

House Engrossed

State of Arizona
House of Representatives
Forty-fifth Legislature
First Regular Session
2001

CHAPTER 238

HOUSE BILL 2636

AN ACT

AMENDING SECTIONS 10-122, 10-3122, 28-6953, 28-6991, 28-6993, 28-7510, 28-7678, 40-108, 40-401, 40-408, 41-821, 41-824, 41-826, 44-2039 AND 49-282, ARIZONA REVISED STATUTES; RELATING TO STATE PUBLIC FINANCES BUDGET RECONCILIATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)



Ch. 238



JANE DEE HULL
GOVERNOR
STATE OF ARIZONA

April 24, 2001

The Honorable James Weiers
Speaker, Arizona House of Representatives
1700 West Washington
Phoenix, AZ 85007

RE: House Bill 2636 omnibus budget reconciliation; public finance

Dear Speaker Weiers:

Today I signed into law House Bill 2636 with the exception of language I vetoed that would have appropriated \$25 million from the state general fund to the state highway fund beginning in fiscal year 2003-04 and each year thereafter. The vetoed language is found on page 7, lines 22 through 25.

Under my tenure I have consistently opposed or vetoed provisions that appropriate monies beyond the biennial budget. Therefore, I am using my line-item veto power to remove the proposed subsection B to A.R.S. § 28-6991. While I oppose this out year appropriation, I am far more concerned about the extent to which the Legislature is willing to substitute revenues with debt to build projects in the State's Five-Year Transportation Facilities Construction Program. Based on the Legislature's actions, the State Transportation Board would be wise to assume that the \$25 million annual transfer of general fund monies to the state highway fund will not occur into future years. This represents a total reduction of \$125 million in the new five-year program. While it is unclear what steps the State Transportation Board will or can take as a result of HB 2636, this reduction in highway funding is significant. For example, the cost to build 50 miles of passing lanes on our rural highway system is about \$50 million and the cost to widen 40 miles of SR 85 to four lanes between Buckeye and Gila Bend is approximately \$116 million.

Language in Section 5 of the bill clearly usurps the State Transportation Board's ability to make necessary changes to the five-year program. In haste, the Legislature adopted an amendment to HB 2636 that effectively prohibits the Board from making any changes in priority or programming until projects in the current program are substantially completed. This unwarranted provision limits the state's ability to solve or adapt to changing transportation problems and issues. For example, we have been working diligently with the Arizona Department of Transportation over the last three months to identify potential funding to accelerate the widening of SR 85 to four lanes. Since this

project is only partially funded in the current program it appears that the Board could not fully program these needed highway improvements until other programmed projects are substantially completed. There are many other examples where the Board needs the flexibility to change the five-year program, such as modifying airport projects based on available federal funding, delaying projects due to new environmental regulations or accelerating regionally significant projects as a result of a new local tax or bonding authority.

In short, the provisions in section 5 were not given enough thoughtful consideration and in the end constitute bad public policy. While I cannot use the line-item veto to remove this language, I am encouraged that the State Transportation Board is seeking a formal opinion (see enclosures) from the Attorney General regarding the legality of the new provisions to A.R.S. § 28-6953.

Additionally, it is my understanding that the State Transportation Board is also looking at other legal options. By legislative or legal action the State Transportation Board's authority to make meaningful and warranted changes to the State's Five-Year Transportation Program should be restored as soon as possible.

Sincerely,


JANE DEE HULL
Governor

Attachment

cc: The Honorable Betsey Bayless
The Honorable Randall Gnant
The Honorable Ruth Solomon
The Honorable Laura Knaperek



Arizona Department of Transportation

206 S. 17th Ave. Phoenix, Arizona 85007-3213
Phone 602.712.7550 FAX 602.712.6941

Jane Dee Hull
Governor

Mary E. Peters
Director

April 24, 2001

Transportation Board

F. Rockne Arnett
Chairman

Katie Dusenberry
Vice Chairperson

Ingo Radicke
William B. Jeffers
Dallas (Rusty) Gant
Richard (Dick) Hileman
James W. Martin

The Honorable Janet Napolitano
Arizona Attorney General
1275 West Washington
Phoenix, Arizona 85007

Dear Attorney General Napolitano:

Arizona Revised Statutes Title, 28, Chapters 2 and 20 establish and grant the State Transportation Board certain powers and duties regarding *inter alia*, the formal adoption of a statewide Five-Year Transportation Facilities Program. This Plan contains specific highway projects that the Arizona Department of Transportation then plans, develops and constructs. This Plan is updated annually, effective July 1. The Board is, at this time, holding public hearings on the FY-2002-2006 Plan in anticipation of its adoption prior to the end of the current fiscal year.

A provision in House Bill 2636, First Regular Session, 45th Legislature requires that the Board not make changes in the priority or programming of projects in the Plan adopted June 30, 2000 (last year), until the projects in that Plan are substantially complete. The Board hereby requests your opinion as to whether the legislature may constrain the Board's powers in this manner. The Board feels that such a provision is contrary to the notion of a Five-Year Plan, updated annually and would limit necessary flexibility to respond to changing requirements and circumstances on behalf of users of the state highway system.

I have attached a resolution authorized by the State Transportation Board outlining a number of concerns with the provisions of this legislation. It would appear that the language in House Bill 2636 would infringe inappropriately and unnecessarily restrict the ability of the board to carry out the powers and duties of the board to respond to changing conditions such as has occurred on this route.

Thank you for your consideration.

Sincerely,

F. Rockne Arnett, Chairman
State Transportation Board

Resolution of the Arizona State Transportation Board

Whereas Arizona Revised Statutes Title 28, Chapters 2 and 20 establish and grant the State Transportation Board certain powers and duties regarding approval and adoption of a Five-Year Transportation Facilities Program, and

Whereas the Five-Year Transportation Facilities Program is updated annually, effective July 1, and

Whereas the Five-Year Transportation Facilities Program is dynamic, rather than static. For example, the State Transportation Board approved forty-four project changes at the meeting on April 20, 2001, and

Whereas the State Transportation Board considers relevant factors, including, but not limited to, safety, congestion, population growth, connectivity and air-quality conformity in developing the Five-Year Transportation Facilities Program, and

Whereas inability to respond to changing conditions, such as disasters, acts of God, system failure, etc. can result in unsafe conditions and increased liability to the State, and

Whereas the State Transportation Board consults, cooperates and coordinates with local elected officials and conducts public hearings prior to adopting the Five-Year Transportation Facilities Program, and

Whereas local elected officials have made commitments to voters based on commitments made by the State Transportation Board subsequent to June 30, 2000, such as occurred in the Yuma County Capital Projects Transaction Privilege Tax Election on September 12, 2000, and

Whereas a number of corridors and projects throughout the state, including I-10, I-17, I-19, US 60, SR 260, SR 85, US 93, SR 95, the Canamex Corridor, the Yuma Area Service Highway, San Tan Freeway, Red Mountain Freeway, Squaw Peak Freeway, and Grand Avenue will require consideration for further improvement in future program updates, and

Whereas flexibility is a critical component of responsive and responsible transportation prioritization and planning, and

Whereas the inability to respond to relevant issues in establishing priorities and programming projects could result in the loss of significant federal highway funds, such as occurred when a large part of the state was designated Pygmy Owl habitat and resulted in delaying previously programmed projects, and

Whereas a provision in House Bill 2636, First Regular Session, 45th Legislature, requires that the Five-Year Transportation Facilities Program and the Regional Freeway Program in effect on June 30, 2000, not be delayed or postponed and shall remain in effect without change in priority or programming until the projects planned or programmed in the Five-Year Transportation Facilities Program and the Regional Freeway Program in effect on June 30, 2000, are substantially complete, and

Whereas the State Transportation Board believes these provisions are contrary to the powers and duties of the Board as defined in Arizona Revised Statutes inferring a level of intrusion that inappropriately limits the necessary flexibility to respond to changing requirements and circumstances on behalf of users of the State Highway System, and

Whereas the term "substantially complete" is undefined and vague, and

Whereas the provisions of House Bill 2636 prevent the State Transportation Board from operating, and

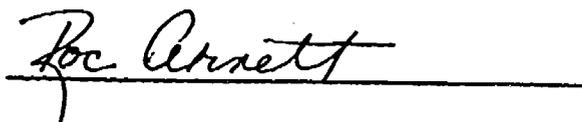
Whereas the provisions of House Bill 2636 restrict not only highway projects, but aviation projects as well, jeopardizing Federal Aviation Funding received by Arizona,

Now therefore it be resolved that it is the intent of the State Transportation Board to pursue resolution of this infringement of its powers and duties through whatever means necessary, up to and including legal challenge of said provisions.

