Memorandum

Tab 14

To: CHAIR AND COMMISSIONERS

CTC Meeting: January 20, 2016

Reference No.: 4.1
Action

From: WILL KEMPTON
Executive Director

Subject: **STATE AND FEDERAL LEGISLATION**

ISSUE:

1) Does the California Transportation Commission (Commission) have comments on the legislation identified and monitored by staff as presented in Attachment A?

2) Should the Commission support the general concepts included in the new transportation funding proposals?

3) Should the Commission communicate to the Legislature its support of implementing the federal freight formula funding program through the existing Trade Corridor Improvement Program?

RECOMMENDATION:

Staff recommends that the Commission:

1) Accept the staff report and provide direction to staff on legislation of interest in Attachment A;

2) Send a letter to the Legislature supporting the general concept of all transportation funding proposals which responsibly address the state's crumbling transportation infrastructure; and

3) Send a letter to the Legislature in support of implementing the federal freight formula funding program through the existing Trade Corridor Improvement Program.

BACKGROUND:

The Legislature returned from interim recess on January 4th to begin the second year of the 2-year session. The policy committees of both houses held bill hearings to move to the floor some of the remaining bills from the first year. According to the State Constitution, any bill introduced in 2015 that does not get out of its house of origin by January 31, 2016, is dead.

Remaining 2-Year Bills

The following bills of interest from 2015 are still pending and staff will continue to track them:

SB 254 (Allen, D) State Highways: Relinquishment – Authorizes the Commission to relinquish to a local government a portion of the state highway system if Caltrans enters into an agreement with the city or county. This bill essentially eliminates the legislature's role, streamlining the existing relinquishment process.
Status: Assembly Transportation Committee
Adopted Position: Support in Concept

SB 321 (Beall, D) Motor Vehicle Fuel Taxes: Rate Adjustment – Requires the State Board of Equalization (BOE) to adjust the price-based excise tax rate to reflect the estimate made by the BOE based on the average fuel price over the previous four fiscal years and the estimated price for the current fiscal year.
Status: Senate Floor – Inactive File
Adopted Position: Support in Concept

SCR 45 (Berryhill, R) Joe Levy Memorial Highway – Re-designates a portion of State Highway Route 41 in the County of Fresno as the Joe Levy Memorial Highway, instead of the Dwight D. Eisenhower Memorial Freeway, and adjusts the portion of State Highway Route 41 designated as the Dwight D. Eisenhower Memorial Freeway.
Status: Assembly Appropriations
Adopted Position: Support

New Legislation

In addition, Legislators have begun introducing new legislation this year. Some bills of interest include:

AB 1555 (Gomez, D) Cap and Trade Funds – States the intent of the Legislature to enact future legislation that would appropriate monies from the Greenhouse Gas Reduction Fund that would be allocated to different entities in amounts to be determined for purposes including low carbon transportation and infrastructure, clean energy communities, community climate improvements, wetland and watershed restoration, and carbon sequestration.
Status: Introduced

AB 1569 (Steinorth, R) CEQA Exemptions – Exempts from CEQA a project, or the issuance of a permit for a project, in the existing right of way that consists of the inspection, maintenance, repair, rehabilitation, or removal of, or the addition of an auxiliary lane or bikeway to, existing transportation infrastructure and that meets certain requirements.
Status: Introduced
Note: Similar to language included in the Governor's funding proposal

AB 1591 (Frazier, D) Transportation Funding – Increases transportation funding to support the Road Maintenance and Rehabilitation Program through a motor vehicle fuel tax increase, a new vehicle registration fee for zero-emission vehicles, and other fees. Includes a diesel fuel tax increase to fund the Trade Corridors Improvement Fund.
Status: Introduced
Note: Similar to Senator Beall's SB 16 and SB1x 1

AB 1657 (O'Donnell, D) Cap and Trade Funds: Ports – Establishes the Zero- and Near-Zero-Emission Intermodal Terminals Program to be administered by the Air Resources Board to fund equipment upgrades and investments at intermodal terminals in order to transition the state's freight system to be zero-emission and near-zero-emission operations. Authorizes the program to be implemented with moneys from the Greenhouse Gas Reduction Fund.
Status: Introduced

SB 824 (Beall, D) Low Carbon Transit Operations Program – Authorizes a recipient transit agency that does not submit a project for funding under the Low Carbon Transit Operations Program in a particular fiscal year to retain its funding share for expenditure in a subsequent fiscal year. Requires Caltrans to annually calculate a funding share for each eligible recipient transit agency. Allows a recipient transit agency to loan or transfer its funding share to another transit agency.
Status: Introduced

Beyond the legislation mentioned above, status of all pending bills the Commission is monitoring can be found in Attachment A.

