

The Road Repair and Accountability Act of 2017 (SB 1)

March 30, 2017 version

SEC. 1. Findings and Declarations. This section outlines the findings and declarations of the Legislature regarding the needs of the state and local transportation systems and the contribution of transportation to the state's economy. It also details the estimated amount of constitutionally protected revenues contained in the act to address state and local transportation infrastructure needs, and investments in transit, active transportation and trade corridors. Finally, this section outlines preliminary performance outcomes for the state highway system.

SEC 2. The Road Repair and Accountability Act of 2017. This section officially names this bill the Road Repair and Accountability Act of 2017.

SEC. 3. Complete Streets in Highway Design (Adds Section 14033 to Government Code). This section requires the California Department of Transportation (Caltrans) to incorporate the "complete streets" design concept into the Highway Design Manual.

SEC 4. Small Business, Disadvantaged Business Enterprises and Disabled Veteran Business Enterprises (Adds Section 14110 to Government Code). This section requires Caltrans to develop a plan by 2020, and provide the plan to the Legislature, to increase by up to 100 percent the dollar value of contracts and procurements awarded to small businesses, Disadvantaged Business Enterprises and Disabled Veteran Business Enterprises.

SEC. 5. Department of Transportation Independent Office of Audits and Investigations (Adds Chapter 5 to Part 5 to Division 3 of Title 2 of Government Code). This section creates an Independent Office of Audits and Investigations within Caltrans to ensure the department and external entities are expending state and federal transportation funds efficiently, effectively, and in compliance with applicable federal and state laws. The head of the Audits and Investigations office, who would be called the Inspector General (IG), would be appointed by the Governor and confirmed by the Senate for a six-year term. The IG would report to the Governor, the Legislature, and the California Transportation Commission (CTC), annually with a summary of findings, investigations, and audits.

SEC. 6. State Highway Operations and Protection Program (SHOPP) – Asset Management Program (Amends Section 14526.5 of Government Code). This section makes changes to the existing SHOPP program development and approval process administered by the CTC. It requires Caltrans to submit additional information on the proposed SHOPP program prior to CTC review and approval including cost, scope, schedule, and performance metrics. Additionally, it requires the CTC to conduct one public hearing in Northern California and one public hearing in Southern California to get feedback on the proposed SHOPP from stakeholders and the public. This section also requires every SHOPP project to have an allocation from the CTC for all capital outlay support costs, and requires Caltrans to submit a supplemental allocation request for increases in those costs if required by the CTC.

SEC. 7. State Highway Operations and Protection Program (SHOPP) – Asset Management Program (Adds Section 14526.7 to Government Code). This section requires Caltrans to incorporate the performance outcomes from Section 1 into the asset management plan for the SHOPP. It also requires CTC to develop targets for each asset class identified in section 1 to measure the degree to which progress was made in achieving the goals by 2027.

SEC. 8. Traffic Congestion Relief Program (TCRP) (Adds Section 14556.41 to Government Code).

This section declares the completion of all projects from the TCRP as of June 30, 2017.

SEC. 9. Loan Repayments (Adds Section 16321 to Government Code). This section requires that outstanding loans from transportation special funds, totaling \$706 million, be repaid no later than June 30, 2020, proportionally and in equal installments over three years from the Budget Stabilization Account. The loan repayment funds will be distributed as follows: \$256 million to the Public Transportation Account for up to \$20 million for local and regional climate change adaptation planning and the remainder for the existing Transit and Intercity Capital Rail Program, \$225 million to Caltrans for the SHOPP, and \$225 million to cities and counties for local streets and roads.

SEC. 10-17. Tribal Compact Bonds for Transportation Loan Repayments Close Out (repeals sections 63048.65 - 63048.85 of GOV. adds new section 63048.65 to GOV). These sections delete now obscure statutes relating to using tribal gaming revenue to repay Traffic Congestion Relief Fund loans to the General Fund. Additionally, these sections delete the option for the state to issue bonds against future tribal compact revenues.

SEC. 18. Commercial Motor Vehicle Retirement, Replacement, and Retrofitting (Adds Section 43021 to Health and Safety Code). This section allows certain truck owners, who have upgraded their equipment to meet established emissions standards for engines, to own and operate that truck for a reasonable period of time before the state can again require that they upgrade or replace that equipment to meet a newly-issued emissions standards. This requirement does not apply to equipment utilized for safety, voluntary incentive, or inspection programs or programs designed to address imminent health risks where immediate corrective action is necessary to prevent injury or death.