It is further resolved that the State Transportation Board requests the Arizona Attorney General provide an opinion as to whether the Arizona State Legislature through provisions contained in House Bill 2656 may constrain the powers and duties of the Board in this manner.

Authorized the 20th Day of April 2001 in Flagstaff, Arizona

F. Rockne Arnett, Chairman



A handwritten signature in cursive script, reading "F. Rockne Arnett", is written over a horizontal line.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 10-122, Arizona Revised Statutes, is amended to
3 read:

4 10-122. Filing, service and copying fees; public access fund;
5 expedited report filing and access

6 A. The commission shall collect and deposit, pursuant to sections
7 35-146 and 35-147, the following fees when the documents described in this
8 subsection are delivered to it for filing or issuance:

<u>Document</u>	<u>Fee</u>
10 1. Articles of incorporation	\$50
11 2. Application for use of indistinguishable name	10
12 3. Application for reserved name	10
13 4. Notice of transfer of reserved name	10
14 5. Application for registered name	10
15 6. Application for renewal of registered name	10
16 7. Agent's statement of resignation	10
17 8. Amendment of articles of incorporation	25
18 9. Restatement of articles of incorporation with	
19 amendment of articles	25
20 10. Articles of merger or share exchange	100
21 11. Articles of dissolution	25
22 12. Articles of domestication	100
23 13. Articles of revocation of dissolution	25
24 14. Application for reinstatement following	
25 administrative dissolution, in addition	
26 to other fees and penalties due	100
27 15. Application for authority	150
28 16. Application for withdrawal	25
29 17. Annual report	45
30 18. Articles of correction	25
31 19. Application for certificate of good standing	10
32 20. Any other document required or permitted	
33 to be filed by chapters 1 through 17	
34 of this title	25

35 B. The commission shall collect a fee of twenty-five dollars each time
36 process is served on it under chapters 1 through 17 of this title. The party
37 to a proceeding causing service of process is entitled to recover this fee
38 as costs if the party prevails in the proceeding.

39 C. The commission shall charge and collect a reasonable fee for
40 copying documents on request, provided the fee does not exceed the cost of
41 providing the service as determined by the commission. The commission shall
42 also charge a reasonable fee for certifying the copy of a filed document,
43 provided the fee does not exceed the cost of providing the service as
44 determined by the commission.

1 D. A penalty of one hundred dollars payable in addition to other fees
2 accrues and is payable if a foreign corporation fails to file an amendment,
3 restated articles that include an amendment, or articles of merger within
4 sixty days of the time of filing in the jurisdiction in which the corporation
5 is domiciled.

6 E. One-third of the filing fees for the annual report of domestic and
7 foreign corporations paid pursuant to subsection A, paragraph 17 of this
8 section shall be deposited in the Arizona arts trust fund established by
9 section 41-983.01.

10 F. A public access fund is established consisting of the monies
11 received pursuant to paragraphs 2, 3 and 4 of this subsection. Monies in the
12 fund are subject to legislative appropriation. The following provisions apply
13 to the fund:

14 1. The commission shall administer the fund and spend monies in the
15 fund to purchase, install and maintain an improved data processing system on
16 the premises of the commission AND FOR A PART OF THE GENERAL ADMINISTRATIVE
17 AND LEGAL EXPENSES OF THE COMMISSION. The data processing system shall be
18 designed to allow direct, on-line access by any person at a remote location
19 to all public records that are filed with the commission pursuant to this
20 title.

21 2. The commission shall provide for and establish an expedited service
22 for the filing of all documents and services provided pursuant to this title
23 as follows:

24 (a) The expedited filing shall be a priority same day service effected
25 in a fast and efficient manner.

26 (b) The commission shall charge a fee for expedited services,
27 including those requested by telefacsimile transmission. This fee is in
28 addition to any other fees provided by law, including those in this
29 section. The fee for expedited services shall be set by the commission to
30 cover the cost of the service.

31 3. The commission may charge persons who access the commission's data
32 processing system from remote locations and persons requesting special
33 computer generated printouts, reports and tapes a reasonable fee that does
34 not exceed the cost of the time, equipment and personnel necessary to provide
35 this service or product as determined by the commission.

36 4. In addition to any fee charged pursuant to this section, the
37 commission may charge and collect the following fees to help defray the cost
38 of the improved data processing system:

39 (a) Filing articles of incorporation of a domestic corporation, ten
40 dollars.

41 (b) Filing an application of a foreign corporation for authority to
42 transact business in this state, twenty-five dollars.

43 5. All monies received pursuant to paragraphs 2, 3 and 4 of this
44 subsection shall be deposited, pursuant to sections 35-146 and 35-147, in the
45 public access fund. The commission shall use the monies deposited in the

1 fund for the purposes provided in this section. Fees charged pursuant to
2 this section are exempt from section 39-121.03, subsection A, paragraph 3,
3 relating to a charge for value of a reproduction on the commercial market.
4 Monies in the fund are exempt from the provisions of section 35-190 relating
5 to lapsing of appropriations, except that any unencumbered monies in excess
6 of two hundred thousand dollars at the end of each fiscal year revert to the
7 state general fund.

8 6. When sufficient monies have been collected pursuant to paragraphs
9 2, 3 and 4 of this subsection to pay for the purchase and installation of the
10 data processing system, the commission shall not charge and collect the fees
11 prescribed in paragraph 4 of this subsection.

12 Sec. 2. Section 10-3122, Arizona Revised Statutes, is amended to read:
13 10-3122. Filing, service and copying fees; public access fund;
14 expedited report filing and access

15 A. The commission shall collect and deposit, pursuant to sections
16 35-146 and 35-147, in the state general fund the following fees when the
17 documents described in this subsection are delivered for filing or issuance:

<u>Document</u>	<u>Fee</u>
19 1. Articles of incorporation	\$ 30
20 2. Application for use of indistinguishable name	\$ 10
21 3. Application for reserved name	\$ 10
22 4. Notice of transfer of reserved name	\$ 10
23 5. Application for registered name	\$ 10
24 6. Application for renewal of registered name	\$ 10
25 7. Agent's statement of resignation	\$ 10
26 8. Amendment of articles of incorporation	\$ 25
27 9. Restatement of articles of incorporation	
28 with amendment of articles	\$ 25
29 10. Articles of merger or membership exchange	\$100
30 11. Articles of dissolution	\$ 25
31 12. Articles of domestication	\$100
32 13. Articles of revocation of dissolution	\$ 25
33 14. Application for reinstatement following	
34 administrative dissolution or revocation in	
35 addition to other fees and penalties due	\$ 25
36 15. Application for authority	\$150
37 16. Application for withdrawal	\$ 25
38 17. Annual report	\$ 10
39 18. Articles of correction	\$ 25
40 19. Application for certificate of good standing	\$ 10

41 B. The commission shall collect a fee of twenty-five dollars each time
42 process is served on it under chapters 24 through 40 of this title. The
43 party to a proceeding causing service of process is entitled to recover this
44 fee as costs if the party prevails in the proceeding. The fee collected

1 pursuant to this subsection shall be deposited, pursuant to sections 35-146
2 and 35-147, in the state general fund.

3 C. The commission shall charge and collect fifty cents per page for
4 copying documents on request. The commission shall also charge five dollars
5 plus fifty cents per page for certifying the copy of a filed document. The
6 fees collected pursuant to this subsection shall be deposited, pursuant to
7 sections 35-146 and 35-147, in the state general fund.

8 D. A penalty of one hundred dollars payable in addition to other fees
9 accrues and is payable if a foreign corporation fails to file an amendment,
10 restated articles that include an amendment, or articles of merger within
11 sixty days of the time of filing in the jurisdiction in which the corporation
12 is domiciled. The penalty collected pursuant to this subsection shall be
13 deposited, pursuant to sections 35-146 and 35-147, in the state general fund.

