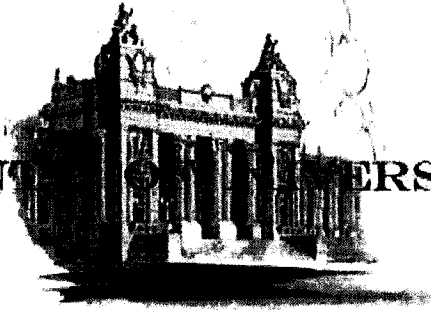


# COUNTY OF RIVERSIDE



## Board of Supervisors

District 1	Kevin Jeffries 951-955-1010
District 2 Chairman	John F. Tavaglione 951-955-1020
District 3	Chuck Washington 951-955-1030
District 4	Vacant 951-955-1040
District 5	Marion Ashley 951-955-1050

April 26, 2017

The Honorable Ricardo Lara, Chair  
Senate Appropriations Committee  
State Capitol, Room 5050  
Sacramento, CA 95814

**Re: SB 249 (Allen): Off-Highway Motor Vehicle Recreation**  
**As introduced February 7, 2017**  
**Set for hearing May 1, 2017 – Senate Appropriations Committee**  
**County of Riverside: OPPOSE – Per Board Action**

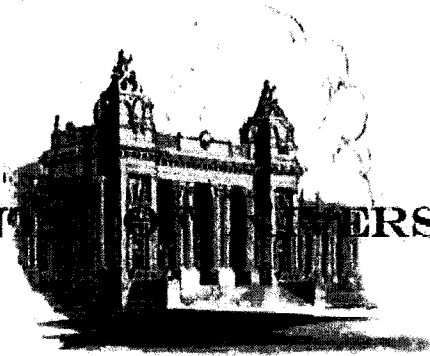
Dear Senator Lara:

On behalf of the Riverside County Board of Supervisors, I write to express our opposition to SB 249, Senator Ben Allen's measure that makes several changes to the Off-Highway Vehicle Recreation Act of 2003. The County is concerned that these changes would undermine our efforts to develop and maintain responsible and legal off-highway vehicle (OHV) recreation in our communities.

The current California Off-Highway Vehicle Recreation program stands as a national model that provides a statewide system of managed OHV recreation opportunities, together with a grants program, and a series of state vehicular recreation areas (SVRAs). Riverside County has a high concentration of OHV ownership; 124,346 total Off-Highway Vehicles are registered to residents of Riverside County. Our population growth has increased demands for all types of outdoor recreation, while development has reduced the amount of land available for OHV activity. High demand combined with a limited number of legal OHV facilities has resulted in a high incidence of illegal or unsanctioned OHV riding in the County. The Riverside County Sheriff's Department received an average of 2,500-service call regarding illegal OHV use since 2007.

The disparity between recreational demand and available OHV venues in Riverside County has made the establishment of an OHV facility on public lands in the region a priority. To that end, the County supports continuing the Off-Highway Motor Vehicle Recreation Act of 2003 as it currently exists to ensure that grant funding and state assistance continue to be available for this currently unmet need in Riverside County.

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We believe that SB 249 unreasonably limits development of SVRAs and inappropriately shifts funds currently utilized by the program to other, non-OHV-related activities. These and other changes contained in the bill have the potential to be detrimental to the future of the OHV program.

For these reasons, we are opposed to SB 249. Should you have any questions about our position, please do not hesitate to contact Deputy County Executive Officer Brian Nestande at (951) 955-1110 or [bnestande@rceo.org](mailto:bnestande@rceo.org).

Sincerely,

John F. Tavaglione  
Chairman, Riverside County Board of Supervisors

Cc: Members and Consultants, Senate Appropriations Committee  
The Honorable Ben Allen, California State Senate  
County of Riverside Delegation

**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

parks 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 ~~It~~

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 ~~(e) 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.