SEC. 19. Transit Funding “State of Good Repair” Requirements for Portion of the Transportation Improvement Fee (TIF) (Amends Section 99312.1 of Public Utilities Code). This section, combined with the new Transportation Improvement Fee in Section 31, will help transit agencies fund their capital infrastructure backlog to achieve and maintain a “state of good repair.” Specifically, transit agencies can use their portion of the new TIF, which is distributed through existing transit formulas, to fund transit capital projects or services to maintain or repair existing transit fleets and facilities, new facilities that improve existing transit services, or transit services that complement local infrastructure improvements.

This section also requires recipient transit agencies to submit a list of projects proposed to be funded to Caltrans, and report to Caltrans after expending funds on a project including the amount of funds spent and the estimated useful life of the improvement.

SEC. 20. Intercity and Commuter Rail Funding Allocations for Portion of the Increase in the Diesel Sales Tax (Adds Section 99312.3 to Public Utilities Code). This section prescribes the distribution for 0.5% of the increase in the diesel sales tax increment an additional 4% in Sections 23 and 24. The revenue derived from the 0.5% will be allocated as follows:

- 50% of the revenue will be allocated equally to the three state-supported intercity-rail operators, with 25% of the funds available for existing lines or emerging corridors.
- 50% of the revenue will be allocated equally to the state’s five commuter rail operators in the first three years. In 2020 and thereafter, the funds will be allocated based on guidelines and a formula developed by the California State Transportation Agency (CalSTA). The guidelines will be developed with input from the rail operators and the public.

SEC. 21. Portion of Transportation Improvement Fee to the Public Transit Account --Transit Intercity Rail Capital Program (Adds Section 99312.4 to Public Utilities Code). This section clarifies that the portion of the Transportation Improvement Fee (Section 31) transferred to the Public Transit Account for purposes of the Transit Intercity Rail Capital Program is available for appropriations through the annual budget process.

SEC. 22. State Transit Assistance Reporting (Adds Section 99314.9 to Public Utilities Code). This section codifies current practice of the State Controller’s Office for reporting State Transit Assistance allocations and requires a separate list be published for the new “State of Good Repair” funds.

SEC. 23. Diesel Sales Tax Increase (Amends Section 6051.8 of Revenue and Taxation Code). This section, and Section 24, increases the diesel sales tax increment an additional 4% starting November 1, 2017. Of the new 4% increment, 3.5% will be distributed through existing transit formulas for transit operations support and capital projects and 0.5% will be distributed to intercity and commuter rail operators as outlined in Section 20.

SEC. 24. Diesel Sales Tax Increase (Amends Section 6201.8 of Revenue and Taxation Code). This section, and Section 23, increases the diesel sales tax increment an additional 4% starting November 1, 2017. Of the new 4% increment, 3.5% will be distributed through existing transit formulas for transit operations support and capital projects and 0.5% will be distributed to intercity and commuter rail operators as outlined in Section 20.

SEC. 25. Gasoline Excise Tax Increase and Indexing – Eliminates Gas Tax Swap True Up (Amends Section 7360 of Revenue and Taxation Code). This section increases the gasoline excise tax by 12 cents per gallon starting November 1, 2017. It also indexes the tax to the California Consumer Price Index, requiring the Board of Equalization (BOE) to adjust the tax every year, starting July 1, 2020, to keep pace with inflation. Additionally, this section resets the price-based excise tax at 17.3 cents per gallon in 2019, and ends the current BOE “true up” called for by the Gas Tax Swap of 2010, which requires the BOE to adjust the gasoline excise tax rate annually to match the amount that the previous gasoline sales tax would have raised.

SEC. 26. Excise Tax Increase on Stored Motor Vehicle Fuels. (Adds Section 7361.2 to the Revenue and Taxation Code). This section applies the increased gasoline excise tax rates in the Act to stored motor vehicle fuels held as of the date of the increase.

SEC. 27. Excise Tax Increase on Stored Motor Vehicle Fuels Reporting (Adds Section 7653.2 to the Revenue and Taxation Code). This section requires each person, by January 1, 2018, subject to the excise tax on storage of motor vehicles fuels (Section 26) to file a report with the BOE detailing the amount of fuels held in storage on November 1, 2017, the amount of taxes owed, and pay the outstanding taxes.

SEC. 28. Non-Highway Vehicles Portion of New Excise Tax – Boating and Waterways (Amends Section 8352.4 of Revenue and Taxation Code). This section directs the portion of the new 12 cents per gallon gasoline excise tax (Section 25) attributable to boating use to the State Parks and Recreation Fund to fund state parks, off-highway vehicle programs, and boating programs.