14 E. The commission shall deposit, pursuant to sections 35-146 and
15 35-147, the monies received pursuant to paragraphs 2, 3 and 4 of this
16 subsection in the public access fund established by section 10-122. Monies
17 in the fund are subject to legislative appropriation. The following
18 provisions apply to the fund:

19 1. The commission shall administer the fund and spend monies in the
20 fund to purchase, install and maintain an improved data processing system on
21 the premises of the commission AND FOR PART OF THE GENERAL ADMINISTRATIVE AND
22 LEGAL EXPENSES OF THE COMMISSION. The data processing system shall be
23 designed to allow direct, on-line access by any person at a remote location
24 to all public records that are filed with the commission pursuant to this
25 title.

26 2. The commission shall provide for and establish an expedited service
27 for the filing of articles of incorporation, application of foreign
28 corporations for authority to conduct affairs in this state, amendments,
29 articles of merger or consolidation, statements of intent to dissolve,
30 application of withdrawal of foreign corporations, annual reports and
31 applications to reserve corporate name, as follows:

32 (a) The expedited filing shall be a priority same day service effected
33 in a fast and efficient manner.

34 (b) The commission shall charge a fee for expedited services,
35 including those requested by telefacsimile transmission. This fee is in
36 addition to any other fees provided by law, including those in this
37 section. The fee for expedited services shall be set by the commission to
38 cover the cost of the service.

39 3. The commission may charge persons who access the commission's data
40 processing system from remote locations and persons requesting special
41 computer generated printouts, reports and tapes a reasonable fee that does
42 not exceed the cost of the time, equipment and personnel necessary to provide
43 this service or product as determined by the commission.

1 4. In addition to any fee charged pursuant to this section, the
2 commission may charge and collect the following fees to help defray the cost
3 of the improved data processing system:

4 (a) Filing articles of incorporation of a domestic corporation, ten
5 dollars.

6 (b) Filing an application of a foreign corporation for authority to
7 transact business in this state, twenty-five dollars.

8 5. All monies received pursuant to paragraphs 2, 3 and 4 of this
9 subsection shall be deposited, pursuant to sections 35-146 and 35-147, in the
10 public access fund. The commission shall use the monies deposited in the
11 fund for the purposes provided in this section. Fees charged pursuant to
12 this section are exempt from section 39-121.03, subsection A, paragraph 3,
13 relating to a charge for value of a reproduction on the commercial
14 market. Monies in the fund are exempt from the provisions of section 35-190
15 relating to lapsing of appropriations, except that any unencumbered monies
16 in excess of two hundred thousand dollars at the end of each fiscal year
17 revert to the state general fund.

18 6. When sufficient monies have been collected pursuant to paragraphs
19 2, 3 and 4 of this subsection to pay for the purchase and installation of the
20 data processing system, the commission shall not charge and collect the fees
21 prescribed in paragraph 4 of this subsection.

22 Sec. 3. Section 28-6953, Arizona Revised Statutes, is amended to read:
23 28-6953. Updated program; annual report

24 A. EXCEPT AS PROVIDED IN SUBSECTION C OF THIS SECTION, on or before
25 June 30 of each year, the board shall:

26 1. Adopt an updated five year transportation facilities construction
27 program for the following five fiscal years.

28 2. File a written report with the director and the governor outlining
29 the updated program and explaining any priority changes made pursuant to
30 section 28-6955.

31 3. File a copy of the program with the director of the department of
32 administration and the state treasurer.

33 B. On or before the first Monday in August of each year, the board
34 shall prepare and make available to the public an annual report that
35 summarizes the updated five year statewide transportation facilities
36 construction program. The report shall contain:

37 1. The name of each proposed transportation facilities construction
38 project.

39 2. The anticipated year each project will be advertised for bidding.

40 3. The location, description and total estimated cost of each project.

41 4. An explanation of the project's priority.

42 5. Other data the board deems necessary.

43 C. NOTWITHSTANDING SECTIONS 28-304 AND 28-6955, THE FIVE YEAR
44 TRANSPORTATION FACILITIES CONSTRUCTION PROGRAM IN EFFECT ON JUNE 30, 2000,
45 AND THE REGIONAL FREEWAY PROGRAM SCHEDULED FOR COMPLETION BY 2007 AND IN

1 EFFECT ON JUNE 30, 2000, SHALL NOT BE DELAYED OR POSTPONED AND SHALL REMAIN
2 IN EFFECT WITHOUT CHANGE IN PRIORITY OR PROGRAMMING UNTIL THE PROJECTS
3 PLANNED OR PROGRAMMED IN THE FIVE YEAR TRANSPORTATION FACILITIES CONSTRUCTION
4 PROGRAM AND REGIONAL FREEWAY PROGRAM SCHEDULED FOR COMPLETION BY 2007 ARE
5 SUBSTANTIALLY COMPLETE.

6 Sec. 4. Section 28-6991, Arizona Revised Statutes, is amended to read:
7 28-6991. State highway fund; sources

8 A. A state highway fund is established that consists of:

9 1. Monies distributed from the Arizona highway user revenue fund
10 pursuant to chapter 18 of this title.

11 2. Monies appropriated by the legislature.

12 3. Monies received from donations for the construction, improvement
13 or maintenance of state highways or bridges. These monies shall be credited
14 to a special account and shall be spent only for the purpose indicated by the
15 donor.

16 4. Monies received from counties under cooperative agreements,
17 including proceeds from bond issues. The state treasurer shall deposit these
18 monies to the credit of the fund in a special account on delivery to the
19 treasurer of a concise written agreement between the department and the
20 county stating the purposes for which the monies are surrendered by the
21 county, and these monies shall be spent only as stated in the agreement.

22 5. Monies received from the United States under an act of Congress to
23 provide aid for the construction of rural post roads, but monies received on
24 projects for which the monies necessary to be provided by this state are
25 wholly derived from sources mentioned in paragraphs 2 and 3 of this section
26 shall be allotted by the department and deposited by the state treasurer in
27 the special account within the fund established for each project. On
28 completion of the project, on the satisfaction and discharge in full of all
29 obligations of any kind created and on request of the department, the
30 treasurer shall transfer the unexpended balance in the special account for
31 the project into the state highway fund, and the unexpended balance and any
32 further federal aid thereafter received on account of the project may be
33 spent under the general provisions of this title.

34 6. Monies in the custody of an officer or agent of this state from any
35 source that is to be used for the construction, improvement or maintenance
36 of state highways or bridges.

37 7. Monies deposited in the state general fund and arising from the
38 disposal of state personal property belonging to the department.

39 8. Receipts from the sale or disposal of any or all other property
40 held by the department and purchased with state highway monies.

41 9. Monies generated pursuant to section 28-410.

42 10. Monies distributed pursuant to section 28-5808, subsection A,
43 paragraph 2, subdivision (d) and subsection B, paragraph 2, subdivision (d).

44 11. Monies deposited pursuant to sections 28-1143, 28-2010, 28-2353 and
45 28-3003.

1 12. Except as provided in section 28-5101, the following monies:

2 (a) Monies deposited pursuant to section 28-2206 and section 28-5808,
3 subsection A, paragraph 2, subdivision (e) and subsection B, paragraph 2,
4 subdivision (e).

5 (b) One dollar of each registration fee and one dollar of each title
6 fee collected pursuant to section 28-2003.

7 (c) Two dollars of each late registration penalty collected by the
8 director pursuant to section 28-2162.

9 (d) The air quality compliance fee collected pursuant to section
10 49-542.

11 (e) The special plate administration fees collected pursuant to
12 sections 28-2404, 28-2412 through 28-2417 and 28-2514.

13 (f) The windshield sticker fee collected pursuant to section 28-2355.

14 (g) Monies collected pursuant to sections 28-372, 28-2155 and 28-2156
15 if the director is the registering officer.

16 13. Monies deposited pursuant to chapter 5, article 5 of this title.

17 14. Donations received pursuant to section 28-2269.

18 15. Dealer and registration monies collected pursuant to section
19 28-4304.

20 16. Abandoned vehicle administration monies deposited pursuant to
21 section 28-4804.

