Senate Engrossed House Bill

FILED

JANICE K. BREWER
SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
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CHAPTER 267

HOUSE BILL 2793

AN ACT

AMENDING SECTIONS 9-500.17, 11-269.03, 28-6547 AND 28-7009, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 20, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 28-7010 AND 28-7011; AMENDING SECTIONS 28-7503, 28-7671, 28-7674 AND 28-7676, ARIZONA REVISED STATUTES; REPEALING SECTION 41-1292.03, ARIZONA REVISED STATUTES; REPEALING LAWS 2002, CHAPTER 328, SECTION 26; MAKING APPROPRIATIONS; RELATING TO TRANSPORTATION BUDGET RECONCILIATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 9-500.17, Arizona Revised Statutes, is amended to read:

9-500.17. Acceleration agreements; loan repayment agreements

A. Pursuant to section 28-7677, a city or town may enter into agreements with the department of transportation for the acceleration of right-of-way acquisition, design or construction of an eligible HIGHWAY project OR AN ELIGIBLE TRANSIT CAPITAL PROJECT as defined in section 28-7671 and may advance monies to the department of transportation pursuant to those agreements.

B. A loan repayment agreement as defined in section 28-7671 entered into by a city or town may be paid from and may be secured by a pledge of highway user revenues received by the city or town from this state pursuant to title 28, chapter 18, article 2 and section 42-6107. The pledge may be on a parity with any pledge previously or hereafter made by the city or town pursuant to section 48-690. If a city or town pledges those highway user revenues to a loan repayment agreement, the principal and interest requirements on the loan repayment agreement may be treated as if they were principal and interest on bonds issued under title 48, chapter 4, article 4 for all purposes of sections 48-689 and 48-691.

Sec. 2. Section 11-269.03, Arizona Revised Statutes, is amended to read:

11-269.03. Acceleration agreements; loan repayment agreements

A. A county may enter into agreements with the department of transportation for the acceleration of right-of-way acquisition, design or construction of an eligible HIGHWAY project OR AN ELIGIBLE TRANSIT CAPITAL PROJECT as defined in section 28-7671 and may advance monies to the department of transportation pursuant to those agreements. Any political subdivision may pledge excise taxes to the repayment of all or any part of the principal, premium, if any, and interest on any borrowing to fund the advance.

B. A county may assign the right to receive payment under the agreement entered into pursuant to subsection A of this section to a trustee.

C. A county may pledge its excise taxes to the repayment of all or any part of the principal, premium, if any, and interest on any borrowing to fund the advance and make such other covenants and agreements as may be appropriate.

D. A loan repayment agreement as defined in section 28-7671 entered into by a county may be paid from and may be secured by a pledge of highway user revenues received by the county from this state pursuant to title 28, chapter 18, article 2 and section 42-6107. The pledge may be on a parity with any pledge previously or hereafter made by the county pursuant to section 11-379. If a county pledges those highway user revenues to a loan repayment agreement, the principal and interest requirements on the loan repayment agreement may be treated as if they were principal and interest on

bonds issued under article 12 of this chapter for all purposes of sections 11-378 and 11-380.

Sec. 3. Section 28-6547, Arizona Revised Statutes, is amended to read:

28-6547. Safety enforcement and transportation infrastructure fund; exemption from lapsing

A. The safety enforcement and transportation infrastructure fund is established. The fund consists of monies deposited pursuant to sections 28-2321, 28-2324, 28-2325, 28-5474, 28-5739, 28-5863 and 28-5864. The department shall administer the fund.

B. Subject to legislative appropriation, monies in the fund shall be spent on the following:

1. ENFORCEMENT OF VEHICLE SAFETY REQUIREMENTS BY THE DEPARTMENT OF PUBLIC SAFETY AND THE DEPARTMENT OF TRANSPORTATION WITHIN TWENTY-FIVE MILES OF THE BORDER BETWEEN ARIZONA AND MEXICO.

~~1.~~ 2. Costs related to the procurement of electronic equipment, automated systems or improvements to existing electronic equipment or automated systems for relieving vehicle congestion at ports of entry on the border between this state and Mexico.

~~2.~~ 3. Construction, MAINTENANCE and upgrades of transportation facilities, including roads, streets and highways, approved by the board within twenty-five miles of the border between Arizona and Mexico.

~~3.~~ 4. As approved by the board, construction AND MAINTENANCE of transportation facilities in the CANAMEX high priority corridor as defined in section 332 of the national highway system designation act of 1995 (P.L. 104-59; 109 Stat. 596-597).

~~4.~~ 5. Activities of the department that include the collection of transportation and trade data in the United States and Mexico for the purposes of constructing transportation facilities, improving public safety, improving truck processing time and relieving congestion at ports of entry on the border between Arizona and Mexico. The department may enter into an agreement with the Arizona-Mexico commission and provide funding to the commission for the purposes contained in this paragraph.

~~5.~~ 6. A commitment or investment necessary for the department or another agency of this state to obtain federal monies that are designated for expenditure pursuant to this section.

