

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

HOUSE BILL 2793

AN ACT

AMENDING SECTIONS 9-500.17 AND 11-269.03, ARIZONA REVISED STATUTES; CHANGING THE ARTICLE HEADING OF TITLE 28, CHAPTER 3, ARTICLE 1, ARIZONA REVISED STATUTES, TO "GENERAL PROVISIONS"; AMENDING TITLE 28, CHAPTER 3, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-603; AMENDING SECTIONS 28-6547, 28-7009, 28-7503, 28-7671, 28-7674 AND 28-7676, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 20, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-7010; REPEALING LAWS 2002, CHAPTER 328, SECTION 26; MAKING APPROPRIATIONS; RELATING TO TRANSPORTATION BUDGET RECONCILIATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

4 9-500.17. Acceleration agreements; loan repayment agreements

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

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

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

23 11-269.03. Acceleration agreements; loan repayment agreements

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

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

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

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

1 bonds issued under article 12 of this chapter for all purposes of sections
2 11-378 and 11-380.

3 Sec. 3. Heading change

4 The article heading of title 28, chapter 3, article 1, Arizona Revised
5 Statutes, is changed from "DEFINITIONS AND POWERS OF GOVERNOR" to "GENERAL
6 PROVISIONS".

7 Sec. 4. Title 28, chapter 3, article 1, Arizona Revised Statutes, is
8 amended by adding section 28-603, to read:

9 28-603. Statewide photo enforcement system; prohibition;
10 applicability

11 A. AN AGENCY OF THIS STATE SHALL NOT ALLOW THE ESTABLISHMENT OF A
12 PHOTO ENFORCEMENT SYSTEM IN THE RIGHT-OF-WAY OF ANY TRANSPORTATION FACILITY
13 THAT IS OWNED, MAINTAINED OR OPERATED BY THIS STATE, AN AGENCY OF THIS STATE
14 OR A PRIVATE CONTRACTOR WHO OPERATES A TRANSPORTATION FACILITY THROUGH AN
15 AGREEMENT WITH THIS STATE.

16 B. THE DIRECTOR SHALL NOT ISSUE ANY PERMITS THAT ARE NECESSARY TO
17 ESTABLISH A PHOTO ENFORCEMENT SYSTEM THAT IS OPERATED BY ANY POLITICAL
18 SUBDIVISION IN THE RIGHT-OF-WAY OF A TRANSPORTATION FACILITY THAT IS OWNED,
19 MAINTAINED OR OPERATED BY THIS STATE, AN AGENCY OF THIS STATE OR A PRIVATE
20 CONTRACTOR WHO OPERATES A TRANSPORTATION FACILITY THROUGH AN AGREEMENT WITH
21 THIS STATE.

22 C. THIS SECTION DOES NOT APPLY TO ANY PHOTO ENFORCEMENT SYSTEM IN
23 OPERATION BEFORE MAY 1, 2007.

24 Sec. 5. Section 28-6547, Arizona Revised Statutes, is amended to read:

25 28-6547. Safety enforcement and transportation infrastructure
26 fund; exemption from lapsing

27 A. The safety enforcement and transportation infrastructure fund is
28 established. The fund consists of monies deposited pursuant to sections
29 28-2321, 28-2324, 28-2325, 28-5474, 28-5739, 28-5863 and 28-5864. The
30 department shall administer the fund.

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

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

36 ~~1-~~ 2. Costs related to the procurement of electronic equipment,
37 automated systems or improvements to existing electronic equipment or
38 automated systems for relieving vehicle congestion at ports of entry on the
39 border between this state and Mexico.

40 ~~2-~~ 3. Construction, MAINTENANCE and upgrades of transportation
41 facilities, including roads, streets and highways, approved by the board
42 within twenty-five miles of the border between Arizona and Mexico.

43 ~~3-~~ 4. As approved by the board, construction AND MAINTENANCE of
44 transportation facilities in the CANAMEX high priority corridor as defined in

1 section 332 of the national highway system designation act of 1995
2 (P.L. 104-59; 109 Stat. 596-597).

3 ~~4.~~ 5. Activities of the department that include the collection of
4 transportation and trade data in the United States and Mexico for the
5 purposes of constructing transportation facilities, improving public safety,
6 improving truck processing time and relieving congestion at ports of entry on
7 the border between Arizona and Mexico. The department may enter into an
8 agreement with the Arizona-Mexico commission and provide funding to the
9 commission for the purposes contained in this paragraph.