~~22 B. BEGINNING IN FISCAL YEAR 2003-2004, EACH FISCAL YEAR TWENTY-FIVE
23 MILLION DOLLARS IS APPROPRIATED TO THE STATE HIGHWAY FUND FROM THE STATE
24 GENERAL FUND TO REPLACE VEHICLE LICENSE TAX REVENUES REDUCED BY LEGISLATIVE
25 ENACTMENTS IN 1999 AND 2000.~~

26 Sec. 5. Section 28-6993, Arizona Revised Statutes, is amended to read:
27 28-6993. State highway fund; authorized uses

28 A. Except as provided in subsection B of this section and section
29 28-6538, the state highway fund shall be used for any of the following
30 purposes in strict conformity with and subject to the budget as provided by
31 this section and by sections 28-6997 through 28-7003:

32 1. To pay salaries, wages, necessary travel expenses and other
33 expenses of officers and employees of the department and the incidental
34 office expenses, including telegraph, telephone, postal and express charges
35 and printing, stationery and advertising expenses.

36 2. To pay for both:

37 (a) Equipment, supplies, machines, tools, department offices and
38 laboratories established by the department.

39 (b) The construction and repair of buildings or yards of the
40 department.

41 3. To pay the cost of both:

42 (a) Engineering, construction, improvement and maintenance of state
43 highways and parts of highways forming state routes.

- 1 (b) Highways under cooperative agreements with the United States that
2 are entered into pursuant to this chapter and an act of Congress providing
3 for the construction of rural post roads.
- 4 4. To pay land damages incurred by reason of establishing, opening,
5 altering, relocating, widening or abandoning portions of a state route or
6 state highway.
- 7 5. To reimburse the department revolving account.
- 8 6. To pay premiums on authorized indemnity bonds and on compensation
9 insurance under the workers' compensation act.
- 10 7. To defray lawful expenses and costs required to administer and
11 carry out the intent, purposes and provisions of this title, including
12 repayment of obligations entered into pursuant to this title, payment of
13 interest on obligations entered into pursuant to this title, repayment of
14 loans and other financial assistance, including repayment of advances and
15 interest on advances made to the department pursuant to section 28-7677, and
16 payment of all other obligations and expenses of the board and department
17 pursuant to chapter 21 of this title.
- 18 8. To pay lawful bills and charges incurred by the state engineer.
- 19 9. To acquire, construct or improve entry roads to state parks or
20 roads within state parks.
- 21 10. To acquire, construct or improve entry roads to state prisons.
- 22 11. To pay the cost of relocating a utility facility pursuant to
23 section 28-7156.
- 24 12. For the purposes provided in subsections C, D and E of this section
25 and sections 28-1143, 28-2010, 28-2353 and 28-3003.
- 26 B. For each fiscal year, the department of transportation shall
27 allocate and transfer monies in the state highway fund to the department of
28 public safety for funding a portion of highway patrol costs in eight
29 installments in each of the first eight months of a fiscal year that do not
30 exceed ten million dollars.
- 31 C. Subject to legislative appropriation, the department may use the
32 monies in the state highway fund as prescribed in section 28-6991, SUBSECTION
33 A, paragraph 12 to carry out the duties imposed by this title for
34 registration or titling of vehicles, to operate joint title, registration and
35 driver licensing offices, to cover the administrative costs of issuing the
36 air quality compliance sticker, modifying the year validating tab and issuing
37 the windshield sticker and to cover expenses and costs in issuing special
38 plates pursuant to sections 28-2404, 28-2412 through 28-2417 and 28-2514.
- 39 D. The department shall use monies deposited in the state highway fund
40 pursuant to chapter 5, article 5 of this title only as prescribed by that
41 article.
- 42 E. Monies deposited in the state highway fund pursuant to section
43 28-2269 shall be used only as prescribed by that section.
- 44 F. The department may exchange monies distributed to the state highway
45 fund pursuant to section 28-6538, subsection A, paragraph 1 for local

1 government surface transportation program federal monies suballocated to
2 councils of government and metropolitan planning organizations if the local
3 government scheduled to receive the federal monies concurs. An exchange of
4 state highway fund monies pursuant to this subsection shall be in an amount
5 that is at least equal to ninety per cent of the federal obligation authority
6 that exists in the project for which the exchange is proposed.

7 Sec. 6. Section 28-7510, Arizona Revised Statutes, is amended to read:

8 28-7510. Parity bonds

9 A. The board may issue parity bonds only when all of the payments due
10 on the principal and interest on the outstanding bonds are current.

11 B. The board may not issue parity bonds unless both of the following
12 tests are met:

13 1. The monies subject to pledge for payment of the bonds for the
14 preceding twelve months exceed by two times the highest annual principal and
15 interest payments on all of the outstanding bonds and the bonds to be issued
16 for the highest one year period during the life of both the outstanding bonds
17 and the bonds to be issued.

18 2. The total principal amount of bonds outstanding, excluding refunded
19 bonds, at any one time shall not exceed ~~eight hundred million~~ ONE BILLION
20 dollars, unless the additional amount is authorized by the legislature.

21 C. The bonds sought to be issued shall mature and the principal and
22 interest are payable at the same time as bonds then outstanding that have the
23 same priority of lien.

24 D. All bonds issued under this article are deemed to contain the
25 restrictions against issuance of parity bonds contained in this section,
26 whether or not the resolution issuing the bonds or the bonds themselves
27 contain covenants to this effect.

28 E. For purposes of this section, amounts subject to pledge shall be
29 presumptively determined by a certificate of the chairman of the board.

30 F. The pledge of revenues prescribed in section 28-7504, subsection
31 A, paragraphs 1 and 2 is not subject to sections 28-6952 through 28-6955,
32 28-6992, 28-6993, AND 28-6995 through 28-7006. The payment of the necessary
33 fees, charges and expenses incurred in the issuance of the bonds and the
34 principal of and interest on the bonds are not subject to section 28-7007 but
35 shall be made in the manner prescribed in the resolution issuing the bonds.

36 Sec. 7. Section 28-7678, Arizona Revised Statutes, is amended to read:

37 28-7678. Board funding obligations

38 A. The board may deliver nonnegotiable board funding obligations as
39 follows:

40 1. In fiscal year 1999-2000, a board funding obligation that is in a
41 principal amount that is not more than one hundred million dollars and that
42 matures no later than one calendar year after delivery of the obligation.

43 2. In fiscal year 2000-2001, a board funding obligation that is in a
44 principal amount that is not more than one hundred million dollars and that
45 matures no later than three calendar years after the delivery of the

1 obligation. IN FISCAL YEAR 2001-2002, AN ADDITIONAL BOARD FUNDING OBLIGATION
2 THAT IS IN A PRINCIPAL AMOUNT THAT IS NOT MORE THAN ONE HUNDRED MILLION
3 DOLLARS AND THAT MATURES NO LATER THAN TWO CALENDAR YEARS AFTER THE DELIVERY
4 OF THE OBLIGATION.

5 3. In fiscal year 2003-2004, a board funding obligation that is in a
6 principal amount that is not more than one TWO hundred million dollars and
7 that matures no later than four calendar years after the delivery of the
8 obligation.

9 B. The board shall sell the board funding obligations prescribed in
10 subsection A of this section to the state treasurer. The board shall repay
11 board funding obligations at the board's earliest convenience. The total
12 principal amount of board funding obligations at any one time shall not be
13 more than one TWO hundred million dollars.

14 C. In consultation with the state treasurer, the board shall authorize
15 each board funding obligation by a resolution. The authorizing resolution
16 shall provide the following:

- 17 1. The rate or rates of interest.
- 18 2. The date or dates of maturities MATURITY.
- 19 3. The terms of redemption.
- 20 4. The form and manner of execution of the funding obligation.
- 21 5. Any terms necessary to secure credit enhancement or other sources
22 of payment or security.
- 23 6. Any other item the board determines is necessary.