C. If the department OF TRANSPORTATION determines that activities proposed by the Arizona ~~office~~ DEPARTMENT of homeland security may improve traffic safety in this state, the department OF TRANSPORTATION may enter into an agreement with, and provide, subject to legislative appropriation, fund monies to~~,~~ the Arizona ~~office~~ DEPARTMENT of homeland security for the purposes contained in this subsection.

D. If the department determines that activities proposed by the Arizona international development authority for planning, development and construction of transportation facilities on the border between Arizona and Mexico may improve traffic safety in this state, the department may enter

into an agreement with, and provide, subject to legislative appropriation, fund monies to~~,~~ the Arizona international development authority for the purposes contained in this subsection.

E. On notice from the department, the state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund.

F. Monies in the fund are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

Sec. 4. Section 28-7009, Arizona Revised Statutes, is amended to read:

28-7009. Statewide transportation acceleration needs account; establishment; definition

A. The statewide transportation acceleration needs account is established as a separate account in the state highway fund. The account consists of all of the following, EXCEPT THAT THE SOURCE OF MONIES IN THE FUND SHALL NOT BE A CONSENT AGREEMENT OR ANY TYPE OF NEGOTIATED SETTLEMENT BY ANY STATE OR LOCAL AGENCY OR ANY DONATION MADE IN PLACE OF A CONSENT AGREEMENT OR ANY TYPE OF SETTLEMENT:

1. Monies appropriated by the legislature.

2. Monies designated for deposit in the account by the transportation board, a state agency or a political subdivision.

3. Monies received from the United States government for the purpose of accelerating transportation projects.

4. Monies received from political subdivisions, Indian tribes or this state or its agencies for the purpose of accelerating transportation projects.

5. Interest and other income received from investing monies in the account.

6. Gifts, grants, donations or other amounts received from any public or private source for deposit in the account for the purpose of accelerating transportation projects.

B. On notice from the transportation board, the state treasurer shall invest and divest monies in the statewide transportation acceleration needs account as provided by section 35-313, and monies earned from investment shall be credited to the account.

C. The transportation board may establish any subaccount in the statewide transportation acceleration needs account that the board determines is necessary or appropriate to carry out the purposes of this section.

D. If a governmental entity or a private person deposits monies in the statewide transportation acceleration needs account for acceleration of a specific project and the appropriate regional planning agency or council of governments in cooperation with the transportation board approves the project, the board shall designate the monies deposited by the governmental entity or private person solely for the project for which the monies are deposited.

E. Notwithstanding section 28-6993, and any other agreements entered into by the department of transportation for the distribution and expenditure of monies from the state highway fund, the transportation board shall not approve any expenditures from the statewide transportation acceleration needs account unless the expenditure is made in accordance with this section and is for the construction or reconstruction of freeways, state highways, bridges and interchanges that are contained in the regional transportation plan of a county or the department's long-range statewide transportation plan pursuant to section 28-506. For the purposes of this subsection, a regional transportation plan is a twenty year comprehensive, performance based, multimodal and coordinated regional transportation plan that is approved for the county as provided by law and as amended or otherwise modified.

F. EXCEPT AS PROVIDED IN SECTIONS 28-7010 AND 28-7011, monies in the statewide transportation acceleration needs account shall be used only to pay for the following costs of a transportation project approved pursuant to this section:

1. Materials and labor.

2. Acquisition of rights-of-way for highway needs.

3. Design and other engineering services that are within the scope of engineering practice as provided in title 32, chapter 1.

4. Other directly related costs approved by the transportation board.

G. Monies in the statewide transportation acceleration needs account that are appropriated by the legislature and any interest earnings shall be allocated as follows:

1. For a county with a population of at least one million two hundred thousand persons for the area included in the regional planning agency's transportation improvement plan, sixty per cent.

2. For a county with a population of more than five hundred thousand persons but less than one million two hundred thousand persons for the area included in the regional planning agency's transportation improvement plan, sixteen per cent.

3. For all other counties, twenty-four per cent.

H. The regional planning agency in a county designated as a transportation management area shall establish a process for the review and approval of transportation projects eligible to receive monies from the statewide transportation acceleration needs account. As part of its request to the transportation board for monies, the regional planning agency shall ensure and submit evidence satisfactory to the board that any project costs not eligible for monies from the statewide transportation acceleration needs account are available and dedicated to the project. In all other counties, the department, in cooperation with the metropolitan planning organization or the council of governments that has the authority to approve transportation projects for the county, shall develop requests for expenditure of monies from the statewide transportation acceleration needs account. As part of the request to the transportation board for monies, the metropolitan planning

organization or the council of governments for the department shall submit evidence satisfactory to the board that any project costs not eligible for monies from the statewide transportation acceleration needs account are available and dedicated to the project.