SEC. 29. Non-Highway Vehicles Portion of New Excise Tax – Agriculture (Amends Section 8352.5 of Revenue and Taxation Code). This section directs the portion of the new 12 cents per gallon gasoline excise tax (Section 25) attributable to agriculture use to the Department of Food and Agriculture Fund to fund agriculture programs.

SEC. 30. Non-Highway Vehicles Portion on New Excise Tax – Off-Highway Vehicles (Amends Section 8352.6 of Revenue and Taxation Code). This section directs the portion of the new 12 cents per gallon gasoline excise tax (Section 25) attributable to off-highway vehicle use to the State Parks and Recreation Fund to fund state parks, off-highway vehicle programs, and boating programs.

SEC. 31. Transportation Improvement Fee and Indexing (Adds Chapter 6 to Part 5 of Division 2 of Revenue and Taxation Code). This section enacts the Transportation Improvement Fee (TIF) based on the market value of a vehicle, starting January 1, 2018. The fee range is:

- \$25 per year for vehicles with a market value \$0- \$4,999
- \$50 per year for vehicles with a market value \$5,000 -- \$24,999
- \$100 per year for vehicles with a market value \$25,000 -- \$34,999
- \$150 per year for vehicles with a market value \$35,000 -- \$59,999
- \$175 per year for vehicles with a market value \$60,000 and higher

The TIF does not apply to commercial vehicles over 10,000 pounds, exempt vehicles, or historic collectible vehicles. This section also indexes the fee to the California Consumer Price Index, requiring the Department of Motor Vehicles (DMV) to adjust the fee every year, starting July 1, 2020, to keep pace with inflation.

Funding generated by the TIF will be allocated as follows:

- \$350 million per year, as adjusted by CPI, will be deposited in the Public Transportation Account with 70% allocated to the existing Transit and Intercity Rail Capital Program and 30% be distributed through existing transit formulas for “State of Good Repair” capital projects as detailed in Section 19.
- \$250 million per year will be allocated for the Congested Corridor program outlined in Sections 43-44.
- The remaining revenue will be deposited in the Road Maintenance and Rehabilitation Account.

SEC. 32. Diesel Excise Tax Increase and Indexing – Eliminates Gas Tax Swap True Up (Amends Section 60050 of Revenue and Taxation Code). This section increases the diesel excise tax by 20 cents per gallon starting November 1, 2017, and indexes the tax to the California Consumer Price Index, requiring the BOE to adjust the tax every year, starting July 1, 2020, to keep pace with inflation. Additionally, this section resets the current diesel excise tax at 16 cents per gallon (the current rate) and ends the current BOE “true up” called for by the Gas Tax Swap of 2010, which requires the BOE to adjust the diesel excise tax rate annually to remain revenue neutral with the amount raised by the diesel sales tax.

SEC. 33. Diesel Excise Tax Increase on Stored Diesel Fuels. (Adds Section 60050.2 to Revenue and Taxation Code). This section applies the increased diesel tax rate in the Act to stored diesel fuels held as of the date of the increase.

SEC. 34. Diesel Excise Tax Increase on Stored Diesel Fuels Reporting (Adds Section 7653.2 to Revenue and Taxation Code). This section requires each person, by January 1, 2018, subject to the tax on storage of diesel fuel (Section 33) to file a report with the BOE detailing the amount of fuel held in storage on November 1, 2017, the amount of taxes owed, and pay the outstanding taxes.

SEC. 35. Advance Mitigation Program (adds article 2.5 to chapter 4 of division 1 of Streets and Highways Code). This section creates an Advance Mitigation Program administered by Caltrans to enhance communications between Caltrans and stakeholders to protect natural resources through project mitigation, accelerate project delivery, and improve environmental mitigation for planned transportation projects. This section provides for one-time funding of \$30 million for four years -- \$120 million total -- to Caltrans from a combination of State Transportation Improvement Program (STIP) and SHOPP funds for the planning and implementation of projects. This section requires Caltrans to consult with the Department of Fish and Wildlife.

