

TRANSPORTATION, Lloyd Jones, Chair, Coleman and Drake

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SENATE FILE 2111
BY LLOYD-JONES

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the creation of regional railroad authorities
2 by two or more political subdivisions, authorizing the
3 imposition of a tax levy and the issuance of bonds and notes,
4 and providing certain tax exemptions.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 2111

1 Section 1. NEW SECTION. 306E.1 DEFINITIONS.

2 As used in this chapter, unless the context otherwise
3 requires:

4 1. "Authority" means a regional railroad authority created
5 under the provisions of this chapter.

6 2. "Bond" means any bond, note, interim certificate,
7 debenture, or similar obligations issued by an authority
8 pursuant to this chapter.

9 3. "Governing body" means the official or officials
10 authorized by law to exercise ordinance making or other
11 lawmaking powers of a political subdivision.

12 4. "Political subdivision" means a county or city in this
13 state.

14 5. "Project" means any railroad or related facilities
15 operated or owned by an authority, including all real and
16 personal property, structures, machinery, equipment and
17 appurtenances or facilities which are part of the railroad and
18 useful in connection with the railroad, including facilities
19 for the convenience of handling passengers and freight.

20 6. "Real property" means lands, structures, and interests
21 in land, including lands under water and riparian rights,
22 including any and all lesser interests, such as easements,
23 rights-of-way, uses, leases, licenses, and all other estates,
24 interests, or rights, legal or equitable, pertaining to real
25 property.

26 7. "Department" means the state department of
27 transportation.

28 Sec. 2. NEW SECTION. 306E.2 CREATION OF AUTHORITY BY
29 AGREEMENT OF POLITICAL SUBDIVISIONS.

30 Two or more political subdivisions may form a regional
31 railroad authority by execution of an agreement authorized by
32 resolution or ordinance of the governing body of each
33 political subdivision.

34 Sec. 3. NEW SECTION. 306E.3 CONTENTS OF AGREEMENT
35 CREATING AUTHORITY.

1 The agreement authorized in section 306E.2 shall state:

2 1. That the regional railroad authority is created and
3 incorporated under the provisions of this chapter as a
4 political subdivision of this state, to exercise thereunder a
5 part of the sovereign power of the political subdivisions
6 forming the authority.

7 2. The name of the authority which shall include the words
8 "regional railroad authority".

9 3. The names of the political subdivisions which have
10 approved the agreement and are the initial members of the
11 authority.

12 4. The names and addresses of the persons initially
13 appointed by the resolutions or ordinances approving the
14 agreement to act as the representatives or alternate
15 representatives of the political subdivisions.

16 5. The address of the registered office of the authority
17 and the name of its registered agent at such office.

18 6. That the political subdivisions which are members of
19 the authority and its commissioners, officers, and agents are
20 not liable for its obligations.

21 7. Any other provision for regulating the business of the
22 authority which may be agreed upon by the political
23 subdivisions.

24 Sec. 4. NEW SECTION. 306E.4 FILING OF AGREEMENT AND
25 RESOLUTIONS -- CERTIFICATE OF INCORPORATION -- BEGINNING OF
26 CORPORATE EXISTENCE.

27 The agreement and a certified copy of the resolution or
28 ordinance of each political subdivision shall be filed with
29 the secretary of state. If the agreement conforms to the
30 requirements of this chapter the secretary of state shall file
31 it and issue a certificate of incorporation, which shall state
32 the name of the authority and the date of incorporation. The
33 existence of the authority as a political subdivision of this
34 state shall begin upon the issuance of the certificate of
35 incorporation. The certificate of incorporation shall be

1 conclusive evidence of the existence of the authority.

2 Sec. 5. NEW SECTION. 306E.5 HEARING BEFORE ADOPTION OF
3 RESOLUTION OR ORDINANCE -- PUBLICATION OF NOTICE.

4 A resolution or ordinance creating an authority or
5 withdrawing from an authority as provided in section 306E.2 or
6 306E.12 shall not be adopted without a public hearing. Notice
7 of the hearing shall be given at least ten days prior to the
8 hearing in the official newspaper of the political
9 subdivision, or if the political subdivision has no official
10 newspaper, then in a newspaper having general circulation in
11 the political subdivision.

