
15 7820) of Part 4 of Division 12 of the Family Code and that renders  
16 him or her incapable of utilizing those services.

17 (3) That the child or a sibling of the child has been previously  
18 adjudicated a dependent pursuant to any subdivision of Section  
19 300 as a result of physical or sexual abuse, that following that  
20 adjudication the child had been removed from the custody of his  
21 or her parent or guardian pursuant to Section 361, that the child  
22 has been returned to the custody of the parent or guardian from  
23 whom the child had been taken originally, and that the child is  
24 being removed pursuant to Section 361, due to additional physical  
25 or sexual abuse.

26 (4) That the parent or guardian of the child has caused the death  
27 of another child through abuse or neglect.

28 (5) That the child was brought within the jurisdiction of the  
29 court under subdivision (e) of Section 300 because of the conduct  
30 of that parent or guardian.

31 (6) (A) That the child has been adjudicated a dependent  
32 pursuant to any subdivision of Section 300 as a result of severe  
33 sexual abuse or the infliction of severe physical harm to the child,  
34 a sibling, or a half sibling by a parent or guardian, as defined in  
35 this subdivision, and the court makes a factual finding that it would  
36 not benefit the child to pursue reunification services with the  
37 offending parent or guardian.

38 (B) A finding of severe sexual abuse, for the purposes of this  
39 subdivision, may be based on, but is not limited to, sexual  
40 intercourse, or stimulation involving genital-genital, oral-genital,

1 anal-genital, or oral-anal contact, whether between the parent or  
2 guardian and the child or a sibling or half sibling of the child, or  
3 between the child or a sibling or half sibling of the child and  
4 another person or animal with the actual or implied consent of the  
5 parent or guardian; or the penetration or manipulation of the  
6 child's, sibling's, or half sibling's genital organs or rectum by any  
7 animate or inanimate object for the sexual gratification of the  
8 parent or guardian, or for the sexual gratification of another person  
9 with the actual or implied consent of the parent or guardian.

10 (C) A finding of the infliction of severe physical harm, for the  
11 purposes of this subdivision, may be based on, but is not limited  
12 to, deliberate and serious injury inflicted to or on a child's body  
13 or the body of a sibling or half sibling of the child by an act or  
14 omission of the parent or guardian, or of another individual or  
15 animal with the consent of the parent or guardian; deliberate and  
16 torturous confinement of the child, sibling, or half sibling in a  
17 closed space; or any other torturous act or omission that would be  
18 reasonably understood to cause serious emotional damage.

19 (7) That the parent is not receiving reunification services for a  
20 sibling or a half sibling of the child pursuant to paragraph (3), (5),  
21 or (6).

22 (8) That the child was conceived by means of the commission  
23 of an offense listed in Section 288 or 288.5 of the Penal Code, or  
24 by an act committed outside of this state that, if committed in this  
25 state, would constitute one of those offenses. This paragraph only  
26 applies to the parent who committed the offense or act.

27 (9) That the child has been found to be a child described in  
28 subdivision (g) of Section 300; that the parent or guardian of the  
29 child willfully abandoned the child, and the court finds that the  
30 abandonment itself constituted a serious danger to the child; or  
31 that the parent or other person having custody of the child  
32 voluntarily surrendered physical custody of the child pursuant to  
33 Section 1255.7 of the Health and Safety Code. For the purposes  
34 of this paragraph, "serious danger" means that without the  
35 intervention of another person or agency, the child would have  
36 sustained severe or permanent disability, injury, illness, or death.  
37 For purposes of this paragraph, "willful abandonment" shall not  
38 be construed as actions taken in good faith by the parent without  
39 the intent of placing the child in serious danger.



1 (10) That the court ordered termination of reunification services  
2 for any siblings or half siblings of the child because the parent or  
3 guardian failed to reunify with the sibling or half sibling after the  
4 sibling or half sibling had been removed from that parent or  
5 guardian pursuant to Section 361 and that parent or guardian is  
6 the same parent or guardian described in subdivision (a) and that,  
7 according to the findings of the court, this parent or guardian has  
8 not subsequently made a reasonable effort to treat the problems  
9 that led to removal of the sibling or half sibling of that child from  
10 that parent or guardian.