SEC. 36. Road Maintenance and Rehabilitation Program (Adds Chapter 2 to Division 3 of Streets and Highways Code). This section creates the Road Maintenance and Rehabilitation Program to address deferred maintenance on the state highway system and the local street and road system. The program will be funded by the increase in the gasoline excise tax (Section 25), Transportation Improvement Fee (Section 31), 50% of the increase in the diesel excise tax (Section 32), and the Zero Emission Vehicle road improvement fee (Section 47). Funding for the program shall be prioritized for expenditure on basic road maintenance and road rehabilitation projects, and on critical safety projects. Specifically, projects such as road maintenance and rehabilitation; safety projects; railroad grade separations; complete street components, including active transportation purposes, pedestrian and bicycle safety projects, transit facilities, and drainage and stormwater capture projects in conjunction with any other allowable project; and traffic control devices can be funded from the program.

Funding will be distributed by formula with 50 % allocated to the state for maintenance and the SHOPP and 50% allocated to cities and counties for local streets and roads. Prior to that distribution the following programs will receive funding annually:

- \$200 million per year will be allocated to the CTC for a program for local jurisdictions that have approved transportation sales tax measures and other local funds dedicated for transportation purposes. The CTC will develop guidelines for this program in cooperation with Caltrans and regional and local agencies. Sound wall projects for freeways built prior to 1987 are eligible for funding.
- \$100 million per year will be allocated to the CTC for the Active Transportation Program (ATP), for bicycle and pedestrian projects.
- \$400 million per year will be allocated to Caltrans for bridge and culvert maintenance and rehabilitation.
- \$25 million per year will be allocated to support Freeway Service Patrols throughout the state.
- \$5 million for five years -- \$25 million total – for the California Workforce Development Board to assist local agencies to implement policies to promote preapprenticeship training programs as defined in this section.
- \$25 million per year will be allocated to Caltrans for local and regional planning grants. Caltrans will develop a grant guide in consultation with the Air Resources Board, the Governor’s Office of Planning and Research, and the Department of Housing and Community Development.
- \$2 million per year will be allocated to the California State University system and \$5 million per year to the University of California’s Institutes for Transportation Studies to fund transportation research and transportation-related workforce education, training, and development.

This section requires Caltrans and cities and counties to consider and utilize, to the extent possible and cost effective, the following:

- Advanced technologies and material recycling techniques that reduce the cost of maintaining and rehabilitating streets and highways and reduce greenhouse gas emissions through material choice and construction methods.
- Advanced technologies and communications systems in transportation infrastructure that help accommodate advanced automotive technologies, such as ZEV charging or fueling and autonomous vehicle systems.
- Features in projects to better adapt to withstand the negative effects of climate change and make the system more resilient to impacts such as fires, floods, and sea level rise.
- Complete streets elements to improve the quality of bicycle and pedestrian facilities and improve safety for all users.

This section requires Caltrans to report annually to the CTC on its progress in meeting performance goals included in the act. Caltrans shall also report to the CTC on projects funded by the act, including the amount of funds spent and the estimated useful life of the improvement. The CTC will evaluate their progress and may make recommendations for improvement. The CTC may also withhold future project allocations if they determine the funds are not appropriately being spent.

This section requires Caltrans to implement efficiency measures with a goal of generating \$100 million per year in savings to invest in further maintenance and rehabilitation of the state highway system.

This section also requires cities and counties to submit a list of projects proposed to be funded to the CTC and report to the CTC after expending funds on a project including the amount of funds spent and the estimated useful life of the improvement. Additionally, cities and counties are required to sustain a maintenance of effort by spending at least the same amount as previous fiscal years on transportation purposes from the city or county general fund. Cities and counties may use their funds for other transportation priorities if the city's or county's average Pavement Condition Index meets or exceeds 80.

Finally, this section calls for the California Workforce Development Board (Board) to develop guidelines for public agencies receiving funding from this section to participate in, invest in, or partner with, new or existing preapprenticeship training programs. By July 1, 2023, Caltrans and local agencies must follow the guidelines developed. The Board will also develop a grant and training program funded by this section of which local agencies can apply. Criteria for the grants require a program to contain specific core curriculum implemented by the State Department of Education; include a plan for outreach to and retention of women, minority, disadvantaged youth participants, local labor market area, and formerly incarcerated individuals; and coordinate with existing programs, building trade councils and the California Conservation Corps.

SEC. 37. Gasoline and Diesel Excise Tax Allocation (Adds Section 2103.1 to Streets and Highways Code). This section directs the 12 cents per gallon increase in the gasoline excise tax to the Road Maintenance and Rehabilitation Account (Section 36). This section also directs the 20 cents per gallon increase in the diesel excise tax with 50% to the Trade Corridors Enhancement Account (Section 32), and 50% to the Road Maintenance and Rehabilitation Account (Section 36).