12 Sec. 6. NEW SECTION. 306E.6 ELECTION OF COMMISSIONERS OF
13 AUTHORITY -- TERMS OF OFFICE -- VACANCIES.

14 The representatives of the political subdivisions which are
15 members of an authority shall elect commissioners of the
16 authority. The number to be elected and their representation
17 shall be provided for in the agreement. All commissioners of
18 an authority shall be elected for a term of one year.
19 Vacancies shall be filled for the unexpired term in the same
20 manner as the original elections. Each commissioner shall
21 hold office until a successor has been elected and qualified.

22 Sec. 7. NEW SECTION. 306E.7 POWER VESTED IN
23 COMMISSIONERS -- RULES FOR OPERATION.

24 The power of an authority is vested in the commissioners.
25 An authority may prescribe and amend rules for its own
26 operations subject to the agreement of the political
27 subdivisions establishing the authority and subject to the
28 provisions of this chapter.

29 Sec. 8. NEW SECTION. 306E.8 CHAIRPERSON AND SECRETARY-
30 TREASURER OF AUTHORITY.

31 An authority shall elect a chairperson and a secretary-
32 treasurer, from among its commissioners.

33 Sec. 9. NEW SECTION. 306E.9 EXECUTIVE DIRECTOR AND OTHER
34 AGENTS -- DELEGATION OF POWERS AND DUTIES.

35 An authority may appoint or elect an executive director,

1 and such other officers, agents, and employees as it
2 determines are necessary. An authority may delegate its
3 powers and duties to one or more of its officers, agents, or
4 employees.

5 Sec. 10. NEW SECTION. 306E.10 REIMBURSEMENT OF
6 COMMISSIONERS' EXPENSES.

7 A commissioner shall not receive any compensation for the
8 commissioner's services but shall be reimbursed for necessary
9 expenses incurred in the discharge of the commissioner's
10 duties.

11 Sec. 11. NEW SECTION. 306E.11 ADDITION OF POLITICAL
12 SUBDIVISION TO AUTHORITY.

13 A political subdivision may be added to an authority upon
14 approval by resolution or ordinance of the additional
15 political subdivision pursuant to this chapter and approval of
16 the commissioners.

17 Sec. 12. NEW SECTION. 306E.12 WITHDRAWAL OF POLITICAL
18 SUBDIVISION FROM AUTHORITY -- DISPOSITION OF ASSETS AND
19 LIABILITIES.

20 A political subdivision may withdraw from an authority if
21 the commissioners of the authority consent to the withdrawal.
22 In such event, the commissioners shall provide for the
23 retention or disposition of its assets and liabilities.
24 However, if the authority has any bonds outstanding a
25 withdrawal shall not become effective unless one hundred
26 percent of the holders of the bonds consent in writing to the
27 withdrawal.

28 Sec. 13. NEW SECTION. 306E.13 FILING OF RESOLUTION OF
29 ADDITION TO OR WITHDRAWAL FROM AUTHORITY -- AMENDED
30 CERTIFICATE OF INCORPORATION.

31 If a political subdivision is added to or withdrawn from an
32 authority pursuant to section 306E.11 or 306E.12, the
33 authority shall forward to the secretary of state a certified
34 copy of each resolution or ordinance adopted under section
35 306E.11 or 306E.12. Upon receipt of the resolutions or

1 ordinances, the secretary of state shall issue an amended
2 certificate of incorporation.

3 Sec. 14. NEW SECTION. 306E.14 POWERS OF POLITICAL
4 SUBDIVISIONS IN AID OF AUTHORITY.

5 Any political subdivision for which an authority has been
6 created may do any of the following:

7 1. Lend or donate money to the authority.

8 2. Provide that all or a portion of the taxes or funds
9 available to the political subdivision for railroad purposes,
10 be transferred or paid directly to the authority.

11 3. Cause water, sewer, or drainage facilities, or any
12 other facilities which it is authorized to provide, to be
13 furnished adjacent to or in connection with the authority's
14 railroads or facilities.

15 4. Dedicate, sell, convey, or lease any of its interest in
16 any property, or grant easements, licenses, or any other
17 rights or privileges to the property to the authority.

18 5. Furnish, dedicate, close, pave, install, grade,
19 regrade, plan, or replan streets, roads, roadways, and walks
20 from established streets or roads to the authority's railroad
21 facilities.

22 6. Aid and cooperate with the authority in the planning,
23 undertaking, construction, or operation of railroad
24 facilities.