I. On receipt of a request for monies from the statewide transportation acceleration needs account, the transportation board shall place the request on the agenda for the next regular business meeting of the board. The board shall review the request and, in cooperation with the regional planning agency, the metropolitan planning organization or the council of governments, approve the request or further modify the request before approval.

J. The transportation board shall not approve the release of any monies from the statewide transportation acceleration needs account for a transportation project unless the board verifies that all costs related to construction of the project are covered.

K. Monies in the statewide transportation acceleration needs account shall be used to supplement, not supplant, funding that would otherwise be made available for projects.

L. On or before July 1 of each year, the transportation board shall submit a report of its activities pursuant to this section to the governor, the president of the senate and the speaker of the house of representatives and shall provide a copy of this report to the secretary of state, the director of the joint legislative budget committee and the director of the Arizona state library, archives and public records.

M. A regional planning agency that receives monies from the statewide transportation acceleration needs account shall report on or before December 15 of each year to the senate and house of representatives transportation committees on approved projects and amounts expended for those projects.

N. For the purposes of this section, "project" means the construction or reconstruction of a specific portion of a freeway or state highway or a bridge or interchange or a portion of a bridge or interchange that is constructed at a single location.

Sec. 5. Title 28, chapter 20, article 4, Arizona Revised Statutes, is amended by adding sections 28-7010 and 28-7011, to read:

28-7010. <u>Statewide transportation acceleration needs account; reimbursement of interest costs</u>

A. THE TRANSPORTATION ACCELERATION INTEREST REIMBURSEMENT ACCOUNT IS ESTABLISHED AS A SEPARATE SUBACCOUNT OF THE STATEWIDE TRANSPORTATION ACCELERATION NEEDS ACCOUNT ESTABLISHED BY SECTION 28-7009. THE SUBACCOUNT MAY INCLUDE:

1. LEGISLATIVE APPROPRIATIONS.

2. MONIES DESIGNATED FOR DEPOSIT IN THE ACCOUNT BY THE TRANSPORTATION BOARD, A STATE AGENCY OR A POLITICAL SUBDIVISION OF THIS STATE.

3. MONIES RECEIVED FROM THE UNITED STATES GOVERNMENT FOR THE PURPOSE OF REIMBURSING INTEREST COSTS ON TRANSPORTATION PROJECTS.

4. MONIES RECEIVED FROM AN INDIAN TRIBE, THIS STATE, A STATE AGENCY OR A POLITICAL SUBDIVISION OF THIS STATE FOR THE PURPOSE OF REIMBURSING INTEREST COSTS ON TRANSPORTATION PROJECTS.

5. INTEREST AND OTHER INCOME RECEIVED FROM INVESTING MONIES IN THE ACCOUNT.

6. GIFTS, GRANTS, DONATIONS OR OTHER AMOUNTS RECEIVED FROM ANY PUBLIC SOURCE FOR DEPOSIT IN THE ACCOUNT FOR THE PURPOSE OF REIMBURSING INTEREST COSTS ON TRANSPORTATION PROJECTS.

B. ON NOTICE FROM THE TRANSPORTATION BOARD, THE STATE TREASURER SHALL INVEST AND DIVEST MONIES, AS PROVIDED BY SECTION 35-313, IN THE TRANSPORTATION ACCELERATION INTEREST REIMBURSEMENT ACCOUNT AND MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE ACCOUNT.

C. THE TRANSPORTATION BOARD MAY ESTABLISH ANY SUBACCOUNT IN THE TRANSPORTATION ACCELERATION INTEREST REIMBURSEMENT ACCOUNT THAT THE BOARD DETERMINES IS NECESSARY OR APPROPRIATE TO CARRY OUT THE PURPOSES OF THIS SECTION.

D. WHEN A GOVERNMENTAL ENTITY DEPOSITS MONIES IN THE TRANSPORTATION ACCELERATION INTEREST REIMBURSEMENT ACCOUNT FOR A SPECIFIC PROJECT AND THE TRANSPORTATION BOARD APPROVES THE PROJECT, THE BOARD SHALL DESIGNATE THE MONIES DEPOSITED BY THE GOVERNMENTAL ENTITY SOLELY FOR THE PROJECT FOR WHICH THE MONIES ARE DEPOSITED.

E. THE BOARD MAY APPROVE THE REIMBURSEMENT OF INTEREST COSTS FOR THE ACCELERATION OF A TRANSPORTATION PROJECT FROM THE TRANSPORTATION ACCELERATION INTEREST REIMBURSEMENT ACCOUNT AND AS PRESCRIBED IN THIS SECTION.