Transportation Funding Proposals

On January 6th, Assembly Member Frazier introduced AB 1591, his proposal for increasing funding for transportation. On January 7th, Governor Brown released his January Budget which included his draft funding proposal from last September. When combined with Senator Beall's 2015 funding proposal contained in SB 16 and later in the First Extraordinary Session bill SB1x 1, there are now three different proposals for increasing funding for transportation.

While similar in many ways, these three proposals differ in minor ways. For example, the proposals from Senator Beall and Assembly Member Frazier contain significantly more funding than the Governor's proposal (roughly $6 billion and $7.2 billion, respectively, compared to $3.6 billion). While Assembly Member Frazier's bill and the Governor's proposal both include funding from the Greenhouse Gas Reduction Fund (cap and trade revenues), Senator Beall's proposal does not include this type of funding. Similarly, Senator Beall's bill and the Governor's proposal do not address using funding from truck weight fees for General Fund purposes, but Assembly Member Frazier's bill immediately returns this funding to transportation. Attachment B is a summary comparison of the three proposals.

One characteristic all three proposals share is the apparent lack of the Republican support necessary for passage. Any tax or fee increase requires a two-thirds vote in both the Assembly and the Senate, which means at least a few Republican Legislators must vote for the increase. To date, none of the three proposals have received any Republican votes[1], and little support of raising taxes for transportation has been publicly communicated by any Republican members.

Given the desperate need for increased transportation funding, staff recommends the Commission send a letter to the Legislature supporting the general concept of all three proposals, and reiterating

[1] At this point, only SB 16 (Beall) has been up for a vote in any committee. On April 28, 2015, SB 16 passed out of the Senate Transportation and Housing Committee on a 6-1 vote; on May 6th it passed out of Senate Governance and Finance 5-1; and on May 28th it passed out of Senate Appropriations 5-2. It is currently on the Senate Floor in the Inactive File.

the Commission's position of support of all proposals that responsibly address the state's crumbling transportation system.

Federal Legislation Update

On December 4, 2015, the President signed into law the Fixing America's Surface Transportation Act, or "FAST Act". The FAST Act authorizes $305 billion over federal fiscal years 2016 through 2020 for highway, highway and motor vehicle safety, public transportation, motor carrier safety, hazardous materials safety, rail, and research, technology and statistics programs. Over the five-year duration of the FAST Act, California estimates it will receive approximately $19.5 billion in federal transportation funds.

Of particular note, the FAST Act creates two new funded freight programs. A $6.3 billion formula freight program allocated to the states, and a Nationally Significant Freight and Highway Projects Competitive grant program funded at $4.5 billion. It is estimated that California will receive over $100 million annually for the next five years in federal formula funds, and an unknown amount in competitive grant funds. The FAST Act includes some general parameters regulating the new formula freight funding, but does not specify how it should be programmed and spent.

The most recent significant investment in freight infrastructure in California was through the Trade Corridors Improvement Fund (TCIF) program as part of the Proposition 1B bond package passed in 2006. The primary purpose of the TCIF was to improve freight movement along trade corridors while reducing diesel particulate matter and other pollutants that impact air quality. The $2 billion in TCIF bond funding was used to leverage an additional $5.2 billion in matching funds from a variety of public and private sources, delivering 81 high-priority seaport, railroad, and highway projects across the state.

Many acknowledge the successful implementation of the TCIF program. In fact, in 2014 the Legislature passed and the Governor signed Senate Bill 1228 (Hueso), which continued the existence of the TCIF program and the CTC's role in programming the funds, if other freight funding opportunities were identified.

Staff recommends that the Commission communicate with Legislature and recommend that legislation be passed directing the new federal formula freight funding through the TCIF program.

Attachment A - Status of all pending bills the Commission has been monitoring this session
Attachment B – A summary comparison of transportation funding proposals