11 (11) That the parental rights of a parent over any sibling or half  
12 sibling of the child had been permanently severed, and this parent  
13 is the same parent described in subdivision (a), and that, according  
14 to the findings of the court, this parent has not subsequently made  
15 a reasonable effort to treat the problems that led to removal of the  
16 sibling or half sibling of that child from the parent.

17 (12) That the parent or guardian of the child has been convicted  
18 of a violent felony, as defined in subdivision (c) of Section 667.5  
19 of the Penal Code.

20 (13) That the parent or guardian of the child has a history of  
21 extensive, abusive, and chronic use of drugs or alcohol and has  
22 resisted prior court-ordered treatment for this problem during a  
23 three-year period immediately prior to the filing of the petition  
24 that brought that child to the court's attention, or has failed or  
25 refused to comply with a program of drug or alcohol treatment  
26 described in the case plan required by Section 358.1 on at least  
27 two prior occasions, even though the programs identified were  
28 available and accessible.

29 (14) (A) That the parent or guardian of the child has advised  
30 the court that he or she is not interested in receiving family  
31 maintenance or family reunification services or having the child  
32 returned to or placed in his or her custody and does not wish to  
33 receive family maintenance or reunification services.

34 (B) The parent or guardian shall be represented by counsel and  
35 shall execute a waiver of services form to be adopted by the  
36 Judicial Council. The court shall advise the parent or guardian of  
37 any right to services and of the possible consequences of a waiver  
38 of services, including the termination of parental rights and  
39 placement of the child for adoption. The court shall not accept the  
40 waiver of services unless it states on the record its finding that the

1 parent or guardian has knowingly and intelligently waived the  
2 right to services.

3 (15) That the parent or guardian has on one or more occasions  
4 willfully abducted the child or child's sibling or half sibling from  
5 his or her placement and refused to disclose the child's or child's  
6 sibling's or half sibling's whereabouts, refused to return physical  
7 custody of the child or child's sibling or half sibling to his or her  
8 placement, or refused to return physical custody of the child or  
9 child's sibling or half sibling to the social worker.

10 (16) That the parent or guardian has been required by the court  
11 to be registered on a sex offender registry under the federal Adam  
12 Walsh Child Protection and Safety Act of 2006 (42 U.S.C. Sec.  
13 16913(a)), as required in Section 106(b)(2)(B)(xvi)(VI) of the  
14 Child Abuse Prevention and Treatment Act of 2006 (42 U.S.C.  
15 Sec. 5106a(2)(B)(xvi)(VI)).

16 (17) That the parent or guardian knowingly participated in, or  
17 permitted, the sexual exploitation, as described in subdivision (c)  
18 or (d) of Section 11165.1 of, or subdivision (c) of Section 236.1  
19 of, the Penal Code, of the child. This shall not include instances  
20 in which the parent or guardian demonstrated by a preponderance  
21 of the evidence that he or she was coerced into permitting, or  
22 participating in, the sexual exploitation of the child.

23 (c) (1) In deciding whether to order reunification in any case  
24 in which this section applies, the court shall hold a dispositional  
25 hearing. The social worker shall prepare a report that discusses  
26 whether reunification services shall be provided. When it is alleged,  
27 pursuant to paragraph (2) of subdivision (b), that the parent is  
28 incapable of utilizing services due to mental disability, the court  
29 shall order reunification services unless competent evidence from  
30 mental health professionals establishes that, even with the provision  
31 of services, the parent is unlikely to be capable of adequately caring  
32 for the child within the time limits specified in subdivision (a).

33 (2) The court shall not order reunification for a parent or  
34 guardian described in paragraph (3), (4), (6), (7), (8), (9), (10),  
35 (11), (12), (13), (14), (15), (16), or (17) of subdivision (b) unless  
36 the court finds, by clear and convincing evidence, that reunification  
37 is in the best interest of the child.

38 (3) In addition, the court shall not order reunification in any  
39 situation described in paragraph (5) of subdivision (b) unless it  
40 finds that, based on competent testimony, those services are likely

1 to prevent reabuse or continued neglect of the child or that failure  
2 to try reunification will be detrimental to the child because the  
3 child is closely and positively attached to that parent. The social  
4 worker shall investigate the circumstances leading to the removal  
5 of the child and advise the court whether there are circumstances  
6 that indicate that reunification is likely to be successful or  
7 unsuccessful and whether failure to order reunification is likely to  
8 be detrimental to the child.