F. THE REGIONAL PLANNING AGENCY IN A COUNTY THAT IS DESIGNATED AS A TRANSPORTATION MANAGEMENT AREA SHALL ESTABLISH A PROCESS FOR THE REVIEW AND APPROVAL OF REIMBURSEMENT OF INTEREST COSTS FROM THE STATEWIDE TRANSPORTATION ACCELERATION NEEDS ACCOUNT. IF THE ELIGIBILITY OF THE INTEREST COSTS REIMBURSEMENT IS APPROVED, THE PROJECT MAY BE CONSIDERED BY THE STATE TRANSPORTATION BOARD WITH OTHER ELIGIBLE ACCELERATION PROJECTS FOR STATEWIDE TRANSPORTATION ACCELERATION NEEDS ACCOUNT FUNDING. IN ALL OTHER COUNTIES, THE DEPARTMENT, IN COOPERATION WITH THE METROPOLITAN PLANNING ORGANIZATION OR THE COUNCIL OF GOVERNMENTS THAT HAS THE AUTHORITY TO APPROVE TRANSPORTATION PROJECTS FOR THE COUNTY, SHALL ESTABLISH A PROCESS FOR THE REVIEW AND APPROVAL OF REIMBURSEMENT OF INTEREST COSTS FROM THE STATEWIDE TRANSPORTATION ACCELERATION NEEDS ACCOUNT. IF THE ELIGIBILITY OF THE INTEREST COSTS REIMBURSEMENT IS APPROVED, THE PROJECT MAY BE CONSIDERED BY THE STATE TRANSPORTATION BOARD WITH OTHER ELIGIBLE ACCELERATION PROJECTS FOR STATEWIDE TRANSPORTATION ACCELERATION NEEDS ACCOUNT FUNDING.

G. THE BOARD SHALL REVIEW AND APPROVE THE REQUEST AS PRESCRIBED IN SECTION 28-7009, SUBSECTIONS I AND J.

H. TO BE ELIGIBLE FOR REIMBURSEMENT OF INTEREST COSTS PURSUANT TO THIS SECTION, THE INTEREST COSTS MUST RESULT FROM BONDS, LOANS OR ADVANCES ISSUED TO, BY OR ON BEHALF OF A CITY OR COUNTY THAT ENTERS INTO AN AGREEMENT WITH AT LEAST ONE OTHER CITY OR COUNTY, THE DEPARTMENT AND THE REGIONAL PLANNING

AGENCY AFTER JANUARY 1, 2007 FOR THE ACCELERATION OF A TRANSPORTATION PROJECT THAT IS CONTAINED IN THE REGIONAL TRANSPORTATION PLAN OF A COUNTY OR THE DEPARTMENT'S LONG-RANGE STATEWIDE TRANSPORTATION PLAN PURSUANT TO SECTION 28-506.

28-7011. Roads of regional significance congestion mitigation account; program termination

A. THE ROADS OF REGIONAL SIGNIFICANCE CONGESTION MITIGATION ACCOUNT IS ESTABLISHED AS A SEPARATE SUBACCOUNT OF THE STATEWIDE TRANSPORTATION ACCELERATION NEEDS ACCOUNT ESTABLISHED BY SECTION 28-7009. THE SUBACCOUNT MAY INCLUDE:

1. LEGISLATIVE APPROPRIATIONS.

2. MONIES DESIGNATED FOR DEPOSIT IN THE ACCOUNT BY THE TRANSPORTATION BOARD, A STATE AGENCY OR A POLITICAL SUBDIVISION OF THIS STATE.

3. MONIES RECEIVED FROM THE UNITED STATES GOVERNMENT FOR THE PURPOSE OF TRANSPORTATION PROJECTS RELATING TO CONGESTION MITIGATION.

4. MONIES RECEIVED FROM AN INDIAN TRIBE, THIS STATE, A STATE AGENCY OR A POLITICAL SUBDIVISION OF THIS STATE FOR THE PURPOSE OF TRANSPORTATION PROJECTS RELATING TO CONGESTION MITIGATION.

5. INTEREST AND OTHER INCOME RECEIVED FROM INVESTING MONIES IN THE ACCOUNT.

6. GIFTS, GRANTS, DONATIONS OR OTHER AMOUNTS RECEIVED FROM ANY PUBLIC SOURCE FOR DEPOSIT IN THE ACCOUNT FOR THE PURPOSE OF TRANSPORTATION PROJECTS RELATING TO CONGESTION MITIGATION.

B. ON NOTICE FROM THE TRANSPORTATION BOARD, THE STATE TREASURER SHALL INVEST AND DIVEST MONIES, AS PROVIDED BY SECTION 35-313, IN THE ROADS OF REGIONAL SIGNIFICANCE CONGESTION MITIGATION ACCOUNT AND MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE ACCOUNT.

C. THE TRANSPORTATION BOARD MAY ESTABLISH ANY SUBACCOUNT IN THE ROADS OF REGIONAL SIGNIFICANCE CONGESTION MITIGATION ACCOUNT THAT THE BOARD DETERMINES IS NECESSARY OR APPROPRIATE TO CARRY OUT THE PURPOSES OF THIS SECTION.

D. WHEN A GOVERNMENTAL ENTITY DEPOSITS MONIES IN THE ROADS OF REGIONAL SIGNIFICANCE CONGESTION MITIGATION ACCOUNT FOR A SPECIFIC PROJECT AND THE TRANSPORTATION BOARD APPROVES THE PROJECT, THE BOARD SHALL DESIGNATE THE MONIES DEPOSITED BY THE GOVERNMENTAL ENTITY SOLELY FOR THE PROJECT FOR WHICH THE MONIES ARE DEPOSITED.