Bill No.	Author	Title	Summary	Status	CTC Position
AB 338	Hernandez R (D)	Los Angeles County MTA: Transactions and Use Tax	Authorizes the Los Angeles County Metropolitan Transportation Authority to impose an additional transportation transactions and use tax for a specified time period, subject to various requirements, including the adoption of an expenditure plan and voter approval.	06/16/2015 - In SENATE Committee on TRANSPORTATION AND HOUSING: Not heard.	
AB 620	Hernandez R (D)	High-Occupancy Toll Lanes: Exemptions from Tolls	Relates to high-occupancy toll lanes. Requires the Los Angeles county Metropolitan Transportation Authority, in implementing the value-pricing and transit development program, to provide mitigation measures for commuters and transit users of low income. Requires the Authority to provide hardship exemptions from the payment of toll charges for commuters who meet assistance program eligibility. Provides the factors necessary to discontinue such exemptions. Requires a report on the number of such exemptions.	01/13/2016 - In ASSEMBLY. Read second time. To third reading.	
AB 779	Garcia (D)	Transportation: Congestion Management Program	Revises the definition of infill opportunity zone. Revises the requirements for a congestion management program by removing traffic level of service standards for a system of highways and roadways. Requires measures of effectiveness for such system. Requires the plan to analyze the relationship between local land use decisions and regional transportation systems. Requires a deficiency plan to be prepared if it is determined a county or its cities are not conforming with the management plan.	08/25/2015 - In SENATE Committee on TRANSPORTATION AND HOUSING: Not heard.	
AB 1115	Salas (D)	School Zones: Traffic Control Devices: State Highways	Authorizes specified public entities, by ordinance, to designate a school zone within its geographic jurisdiction on a State highway, other than a freeway, if the highway is within a specified number of fees of the grounds of a school and to specify in the ordinance the applicable speed limit that shall apply within the zone. Requires certain notification for sign posting purposes. Authorizes the request for and the placement of traffic control devices on such highways.	01/13/2016 - In ASSEMBLY. Read second time and amended. Re-referred to Committee on APPROPRIATIONS.	
AB 1233	Levine (D)	Public Works: Public Subsidies	Provides that a public subsidy is de minimis if it is both less than a specified amount of funding and is less than a specified percentage of the total project cost. Provides those provisions do not apply to a project that was advertised for bid, or a contract that was awarded before a specified date.	01/06/2016 - From ASSEMBLY Committee on LABOR AND EMPLOYMENT: Do pass to Committee on APPROPRIATIONS.	
AB 1364	Linder (R)	California Transportation Commission	Excludes the California Transportation Commission from the Transportation Agency and establishes it as an entity in the state government.	01/11/2016 - From ASSEMBLY Committee on TRANSPORTATION: Do pass to Committee on APPROPRIATIONS.	
AB 1549	Wood (D)	State Highway Rights of Way: Fiber-Optic Cables	Requires the State Department of Transportation to maintain an inventory of all conduits that house fiber-optic communication cables located on State highway rights-of-way and to make the information available to the public upon request.	01/13/2016 - In ASSEMBLY. Read second time and amended. Re-referred to Committee on APPROPRIATIONS.	

Bill No.	Author	Title	Summary	Status	CTC Position
AB 1555	Gomez (D)	Greenhouse Gas Reduction Fund	States the intent of the Legislature to enact future legislation that would appropriate from the Greenhouse Gas Reduction Fund for the 2015-16 fiscal year that would be allocated to different entities in amounts to be determined in the future legislation for purposes including low carbon transportation and infrastructure, clean energy communities, and community climate improvements, wetland and watershed restoration, and carbon sequestration.	01/04/2016 - INTRODUCED.	
AB 1569	Steinorth (R)	Environmental Quality Act: Exemption: Infrastructure	Exempts from the provisions of the Environmental Quality Act a project, or the issuance of a permit for a project, that consists of the inspection, maintenance, repair, rehabilitation, or removal of, or the addition of an auxiliary lane or bikeway to, existing transportation infrastructure and that meets certain requirements.	01/04/2016 - INTRODUCED.	
AB 1591	Frazier (D)	Transportation Funding	Relates to transportation funding to include the Road Maintenance and Rehabilitation Program and its related fund which would include revenues from a motor vehicle fuel tax increase and a new vehicle registration fee for zero-emission vehicles, related county use of revenues from an approved transactions and use tax, revenue from a diesel fuel tax increase to the Trade Corridors Improvement Fund, truck parking improvements, greenhouse gas reduction, highway operation and improvements funding.	01/06/2016 - INTRODUCED.	
AB 1598	Weber (D)	Budget Act of 2016	Makes appropriations for the support of state government for the 2016-17 fiscal year.	01/07/2016 - INTRODUCED.	
AB 1657	O'Donnell (D)	Air Pollution: Public Ports and Intermodal Terminals	Establishes the Zero- and Near-Zero-Emission Intermodal Terminals Program to be administered by the State Air Resources Board to fund equipment upgrades and investments at intermodal terminals, to help transition the state's freight system to be zero-emission and near-zero-emission operations. Authorizes the program to be implemented with moneys from the Greenhouse Gas Reduction Fund.	01/13/2016 - INTRODUCED.	
SB 16	Beall (D)	Transportation Funding	Creates the Road Maintenance and Rehabilitation Program and a related fund for deferred highway and local road maintenance. Provides for an increase in motor vehicle fuel tax, a vehicle registration fee, commercial vehicle weight fees. Transfers a portion of the diesel fuel tax increase to the Trade Corridors Investment Fund. Increases the vehicle license fee for transportation bond debt service. Relates to petroleum storage taxes. Relates to allocation for supplemental project allocation requests.	09/09/2015 - In SENATE. From third reading. To Inactive File.	Support

