CEAC Transportation Policy Committee
17th Annual Policy Conference
Thursday, August 18, 2022| 3:15 pm – 5:00 pm
Capitol Event Center
1020 11th Street, 2nd Floor, Sacramento, CA 95814

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AGENDA

Chair, David Fleisch, Ventura County
Vice Chair, Stephen Kowalewski, Contra Costa County
Vice Chair, Jeff Moneda, San Diego County
Vice Chair, Najee Zarif, San Joaquin County

3:15 p.m. I. **Welcome and Introductions**
Chair, David Fleisch, Ventura County

3:20 p.m. II. **Legislative and Budget Update**
Mark Neuburger, CEAC Program Director
CSAC Legislative Representative Housing, Land Use & Transportation

3:30 p.m. III. **Caltrans Presentation**
- Active Transportation & Complete Streets

Alyssa Begley, Office of Active Transportation and Complete Streets, Caltrans

4:00 p.m. IV. **Legislative Proposal**
- Zero Emission Vehicle (ZEV) Fee Revenue Fund Shift (Los Angeles) - ***Attachment One***

4:15 p.m. V. **Discussion Items**
- Surface Transportation Block Grant (STBG) Allocations (SHC 182.6(d)(2))
- CBC 11B-250 - Circulation Paths

4:40 p.m. VI. **Committee Updates**
- Active Transportation Program-Technical Advisory Committee
  - (ATP-TAC) – Representative Ariana Lopez
- California Traffic Control Devices Committee (CTCDC)
  - Representative Bob Bronkall
- Federal Lands Access Program (FLAP)

- Representative Joshua Pack
- Highway Bridge Program Committee (HBP)
  - Representative Matt Randall
- Highway Safety Improvement Program (HSIP)
  - Representative Stephanie Holloway/Tom Mattson
- Local Streets and Roads Needs Assessment (LSR)
  - Representative David Leamon
- Transportation Cooperative Committee (TCC)
  - Representative Najee Zarif

4:55 p.m. VII **Future Agenda Items**

5:00 p.m. VIII. **Adjournment**

LIST OF ATTACHMENTS

Attachment One

Legislative Proposal: Zero Emission Vehicle (ZEV) Fee Revenue Fund Shift

County Engineers Association of California

LEGISLATIVE PROPOSAL ACTION REQUEST FORM

Please return this form by COB Wednesday, August 3, 2022

For your proposal to be considered, please respond to ***all*** questions included in this form. Proposals must be submitted to CEAC through your Public Works Director or Department Head. Please submit this form to Ada Waedler at awaelder@counties.org

Proposals will be referred to the appropriate policy committees and considered during the 2022 CEAC Policy Conference, August 18-19, 2022.

Contact Name: Steve Burger

County: Los Angeles County

Position: Deputy Director

Phone: 626-458-4018

Email: sburger@dpw.lacounty.gov

Brief Description of Legislative Proposal:

Propose a bill to amend the revenues generated from the electric vehicle transportation improvement fee be distributed to both Road Maintenance and Rehabilitation Account (RMRA) and the unrestricted portion of the non-RMRA Highway User Tax Account (HUTA) funds. This would not modify the amount of taxes or fees charged to electric vehicles, but it would help to offset the impacts that transitioning to zero emission vehicles (ZEV) will have on the portion of Road funds that local cities and counties need to support operations and maintenance programs.

I. BACKGROUND INFORMATION

A. Problem

(1) What problem does the proposal address? Please share specific facts and examples to illustrate the problem.

According to the California City Finance website (Michael Coleman), the growth in Road Maintenance and Rehabilitation Account (RMRA) is projected to be 5.0% in FY 2023-24, 5.3% in FY 2024-25, 6.0% in FY 2025-26, 7.2% in FY 2026-27, and 5.9% beyond that. Meanwhile, the average growth in Highway User Tax Account (HUTA) is approximately 1.8% in FY 2023-24, 2.0% in FY 2024-25, 1.1% in FY 2025-26, 1.2% in FY 2026-27, and 1.6% beyond that. This growth rate is significantly lower than the RMRA growth rate, but labor, materials, and equipment costs for non-RMRA work is escalating at a similar level to RMRA work.

Non-RMRA work includes critical work on road right-of-way that may not fall under the definition of roadway maintenance. This can include highway safety lighting maintenance, snow removal, vegetation control, storm damage repair, litter and debris removal, street sweeping, traffic safety investigations, drainage facility maintenance, shoulder maintenance, landscape median maintenance, and response to claims and litigation to name a few. It also includes projects that may add sidewalk, bike lanes, or travel lanes, as RMRA funds are intended for "fix it first" maintenance and critical safety projects.