E. NOTWITHSTANDING SECTIONS 28-6993 AND 28-7009, AND ANY OTHER AGREEMENTS ENTERED INTO BY THE DEPARTMENT OF TRANSPORTATION FOR THE DISTRIBUTION AND EXPENDITURE OF MONIES FROM THE STATE HIGHWAY FUND, THE TRANSPORTATION BOARD SHALL NOT APPROVE ANY EXPENDITURES FROM THE ROADS OF REGIONAL SIGNIFICANCE CONGESTION MITIGATION ACCOUNT UNLESS BOTH:

1. THE EXPENDITURE IS MADE IN ACCORDANCE WITH THIS SECTION AND IS FOR THE CONSTRUCTION, DESIGN OR PLANNING OF ROADS OR BRIDGES THAT ARE CONTAINED, BUT NOT FUNDED, IN THE TRANSPORTATION PLAN OF A CITY, TOWN OR COUNTY.

2. THE PROJECT RECEIVING THE MONIES IS IN A REGIONAL PLANNING AGENCY'S TRANSPORTATION IMPROVEMENT PLAN OR A COUNTY TRANSPORTATION IMPROVEMENT PLAN.

F. TO BE ELIGIBLE TO RECEIVE MONIES FROM THE ACCOUNT, THE CITY, TOWN OR COUNTY MUST IDENTIFY THE PARTICIPATING JURISDICTIONS. THOSE JURISDICTIONS MUST INCLUDE AT LEAST ONE OF THE FOLLOWING:

1. A COUNTY THAT HAS AN AVERAGE GROWTH RATE THAT EXCEEDS THE AVERAGE COUNTY GROWTH RATE IN THIS STATE BY AT LEAST FIFTY PER CENT IN THE LAST FIVE YEARS.

2. A CITY OR TOWN THAT HAS AN AVERAGE GROWTH RATE THAT EXCEEDS THE AVERAGE CITY OR TOWN GROWTH RATE IN THIS STATE BY AT LEAST FIFTY PER CENT IN THE LAST FIVE YEARS.

G. EACH GOVERNMENTAL ENTITY THAT IS AWARDED MONIES FROM THE ACCOUNT FOR A PROJECT SHALL ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH EVERY OTHER GOVERNMENTAL ENTITY INVOLVED IN THE PROJECT THAT OUTLINES EACH ENTITY'S FISCAL RESPONSIBILITY FOR THE PROJECT. THE MEMORANDUM OF UNDERSTANDING SHALL BE ENTERED INTO BEFORE THE GOVERNMENTAL ENTITY RECEIVES FUNDING TO BEGIN THE PROJECT.

H. A GOVERNMENTAL ENTITY THAT RECEIVES MONIES FROM THE ACCOUNT PURSUANT TO THIS SECTION SHALL REIMBURSE THE ACCOUNT THE ENTIRE AMOUNT OF THE MONIES RECEIVED FOR A PROJECT AS OUTLINED IN THE MEMORANDUM OF UNDERSTANDING.

I. THE PROGRAM ESTABLISHED BY THIS SECTION ENDS ON JULY 1, 2012 PURSUANT TO SECTION 41-3102.

Sec. 6. Section 28-7503, Arizona Revised Statutes, is amended to read:

28-7503. Bond requirements

The bonds shall:

1. Be authorized by resolution of the board.

2. Bear such date or dates and mature at such time or times, not exceeding ~~twenty~~ THIRTY years from their respective dates, as the resolution or resolutions may provide.

3. Bear interest at such rate or rates, including rates that may vary from time to time pursuant to parameters set by the board in the authorizing resolution.

4. Be in the denominations, be in the form, either coupon or registered, be executed in the manner, be payable in the medium of payment at such place and be subject to the terms of redemption, at the option of either the board or the owner of the bond, as the resolution or resolutions provide.

5. Be sold at public or private sale above, at or below par and on the terms the board determines, except that bonds to fund or refund other bonds may be exchanged with the holders of bonds being funded or refunded on terms the board determines.

Sec. 7. Section 28-7671, Arizona Revised Statutes, is amended to read:

28-7671. Definitions

In this article, unless the context otherwise requires:

1. "Advisory committee" means the highway expansion and extension loan program advisory committee established by section 28-7672.

2. "Eligible HIGHWAY project" means a highway project that is both:

(a) On the federal aid system, national highway system or state route or state highway system.

(b) Included in either:

(i) The department's state highway construction plan.

(ii) The transportation improvement plan of a regional association of governments.