Bill No.	Author	Title	Summary	Status	CTC Position
SB 254	Allen (D)	State Highways: Relinquishment	Requires the State Department of Transportation to make a specified report to the State Transportation Commission on which State highway routes or segments primarily serve regional travel and do not primarily facilitate interregional movement of goods and people, and to identify which routes are best for relinquishment. Provides the procedures for the Commission to relinquish a portion of a State highway to a county or city. Requires the relinquishment is subject to certain conditions.	06/15/2015 - To ASSEMBLY Committee on TRANSPORTATION.	Support in Concept
SB 321	Beall (D)	Motor Vehicle Fuel Taxes: Rates: Adjustments	Relates to motor fuel tax rates. Requires the State Board of Equalization to adjust the rate in a manner as to generate an amount of revenue equal to the amount of revenue loss attributable to an exception that reflects the combined average of the actual fuel price over previous fiscal years and the estimated fuel price for the current fiscal year. Relates to revenue neutrality for each year.	09/11/2015 - In SENATE. From Unfinished Business. To Inactive File.	Support in Concept
SB 564	Cannella (R)	Vehicles: School Zone Fines	Requires that an additional fine be imposed if a certain violation occurred when passing a school building or school grounds and the highway is posted with a standard warning sign and an accompanying sign notifying motorists that increased penalties apply for traffic violations that are committed within that school zone. Requires the funds from additional fines be deposited in the State Highway Account for funding school zone safety projects within the Active Transportation Program.	05/22/2015 - To ASSEMBLY Committee on TRANSPORTATION.	
SB 824	Beall (D)	Low Carbon Transit Operations Program	Authorizes a recipient transit agency that does not submit a project for funding under the Low Carbon Transit Operations Program in a particular fiscal year to retain its funding share for expenditure in a subsequent fiscal year. Requires the Department of Transportation to annually calculate a funding share for each eligible recipient transit agency. Allows a recipient transit agency to loan or transfer its funding share to another transit agency. Relates to reporting requirements for for project funding.	01/07/2016 - INTRODUCED.	
SB 825	Leno (D)	Budget Act of 2016	Makes appropriations for the support of state government for the 2016-17 fiscal year.	01/07/2016 - INTRODUCED.;01/07/2016 - To SENATE Committee on BUDGET AND FISCAL REVIEW.	
SB 868	Jackson (D)	State Remote Piloted Aircraft Act	Enacts the State Remote Piloted Aircraft Act. Establishes conditions for operating remote piloted aircraft, including the procurement of liability insurance. Authorizes the adoption of reasonable rules and regulations governing the operation of such aircraft, and rules for minimum standards to assist political subdivision and their law enforcement agencies execute the Act. Provides the procedure for aggrieved individuals to obtain relief. Makes violations of the Act subject to criminal penalties.	01/12/2016 - INTRODUCED.	

Bill No.	Author	Title	Summary	Status	CTC Position
SCA 7	Huff (R)	Motor Vehicle Fees and Taxes:Restriction on Expenditure	Proposes an amendment to the Constitution to prohibit the Legislature from borrowing revenues from fees and taxes imposed by the State on vehicles or their use or operation, and from using those revenues other than as specifically permitted by a specified Article. Provides that none of those revenues may be pledged or used for the payment of principal and interest on bonds or other indebtedness. Revises the use of specified fuel tax revenues for mass transit purposes and for boating-related activities.	05/28/2015 - From SENATE Committee on TRANSPORTATION AND HOUSING with author's amendments.;05/28/2015 - In SENATE. Read second time and amended. Re-referred to Committee on TRANSPORTATION AND HOUSING.	
SCR 45	Berryhill (R)	Joe Levy Memorial Highway	Redesignates a portion of State Highway Route 41 in the County of Fresno as the Joe Levy Memorial Highway, instead of the Dwight D. Eisenhower Memorial Freeway, and adjusts the portion of State Highway Route 41 designated as the Dwight D. Eisenhower Memorial Freeway.	09/11/2015 - In ASSEMBLY. Joint Rule 62(a) suspended.;09/11/2015 - From ASSEMBLY Committee on TRANSPORTATION: Be adopted to Committee on APPROPRIATIONS.	Support