24 D. As provided in the authorizing resolutions of the board, the
25 principal of and interest on the board funding obligations shall be paid from
26 one or more loan repayment agreements that are funded with the proceeds of
27 the obligations and that are pledged to the repayment of the obligations.
28 HOWEVER, WITH RESPECT TO THE OBLIGATIONS DEPOSITED INTO THE STATE HIGHWAY
29 FUND PURSUANT TO SUBSECTION G OF THIS SECTION, THE OBLIGATIONS: (i) SHALL
30 BE REPAYED BY THE BOARD, NO LATER THAN THE FINAL MATURITY OF THE OBLIGATIONS,
31 FROM THE STATE HIGHWAY FUND AND NOT FROM LOAN REPAYMENT AGREEMENTS; (ii) MAY
32 BE SECURED BY A PLEDGE GRANTED PURSUANT TO SUBSECTION E, PARAGRAPH 2 OF THIS
33 SECTION. The pledged loan repayment agreements shall be held in one or more
34 separate subaccounts in the fund that are established and pledged by the
35 authorizing resolution for the payment of the board funding obligation under
36 the terms of the authorizing resolution. As long as the board funding
37 obligations are outstanding, the board shall segregate the loan payments
38 under the loan repayment agreements and shall deposit all of those monies in
39 the appropriate separate subaccount of the fund designated as the subaccount
40 from which the obligations are to be paid.

41 E. To secure the board funding obligations, the board by the
42 authorizing resolution may:

- 43 1. Provide that principal of and interest on the obligations may be
44 secured by a pledge of and first lien or other specified lien on all or part

1 of the monies held in the specified subaccounts of the fund pledged to the
2 obligations.

3 2. Provide that, if the department fails to make loan repayments when
4 due under any pledged loan repayment agreement of the department, the
5 principal of obligations secured by the pledged loan repayment agreement may
6 be paid from and secured by a pledge of and lien on all or any part of the
7 monies paid into the state highway fund from the sources specifically
8 collected as prescribed under article IX, section 14, Constitution of
9 Arizona, and the monies distributed pursuant to section 28-5808, if the lien
10 is subordinated and subject to the prior lien on those monies securing all
11 bonds issued by the board pursuant to article 1 of this chapter.

12 3. Provide that all or a portion of the interest on the obligations
13 may be paid from and secured by a pledge of any available monies in the fund.
14 These pledged monies shall be deposited in the subaccount that secures the
15 obligations.

16 4. Provide that all or a portion of the interest on the obligations
17 may be paid from available monies in the state highway fund that are
18 deposited, as provided in the authorizing resolution, in the subaccount that
19 secures the obligations.

20 5. Do any other matters of like or different character that in any way
21 may affect the security and protection of the obligations.

22 F. The monies pledged under this section to the board funding
23 obligations and received by the state treasurer or department to be deposited
24 in the pledged subaccount are immediately subject to the lien of the pledge
25 without any future physical delivery or further act. A lien of any pledge
26 is valid and binding against all parties having claims of any kind in tort,
27 contract or otherwise against the board or the department irrespective of
28 whether the parties have notice of the lien. When placed in the board's
29 records, the resolution by which this pledge is created is notice to all
30 concerned of the creation of the pledge.

31 G. Board funding obligations shall be sold at private sale to the
32 state treasurer at a price and on terms provided by the board in its
33 authorizing resolution in accordance with subsection E of this
34 section. BEFORE JULY 1, 2001, proceeds from the sale of obligations shall
35 be deposited in a separate subaccount in the fund and may be spent for
36 financial assistance to the department for eligible projects and related
37 costs under this article and to pay interest on board funding obligations.
38 AFTER JULY 1, 2001, UP TO SIXTY MILLION DOLLARS OF THE PROCEEDS FROM THE SALE
39 OF NEW OBLIGATIONS SHALL BE DEPOSITED INTO THE STATE HIGHWAY FUND ESTABLISHED
40 BY SECTION 28-6991 AND UP TO FORTY MILLION DOLLARS OF PROCEEDS SHALL BE
41 DEPOSITED IN A SEPARATE SUBACCOUNT IN THE HIGHWAY EXPANSION AND EXTENSION
42 LOAN PROGRAM FUND ESTABLISHED BY SECTION 28-7674 AND MAY BE SPENT FOR
43 FINANCIAL ASSISTANCE TO THE DEPARTMENT FOR ELIGIBLE PROJECTS AND RELATED
44 COSTS UNDER THIS ARTICLE AND TO PAY INTEREST ON BOARD FUNDING OBLIGATIONS.
45 AFTER JULY 1, 2003, UP TO SIXTY MILLION DOLLARS OF THE PROCEEDS FROM THE SALE

1 OF OBLIGATIONS SHALL BE DEPOSITED INTO THE STATE HIGHWAY FUND AND UP TO ONE
2 HUNDRED FORTY MILLION DOLLARS OF PROCEEDS SHALL BE DEPOSITED IN A SEPARATE
3 SUBACCOUNT IN THE HIGHWAY EXPANSION AND EXTENSION LOAN PROGRAM FUND AND MAY
4 BE SPENT FOR FINANCIAL ASSISTANCE TO THE DEPARTMENT FOR ELIGIBLE PROJECTS AND
5 RELATED COSTS UNDER THIS ARTICLE AND TO PAY INTEREST ON BOARD FUNDING
6 OBLIGATIONS.

7 H. On request of the board, the attorney general shall take whatever
8 actions are necessary to enforce loan repayment agreements that are pledged
9 by the board to board funding obligations.

10 I. Board funding obligations:

11 1. Are special obligations of the board.

12 2. Are not obligations that are general, special or otherwise of this
13 state.

14 3. Are not a legal debt of this state.

15 4. Are payable and enforceable only from the monies and separate
16 subaccounts pledged and assigned in the authorizing resolutions of the board.

17 J. Any member of the board or a person executing a board funding
18 obligation is not personally liable for the payment of the obligation.

19 Sec. 8. Section 40-108, Arizona Revised Statutes, is amended to read:

20 40-108. Compensation of appointees and employees

21 A. The compensation of corporation commission appointees and employees
22 except as provided in section 40-408 shall be determined pursuant to section
23 38-611 and shall be paid from the STATE general fund and the appropriation
24 made to the commission in the general ~~appropriation bill~~ APPROPRIATIONS ACT.

25 B. Notwithstanding subsection A of this section, if the commission is
26 unable to employ utilities division professional staff under the provisions
27 of section 38-611, the commission may request an exemption from the
28 provisions of section 38-611 from the joint legislative budget committee for
29 each such employee. EMPLOYEE compensation of the utilities division
30 professional staff AND A PART OF THE ADMINISTRATIVE, HEARING AND LEGAL
31 DIVISIONS is payable from the utility regulation revolving fund established
32 pursuant to section 40-408.

33 Sec. 9. Section 40-401, Arizona Revised Statutes, is amended to read:

34 40-401. Annual assessment by commission against public service
35 corporations; exception; rate of assessment; date of
36 levy; annual statement of company intrastate revenue

37 A. To enable the corporation commission to perform its lawful duties
38 relating to classifications to be used, rates and charges to be made and
39 collected, rules and regulations to be prescribed, and supervision over
40 public service corporations, the commission shall annually make an assessment
41 against each such corporation, excepting corporations not required to hold
42 certificates of convenience and necessity.