3. "ELIGIBLE TRANSIT CAPITAL PROJECT" MEANS LAND, BUILDINGS OR MOTOR VEHICLES OR A COMBINATION OF LAND, BUILDINGS AND MOTOR VEHICLES THAT IS INCLUDED IN THE TRANSPORTATION IMPROVEMENT PLAN OF A REGIONAL ASSOCIATION OF GOVERNMENTS AND THAT IS PART OF THE FEDERAL TRANSIT ADMINISTRATION'S RURAL PUBLIC TRANSPORTATION PROGRAM FOR ENTITIES THAT ARE ELIGIBLE PURSUANT TO SECTION 28-7676 AND THAT HAVE POPULATIONS OF LESS THAN FIFTY THOUSAND PERSONS.

~~3.~~ 4. "Federal SIB act" means section 350 of the national highway system designation act of 1995 (P.L. 104-59; 109 Stat. 618), any regulations adopted pursuant to that section and any other provisions of federal law providing for state infrastructure banks, infrastructure credit programs and other grant programs for highway purposes and any regulations adopted pursuant to those laws.

~~4.~~ 5. "Fund" means the highway expansion and extension loan program fund established by section 28-7674.

~~5.~~ 6. "Indian tribe" means any Indian tribe, band, group or community that is recognized by the United States secretary of the interior and that exercises governmental authority within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent and including rights-of-way running through the reservation.

~~6.~~ 7 "Loan repayment agreement" means one or more loan agreements, instruments or other agreements providing for repayment of a loan or other financial assistance and entered into by this state or its agencies, including the department, or a political subdivision or Indian tribe.

~~7.~~ 8. "Political subdivision" means a county, city, town or special taxing district authorized by law to construct an eligible project.

~~8.~~ 9. "SIB cooperative agreement" means a cooperative agreement or agreements entered into by the Arizona department of transportation with the United States department of transportation pursuant to this article and the federal SIB act.

Sec. 8. Section 28-7674, Arizona Revised Statutes, is amended to read:

28-7674. <u>Highway expansion and extension loan program fund</u>

A. The highway expansion and extension loan program fund is established. The fund constitutes a state infrastructure bank under the federal SIB act. The state treasurer shall receive in trust, hold and disburse monies in the fund solely for the purposes authorized by this article. The department shall administer the fund as a continuing

appropriation in accordance with this article and the federal SIB act. Monies in the fund are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

B. The fund consists of:

1. Monies appropriated by the legislature.

2. Monies derived from board funding obligations delivered pursuant to section 28-7678. These monies shall be separately accounted for and invested.

3. Monies designated for deposit in the fund by the transportation board, a state agency or a political subdivision.

4. Monies received from the United States government under SIB cooperative agreements, including capitalization grants.

5. Monies received from political subdivisions, Indian tribes or this state or its agencies pursuant to agreements entered into pursuant to this article.

6. Interest and other income received from investing monies in the fund.

7. Gifts, grants, donations or other amounts received from any public or private source for deposit in the fund.

C. The board may use monies in the fund for the following purposes in connection with providing financial assistance under this article:

1. Making eligible project loans or providing other financial assistance to political subdivisions, Indian tribes and this state or its agencies under section 28-7676.

2. Subsidizing interest rates.

3. Providing other forms and methods of financial assistance that are approved by the board and, to the extent required by the federal SIB act, by the United States secretary of transportation and that relate to the eligible project with respect to which the assistance is being provided.

4. Paying the costs to administer the fund, except that no more than the percentage of the aggregate of federal capitalization grants pursuant to the federal SIB act may be used to pay these costs. Monies from other sources may be used without limit to pay these costs.

D. EXCEPT FOR MONIES RECEIVED PURSUANT TO SUBSECTION B, PARAGRAPH 4 OF THIS SECTION, UP TO TEN MILLION DOLLARS OF THE MONIES IN THE FUND MAY BE USED FOR ELIGIBLE TRANSIT CAPITAL PROJECTS IN MUNICIPALITIES WITH A POPULATION OF LESS THAN FIFTY THOUSAND PERSONS.

~~D.~~ E. On notice from the board, the state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund.

~~E.~~ F. The board shall use the monies and other assets in the fund solely for the purposes authorized by this article.

~~F.~~ G. The board may establish any accounts or subaccounts in the fund as it determines are necessary or appropriate to carry out the purposes of this article.