10 ~~5.~~ 6. A commitment or investment necessary for the department or
11 another agency of this state to obtain federal monies that are designated for
12 expenditure pursuant to this section.

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

18 D. If the department determines that activities proposed by the
19 Arizona international development authority for planning, development and
20 construction of transportation facilities on the border between Arizona and
21 Mexico may improve traffic safety in this state, the department may enter
22 into an agreement with, and provide, subject to legislative appropriation,
23 fund monies to, ~~the~~ the Arizona international development authority for the
24 purposes contained in this subsection.

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

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

30 Sec. 6. Section 28-7009, Arizona Revised Statutes, is amended to read:

31 ~~28-7009.~~ Statewide transportation acceleration needs account;
32 establishment; definition

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

- 39 1. Monies appropriated by the legislature.
- 40 2. Monies designated for deposit in the account by the transportation
41 board, a state agency or a political subdivision.
- 42 3. Monies received from the United States government for the purpose
43 of accelerating transportation projects.

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

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

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

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

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

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

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

35 F. **EXCEPT AS PROVIDED IN SECTION 28-7010**, monies in the statewide
36 transportation acceleration needs account shall be used only to pay for the
37 following costs of a transportation project approved pursuant to this
38 section:

- 39 1. Materials and labor.
- 40 2. Acquisition of rights-of-way for highway needs.
- 41 3. Design and other engineering services that are within the scope of
42 engineering practice as provided in title 32, chapter 1.
- 43 4. Other directly related costs approved by the transportation board.

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

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

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

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

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

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

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

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

43 L. On or before July 1 of each year, the transportation board shall
44 submit a report of its activities pursuant to this section to the governor,
45 the president of the senate and the speaker of the house of representatives

1 and shall provide a copy of this report to the secretary of state, the
2 director of the joint legislative budget committee and the director of the
3 Arizona state library, archives and public records.

4 M. A regional planning agency that receives monies from the statewide
5 transportation acceleration needs account shall report on or before December
6 15 of each year to the senate and house of representatives transportation
7 committees on approved projects and amounts expended for those projects.

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

12 Sec. 7. Title 28, chapter 20, article 4, Arizona Revised Statutes, is
13 amended by adding section 28-7010, to read:

14 28-7010. Statewide transportation acceleration needs account;
15 reimbursement of interest costs

16 A. THE BOARD MAY APPROVE THE REIMBURSEMENT OF INTEREST COSTS FOR THE
17 ACCELERATION OF A TRANSPORTATION PROJECT AS PRESCRIBED IN THIS SECTION.

18 B. THE REGIONAL PLANNING AGENCY IN A COUNTY THAT IS DESIGNATED AS A
19 TRANSPORTATION MANAGEMENT AREA SHALL ESTABLISH A PROCESS FOR THE REVIEW AND
20 APPROVAL OF REIMBURSEMENT OF INTEREST COSTS FROM THE STATEWIDE TRANSPORTATION
21 ACCELERATION NEEDS ACCOUNT. IF THE ELIGIBILITY OF THE INTEREST COSTS
22 REIMBURSEMENT IS APPROVED, THE PROJECT MAY BE CONSIDERED WITH OTHER ELIGIBLE
23 ACCELERATION PROJECTS FOR STATEWIDE TRANSPORTATION ACCELERATION NEEDS ACCOUNT
24 FUNDING. IN ALL OTHER COUNTIES, THE DEPARTMENT, IN COOPERATION WITH THE
25 METROPOLITAN PLANNING ORGANIZATION OR THE COUNCIL OF GOVERNMENTS THAT HAS THE
26 AUTHORITY TO APPROVE TRANSPORTATION PROJECTS FOR THE COUNTY, SHALL ESTABLISH
27 A PROCESS FOR THE REVIEW AND APPROVAL OF REIMBURSEMENT OF INTEREST COSTS FROM
28 THE STATEWIDE TRANSPORTATION ACCELERATION NEEDS ACCOUNT. IF THE ELIGIBILITY
29 OF THE INTEREST COSTS REIMBURSEMENT IS APPROVED, THE PROJECT MAY BE
30 CONSIDERED WITH OTHER ELIGIBLE ACCELERATION PROJECTS FOR STATEWIDE
31 TRANSPORTATION ACCELERATION NEEDS ACCOUNT FUNDING.