9 (4) The failure of the parent to respond to previous services, the  
10 fact that the child was abused while the parent was under the  
11 influence of drugs or alcohol, a past history of violent behavior,  
12 or testimony by a competent professional that the parent's behavior  
13 is unlikely to be changed by services are among the factors  
14 indicating that reunification services are unlikely to be successful.  
15 The fact that a parent or guardian is no longer living with an  
16 individual who severely abused the child may be considered in  
17 deciding that reunification services are likely to be successful,  
18 provided that the court shall consider any pattern of behavior on  
19 the part of the parent that has exposed the child to repeated abuse.

20 (d) If reunification services are not ordered pursuant to  
21 paragraph (1) of subdivision (b) and the whereabouts of a parent  
22 become known within six months of the out-of-home placement  
23 of the child, the court shall order the social worker to provide  
24 family reunification services in accordance with this subdivision.

25 (e) (1) If the parent or guardian is incarcerated, institutionalized,  
26 or detained by the United States Department of Homeland Security,  
27 or has been deported to his or her country of origin, the court shall  
28 order reasonable services unless the court determines, by clear and  
29 convincing evidence, those services would be detrimental to the  
30 child. In determining detriment, the court shall consider the age  
31 of the child, the degree of parent-child bonding, the length of the  
32 sentence, the length and nature of the treatment, the nature of the  
33 crime or illness, the degree of detriment to the child if services are  
34 not offered and, for children 10 years of age or older, the child's  
35 attitude toward the implementation of family reunification services,  
36 the likelihood of the parent's discharge from incarceration,  
37 institutionalization, or detention within the reunification time  
38 limitations described in subdivision (a), and any other appropriate  
39 factors. In determining the content of reasonable services, the court  
40 shall consider the particular barriers to an incarcerated,

1 institutionalized, detained, or deported parent's access to those  
2 court-mandated services and ability to maintain contact with his  
3 or her child, and shall document this information in the child's  
4 case plan. Reunification services are subject to the applicable time  
5 limitations imposed in subdivision (a). Services may include, but  
6 shall not be limited to, all of the following:

7 (A) Maintaining contact between the parent and child through  
8 collect telephone calls.

9 (B) Transportation services, when appropriate.

10 (C) Visitation services, when appropriate.

11 (D) (i) Reasonable services to extended family members or  
12 foster parents providing care for the child if the services are not  
13 detrimental to the child.

14 (ii) An incarcerated or detained parent may be required to attend  
15 counseling, parenting classes, or vocational training programs as  
16 part of the reunification service plan if actual access to these  
17 services is provided. The social worker shall document in the  
18 child's case plan the particular barriers to an incarcerated,  
19 institutionalized, or detained parent's access to those  
20 court-mandated services and ability to maintain contact with his  
21 or her child.

22 (E) Reasonable efforts to assist parents who have been deported  
23 to contact child welfare authorities in their country of origin, to  
24 identify any available services that would substantially comply  
25 with case plan requirements, to document the parents' participation  
26 in those services, and to accept reports from local child welfare  
27 authorities as to the parents' living situation, progress, and  
28 participation in services.

29 (2) The presiding judge of the juvenile court of each county  
30 may convene representatives of the county welfare department,  
31 the sheriff's department, and other appropriate entities for the  
32 purpose of developing and entering into protocols for ensuring the  
33 notification, transportation, and presence of an incarcerated or  
34 institutionalized parent at all court hearings involving proceedings  
35 affecting the child pursuant to Section 2625 of the Penal Code.  
36 The county welfare department shall utilize the prisoner locator  
37 system developed by the Department of Corrections and  
38 Rehabilitation to facilitate timely and effective notice of hearings  
39 for incarcerated parents.

1 (3) Notwithstanding any other law, if the incarcerated parent is  
2 a woman seeking to participate in the community treatment  
3 program operated by the Department of Corrections and  
4 Rehabilitation pursuant to Chapter 4.8 (commencing with Section  
5 1174) of Title 7 of Part 2 of, Chapter 4 (commencing with Section  
6 3410) of Title 2 of Part 3 of, the Penal Code, the court shall  
7 determine whether the parent's participation in a program is in the  
8 child's best interest and whether it is suitable to meet the needs of  
9 the parent and child.