As part of Senate Bill (SB) 1 (2017), a "road improvement fee" of $100 was imposed on zero emission vehicles (ZEV) model year 2020 and later, after July 1, 2020 (Vehicle Code 9250.6). This transportation improvement fee is adjusted for inflation beginning July 1, 2021, adjusted annually thereafter. According to the California Energy Commission, ZEVs sold in 2020 totaled 145,099 and in 2021 250,279. In 2021, the ZEV sales share was 12.41% up from 7.78% in 2020. So far in 2022, ZEV sales were 81,292 with 16.32% of market share.

Over time, the added number of ZEVs will no longer contribute to the HUTA since they do not use traditional wet fuel (gasoline or diesel). This will result in the decline of gas tax revenue, first in inflation-adjusted terms and, eventually, nominally. The ZEVs will no longer contribute to important road right-of-way activities that are not funded through RMRA.

http://www.californiacityfinance.com/LSR2205.pdf
https://www.energy.ca.gov/data-reports/energy-almanac/zero-emission-vehicle-and-infrastructure-statistics/new-zev-sales

(2) Does the proposal address a problem of statewide significance? Give specific facts and examples, which demonstrate a statewide need for the proposal.

The proposal will distribute a portion of the transportation improvement fee to the HUTA fund. Currently, gasoline- and diesel-fueled vehicle owners pay into both HUTA and RMRA. ZEV owners do not pay anything to HUTA. This proposal would not increase the existing road improvement fee. ZEV owners will continue to pay a portion of vehicle registration fees to RMRA as do gasoline- and diesel-fueled vehicle owners.

This will address the reduced number of vehicles which will pay the gas tax as more vehicles become ZEV and gasoline- and diesel- fueled vehicles are retired. Although only 2% of cars in 2020 are ZEV, that number will only grow. In addition, the decoupling of ZEVs from gas prices may encourage people to make more trips because of low-cost electricity, especially through solar power.

Governor Gavin Newsom has ordered that all new vehicles sold in California in 2035 be ZEVs. Under California Air Resources Board (ARB) regulations to implement the order, the number of ZEV vehicles would need to be 35% by 2026. https://calmatters.org/environment/2022/04/california-electric-cars-rule-zero-emissions/

This will help local cities and counties which receive HUTA, as well as Caltrans. State programs funded by HUTA include the Active Transportation Program, State Transportation Improvement Program, State Highway Operation and Protection Program, and State Highway Account. These provide important basic maintenance on State highways and freeways.

In 2019, the Mineta Institute analyzed the ZEV fee and found that revenue with ZEV adoption would be constant or slightly higher than today. However, this only addressed the total revenue, not the relative share of RMRA compared to HUTA. When looking more closely, the road improvement fee accounts for 10% of the revenue collected by 2040 for roadway maintenance under a "high adoption" scenario, where five million ZEVs (cumulative) are sold by 2030. Note that as of Quarter 1 2022, the California Energy Commission reported 1.1 million ZEVs sold cumulative; therefore, it would not be unrealistic to see the "high adoption" scenario be exceeded if the ARB mandate passes. Thus, the share of ZEV fee relative to total revenue collected could be much higher than 10% if no gasoline-powered vehicles are sold after 2035 and only gas and diesel taxes fund HUTA. https://transweb.sjsu.edu/sites/default/files/1850-WP-ZEV-Adoption-California-Transportation-Revenue.pdf

In the long run, it is expected that the State will replace the gasoline tax with another fee (i.e., direct user fees) to support transportation funding needs in the State. The State did conduct a pilot, and there has been partnerships with academics to study various aspects of a migration to a direct user fee. However, no timeline for this switch has been determined and there remain technological and policy (i.e., privacy and data collection) challenges with direct user fees which need to be addressed.

(3) Have counties been involved in any litigation regarding this problem? If so, cite the case.

No.

(4) What other source materials, case law, or data, document the existence of the problem (e.g., periodicals, government agency reports, private studies, law review articles, newspaper articles)?

Links are embedded in the document.

B. Interested Parties

(1) What counties, organizations or individuals are interested in the problem?

Los Angeles County, California State Association of Counties (CSAC), and the League of California Cities.

(2) What counties, organizations or individuals would be sources of information about the problem?

Michael Coleman's Local Government Finance Almanac (CaliforniaCityFinance.com), CSAC, the League of California Cities.

(3) Who would be likely to support/oppose the proposal? Why?

Counties and cities would welcome the flexibility. Some contractors and engineers may support this since it would provide additional funds for road widening and other capacity increasing projects, although other environmental laws will mitigate the number of large scale road widening and construction projects.