SECS. 38-41. Distribution of CPI Growth to the Base 18 Cents Per Gallon Gasoline Excise Tax (Amends Sections 2104-2107 of Streets and Highways Code). This section converts existing allocations of the base 18 cents per gallon gasoline excise tax from fixed dollar amounts to percentages so that future increases as adjusted for inflation, as called for in Section 25, are allocated proportionally between the cities, counties, and the state

SEC. 42. Portion of Diesel Excise Tax Increase to Trade Corridors Enhancement Account (Adds Section 2192.4 to Streets and Highways Code). This section creates the Trade Corridor Enhancement Account and allocates 50% of the 20 cent per gallon increase in the diesel excise tax (Section 32) to corridor-based freight projects nominated by the state and local agencies.

SECS. 43-44. Congested Corridors Program (Adds Chapter 8.5 to Division 3 of Streets and Highways Code). This section creates Solutions for Congested Corridors Program to address the state's most congested travel corridors by undertaking long-term, comprehensive, and multi-modal approaches that address mobility, community, and environmental challenges. The program will be funded at \$250 million per year from the Transportation Improvement Fee (Section 31). Funding for the program will be allocated by the CTC for projects that make specific performance improvements and are a part of a comprehensive corridor plan. The corridor plans can include improvements to state highways, local streets and roads, public transit facilities, bicycle and pedestrian facilities and restoration or preservation work that protects critical local habitat or open space. All projects must also be included in a region's Regional Transportation Plan and, if required, a Sustainable Communities Strategy.

This section authorizes regional transportation planning agencies, county transportation commissions or the state to nominate projects for funding alone or jointly, with preference given to state – local jointly nominated projects. The CTC cannot allocate more than half of the funds each year to projects nominated exclusively by the state.

This section requires project sponsors to include quantitative and qualitative measures demonstrating the project meets program goals, and provides scoring criteria for the CTC to evaluate proposed projects for consistency with corridor plans.

This section directs the CTC to develop and adopt guidelines, in consultation with the Air Resources Board, for the program, including conducting a public hearing in northern California and southern California. The CTC will adopt a program of projects that may cover multi-years of funding, with programs of projects being adopted on a biennial basis.

Finally, this section requires the CTC include information about this program in their annual report to the Legislature, and will include details, as defined, on each project that received funding.

SEC. 45. Truck Emissions Standards: Compliance (Adds Section 4000.15 to Vehicle Code). This section prohibits DMV, starting in 2020, from registering or renewing the registration of specified medium- and heavy-duty diesel trucks unless they can demonstrate full compliance with applicable emissions requirements thereby ensuring that all truck in operation on California roadways meet all applicable emissions standards and requirements.

SEC 46. Temporary Registration (Amends Section 4156 of Vehicle Code). This section authorizes DMV to issue a one-time, temporary (90-day) registration to operate a truck, unless otherwise approved by ARB, if the truck fails to meet applicable emissions standards. This section is intended to allow a truck operator time to come into compliance with existing emissions standards and requirements, after

which the truck can be fully registered or, if the specified emission requirements are not satisfied, registration will be denied thereby ensuring that the truck cannot be legally operated on California roadways.

SEC. 47. Zero Emission Vehicle Road Improvement Fee and Indexing (Adds Section 9250.6 to Vehicle Code). This section creates a \$100 per year road improvement fee for zero emission vehicles (ZEV), starting July 1, 2020. The fee would be paid starting on the second and subsequent year of ownership of a new ZEV, model year 2020 or later. This section also indexes the fee to the California Consumer Price Index, requiring the DMV to adjust the fee every year, starting July 1, 2021, to keep pace with inflation. The new funds derived from the increase are allocated to the Road Maintenance and Rehabilitation Program (Section 36).

SEC. 48. Zero Emission Vehicle Report. This section requires the University of California, Davis, in consultation with the Air Resources Board, Caltrans, DMV, and BOE, to prepare a report, by January 1, 2019, that makes recommendations on potential methodologies to raise revenue from zero-emission and low-emission vehicle owners to achieve the state's transportation electrification, clean air, and climate targets while also ensuring those vehicle owners pay their fair share of any costs borne by motorists to fund improvements to the transportation system.

SEC. 49. Administrative Procedures Act. This section exempts guidelines adopted by the CTC, Caltrans or California CalSTA, to implement the Act, from the Administrative Procedures Act.

SEC. 50. Urgency Clause. This section adds an urgency clause for the bill to go into effect immediately upon signature.