10 (f) If the court, pursuant to paragraph (2), (3), (4), (5), (6), (7),  
11 (8), (9), (10), (11), (12), (13), (14), (15), (16), or (17) of subdivision  
12 (b) or paragraph (1) of subdivision (e), does not order reunification  
13 services, it shall, at the dispositional hearing, that shall include a  
14 permanency hearing, determine if a hearing under Section 366.26  
15 shall be set in order to determine whether adoption, guardianship,  
16 placement with a fit and willing relative, or another planned  
17 permanent living arrangement, or, in the case of an Indian child,  
18 in consultation with the child's tribe, tribal customary adoption,  
19 is the most appropriate plan for the child, and shall consider in-state  
20 and out-of-state placement options. If the court so determines, it  
21 shall conduct the hearing pursuant to Section 366.26 within 120  
22 days after the dispositional hearing. However, the court shall not  
23 schedule a hearing so long as the other parent is being provided  
24 reunification services pursuant to subdivision (a). The court may  
25 continue to permit the parent to visit the child unless it finds that  
26 visitation would be detrimental to the child.

27 (g) (1) Whenever a court orders that a hearing shall be held  
28 pursuant to Section 366.26, including, when, in consultation with  
29 the child's tribe, tribal customary adoption is recommended, it  
30 shall direct the agency supervising the child and the county  
31 adoption agency, or the State Department of Social Services when  
32 it is acting as an adoption agency, to prepare an assessment that  
33 shall include:

34 (A) Current search efforts for an absent parent or parents and  
35 notification of a noncustodial parent in the manner provided for  
36 in Section 291.

37 (B) A review of the amount of and nature of any contact between  
38 the child and his or her parents and other members of his or her  
39 extended family since the time of placement. Although the  
40 extended family of each child shall be reviewed on a case-by-case

1 basis, "extended family" for the purpose of this subparagraph shall  
2 include, but not be limited to, the child's siblings, grandparents,  
3 aunts, and uncles.

4 (C) An evaluation of the child's medical, developmental,  
5 scholastic, mental, and emotional status.

6 (D) A preliminary assessment of the eligibility and commitment  
7 of any identified prospective adoptive parent or guardian, including  
8 a prospective tribal customary adoptive parent, particularly the  
9 caretaker, to include a social history, including screening for  
10 criminal records and prior referrals for child abuse or neglect, the  
11 capability to meet the child's needs, and the understanding of the  
12 legal and financial rights and responsibilities of adoption and  
13 guardianship. If a proposed guardian is a relative of the minor, the  
14 assessment shall also consider, but need not be limited to, all of  
15 the factors specified in subdivision (a) of Section 361.3 and in  
16 Section 361.4. *The assessment of a legal guardian may also include*  
17 *the development of a plan for a successor guardian in the case of*  
18 *the incapacity or death of the guardian.* As used in this  
19 subparagraph, "relative" means an adult who is related to the minor  
20 by blood, adoption, or affinity within the fifth degree of kinship,  
21 including stepparents, stepsiblings, and all relatives whose status  
22 is preceded by the words "great," "great-great," or "grand," or the  
23 spouse of any of those persons even if the marriage was terminated  
24 by death or dissolution. If the proposed permanent plan is  
25 guardianship with an approved relative caregiver for a minor  
26 eligible for aid under the Kin-GAP Program, as provided for in  
27 Article 4.7 (commencing with Section 11385) of Chapter 2 of Part  
28 3 of Division 9, "relative" as used in this section has the same  
29 meaning as "relative" as defined in subdivision (c) of Section  
30 11391.

31 (E) The relationship of the child to any identified prospective  
32 adoptive parent or guardian, including a prospective tribal  
33 customary parent, the duration and character of the relationship,  
34 the degree of attachment of the child to the prospective relative  
35 guardian or adoptive parent, the relative's or adoptive parent's  
36 strong commitment to caring permanently for the child, the  
37 motivation for seeking adoption or guardianship, a statement from  
38 the child concerning placement and the adoption or guardianship,  
39 and whether the child over 12 years of age has been consulted  
40 about the proposed relative guardianship arrangements, unless the

1 child's age or physical, emotional, or other condition precludes  
2 his or her meaningful response, and if so, a description of the  
3 condition.

4 (F) An analysis of the likelihood that the child will be adopted  
5 if parental rights are terminated.