(4) Identify groups or other governmental agencies that could be affected by the proposal, either favorably or adversely? Please Discuss.

Groups like the Howard Jarvis Taxpayers Association who did not like SB 1 in the first place may feel that this is diverting RMRA funds to more frivolous activities that are not "fix-it-first" projects. Some legislators may feel that this violates the compact of SB 1, which was ratified by the voters through the defeat of Proposition 6 (2018), that the added gas tax would be used to repave streets and address safety concerns.

Contractors associations and labor groups may not support this legislation due to concerns that revenues that would be used for contracted work would shift to non-contract work.

II. PROPOSAL

A. Existing Law

(1) What are the statutory provisions currently applicable to the proposal?
(2) What case law is relevant to this issue? Please summarize and cite.
(3) Why is existing law inadequate to deal with the problem?

The Road Improvement Fee is codified in Vehicle Code 9250.6:

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

(b) On January 1, 2021, and every January 1 thereafter, the Department of Motor Vehicles shall adjust the road improvement fee imposed under subdivision (a) by increasing the fee in an amount equal to the increase in the California Consumer Price Index for the prior year, except the first adjustment shall cover the prior six months, as calculated by the Department of Finance, with amounts equal to or greater than fifty cents ($0.50) rounded to the highest whole dollar. The incremental change shall be added to the associated fee rate for that year.
(c) Any changes to the road improvement fee imposed by subdivision (a) that are enacted by legislation subsequent to July 1, 2017, shall be deemed to be changes to the base fee rate for purposes of the California Consumer Price Index calculation and adjustment performed pursuant to subdivision (b).
(d) Revenues from the road improvement fee, after deduction of the department's administrative costs related to this section, shall be deposited in the Road Maintenance and Rehabilitation Account created pursuant to Section 2031 of the Streets and Highways Code.
(e) This section does not apply to a commercial motor vehicle subject to Section 9400.1.
(f) This section does not apply to a vehicle issued apportioned registration pursuant to the International Registration Plan.
(g) The road improvement fee required pursuant to this section does not apply to the initial registration after the purchase of a new zero-emission motor vehicle.
(h) For purposes of this section, "zero-emission motor vehicle" means a motor vehicle as described in subdivision (d) of Section 44258 of the Health and Safety Code.

The definition of a ZEV is in Health and Safety Code 44258.
For purposes of this chapter, the following terms have the following meanings:
[…]
(d) "Zero-emission vehicle" means a vehicle that produces no emissions of criteria pollutants, toxic air contaminants, and greenhouse gases when stationary or operating, as determined by the state board.

"State board" refers to ARB.

We are not aware of any case law on this. Existing law is prescriptive as to what the fee is and where it goes (RMRA).

B. Suggested Legislation

(1) Describe the specific bill proposal.
(2) Do similar provisions exist in other California laws?
(3) Describe a hypothetical application of the proposal

We propose a bill to amend the revenues generated from the electric vehicle road improvement fee distribute to both RMRA and the unrestricted (non-RMRA) portion of the HUTA funds.

This would not modify the amount of taxes or fees charged to electric vehicles, but it would help to offset the impacts that transitioning to ZEVs will have on the portion of Road funds that local cities and counties need to support O&M programs.

This would be an amendment to the road improvement fee language. SB 1 was prescriptive about the sources of revenue and the accounts it would go to, and this proposed legislation would mirror that.

We do not have a position as to the share of the road improvement fee which should go to HUTA. However, for gasoline-fueled vehicles, 40.2 cents of gas tax goes to HUTA and 13.7 cents go to RMRA. The road improvement fee was intended as a substitute for the gas tax so if that analogy was used, 75% of the ZEV road improvement fee should go to HUTA as that is the share of total gas tax that goes to HUTA. Note: the RMRA is also funded by diesel tax and vehicle registration fees not affected by this proposal.

C. Fiscal Impact

(1) Would there be any potential fiscal impact on counties under the proposal? If so, describe.

The net fiscal impact would be neutral; that there would be additional HUTA funds and less RMRA funds.

(2) Would there be any potential financial impact on other persons or organizations, public or private?

No.

D. History

(1) Has this proposal ever been introduced in the Legislature? If so, what was the bill number and why did it fail?

No.

(2) Is judicial or executive branch resolution of the problem possible? Explain.

No. The RMRA formula is in state law (Streets and Highways Code).

E. Public Policy

(1) What are the public policy reasons in support of this proposal? Against?
(2) Would this proposal affect any related public policy? If so, describe.

Please see above.