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

34 D. TO BE ELIGIBLE FOR REIMBURSEMENT OF INTEREST COSTS PURSUANT TO THIS
35 SECTION, THE INTEREST COSTS MUST RESULT FROM BONDS, LOANS OR ADVANCES ISSUED
36 TO, BY OR ON BEHALF OF A CITY OR COUNTY THAT ENTERS INTO AN AGREEMENT WITH
37 THE DEPARTMENT AND THE REGIONAL PLANNING AGENCY AFTER JANUARY 1, 2007 FOR THE
38 ACCELERATION OF A TRANSPORTATION PROJECT THAT IS CONTAINED IN THE REGIONAL
39 TRANSPORTATION PLAN OF A COUNTY OR THE DEPARTMENT'S LONG-RANGE STATEWIDE
40 TRANSPORTATION PLAN PURSUANT TO SECTION 28-506.

41 Sec. 8. Section 28-7503, Arizona Revised Statutes, is amended to read:

42 28-7503. Bond requirements

43 The bonds shall:

- 44 1. Be authorized by resolution of the board.

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

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

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

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

15 Sec. 9. Section 28-7671, Arizona Revised Statutes, is amended to read:
16 ~~28-7671.~~ Definitions

17 In this article, unless the context otherwise requires:

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

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

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

23 (b) Included in either:

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

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

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

34 ~~3-~~ 4. "Federal SIB act" means section 350 of the national highway
35 system designation act of 1995 (P.L. 104-59; 109 Stat. 618), any regulations
36 adopted pursuant to that section and any other provisions of federal law
37 providing for state infrastructure banks, infrastructure credit programs and
38 other grant programs for highway purposes and any regulations adopted
39 pursuant to those laws.

40 ~~4-~~ 5. "Fund" means the highway expansion and extension loan program
41 fund established by section 28-7674.

42 ~~5-~~ 6. "Indian tribe" means any Indian tribe, band, group or community
43 that is recognized by the United States secretary of the interior and that
44 exercises governmental authority within the limits of any Indian reservation
45 under the jurisdiction of the United States government, notwithstanding the

1 issuance of any patent and including rights-of-way running through the
2 reservation.

3 ~~6-~~ 7. "Loan repayment agreement" means one or more loan agreements,
4 instruments or other agreements providing for repayment of a loan or other
5 financial assistance and entered into by this state or its agencies,
6 including the department, or a political subdivision or Indian tribe.

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

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

13 Sec. 10. Section 28-7674, Arizona Revised Statutes, is amended to
14 read:

15 28-7674. Highway expansion and extension loan program fund

16 A. The highway expansion and extension loan program fund is
17 established. The fund constitutes a state infrastructure bank under the
18 federal SIB act. The state treasurer shall receive in trust, hold and
19 disburse monies in the fund solely for the purposes authorized by this
20 article. The department shall administer the fund as a continuing
21 appropriation in accordance with this article and the federal SIB act.
22 Monies in the fund are exempt from the provisions of section 35-190 relating
23 to lapsing of appropriations.

24 B. The fund consists of:

25 1. Monies appropriated by the legislature.

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

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

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

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

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

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

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

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

45 2. Subsidizing interest rates.

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

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

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

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

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

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

21 ~~G.~~ H. All proceeds of capitalization grants received from the United
22 States pursuant to the federal SIB act and title 23, United States Code,
23 shall be deposited in the fund and shall be used only to make loans or
24 provide other financial assistance to political subdivisions, Indian tribes
25 and this state or its agencies to design, construct, acquire right-of-way
26 for, restore or rebuild eligible projects, for the purposes prescribed in
27 subsection C of this section or for any other purposes permitted by the
28 federal SIB act and title 23, United States Code.

29 Sec. 11. Section 28-7676, Arizona Revised Statutes, is amended to
30 read:

31 28-7676. Eligible project loans and other financial assistance

32 A. A political subdivision or this state or its agencies, including
33 the department, may apply to the transportation board for any loan or other
34 financial assistance from the fund to support an eligible project.

35 B. An Indian tribe may apply to the board for any loan or other
36 financial assistance from the fund to support an eligible project that the
37 board determines provides substantial public benefits.

38 C. Through December 31, 2004, of the total amount of monies and other
39 assets in the fund, the board shall provide loans and other financial
40 assistance for use as follows:

41 1. Fifty per cent in counties with a population of one million two
42 hundred thousand or more persons according to the most recent United States
43 decennial census.

1 2. Twenty-five per cent in counties with a population of five hundred
2 thousand or more but less than one million two hundred thousand persons
3 according to the most recent United States decennial census.

4 3. Twenty-five per cent in counties with a population of less than
5 five hundred thousand persons according to the most recent United States
6 decennial census.

