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May 29, 2019

STATE TRANSPORTATION LEGISLATION UPDATE

After securing the votes to pass a budget over Memorial Day weekend, the Legislature adjourned sine die in the early morning hours of May 28th. There was a tremendous amount of legislative activity concerning transportation funding this year both in the budget and with numerous other bills. \$96 million of the State's anticipated funding surplus was directed to transportation projects. Transportation funding transfers were kept to a minimum. Regional transportation sales tax authority was expanded. Also, on a public safety note, Arizona finally passed a substantive texting while driving ban.

On the negative, a permanent increase to the transportation revenue streams, needed to address the \$30.5 billion funding shortfall for the state highway system, was not accomplished. Also, the Highway Safety Fee will be repealed in two years, taking a step back from the progress that was made last year to stop the existing funding from being raided.

THE BUDGET: The State had a sizable budget surplus to work with this year and much focus was placed on directing some of the one-time funding to capital improvements. The enacted budget includes \$96 million in General Fund revenues to the following transportation projects:

- * \$2.8 million to Globe for the Jesse Hayes Road bridge project.
- * \$700,000 for a cold inspection facility at Mariposa Port of Entry in Nogales.
- * \$6.5 million for a SR-24 bridge over Ellsworth Road near Phoenix-Mesa Gateway Airport.
- * \$10 million for an I-10 widening study between Casa Grande and Phoenix.
- * \$10 million to the State Aviation Fund for statewide airport capital improvements including \$1 million for the Ernest A. Love Field Airport in Prescott.
- * \$20 million to Kingman for traffic interchanges on I-40 east of SR-66.
- * \$28 million to expand US Route 95 between Yuma and the Yuma Proving Ground.
- * \$18 million divided equally among all cities and towns for highways and roads.

I-17 FUNDING: The budget also directs \$130 million over three years from the State Highway Fund to the I-17 widening project between Anthem and Sunset Point. Unlike the projects listed above, this would be funded by the State Highway Fund rather than additional General Fund revenue. As indicated in his budget proposal, Governor Doug Ducey intends the initial revenue retained for transportation by the ending of the HURF transfers to be used for these I-17 improvements. The end of the HURF transfers was anticipated due to last year's enactment of the Highway Safety Fee and its fully funding the Highway Patrol going forward. However, this year's budget also repeals the Fee on July 1, 2021 which could be problematic for this three-year funding plan for I-17 and ADOT's five-year construction program.

HIGHWAY SAFETY FEE REPEAL: With the inability to substantially raise state transportation revenue since the last gas tax increase in 1991, last year's passage of the Highway Safety Fee was substantial. While not growing the revenue streams, it was designed to at least stop the raiding of the existing funding that would have otherwise gone to the infrastructure. For transportation, those transfers have exceeded \$2 billion since 2000. The Highway Safety Fee was designed to stop the raids by fully funding Highway Patrol, the main recipient of those transfers. It appeared to be very effective this year as the budget minimizes the transfers to \$8.7 million which is a significant drop-off compared to the roughly \$100 million transferred last year. Unfortunately, the budget also repeals the Fee starting in July, 2021 which will likely leave the transportation revenues once again highly susceptible to raiding in future years.

NEW REVENUE: The focus on raising transportation revenues was placed on **HB2536**, the legislation introduced by House Transportation Committee Chairman Noel Campbell which would have phased in a 25-cent fuel tax increase, establish an annual inflation adjustment, and set comparable fuel taxes and fees for alternative fuel vehicles. The bill cleared both the Transportation and Ways & Means Committees but not before amending out the 25-cent tax increase. The bill stalled further and was never heard by the full House but efforts continued to pass a compromise and will continue further leading in to next year's legislative session.

ALTERNATIVE FUEL VEHICLES: Regarding alternative fuel vehicles, Senate Transportation Committee Chairman David Livingston was successful in passing **SB1332** which modifies the phase out of the Vehicle License Tax (VLT) breaks for alternative fuel vehicles. The standard VLT rate will apply to all alternative fuel vehicles registered after 2022. By 2024, this is estimated to generate an additional \$4.4 million. In regards to equity for other vehicles using the roads, the fuel sources for alternative fuel vehicles remain untaxed but we are transitioning to a level playing field on their registrations.

REGIONAL TRANSPORTATION SALES TAXES: At the regional level, Representative T.J. Shope was successful in passing **HB2109** which doubles the transportation sales tax level that counties can take to their voters from one-half to a full cent. The legislation applies to all counties but Maricopa. Also, the tax rate can't exceed a full cent when combined with any county road tax. Revenues can be used for a broad variety of transportation purposes including local streets, regional transit services and local highway projects. The message from ADOT to Greater Arizona has increasingly been if you want a highway expansion project in your local area, you need to provide a local funding contribution. This revenue could be that potential funding source.

PUBLIC SAFETY: After more than a decade of trying, the Legislature passed a substantial distracted driving bill. There have been many past champions on this issue including Senate President Karen Fann and former Senator Tom Farley. This year, several legislators pushed for legislation including Senator J.D. Mesnard, Senator Kate Brophy McGee, Representative John Kavanagh, Representative Kelly Townsend, Representative Cesar Chavez, and Representative Frank Carroll. Ultimately, a Representative Campbell bill, **HB2318** was enacted. The legislation prohibits the use of cellphones or other electronic devices while driving unless the device is embedded in the vehicle and allows for hands-free use. Law enforcement can immediately start issuing warnings. Penalties will take effect in 2021. Also, local ordinances can continue to be enforced but must be consistent with the state law by 2021.