25 7. Enter into agreements with the authority regarding
26 action to be taken by the political subdivision pursuant to
27 the provisions of this section.

28 Sec. 15. NEW SECTION. 306E.15 CORPORATE POWERS OF
29 AUTHORITY.

30 An authority may:

31 1. Sue and be sued, have a seal, and have perpetual
32 succession.

33 2. Execute contracts, other instruments, and take action
34 as may be necessary to carry out the purposes of this chapter.

35 3. Exercise powers as are necessary and reasonable to

1 carry out the purposes of this chapter.

2 Sec. 16. NEW SECTION. 306E.16 PLANNING, ACQUISITION, AND
3 OPERATION OF RAILROADS AND FACILITIES -- ACQUISITION OF
4 PROPERTY.

5 An authority may plan, establish, acquire, develop,
6 construct, purchase, enlarge, improve, maintain, equip,
7 operate, regulate, and protect its railroads, and railroad
8 facilities used or useful in the operation of the railroad.
9 For such purposes an authority may acquire, by purchase, gift,
10 devise, lease, or condemnation, real or personal property or
11 any interest in real or personal property.

12 Sec. 17. NEW SECTION. 306E.17 USE OF PUBLIC WATERS BY
13 AUTHORITY -- BUILDINGS, ROADWAYS, AND BRIDGES.

14 An authority may establish or acquire and maintain
15 railroads over any public waters of this state and any
16 submerged lands under such public waters. An authority may
17 construct and maintain terminal buildings, causeways,
18 roadways, and bridges for approaches to or connecting with the
19 railroads.

20 Sec. 18. NEW SECTION. 306E.18 POWER OF EMINENT DOMAIN --
21 RESTRICTIONS ON ACQUISITION OF PUBLIC OR RAILROAD PROPERTY.

22 An authority may acquire all real or personal property that
23 it deems necessary for carrying out the purposes of this
24 chapter, whether in fee simple absolute or lesser interest, by
25 condemnation and the exercise of the power of eminent domain
26 in accordance with chapter 471. An authority shall have no
27 power of eminent domain with respect to property owned by
28 another authority or political subdivision or public agency of
29 this or any other state without the consent of the authority,
30 political subdivision, or public agency. The authority shall
31 not condemn property owned or used by a railroad corporation
32 unless the property is the subject of an abandonment petition
33 filed with the interstate commerce commission.

34 Sec. 19. NEW SECTION. 306E.19 PUBLIC PURPOSE AND
35 NECESSITY FOR ACQUISITIONS.

1 All land and other property and privileges acquired and
2 used by or on behalf of an authority are hereby declared to be
3 acquired and used for public and governmental purposes as a
4 matter of public necessity.

5 Sec. 20. NEW SECTION. 306E.20 EXEMPTION FROM TAXATION OF
6 PROPERTY AND INCOME OF AUTHORITY.

7 Any property acquired by an authority and any income
8 derived by the authority shall be exempt from taxation.

9 Sec. 21. NEW SECTION. 306E.21 ANNUAL CERTIFICATION OF
10 TAX LEVY FOR AUTHORITY -- LEVY OF TAX -- COLLECTION.

11 An authority may certify annually to the governing bodies
12 of the counties in which the member subdivisions are located
13 the amount of tax to be levied by the counties for authority
14 purposes. The levy may not exceed the maximum levy permitted
15 under section 306E.23. The county or counties shall levy and
16 collect the taxes certified by the authority in the same
17 manner as other taxes are levied and collected and the moneys
18 collected shall be paid to the authority.

19 Sec. 22. NEW SECTION. 306E.22 ZONES OF BENEFIT -- TAX
20 LEVY APPLIED TO -- HEARING -- APPEAL.

21 The authority may, in connection with the certification of
22 an annual tax levy pursuant to section 306E.21, designate by
23 resolution various zones of benefit or geographical portions
24 of the member political subdivisions which, in the judgment of
25 the authority, will be or have been benefited by projects.
26 The authority may then certify that the annual levy be applied
27 only to the benefited area.