43 B. The assessment required pursuant to subsection A of this section
44 shall be prescribed annually by the commission at a rate sufficient to raise
45 monies equal to the amount computed as follows:

- 1 1. Determine the amount appropriated by the legislature for operating
2 the utilities division AND A PART OF THE ADMINISTRATIVE, HEARING AND LEGAL
3 DIVISIONS for the following fiscal year.
- 4 2. Multiply the amount determined in paragraph 1 by 1.2.
- 5 3. Subtract the monies estimated to remain unexpended in the utility
6 regulation revolving fund at the end of the current fiscal year. The
7 difference computed is the amount to be raised by the assessment.
- 8 C. The assessment rate prescribed pursuant to subsection B of this
9 section shall be applied to the gross operating revenues derived from
10 intrastate operations during the preceding calendar year of any such
11 corporation if the gross operating revenues of the corporation exceeded two
12 hundred fifty thousand dollars during that preceding calendar year. In no
13 event may the sum of the assessment rates under this section and section
14 40-401.01 exceed two-tenths of one per cent of any such corporation's gross
15 operating revenues derived from intrastate operations during the preceding
16 calendar year.
- 17 D. The assessment prescribed by subsections A and B of this section
18 shall be levied by the commission not later than June 15 and shall be paid
19 within fifteen days after mailing by registered mail to any such corporation
20 notice thereof and a statement of the amount.
- 21 E. ON OR BEFORE JANUARY 10 each public service corporation with gross
22 operating revenues greater than two hundred fifty thousand dollars shall ~~on~~
23 ~~or before January 10,~~ file with the commission a statement showing its
24 estimated gross operating revenues derived from intrastate operations during
25 the preceding calendar year.
- 26 F. ON OR BEFORE MAY 1 each public service corporation shall, ~~on or~~
27 ~~before May 1,~~ file with the commission, under oath, a statement showing its
28 gross operating revenues derived from intrastate operations during the
29 preceding calendar year.
- 30 Sec. 10. Section 40-408, Arizona Revised Statutes, is amended to read:
31 40-408. Disposition of assessment proceeds; utility regulation
32 revolving fund; exemption from lapsing
- 33 A. The utility regulation revolving fund is established.
- 34 B. All monies received by the commission under the provisions of
35 section 40-401 shall be deposited, pursuant to sections 35-146 and 35-147,
36 in the utility regulation revolving fund.
- 37 C. Subject to legislative appropriation, the commission shall use the
38 monies in the utility regulation revolving fund for attorneys AND OTHER LEGAL
39 STAFF employed pursuant to section 40-106, and all expenses of the utilities
40 division, including compensation of auditors, economists and other staff,
41 including staff with expertise in the area of corporate accounting, finance
42 and management efficiency of all types of public service corporations, AND
43 A PART OF THE EXPENSES FOR THE ADMINISTRATIVE AND HEARING DIVISIONS.
- 44 D. Monies in the utility regulation revolving fund do not revert to
45 the state general fund pursuant to section 35-190.

1 E. Monies not appropriated or expended from the utility regulation
2 revolving fund at the end of the fiscal year shall be used to calculate the
3 annual assessment prescribed in section 40-401.

4 F. The utilities division shall not use any monies from the utility
5 regulation revolving fund unless such monies are appropriated by the
6 legislature.

7 Sec. 11. Section 41-821, Arizona Revised Statutes, is amended to read:
8 41-821. Arizona historical society; powers; officers; duties of
9 board of directors; executive director

10 A. An Arizona historical society is established.

11 B. Subject to limitations imposed by law, the society may purchase,
12 receive, hold, lease and sell property, real and personal, for the benefit
13 of the state and use of the society.

14 C. The society shall have a president, a treasurer, a board of
15 directors and other officers, who shall be elected by the members of the
16 society at times and by methods the bylaws of the society prescribe. The
17 board of directors may designate from among its members an executive
18 committee with authority to act in place of the board of directors and in
19 accordance with directions the board of directors may give when the board of
20 directors is not in session.

21 D. The president shall preside at meetings of the society and of the
22 board of directors.

23 E. The state treasurer shall have custody of the monies of the
24 society, including legislative appropriations. The state treasurer shall
25 hold the monies of the society deposited in trust for the society's use and
26 for the benefit of the state and shall disburse them only as prescribed by
27 law and the bylaws of the society.

28 F. The board of directors shall hold in trust for the state and
29 administer for the benefit of the state and use of the society all property
30 acquired by the society.

31 G. All expenditures of legislative appropriations to the society shall
32 be made upon ON claims duly itemized, verified and approved by the board, or
33 by a committee of the board authorized by the board, which EXECUTIVE
34 DIRECTOR. THE EXECUTIVE DIRECTOR shall be presented to PRESENT and filed
35 FILE CLAIMS FOR PAYMENT with the director of the department of
36 administration. who THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION shall
37 draw his THE warrant therefor on the state treasurer.

38 H. The board of directors shall annually designate one or more
39 historical organizations within each county of the state which shall be
40 incorporated as nonprofit organizations and which are deemed to have a
41 functioning program of historical value based on criteria established by the
42 board of directors. The names of such historical organizations shall be
43 certified to the president of the senate and the speaker of the house of
44 representatives no later than ten days after the beginning of each regular
45 session of the legislature. The board of directors shall report annually to

1 the committee of reference, as defined by section 41-2952. The board of
2 directors may organize chapters made up of groups of its members who have a
3 common interest in a geographical area of the state or a common interest in
4 a field of history, may provide for the governance of such THOSE chapters,
5 and may grant to any such chapter the power to exercise such authority of the
6 society as the board of directors may determine.

7 I. The board of directors may, subject to legislative appropriation,
8 contract with certified historical organizations for services to be performed
9 for the benefit of this state. Such THE contracts shall be prepared by the
10 Arizona historical society. The board of directors shall annually review the
11 contracts to insure fulfillment of their provisions.

12 J. The board of directors may employ an executive director and may
13 employ or authorize the employment of other employees it considers
14 appropriate to carry out the functions of the society. The executive
15 director and all other employees shall have duties and exercise authority as
16 may be prescribed by the board of directors or by the executive director
17 acting under the direction of the board of directors.

18 Sec. 12. Section 41-824, Arizona Revised Statutes, is amended to read:
19 41-824. Journal of Arizona history; fund

20 A. The Arizona historical society shall publish a magazine, to be
21 known as "Journal of Arizona History", at least four times per year.

22 B. ~~There shall be created~~ A journal of Arizona history magazine
23 fund, ~~which shall consist~~ IS ESTABLISHED CONSISTING of monies appropriated
24 thereto by the legislature annually and all monies received from
25 subscriptions. ~~to THESE MONIES SHALL~~ be expended in conformity with the laws
26 governing state financial operations. Balances remaining in such THE fund
27 at the end of the fiscal year shall not revert to the general fund.

28 C. ON NOTICE FROM THE DIRECTOR, THE STATE TREASURER SHALL INVEST AND
29 DIVEST MONIES IN THE FUND AS PROVIDED BY SECTION 35-313, AND MONIES EARNED
30 FROM INVESTMENT SHALL BE CREDITED TO THE FUND.

31 Sec. 13. Section 41-826, Arizona Revised Statutes, is amended to read:
32 41-826. Permanent Arizona historical society revolving fund

33 A. A permanent Arizona historical society revolving fund is
34 established consisting of monies received pursuant to subsection B of this
35 section.

36 B. All monies received by the society from the operation of gift
37 shops, book shops, food service facilities, and charges for the use of or
38 admission into any of the society's facilities shall be deposited, pursuant
39 to sections 35-146 and 35-147, into this fund.

40 C. Fund monies shall be spent by the society for enhancing the
41 programs of the society, or operating or improving its facilities.

42 D. The Arizona historical society shall prepare an annual report which
43 accounts for all permanent Arizona historical society monies received, from
44 where received and for what purposes such monies were used during the fiscal

1 year. The report shall include plans for the ensuing fiscal year. The
2 report shall be presented to the legislature during January of each year.

3 E. ON NOTICE FROM THE DIRECTOR, THE STATE TREASURER SHALL INVEST AND
4 DIVEST MONIES IN THE FUND AS PROVIDED BY SECTION 35-313, AND MONIES EARNED
5 FROM INVESTMENT SHALL BE CREDITED TO THE FUND.

6 F. All monies in the fund shall be ARE exempt from the provisions
7 of section 35-190, relating to lapsing of appropriations.

8 Sec. 14. Section 44-2039, Arizona Revised Statutes, is amended to
9 read:

10 44-2039. Securities regulatory and enforcement fund; purpose

11 A. A securities regulatory and enforcement fund is established and
12 shall be administered by the commission under the conditions and for the
13 purposes provided by this section. Monies in the fund are exempt from the
14 provisions of section 35-190, relating to lapsing.

15 B. Fees collected pursuant to section 44-1861, subsection A,
16 paragraphs 1 and 2 and subsections D and P shall be deposited, pursuant to
17 sections 35-146 and 35-147, in the securities regulatory and enforcement
18 fund.

19 C. Monies in the fund are subject to legislative appropriation. The
20 commission shall use the monies in the fund for education and regulatory,
21 investigative and enforcement operations in the securities division AND A
22 PART OF GENERAL ADMINISTRATIVE AND HEARING EXPENSES OF THE COMMISSION.