1 ~~G.~~ H. All proceeds of capitalization grants received from the United
2 States pursuant to the federal SIB act and title 23, United States Code,
3 shall be deposited in the fund and shall be used only to make loans or
4 provide other financial assistance to political subdivisions, Indian tribes
5 and this state or its agencies to design, construct, acquire right-of-way
6 for, restore or rebuild eligible projects, for the purposes prescribed in
7 subsection C of this section or for any other purposes permitted by the
8 federal SIB act and title 23, United States Code.
9 Sec. 9. Section 28-7676, Arizona Revised Statutes, is amended to read:
10 28-7676. Eligible project loans and other financial assistance
11 A. A political subdivision or this state or its agencies, including
12 the department, may apply to the transportation board for any loan or other
13 financial assistance from the fund to support an eligible project.
14 B. An Indian tribe may apply to the board for any loan or other
15 financial assistance from the fund to support an eligible project that the
16 board determines provides substantial public benefits.
17 C. Through December 31, 2004, of the total amount of monies and other
18 assets in the fund, the board shall provide loans and other financial
19 assistance for use as follows:
20 1. Fifty per cent in counties with a population of one million two
21 hundred thousand or more persons according to the most recent United States
22 decennial census.
23 2. Twenty-five per cent in counties with a population of five hundred
24 thousand or more but less than one million two hundred thousand persons
25 according to the most recent United States decennial census.
26 3. Twenty-five per cent in counties with a population of less than
27 five hundred thousand persons according to the most recent United States
28 decennial census.
29 D. The percentages prescribed in subsection C of this section apply
30 over the prescribed time period and are not yearly allocations but do not
31 apply to loans made by the board before August 6, 1999.
32 E. In compliance with any applicable federal requirements, the
33 board shall:
34 1. Approve, disapprove or modify the simplified application form and
35 guidelines developed by the advisory committee.
36 2. Prescribe a simplified procedure to apply for and approve financial
37 assistance.
38 3. Consider at least the following in selecting which eligible
39 projects shall receive financial assistance:
40 (a) Economic benefits.
41 (b) Mobility.
42 (c) Air quality.
43 (d) Safety.
44 (e) How quickly the applicant proposes to repay the loan.

(f) The ability of the applicant to repay a loan according to the terms and conditions established by this section.

(g) The availability of assistance for projects located in smaller cities and towns and rural areas.

4. Give a preference of up to twenty per cent to eligible projects that include local, federal or private financial participation in accelerating the project. This preference shall be commensurate with the level of local, federal or private financial participation. The greater the percentage of local, federal or private financial participation is to the total cost of the project, the greater the preference that shall be given to the project.

F. The board may take any of the actions prescribed in subsection E of this section by resolution.

G. The board may impose conditions the board deems necessary to ensure that financial assistance under this article is used according to law and to comply with the applicable requirements of the federal SIB act and SIB cooperative agreements.

H. A loan under this section shall:

1. Bear interest at or below the market interest rate or rates, as determined by the board, to make the project that is the subject of the loan feasible. The interest rate for any loan shall be uniform with interest rates for comparable loans.

2. If the source of the loan is monies designated pursuant to a SIB cooperative agreement, be repaid not longer than ten years after the date the highway project is open to traffic.

3. If the source of the loan is monies other than those monies designated pursuant to a SIB cooperative agreement, be repaid not longer than five years after the date the highway project is open to traffic.

4. Be conditioned on the identification of a revenue source for repaying the loan.

5. Not be made for the nonfederal share of any project that has received a grant under title 23, United States Code.

6. If made to an Indian tribe, be conditioned on the establishment of a dedicated source under the control of a tribally chartered corporation or another tribal entity that is subject to suit by the attorney general to enforce the loan repayment agreement or be secured by assets that, in the event of default of the loan repayment agreement, are subject to execution by the attorney general without the waiver of any claim of sovereign immunity by the tribe.

~~7. Not be made after December 31, 2004 if the source of the loan is monies derived from a board funding obligation delivered pursuant to section 28-7678.~~

I. The approval of a loan is conditioned on a written commitment by the political subdivision, the Indian tribe or this state or its agencies to

complete all applicable reviews and approvals and to secure all required permits in a timely manner.

J. On the request of the board, the attorney general shall take whatever actions are necessary to enforce a loan repayment agreement and achieve repayment of loans provided by the board pursuant to this article.

K. The state treasurer, to the extent not otherwise expressly prohibited by law, may withhold from a defaulting city, town or county the next succeeding distribution of monies pursuant to chapter 18, article 2 of this title and section 42-6107 otherwise distributable to it, to the extent necessary to meet the certified amount of the deficiency, and shall deposit in the appropriate subaccount in the fund the amount so withheld, except that the state treasurer shall not withhold from the distribution any amount that is necessary, as certified in writing by the defaulting city, town or county to the state treasurer and the director, to make any required deposits then due for payment of principal and interest on bonds issued by a city or town pursuant to title 48, chapter 4, article 5 or by a county pursuant to title 11, chapter 2, article 12. Amounts so certified shall be distributed to the city, town or county. The withholding and deposit in the appropriate subaccount in the fund by the state treasurer shall continue until the director certifies to the state treasurer that the default has been cured.

L. The recipient of any loan retains sole responsibility to ensure that any related eligible project is in compliance with any applicable federal, state or local environmental or other laws, rules or regulations. The board does not assume any responsibility for compliance by the awarding of financial assistance or other actions under this article. The awarding of financial assistance or any other actions by the board under this article do not constitute actions that subject the board to compliance with state or local environmental or other laws.

M. This article does not authorize a political subdivision to issue any bonds or incur any debt except in compliance with applicable law.

N. In order to repay any loan or other financial assistance from the fund, this state or its agencies, including the department, and a political subdivision may enter into a loan repayment agreement with the board.