6 (G) In the case of an Indian child, in addition to subparagraphs  
7 (A) to (F), inclusive, an assessment of the likelihood that the child  
8 will be adopted, when, in consultation with the child's tribe, a  
9 tribal customary adoption, as defined in Section 366.24, is  
10 recommended. If tribal customary adoption is recommended, the  
11 assessment shall include an analysis of both of the following:

12 (i) Whether tribal customary adoption would or would not be  
13 detrimental to the Indian child and the reasons for reaching that  
14 conclusion.

15 (ii) Whether the Indian child cannot or should not be returned  
16 to the home of the Indian parent or Indian custodian and the reasons  
17 for reaching that conclusion.

18 (2) (A) A relative caregiver's preference for legal guardianship  
19 over adoption, if it is due to circumstances that do not include an  
20 unwillingness to accept legal or financial responsibility for the  
21 child, shall not constitute the sole basis for recommending removal  
22 of the child from the relative caregiver for purposes of adoptive  
23 placement.

24 (B) Regardless of his or her immigration status, a relative  
25 caregiver shall be given information regarding the permanency  
26 options of guardianship and adoption, including the long-term  
27 benefits and consequences of each option, prior to establishing  
28 legal guardianship or pursuing adoption. If the proposed permanent  
29 plan is guardianship with an approved relative caregiver for a  
30 minor eligible for aid under the Kin-GAP Program, as provided  
31 for in Article 4.7 (commencing with Section 11385) of Chapter 2  
32 of Part 3 of Division 9, the relative caregiver shall be informed  
33 about the terms and conditions of the negotiated agreement  
34 pursuant to Section 11387 and shall agree to its execution prior to  
35 the hearing held pursuant to Section 366.26. A copy of the executed  
36 negotiated agreement shall be attached to the assessment.

37 (h) If, at any hearing held pursuant to Section 366.26, a  
38 guardianship is established for the minor with an approved relative  
39 caregiver and juvenile court dependency is subsequently dismissed,  
40 the minor shall be eligible for aid under the Kin-GAP Program as

1 provided for in Article 4.5 (commencing with Section 11360) or  
2 Article 4.7 (commencing with Section 11385), as applicable, of  
3 Chapter 2 of Part 3 of Division 9.

4 (i) In determining whether reunification services will benefit  
5 the child pursuant to paragraph (6) or (7) of subdivision (b), the  
6 court shall consider any information it deems relevant, including  
7 the following factors:

8 (1) The specific act or omission comprising the severe sexual  
9 abuse or the severe physical harm inflicted on the child or the  
10 child's sibling or half sibling.

11 (2) The circumstances under which the abuse or harm was  
12 inflicted on the child or the child's sibling or half sibling.

13 (3) The severity of the emotional trauma suffered by the child  
14 or the child's sibling or half sibling.

15 (4) Any history of abuse of other children by the offending  
16 parent or guardian.

17 (5) The likelihood that the child may be safely returned to the  
18 care of the offending parent or guardian within 12 months with no  
19 continuing supervision.

20 (6) Whether or not the child desires to be reunified with the  
21 offending parent or guardian.

22 (j) When the court determines that reunification services will  
23 not be ordered, it shall order that the child's caregiver receive the  
24 child's birth certificate in accordance with Sections 16010.4 and  
25 16010.5. Additionally, when the court determines that reunification  
26 services will not be ordered, it shall order, when appropriate, that  
27 a child who is 16 years of age or older receive his or her birth  
28 certificate.

29 (k) The court shall read into the record the basis for a finding  
30 of severe sexual abuse or the infliction of severe physical harm  
31 under paragraph (6) of subdivision (b), and shall also specify the  
32 factual findings used to determine that the provision of  
33 reunification services to the offending parent or guardian would  
34 not benefit the child.

35 SEC. 3. Section 366.21 of the Welfare and Institutions Code  
36 is amended to read:

37 366.21. (a) Every hearing conducted by the juvenile court  
38 reviewing the status of a dependent child shall be placed on the  
39 appearance calendar. The court shall advise all persons present at



1 the hearing of the date of the future hearing and of their right to  
2 be present and represented by counsel.

3 (b) Except as provided in Sections 294 and 295, notice of the  
4 hearing shall be provided pursuant to Section 293.