28 However, before the authority approves a resolution
29 designating various zones of benefit or geographical portions
30 of the member political subdivisions, the authority shall hold
31 a public hearing. Notice of the hearing shall be given at
32 least ten days prior to the hearing in the official newspapers
33 of the member political subdivisions of the authority,
34 however, if a member political subdivision has no official
35 paper, the notice shall be in a newspaper having general

1 circulation in the political subdivision. After hearing, if
2 the authority adopts a resolution designating various zones of
3 benefit or geographical portions of the member political
4 subdivisions, the resolution shall be published in the same
5 manner as the notice for the public hearing. A property owner
6 may challenge the designation by the authority by filing a
7 petition in district court within twenty days of the
8 publication of the resolution, and the court shall hear the
9 cause as an action triable in equity. Upon the hearing the
10 court shall consider any objections because of alleged illegal
11 procedure or fraud or of alleged arbitrary inclusion of the
12 petitioner's property in the designated area. The court shall
13 render a decision upon the hearing as soon as practical and an
14 appeal from the decree of the district court may be taken as
15 in other equity cases. An appeal does not, in the discretion
16 of the authority, delay the certification of the levy. Upon
17 decision of the appeal, if the property was improperly subject
18 to the levy, the levy shall be corrected and relevey made in
19 conformity with the correction.

20 The agreement creating the authority may exempt the
21 application of this section to the authority under section
22 306E.3, subsection 7.

23 Sec. 23. NEW SECTION. 306E.23 MAXIMUM TAX LEVY -- COUNTY
24 LEVY NOT APPLIED IN CITY MAKING LEVY.

25 In political subdivisions which are parties to an agreement
26 creating an authority, a levy, in addition to all other levies
27 authorized by law, not to exceed one dollar eight cents per
28 one thousand dollars of the taxable valuation of property in
29 the political subdivisions, may be made for such purposes.
30 Except as provided under section 306E.22, a county levy for an
31 authority includes a levy on property located in a city that
32 is within the county, however, a county levy shall not apply
33 to a city making a levy for a different authority created
34 under this chapter.

35 Sec. 24. NEW SECTION. 306E.24 DEPOSIT OF TAX PROCEEDS --

1 EXPENDITURE.

2 The proceeds of taxes for support of an authority shall be
3 deposited in the account or accounts in which other revenues
4 of the authority are deposited and may be expended by the
5 authority as provided in this chapter.

6 Sec. 25. NEW SECTION. 306E.25 COVENANT TO LEVY TAXES
7 UNTIL BONDS PAID.

8 Prior to the issuance of bonds, the authority may by
9 resolution covenant and agree that the total amount of the
10 taxes authorized or any portion thereof will be certified,
11 levied, and deposited annually as herein provided, until the
12 bonds and interest on the bonds are fully paid.

13 Sec. 26. NEW SECTION. 306E.26 ACCEPTANCE AND EXPENDITURE
14 OF FEDERAL AND OTHER GRANTS AND LOANS.

15 An authority may accept, receive, receipt for, disburse,
16 and expend federal and state moneys and other moneys, public
17 or private, made available by grant or loan, or both, to
18 accomplish, in whole or in part, any of the purposes of this
19 chapter.

20 Sec. 27. NEW SECTION. 306E.27 DESIGNATION OF DEPARTMENT
21 ADMINISTRATOR AS AGENT OF AUTHORITY -- FUNDS HELD IN SEPARATE
22 ACCOUNT -- VOUCHERS AND WARRANTS.

23 An authority may designate the department's administrator
24 for rail and water as its agent to accept, receive, receipt
25 for, and disburse federal and state moneys, and other moneys,
26 public or private, made available by grant or loan, or both,
27 to accomplish in whole or in part, any of the purposes of this
28 chapter. An authority may designate the department's
29 administrator for rail and water as its agent to contract for
30 and supervise the planning, acquisition, development,
31 construction, improvement, maintenance, equipping, or
32 operation of any railroad or railroad facility.

33 All funds received by the department's administrator for
34 rail and water pursuant to this section shall be deposited in
35 the state treasury. Unless otherwise prescribed by the agency

1 from which the funds were received, the funds shall be kept in
2 separate accounts according to the purposes for which the
3 funds were made available. The funds shall be held by the
4 state in trust for these purposes, and paid on warrants drawn
5 by the director of revenue and finance on vouchers approved by
6 the department's administrator for rail and water.