Attachment B
Preliminary Comparison of Three Transportation Funding and Reform Proposals as of January 8, 2016

	SB 1x1 (Beall) as of Aug 25, 2015	AB 1591 (Frazier) as of Jan 6, 2016	Governor's Proposal from Sep 6, 2015
Funding			
Gas Excise Tax Increase	12 cents ($2b)	22.5 cents ($3.5b)	None
Price-Based Excise Tax Adjustment Reset	17.3 cents ($900m)	17.3 cents ($900m)	18 cents ($900m)[1]
- *CPI adjustment*	*Every 3 years*	*Every 3 years*	*Every year*
Diesel Excise Tax Increase	22 cents ($600m)	30 cents ($800m)	11 cents ($300m)
- *CPI adjustment*	*Every 3 years*	*Every 3 years*	*Every year*
Vehicle Registration Fee Increase	$35 ($1b)	$38 ($1b)	None
Road Access Fee/Highway User Fee	$35 ($1b)	None	$65 ($2b)
ZEV-specific Fee	$100 ($25m)	$165 ($35m)	None
- *Total Vehicle Fee Increase*	*$70 ($170 for ZEVs)*	*$38 ($203 for ZEVs)*	*$65*
Greenhouse Gas Reduction Fund (Cap & Trade)	None	TIRCP[2] from 10% to 20% ($200m)	TIRCP - $400m
		TCIF – 20% ($400m)	Complete Streets - $100m
Weight Fees	None	Returned immediately[3]	None
General Fund Loan Repayments	Over 3 yrs, to RMRA[4]	Over 2 yrs, directly to locals	By 6/30/19, to various accts
Caltrans Efficiencies	Up to 30% ($500m)	None	$100m
Estimated Total Annual Funding Increase[5]	**~ $6 billion**	**~ $7 billion**	**~ $3.7 billion**

[1] The Governor's proposal doesn't reset the price-based excise tax until the 2017-18 fiscal year.
[2] Transit and Intercity Rail Capital Program, a competitive grant program administered by the Transportation Agency.
[3] The weight fees would not be transferred from the State Highway Account and instead be available for traditional uses including SHOPP, STIP, and local roads through existing formulas. Therefore they are not included in the Estimated Total Annual Funding Increase, but would result in roughly $1 billion more funding.
[4] The Road Maintenance and Rehabilitation Account, created in SB 1x1.
[5] Roughly estimated, annualized over ten years. Figures may not add up due to rounding.

	SB 1x1 (Beall) as of Aug 25, 2015	AB 1591 (Frazier) as of Jan 6, 2016	Governor's Proposal from Sep 6, 2015
Expenditures			
Gas Excise Tax Increase	RMRA	RMRA	-
Diesel Excise Tax Increase	10 cents to RMRA 12 cents to TCIF	All to TCIF	RMRA
CPI Adjustment Revenues	To the respective programs	To the respective programs	RMRA
Vehicle Fee Increases	RMRA	RMRA	RMRA
Greenhouse Gas Reduction Fund (Cap & Trade)	-	$200m to rail and transit $400m to TCIF	$400m to rail and transit $100m to complete streets
General Fund Loan Repayments	RMRA	Cities and Counties	Various accounts
Total Annual Expenditures on:			
Road Rehab and Maintenance	$5.5 billion	$5.8 billion	$2.9 billion
Freight Mobility	$500 million	$1.2 billion	$200 million
Rail and Transit or Complete Streets	-	$200 million	$500 million
Expenditure Split Between State/Local Needs	52% state/48% percent local	55% state/45% percent local	50% state/50% percent local
Accountability and Reforms			
Reporting to the Commission	Both Caltrans and the locals report to the Commission on the efficacy of expenditures from the RMRA	-	Both Caltrans and the locals report to the Commission on the efficacy of expenditures from the RMRA
Local Maintenance of Effort Requirements	Included	Included	Included
Commission Allocation of SHOPP Support Costs	Requires by Feb 2017	Requires by Feb 2017	-
COS State Staff vs. Contract Staff	-	-	80%/20% by Jul 2020
CM/GC Project Delivery	-	-	Expands authority for Caltrans from 6 to 12 projects
Public Private Partnerships Project Delivery	-	-	Extends sunset from 2017 to 2027
CEQA Exemption	-	-	Exempts projects in existing rights of way in certain circumstances
NEPA Delegation	-	-	Eliminates the sunset
Regional Advance Mitigation Program	-	-	Included