23 D. On or before January 15, April 15, July 15 and October 15, the
24 commission shall cause to be filed with the governor, with copies to the
25 director of the department of administration, the president of the senate and
26 the speaker of the house of representatives, a full and complete account of
27 the receipts and disbursements from the fund in the previous calendar
28 quarter.

29 Sec. 15. Section 49-282, Arizona Revised Statutes, is amended to read:
30 49-282. Water quality assurance revolving fund

31 A. A water quality assurance revolving fund is established to be
32 administered by the director. The fund consists of monies from the following
33 sources:

34 1. Monies appropriated by the legislature.

35 2. Fertilizer license fees allocated under section 3-272, subsection
36 B, paragraph 2.

37 3. Pesticide registration fees allocated under section 3-351,
38 subsection D, paragraph 2.

39 4. The tax on water use pursuant to section 42-5302.

40 5. Water quality assurance fees collected under section 45-616.

41 6. Industrial discharge registration fees collected under section
42 49-209.

43 7. Manifest resubmittal fees collected under section 49-922.01.

44 8. Hazardous waste facility registration fees collected under section
45 49-929.

1 9. Hazardous waste resource recovery facility registration fees
2 collected under section 49-930.

3 10. Monies recovered from responsible parties as remedial action costs.

4 11. Monies received as costs for a review of remedial actions at the
5 request of a person other than the state.

6 12. Monies received from the collection of corporate income taxes under
7 title 43, chapter 11, article 2 as prescribed by subsection B of this
8 section.

9 13. Prospective purchaser agreement fees collected under section
10 49-285.01.

11 B. The water quality assurance revolving fund shall be assured of an
12 annual funding amount of eighteen million dollars. Beginning July 1, 1999,
13 as soon as practicable at the beginning of each fiscal year, the state
14 treasurer shall transfer the sum of fifteen million dollars to the water
15 quality assurance revolving fund from the corporate income tax as collected
16 pursuant to title 43, chapter 11, article 2. As custodian of the fund, the
17 director shall certify to the governor, the state treasurer, the president
18 of the senate and the speaker of the house of representatives at the end of
19 that fiscal year the amount of monies deposited in the water quality
20 assurance revolving fund pursuant to subsection A, paragraphs 1 through 9.
21 At the end of the fiscal year the state treasurer shall adjust the fifteen
22 million dollar transfer of corporate income tax so that, when combined with
23 monies deposited in the fund during that fiscal year pursuant to subsection
24 A, paragraphs 1 through 9, the fund receives eighteen million dollars each
25 fiscal year. This adjustment shall occur as part of the year-end book
26 closing process for that fiscal year. If sufficient monies from the
27 corporate income tax are not available to make any necessary upward
28 adjustments as part of the year-end book closing, the state treasurer shall
29 transfer the monies necessary to achieve the eighteen million dollar funding
30 level from the transaction privilege and severance tax clearing account
31 pursuant to section 42-5029, subsection D, paragraph 4, to the water quality
32 assurance revolving fund. Any transfers prescribed by this subsection shall
33 not be deducted from the net proceeds distributed pursuant to section 43-206.

34 C. At the beginning of each fiscal year the director shall transfer
35 the sum of eight hundred thousand dollars from the water quality assurance
36 revolving fund to the Arizona water quality fund established by section
37 45-618.

38 D. Monies in the fund are exempt from lapsing under section 35-190.
39 Interest earned on monies in the fund shall be credited to the fund.

40 E. Monies from the water quality assurance revolving fund shall be
41 used for the following purposes:

42 1. To provide state matching monies or to meet such other obligations
43 as are prescribed by section 104 of CERCLA.

44 2. For all reasonable and necessary costs to implement this article,
45 including:

1 (a) Taking remedial actions.

2 (b) Conducting investigations of an area to determine if a release or
3 a threatened release of a hazardous substance exists.

4 (c) Conducting remedial investigations, feasibility studies, health
5 effect studies and risk assessments.

6 (d) Identifying and investigating potentially responsible parties and
7 allocating liability among the responsible parties.

8 (e) Funding orphan shares.

9 (f) Participating in the allocation process, administrative appeals
10 and court actions.

11 (g) Funding the community advisory boards and other community
12 involvement activities and the water quality assurance revolving fund
13 advisory board.

14 (h) Remediating pollutants if necessary to remediate a hazardous
15 substance.

16 3. For the reasonable and necessary costs of monitoring, assessing,
17 identifying, locating and evaluating the degradation, destruction, loss of
18 or threat to the waters of the state resulting from a release of a hazardous
19 substance to the environment.

20 4. For the reasonable and necessary costs of administering the fund.

21 5. For the reasonable and necessary costs of administering the
22 industrial discharge registration program under section 49-209.

23 6. For the costs of the water quality monitoring program described in
24 section 49-225.

25 7. For compliance monitoring, investigation and enforcement activities
26 pertaining to generating, transporting, treating, storing and disposing of
27 hazardous waste. The amount to be used pursuant to chapter 5 of this title
28 is limited to the amount received in the prior fiscal year from the hazardous
29 waste facility registration fee.

30 8. For emergency response use as prescribed in section 49-282.02.

31 9. For all reasonable and necessary costs of the preparation and
32 execution of prospective purchaser agreements.

33 10. For all reasonable and necessary costs of the voluntary remediation
34 program.

35 11. To reimburse a political subdivision of this state for its
36 reasonable, necessary and cost-effective remedial action costs incurred in
37 response to a release or threat of a release of a hazardous substance or
38 pollutants that presents an immediate and substantial endangerment to the
39 public health or the environment. The political subdivision is not eligible
40 for reimbursement until it has taken all reasonable efforts to obtain
41 reimbursement from the responsible party and the federal government. No more
42 than two hundred fifty thousand dollars may be spent from the fund for this
43 purpose in any fiscal year.

44 12. For all reasonable and necessary costs incurred by the department
45 pursuant to section 49-282.04 and the department of water resources pursuant

1 to section 45-605 for well inspections, remedial actions and review and
2 approval of well construction necessary to prevent vertical
3 cross-contamination. The director of environmental quality and the director
4 of water resources shall enter into an agreement for the transfer of these
5 costs.

6 13. For actions that are taken pursuant to section 49-282.03 before the
7 selection of a remedy.

8 14. For the reasonable and necessary costs of the conveyance, use or
9 discharge of water remediated as part of a remedy under this article.

10 15. For the reasonable and necessary costs incurred by the department
11 of health services at the request of the director of environmental quality
12 to assess and evaluate the effect of a release or threatened release of
13 hazardous substances to the public health or welfare and the
14 environment. The director of environmental quality and the director of the
15 department of health services shall enter into an agreement for the transfer
16 of these costs. The assessment and evaluation by the department of health
17 services may include:

18 (a) Performing health effect studies and risk assessments.

19 (b) Evaluating and calculating cleanup standards.

20 (c) Assisting in communicating health and risk issues to the public.

21 16. For the reasonable and necessary costs incurred by the department
22 of law to provide legal services at the request of the director of
23 environmental quality.

24 17. For the reasonable and necessary costs of contracting for the goods
25 and services to enable the director to implement this article.

26 18. For remediation demonstration projects that use bioremediation or
27 other alternative technologies. The department may not use more than five
28 hundred thousand dollars in a fiscal year pursuant to this paragraph.

29 F. Any political subdivision of this state which uses, used or may use
30 waters of the state for drinking water purposes or any state agency,
31 regardless of whether the political subdivision or state agency is a
32 responsible party, may apply to the director for monies from the fund to be
33 used for remedial action. An application to the fund for remedial action
34 costs shall not be treated as an admission that a political subdivision or
35 an agency of the state is a responsible party, but a political subdivision
36 or a state agency that is a responsible party is liable for remedial action
37 costs in the same manner, including reimbursement of the fund, as any other
38 responsible party. The political subdivision shall commit a local matching
39 amount at least equal to the amount sought from the fund.

40 G. The director shall prepare and submit a written report to the
41 speaker of the house of representatives and the president of the senate in
42 December of each year. The report shall describe:

43 1. The accomplishments from expenditures from the fund during the
44 preceding fiscal year in terms of the reduction of contamination in the

1 environment and actions taken to determine the nature and extent of
2 contamination.