5 (c) At least 10 calendar days prior to the hearing, the social  
6 worker shall file a supplemental report with the court regarding  
7 the services provided or offered to the parent or legal guardian to  
8 enable him or her to assume custody and the efforts made to  
9 achieve legal permanence for the child if efforts to reunify fail,  
10 including, but not limited to, efforts to maintain relationships  
11 between a child who is 10 years of age or older and has been in  
12 out-of-home placement for six months or longer and individuals  
13 who are important to the child, consistent with the child's best  
14 interests; the progress made; and, where relevant, the prognosis  
15 for return of the child to the physical custody of his or her parent  
16 or legal guardian; and shall make his or her recommendation for  
17 disposition. If the child is a member of a sibling group described  
18 in subparagraph (C) of paragraph (1) of subdivision (a) of Section  
19 361.5, the report and recommendation may also take into account  
20 those factors described in subdivision (e) relating to the child's  
21 sibling group. If the recommendation is not to return the child to  
22 a parent or legal guardian, the report shall specify why the return  
23 of the child would be detrimental to the child. The social worker  
24 shall provide the parent or legal guardian, counsel for the child,  
25 and any court-appointed child advocate with a copy of the report,  
26 including his or her recommendation for disposition, at least 10  
27 calendar days prior to the hearing. In the case of a child removed  
28 from the physical custody of his or her parent or legal guardian,  
29 the social worker shall, at least 10 calendar days prior to the  
30 hearing, provide a summary of his or her recommendation for  
31 disposition to any foster parents, relative caregivers, and certified  
32 foster parents who have been approved for adoption by the State  
33 Department of Social Services when it is acting as an adoption  
34 agency or by a county adoption agency, community care facility,  
35 or foster family agency having the physical custody of the child.  
36 The social worker shall include a copy of the Judicial Council  
37 Caregiver Information Form (JV-290) with the summary of  
38 recommendations to the child's foster parents, relative caregivers,  
39 or foster parents approved for adoption, in the caregiver's primary

1 language when available, along with information on how to file  
2 the form with the court.

3 (d) Prior to any hearing involving a child in the physical custody  
4 of a community care facility or a foster family agency that may  
5 result in the return of the child to the physical custody of his or  
6 her parent or legal guardian, or in adoption or the creation of a  
7 legal guardianship, or in the case of an Indian child, in consultation  
8 with the child's tribe, tribal customary adoption, the facility or  
9 agency shall file with the court a report, or a Judicial Council  
10 Caregiver Information Form (JV-290), containing its  
11 recommendation for disposition. Prior to the hearing involving a  
12 child in the physical custody of a foster parent, a relative caregiver,  
13 or a certified foster parent who has been approved for adoption by  
14 the State Department of Social Services when it is acting as an  
15 adoption agency or by a county adoption agency, the foster parent,  
16 relative caregiver, or the certified foster parent who has been  
17 approved for adoption by the State Department of Social Services  
18 when it is acting as an adoption agency or by a county adoption  
19 agency, may file with the court a report containing his or her  
20 recommendation for disposition. The court shall consider the report  
21 and recommendation filed pursuant to this subdivision prior to  
22 determining any disposition.

23 (e) (1) At the review hearing held six months after the initial  
24 dispositional hearing, but no later than 12 months after the date  
25 the child entered foster care as determined in Section 361.49,  
26 whichever occurs earlier, after considering the admissible and  
27 relevant evidence, the court shall order the return of the child to  
28 the physical custody of his or her parent or legal guardian unless  
29 the court finds, by a preponderance of the evidence, that the return  
30 of the child to his or her parent or legal guardian would create a  
31 substantial risk of detriment to the safety, protection, or physical  
32 or emotional well-being of the child. The social worker shall have  
33 the burden of establishing that detriment. At the hearing, the court  
34 shall consider the criminal history, obtained pursuant to paragraph  
35 (1) of subdivision (f) of Section 16504.5, of the parent or legal  
36 guardian subsequent to the child's removal to the extent that the  
37 criminal record is substantially related to the welfare of the child  
38 or the parent's or guardian's ability to exercise custody and control  
39 regarding his or her child, provided the parent or legal guardian  
40 agreed to submit fingerprint images to obtain criminal history