7 D. The percentages prescribed in subsection C of this section apply
8 over the prescribed time period and are not yearly allocations but do not
9 apply to loans made by the board before August 6, 1999.

10 E. In compliance with any applicable federal requirements, the
11 board shall:

12 1. Approve, disapprove or modify the simplified application form and
13 guidelines developed by the advisory committee.

14 2. Prescribe a simplified procedure to apply for and approve financial
15 assistance.

16 3. Consider at least the following in selecting which eligible
17 projects shall receive financial assistance:

18 (a) Economic benefits.

19 (b) Mobility.

20 (c) Air quality.

21 (d) Safety.

22 (e) How quickly the applicant proposes to repay the loan.

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

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

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

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

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

40 H. A loan under this section shall:

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

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

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

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

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

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

18 ~~7. Not be made after December 31, 2004 if the source of the loan is~~
19 ~~monies derived from a board funding obligation delivered pursuant to section~~
20 ~~28-7678.~~

21 I. The approval of a loan is conditioned on a written commitment by
22 the political subdivision, the Indian tribe or this state or its agencies to
23 complete all applicable reviews and approvals and to secure all required
24 permits in a timely manner.

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

28 K. The state treasurer, to the extent not otherwise expressly
29 prohibited by law, may withhold from a defaulting city, town or county the
30 next succeeding distribution of monies pursuant to chapter 18, article 2 of
31 this title and section 42-6107 otherwise distributable to it, to the extent
32 necessary to meet the certified amount of the deficiency, and shall deposit
33 in the appropriate subaccount in the fund the amount so withheld, except that
34 the state treasurer shall not withhold from the distribution any amount that
35 is necessary, as certified in writing by the defaulting city, town or county
36 to the state treasurer and the director, to make any required deposits then
37 due for payment of principal and interest on bonds issued by a city or town
38 pursuant to title 48, chapter 4, article 5 or by a county pursuant to title
39 11, chapter 2, article 12. Amounts so certified shall be distributed to the
40 city, town or county. The withholding and deposit in the appropriate
41 subaccount in the fund by the state treasurer shall continue until the
42 director certifies to the state treasurer that the default has been cured.

43 L. The recipient of any loan retains sole responsibility to ensure
44 that any related eligible project is in compliance with any applicable
45 federal, state or local environmental or other laws, rules or regulations.

1 The board does not assume any responsibility for compliance by the awarding
2 of financial assistance or other actions under this article. The awarding of
3 financial assistance or any other actions by the board under this article do
4 not constitute actions that subject the board to compliance with state or
5 local environmental or other laws.

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

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

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

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

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

22 Sec. 12. Repeal

23 Laws 2002, chapter 328, section 26 is repealed.

24 Sec. 13. Railroad right-of-way; planning; acquisition;
25 reappropriation; exemption

26 A. Notwithstanding the repeal in section 12 of this act of Laws 2002,
27 chapter 328, section 26, any unexpended or unencumbered monies from the
28 \$650,000 allocated for the acquisition of a railroad corridor are
29 appropriated to the department of transportation.

30 B. On approval by the state transportation board, the department of
31 transportation shall use the monies appropriated in subsection A of this
32 section for costs related to the study, planning and acquisition of a
33 railroad right-of-way and railroad support infrastructure necessary to
34 accommodate future freight or passenger rail service and to be in the best
35 interest of this state.

36 C. The department of transportation's study, planning and acquisition
37 of the railroad right-of-way pursuant to subsection B of this section does
38 not alter or impact any existing agreements for permits that have been
39 entered into or obtained by utility companies located within the existing
40 railroad right-of-way.

41 D. The monies appropriated in subsection A of this section are exempt
42 from the provisions of section 35-190, Arizona Revised Statutes, relating to
43 lapsing of appropriations.

1 Sec. 14. Arizona department of transportation computer system
2 assessment appropriation: lapsing extension:
3 retroactivity

4 A. Notwithstanding any other law, the \$500,000 appropriated to the
5 department of transportation for a motor vehicle division computer system
6 assessment from the state highway fund in fiscal year 2006-2007 by Laws 2006,
7 chapter 344, section 32 is exempt from the provisions of section 35-190,
8 Arizona Revised Statutes, relating to lapsing of appropriations, through June
9 30, 2008.

10 B. This section is effective retroactively to from and after June 30,
11 2007.

12 Sec. 15. Retroactivity

13 Section 28-603, Arizona Revised Statutes, as added by this act, is
14 effective retroactively to May 1, 2007.

15 Sec. 16. Retroactivity

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