3 2. The status of all sites on the registry, including the site
4 locations, the basis for establishing site boundaries and whether remedial
5 actions taken to date would support a modification of the boundaries of the
6 site.

7 3. The number of settlements made with responsible parties and the
8 terms of each settlement.

9 4. The number and types of settlements applied for and made pursuant
10 to sections 49-292.01 and 49-292.02, including:

11 (a) The number of applications submitted under each section.

12 (b) The number of applications denied under each section.

13 (c) The number of applicants who settled based on the formula in
14 section 49-292.01, subsection C, paragraph 1 and the total amount of the
15 settlements.

16 (d) The number of settlements pursuant to section 49-292.02 and the
17 total amount of the settlements.

18 (e) The number of persons who met the definition of qualified business
19 under section 49-292.01, subsection J but who settled pursuant to section
20 49-292.02, for each such person, the amount of the settlement as a percentage
21 of the person's average annual gross income for the two years preceding the
22 request for settlement, and for all such persons, the total of the difference
23 between the settlement amounts and the amounts that would have been paid
24 based on the formula in section 49-292.01, subsection C, paragraph 1.

25 ~~H. The water quality assurance revolving fund program shall be
26 reviewed pursuant to the program authorization review prescribed in section
27 35-114 in 2002 and every five years thereafter.~~

28 ~~I. H. In addition to the report prescribed by subsection H of this
29 section, The director of environmental quality shall prepare and submit a
30 budget for the water quality assurance revolving fund program and the
31 director of water resources shall prepare and submit a budget for the Arizona
32 water quality fund with the departments' budgets that are required pursuant
33 to section 35-111. The committees on appropriations of the house of
34 representatives and the senate shall review the water quality assurance
35 revolving fund budget and the Arizona water quality fund budget and the
36 reports made pursuant to subsection G of this section to ensure that the
37 departments' expenditures are made in accordance with the legislature's
38 intent and that the departments are making adequate progress toward
39 accomplishing that intent.~~

40 Sec. 16. Lottery deposits

41 Notwithstanding section 5-505, subsection B, Arizona Revised Statutes,
42 for fiscal years 2001-2002 and 2002-2003 not less than 31.6 per cent of the
43 total annual revenues accruing from the sale of multistate lottery tickets
44 shall be deposited in the state lottery fund established by section 5-521,

1 Arizona Revised Statutes, to be used as prescribed in section 5-522, Arizona
2 Revised Statutes.

3 Sec. 17. Personnel division fund; contribution of pro rata share

4 Notwithstanding section 41-764, Arizona Revised Statutes, the pro rata
5 contribution share of state service agencies for the personnel division fund
6 shall be 0.95 per cent of the total payroll of each state service agency
7 within the covered service of the department of administration personnel
8 division for fiscal year 2001-2002 and 1.04 per cent of the total payroll of
9 each state service agency within the covered service of the department of
10 administration personnel division for fiscal year 2002-2003.

11 Sec. 18. Arts commission; technology development

12 Notwithstanding section 41-986, Arizona Revised Statutes, the Arizona
13 commission on the arts may expend up to \$91,000 in each of the fiscal years
14 2001-2002 and 2002-2003 from monies earned from the investment of the Arizona
15 arts endowment fund for the commission's technology development plan.

16 Sec. 19. Water protection fund; appropriation

17 Notwithstanding section 45-2112, subsection B, Arizona Revised
18 Statutes, the annual appropriation from the state general fund to the Arizona
19 water protection fund for fiscal years 2001-2002 and 2002-2003 shall be as
20 specified by the general appropriations act.

21 Sec. 20. Transfer and use of monies; department of law; child
22 abuse cases; exemption; reversion; report

23 A. Notwithstanding section 41-191.03, subsection E, Arizona Revised
24 Statutes, the sum of \$1,600,000 is transferred from the remaining excess
25 monies in the collection enforcement revolving fund in fiscal year 2001-2002
26 to the department of law federal funds account (AGA 2117) for use by the
27 department for the purpose of eliminating a backlog of child abuse cases and
28 to meet new case processing timelines established in section 8-824, Arizona
29 Revised Statutes. Monies transferred by this section are exempt from the
30 provisions of section 35-190, Arizona Revised Statutes, relating to lapsing
31 of appropriations. Transferred monies remaining in AGA 2117 at the end of
32 fiscal year 2001-2002 revert to the state general fund.

33 B. The attorney general shall submit a report to the joint legislative
34 budget committee on July 1, 2001 and quarterly thereafter until October 1,
35 2002. The report shall provide a summary of projected expenditures by line
36 item for the following quarter, including the number of full-time equivalent
37 positions and federal matching funds. The report shall also reflect actual
38 expenditures for the previous quarter and shall include the reduction in the
39 backlog of cases, the number of children placed, the type of placement and
40 the number of children still awaiting placement.

41 Sec. 21. Criminal justice enhancement fund; general fund
42 deposit; crime laboratory assessment fund

43 Notwithstanding any other provision of law, for fiscal years 2001-2002
44 and 2002-2003 any monies distributed from the criminal justice enhancement
45 fund pursuant to section 41-2401, subsection D, paragraph 11, Arizona Revised

1 Statutes, shall be deposited in the crime laboratory assessment fund
2 established by section 41-2415, Arizona Revised Statutes. Notwithstanding
3 section 41-2415, subsection C, Arizona Revised Statutes, monies distributed
4 by this section pursuant to section 41-2401, subsection D, paragraph 11,
5 Arizona Revised Statutes, may be used by the department of public safety and
6 are exempt from distribution to other political subdivisions.

7 Sec. 22. Department of public safety; highway funds;
8 distribution

9 Notwithstanding sections 28-6537 and 28-6993, Arizona Revised Statutes,
10 the statutory cap limiting the level of highway user revenue funds and state
11 highway funds available to fund department of public safety highway patrol
12 costs shall be suspended for fiscal years 2001-2002 and 2002-2003.

13 Sec. 23. Multi-county water conservation district; deposit of
14 monies

15 Notwithstanding section 45-2112, subsection B and section 48-3715.05,
16 Arizona Revised Statutes, monies received in fiscal year 2001-2002 and
17 2002-2003 pursuant to section 48-3715, subsection B, Arizona Revised
18 Statutes, shall be deposited in the state general fund in the fiscal year
19 that they are received.

APPROVED BY THE GOVERNOR APRIL 24, 2001.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 24, 2001.

Passed the House April 11, 2001,

Passed the Senate April 12, 2001,

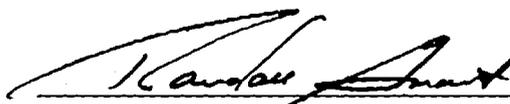
by the following vote: 51 Ayes,

by the following vote: 24 Ayes,

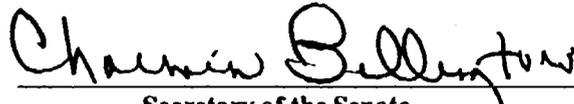
5 Nays, 4 Not Voting

6 Nays, 0 Not Voting


Speaker of the House


President of the Senate

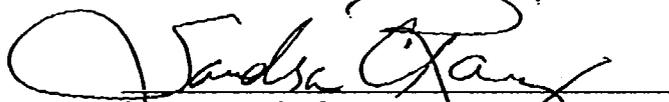

Chief Clerk of the House


Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this
18 day of April, 2001,

at 7:44 o'clock A M.


Secretary to the Governor

Approved this 24 day of

April, 2001,

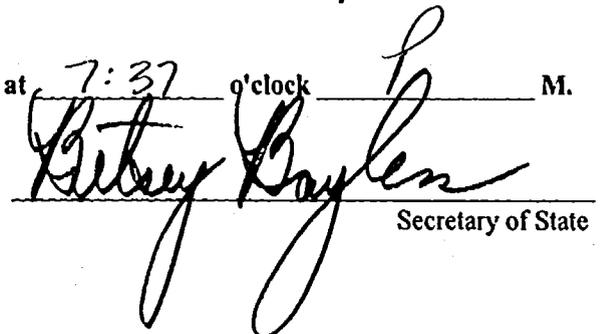
at 3:27 o'clock P M.


Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State
this 24 day of April, 2001,

at 7:37 o'clock P M.


Secretary of State

H.B. 2636