From a policy perspective, it has historically been the position of organizations of local jurisdictions like CEAC, CSAC, and the League of Cities to support local control. They argue for fewer state mandates and more flexibility to use funds to meet the unique needs of their jurisdictions. This proposal would help further local control of transportation funds in the same way that HUTA funds to cities and counties have limited restrictions.

Some may feel that this violates the compact of SB 1, which was ratified by the voters through the defeat of Proposition 6 (2018), that the added gas tax would be used to repave streets and address safety concerns. RMRA has detailed reporting and accountability provisions for jurisdictions that have not met a minimum pavement condition index. They may feel that the minimum pavement standard must be met in order to provide the flexibility, despite the fact that non-RMRA activities have a large impact on the quality of life of residents and businesses and improve the road right of way.

Los Angeles County: ZEV Revenue Split & Shift to HUTA

The Los Angeles County Public Works Department requests that CEAC sponsor a bill to amend existing SB 1 (2017) sections be amended to shift revenues derived from registration fees collected on Zero-Emission Vehicles (ZEV) to be deposited in both the Road Maintenance and Rehabilitation Account (RMRA) and the Highway User Tax Account (HUTA) funds. Currently, revenues from ZEV registration fees are only deposited in the RMRA. The proposer indicates that making this change would help to offset the impacts that transitioning to zero emission vehicles (ZEV) will have on the portion of Road funds that local cities and counties need to support operations and maintenance programs.

CSAC Staff Comments:

The effort by the current state administration to encourage the adoption of ZEVs by the public as well as the recent increases in individuals purchasing ZEVs will lead to reductions in fuel derived transportation revenues. This reality is broadly recognized by federal, state and local transportation policy staff and SB 1 through the ZEV fee and other mechanisms. These were the initial attempts to ensure that these transportation modes contribute to the maintenance of the state's transportation network. CEAC and CSAC were part of the broad coalition of state and local stakeholders that successfully worked toward the passage of SB 1 and successfully defended against the attempt by Proposition 6 (2018) to overturn SB 1. CEAC and CSAC have adopted policy positions which require the association to protect state transportation revenues and oppose efforts to use transportation revenues outside their intended purposes. Proposing to alter the fund(s) that receive ZEV revenues would conflict with existing CEAC and CSAC policy platforms. CEAC has identified exploring a Road User Charge as a policy priority and staff recommends that the Association determines how it can best participate in that process.

Relevant CSAC County Platform Priority:

Chapter 10: Housing, Land Use and Transportation:

Section 4: Conclusion

Relevant CEAC Policy and Legislative Priorities

Transportation: Priority 2

Proposition 6

Eliminates Recently Enacted Road Repair and Transportation Funding by Repealing Revenues Dedicated for Those Purposes. Requires Any Measure to Enact Certain Vehicle Fuel Taxes and Vehicle Fees Be Submitted to and Approved by the Electorate. Initiative Constitutional Amendment.

Yes/No Statement

A **YES** vote on this measure means: Fuel and vehicle taxes recently passed by the Legislature would be eliminated, which would reduce funding for highway and road maintenance and repairs, as well as transit programs. The Legislature would be required to get a majority of voters to approve new or increased state fuel and vehicle taxes in the future.

A **NO** vote on this measure means: Fuel and vehicle taxes recently passed by the Legislature would continue to be in effect and pay for highway and road maintenance and repairs, as well as transit programs. The Legislature would continue not to need voter approval for new or increased state fuel and vehicle taxes in the future.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact

- Reduced ongoing state revenues of $5.1 billion from the elimination of fuel and vehicle taxes passed by the Legislature in 2017. These revenues mainly would have paid for highway and road maintenance and repairs, as well as transit programs.
- The requirement that voters approve new or increased fuel and vehicle taxes passed by the Legislature in the future could result in lower revenues from such taxes than otherwise would have been available.

Ballot Label

Fiscal Impact: Reduced ongoing revenues of $5.1 billion from state fuel and vehicle taxes that mainly would have paid for highway and road maintenance and repairs, as well as transit programs.

BACKGROUND

Approval of State Taxes

Legislative Requirements. Under the State Constitution, the Legislature can only pass a new tax or increase an existing tax with a two-thirds vote. (The Legislature can pass most other types of laws with a simple majority.) Some state charges referred to as fees (such as vehicle license fees) fall under the constitutional definition of a tax.

Voter Approval Requirements. The Legislature does not need to get voter approval for new or increased taxes that it passes. The voters—through the initiative process—can pass new taxes or increase existing taxes without the Legislature's involvement.