O. A loan repayment agreement may be payable by a political subdivision, this state or its agencies or an Indian tribe from any revenues otherwise authorized by law to be used or pledged for street and highway purposes and may be secured by any other revenues authorized by law to be pledged to repay long-term obligations. Notwithstanding chapters 17 and 18 of this title, a loan repayment agreement may be payable from monies in a regional area road fund construction account and from revenues distributed pursuant to section 28-6538, subsection B.

P. Payments made pursuant to a loan repayment agreement are not subject to section 42-17106.

Q. This section is exempt from title 41, chapter 6.

1 Sec. 10. Repeal
2 Section 41-1292.03, Arizona Revised Statutes, is repealed.
3 Sec. 11. Repeal
4 Laws 2002, chapter 328, section 26 is repealed.
5 Sec. 12. Safety enforcement and transportation infrastructure
6 fund; appropriations
7 A. Notwithstanding section 28-6547, Arizona Revised Statutes, as
8 amended by this act, or any other law, the sum of $2,000,000 is appropriated
9 from the safety enforcement and transportation infrastructure fund in fiscal
10 year 2007-2008 to the department of transportation for design, planning and
11 construction of a state safety inspection station at the San Luis II port of
12 entry.
13 B. Notwithstanding section 28-6547, Arizona Revised Statutes, as
14 amended by this act, or any other law, the sum of $600,000 is appropriated
15 from the safety enforcement and transportation infrastructure fund in fiscal
16 year 2007-2008 to the department of transportation to enter into agreements
17 and provide funding to the Arizona-Mexico commission, the department of
18 homeland security and the Arizona international development authority to
19 improve traffic safety, border security and infrastructure planning.
20 C. The monies appropriated in subsections A and B of this section are
21 exempt from the provisions of section 35-190, Arizona Revised Statutes,
22 relating to lapsing of appropriations.
23 Sec. 13. Railroad right-of-way; planning; acquisition;
24 reappropriation; exemption
25 A. Notwithstanding the repeal in section 11 of this act of Laws 2002,
26 chapter 328, section 26, any unexpended or unencumbered monies from the
27 $650,000 allocated for the acquisition of a railroad corridor are
28 appropriated to the department of transportation.
29 B. On approval by the state transportation board, the department of
30 transportation shall use the monies appropriated in subsection A of this
31 section for costs related to the study, planning and acquisition of a
32 railroad right-of-way and railroad support infrastructure necessary to
33 accommodate future freight or passenger rail service and to be in the best
34 interest of this state.
35 C. The department of transportation's study, planning and acquisition
36 of the railroad right-of-way pursuant to subsection B of this section does
37 not alter or impact any existing agreements for permits that have been
38 entered into or obtained by utility companies located within the existing
39 railroad right-of-way.
40 D. The monies appropriated in subsection A of this section are exempt
41 from the provisions of section 35-190, Arizona Revised Statutes, relating to
42 lapsing of appropriations.

Sec. 14. Arizona department of transportation computer system assessment appropriation; lapsing extension; retroactivity

A. Notwithstanding any other law, the $500,000 appropriated to the department of transportation for a motor vehicle division computer system assessment from the state highway fund in fiscal year 2006-2007 by Laws 2006, chapter 344, section 32 is exempt from the provisions of section 35-190, Arizona Revised Statutes, relating to lapsing of appropriations, through June 30, 2008.

B. This section is effective retroactively to from and after June 30, 2007.

Sec. 15. Appropriation; transportation acceleration interest reimbursement account; exemption

A. The sum of $10,000,000 is appropriated from the statewide transportation acceleration needs account established by section 28-7009, Arizona Revised Statutes, in fiscal year 2007-2008 to the transportation acceleration interest reimbursement account established by section 28-7010, Arizona Revised Statutes, as added by this act.

B. Notwithstanding sections 28-7009 and 28-7010, Arizona Revised Statutes, the state transportation board shall have discretion on the distribution of the appropriation made in this subsection for approved interest costs.

C. The appropriation made in subsection A of this section is exempt from the provisions of section 35-190, Arizona Revised Statutes, relating to lapsing of appropriations.

Sec. 16. Appropriation; roads of regional significance congestion mitigation; exemption

A. The sum of $10,000,000 is appropriated from the statewide transportation acceleration needs account established by section 28-7009, Arizona Revised Statutes, in fiscal year 2007-2008 to the roads of regional significance congestion mitigation account established by section 28-7011, Arizona Revised Statutes, as added by this act, for funding transportation projects of counties, cities and towns.

B. The appropriation made in subsection A of this section is exempt from the provisions of section 35-190, Arizona Revised Statutes, relating to lapsing of appropriations.

Sec. 17. Retroactivity

Section 28-6547, Arizona Revised Statutes, as amended by this act, applies retroactively to from and after June 30, 2007.

APPROVED BY THE GOVERNOR JUNE 25, 2007.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 25, 2007.