1 information as part of the case plan. The court shall also consider  
2 whether the child can be returned to the custody of his or her parent  
3 who is enrolled in a certified substance abuse treatment facility  
4 that allows a dependent child to reside with his or her parent. The  
5 fact that the parent is enrolled in a certified substance abuse  
6 treatment facility shall not be, for that reason alone, prima facie  
7 evidence of detriment. The failure of the parent or legal guardian  
8 to participate regularly and make substantive progress in  
9 court-ordered treatment programs shall be prima facie evidence  
10 that return would be detrimental. In making its determination, the  
11 court shall review and consider the social worker's report and  
12 recommendations and the report and recommendations of any child  
13 advocate appointed pursuant to Section 356.5; and shall consider  
14 the efforts or progress, or both, demonstrated by the parent or legal  
15 guardian and the extent to which he or she availed himself or  
16 herself of services provided, taking into account the particular  
17 barriers to a minor parent or a nonminor dependent parent, or an  
18 incarcerated, institutionalized, detained, or deported parent's or  
19 legal guardian's access to those court-mandated services and ability  
20 to maintain contact with his or her child.

21 (2) Regardless of whether the child is returned to a parent or  
22 legal guardian, the court shall specify the factual basis for its  
23 conclusion that the return would be detrimental or would not be  
24 detrimental. The court also shall make appropriate findings  
25 pursuant to subdivision (a) of Section 366; and, when relevant,  
26 shall order any additional services reasonably believed to facilitate  
27 the return of the child to the custody of his or her parent or legal  
28 guardian. The court shall also inform the parent or legal guardian  
29 that if the child cannot be returned home by the 12-month  
30 permanency hearing, a proceeding pursuant to Section 366.26 may  
31 be instituted. This section does not apply in a case in which,  
32 pursuant to Section 361.5, the court has ordered that reunification  
33 services shall not be provided.

34 (3) If the child was under three years of age on the date of the  
35 initial removal, or is a member of a sibling group described in  
36 subparagraph (C) of paragraph (1) of subdivision (a) of Section  
37 361.5, and the court finds by clear and convincing evidence that  
38 the parent failed to participate regularly and make substantive  
39 progress in a court-ordered treatment plan, the court may schedule  
40 a hearing pursuant to Section 366.26 within 120 days. If, however,

1 the court finds there is a substantial probability that the child, who  
2 was under three years of age on the date of initial removal or is a  
3 member of a sibling group described in subparagraph (C) of  
4 paragraph (1) of subdivision (a) of Section 361.5, may be returned  
5 to his or her parent or legal guardian within six months or that  
6 reasonable services have not been provided, the court shall continue  
7 the case to the 12-month permanency hearing.

8 (4) For the purpose of placing and maintaining a sibling group  
9 together in a permanent home, the court, in making its  
10 determination to schedule a hearing pursuant to Section 366.26  
11 for some or all members of a sibling group, as described in  
12 subparagraph (C) of paragraph (1) of subdivision (a) of Section  
13 361.5, shall review and consider the social worker's report and  
14 recommendations. Factors the report shall address, and the court  
15 shall consider, may include, but need not be limited to, whether  
16 the sibling group was removed from parental care as a group, the  
17 closeness and strength of the sibling bond, the ages of the siblings,  
18 the appropriateness of maintaining the sibling group together, the  
19 detriment to the child if sibling ties are not maintained, the  
20 likelihood of finding a permanent home for the sibling group,  
21 whether the sibling group is currently placed together in a  
22 preadoptive home or has a concurrent plan goal of legal  
23 permanency in the same home, the wishes of each child whose  
24 age and physical and emotional condition permits a meaningful  
25 response, and the best interests of each child in the sibling group.  
26 The court shall specify the factual basis for its finding that it is in  
27 the best interests of each child to schedule a hearing pursuant to  
28 Section 366.26 within 120 days for some or all of the members of  
29 the sibling group.

30 (5) If the child was removed initially under subdivision (g) of  
31 Section 300 and the court finds by clear and convincing evidence  
32 that the whereabouts of the parent are still unknown, or the parent  
33 has failed to contact and visit the child, the court may schedule a  
34 hearing pursuant to Section 366.26 within 120 days. The court  
35 shall take into account any particular barriers to a parent's ability  
36 to maintain contact with his or her child due to the parent's  
37 incarceration, institutionalization, detention by the United States  
38 Department of Homeland Security, or deportation. If the court  
39 finds by clear and convincing evidence that the parent has been