State Fuel and Vehicle Taxes

Fuel Taxes. The state charges excise taxes on gasoline and diesel fuel. These taxes are set on a per-gallon basis. The state also charges sales taxes on gasoline and diesel fuel. These taxes are set as a percent of the price of the fuel. The State Constitution generally requires that the revenues from these fuel taxes be spent on highways, roads, and transit.

Vehicle Taxes. State law requires vehicle owners to pay two specific taxes for the privilege of operating a vehicle on public highways. These are (1) vehicle license fees and (2) recently enacted transportation improvement fees, both of which are based on a vehicle's value. The State Constitution requires that the transportation improvement fee revenues be spent on highways, roads, and transit.

Transportation Funding in California

Transportation funding in California currently is estimated to total $35 billion. Of this amount, $16 billion comes from local sources, $12 billion from state sources, and $7 billion from federal sources. Local funding mainly comes from sales taxes, transit fares, and city and county general funds, while federal funding mainly comes from federal fuel taxes. State funding mainly comes from state fuel and vehicle taxes. State funding has increased by about three-quarters over the last two years mainly due to recent legislation.

Recent State Transportation Funding Legislation. In 2017, the Legislature enacted Senate Bill (SB) 1 to increase annual state funding for transportation through various fuel and vehicle taxes (shown in Figure 1). Specifically, SB 1 increased the base gasoline excise tax (by 12 cents per gallon) and the diesel sales tax (by 4 percent). It also set fixed rates on a second (add-on) gasoline excise tax and the diesel excise tax, both of which previously could change each year based on fuel prices. Further, SB 1 created the transportation improvement fee (which ranges from $25 to $175 per year) and a fee specifically for zero-emission vehicles (set at $100 per year for model years 2020 and later). It also provides for inflation adjustments in the future. This fiscal year, the state expects the taxes to raise $4.4 billion. Two years from now, when all the taxes are in effect and the inflation adjustments have started, the state expects the taxes to raise $5.1 billion. The State Constitution requires that nearly all of these new revenues be spent on transportation purposes. Senate Bill 1 dedicates about two-thirds of the revenues to highway and road repairs, with the remainder going to other programs (such as for mass transit).

Figure 1

Senate Bill 1 Revenues

	Tax Rates		Annual Revenues (In Billions)	
	Prior Rates	New Rates	Current Year	In Two Years
Gasoline Taxes				
Excise (base)	18 cents	30 cents	$1.9	$2.1
Excise (add-on)	Varied[a]	17.3 cents	—[b]	0.2
Diesel Taxes				
Excise	Varied[c]	36 cents	0.7	0.7
Sales	1.75 percent	5.75 percent	0.3	0.4
Vehicle Taxes				
Transportation improvement fee	—	$25 to $175	1.5	1.6
Zero-emission vehicle fee	—	$100	—[b]	—[d]
Totals			**$4.4**	**$5.1**

[a] Set annually based on prices. Current rate is 11.7 cents but rate has ranged from 9.8 cents to 21.5 cents in the past.
[b] New rate not yet in effect.
[c] Set annually based on prices. Most recent rate was 16 cents but rate has ranged from 10 cents to 18 cents in the past.
[d] $48 million.

PROPOSAL

Requires Legislature to Get Voter Approval for Fuel and Vehicle Taxes. Proposition 6 amends the State Constitution to require the Legislature to get voter approval for new or increased taxes on the sale, storage, use, or consumption of gasoline or diesel fuel, as well as for taxes paid for the privilege of operating a vehicle on public highways. Thus, the Legislature would need voter approval for such taxes as gasoline and diesel excise and sales taxes, vehicle license fees, and transportation improvement fees.

Eliminates Recently Enacted Fuel and Vehicle Taxes. Proposition 6 also eliminates any such fuel and vehicle taxes passed by the Legislature after January 1, 2017 and up to the date that Proposition 6 takes effect in December. This would eliminate the increased fuel taxes and the transportation improvement fees enacted by SB 1.

Fiscal Effects

Eliminates Tax Revenues From SB 1. In the current fiscal year, Proposition 6 would reduce SB 1 tax revenues from $4.4 billion to $2 billion—a $2.4 billion decrease. (The $2 billion in remaining revenues would be from taxes collected prior to Proposition 6 taking effect in December.) Two years from now, the revenue reduction would total $5.1 billion annually. The funding reductions would mainly affect highway and road maintenance and repair programs, as well as transit programs.

Makes Passage of Specified Fuel and Vehicle Taxes More Difficult. Proposition 6 would make it more difficult to enact specified fuel and vehicle taxes because voters also would have to approve them. As a result, there could be less revenue than otherwise would be the case. Any reduction in revenues is unknown, as it would depend on future actions by the Legislature and voters.