7 Sec. 28. NEW SECTION. 306E.28 ISSUANCE OF BONDS AND
8 NOTES -- PURPOSES FOR WHICH PROCEEDS USED.

9 An authority may from time to time issue its bonds or notes
10 in such principal amounts as the authority deems necessary to
11 carry out any of its corporate purposes and powers, including,
12 but not limited to, the funding or refunding of the principal
13 of or interest or redemption premiums on, any bonds or notes
14 issued by it whether or not the bonds or notes or interest to
15 be funded or refunded have or have not become due, the
16 establishment or increase of reserves to secure or to pay the
17 bonds or notes or interest thereon, and the payment of or
18 establishment of reserves for all other costs or expenses of
19 the authority incident to and necessary to carry out its
20 corporate purposes and powers.

21 Sec. 29. NEW SECTION. 306E.29 REVENUES AND FUNDS PLEDGED
22 TO PAYMENT OF BONDS AND NOTES -- NEGOTIABILITY.

23 Every issue of bonds or notes of the authority shall be
24 payable out of revenues or funds of the authority, subject
25 only to agreements with the holders of particular bonds or
26 notes pledging any particular revenues or funds. An authority
27 may issue types of bonds or notes as it may determine,
28 including those payable as to principal and interest solely
29 from one or more revenue producing contracts made by the
30 authority or from its revenues generally. Any bonds or notes
31 may additionally be secured by a pledge of any grant, subsidy,
32 or contribution from any public agency, or other person, or a
33 pledge of revenue, income, or funds from any source
34 whatsoever. All such bonds and notes shall be negotiable
35 within the meaning of the uniform commercial code, subject

1 only to any registration requirement.

2 Sec. 30. NEW SECTION. 306E.30 RESOLUTIONS FOR BONDS OR
3 NOTES -- SECURITY AGREEMENT -- TERMS AND CONDITIONS.

4 Bonds or notes of the authority shall be authorized by
5 resolution of the commissioners and may be issued under the
6 resolution or under a trust indenture or other security
7 agreement, in one or more series, and shall bear such date or
8 dates, mature at such time or times, bear interest at such
9 rate or rates, be in such denominations, be in such form,
10 either coupon or registered, carry such conversion, exchange,
11 and registration privileges, have such rank or priority, be
12 executed in such manner, be payable in such medium of payment
13 at such place or places within or outside the state, be
14 subject to such terms of redemption with or without premium,
15 and contain or be subject to such other terms as the
16 resolution, trust indenture, or security agreement may
17 provide, and shall not be restricted by any other law limiting
18 amounts, maturities, interest rates, or other terms or
19 obligations of public agencies or private persons.

20 Sec. 31. NEW SECTION. 306E.31 MORTGAGES AND DEEDS OF
21 TRUST TO SECURE OBLIGATIONS -- FILING.

22 For the security of bonds or notes authorized under section
23 306E.30, the authority may execute and make mortgages or deeds
24 of trust of the whole or any part of its property which,
25 together with any assignments or release thereof, shall be
26 filed in the office of the secretary of state.

27 Sec. 32. NEW SECTION. 306E.32 BOND RECITAL CONCLUSIVE AS
28 TO AUTHORITY AND PURPOSE.

29 Any bond reciting that it has been issued by the authority
30 pursuant to the provisions and for the purposes of this
31 chapter shall be conclusively deemed to have been issued
32 pursuant to such provisions and for such purposes.

33 Sec. 33. NEW SECTION. 306E.33 CONTINUING VALIDITY OF
34 SIGNATURES ON BONDS AND NOTES -- TEMPORARY BONDS.

35 Any bonds or notes may be issued and delivered

1 notwithstanding that any of the commissioners or officers
2 executing them shall have ceased to hold office at the time of
3 actual delivery. Pending preparation of definitive bonds, an
4 authority may issue temporary bonds which shall be exchanged
5 for definitive bonds.

6 Sec. 34. NEW SECTION. 306E.34 SALE OF BONDS.

7 Bonds issued shall be sold at public or private sale for a
8 price and in a manner determined by the authority.

9 Sec. 35. NEW SECTION. 306E.35 BONDS EXEMPT FROM
10 TAXATION.

11 Bonds issued by an authority pursuant to the provisions of
12 this chapter, together with interest and income therefrom,
13 shall be exempt from all taxes.

14 Sec. 36. NEW SECTION. 306E.36 PERSONS EXECUTING BONDS
15 NOT PERSONALLY LIABLE.

16 The commissioners of an authority or any person executing
17 bonds authorized by the authority shall not be liable
18 personally by reason of their issuance.

19 Sec. 37. NEW SECTION. 306E.37 ARRANGEMENTS FOR OPERATING
20 AND PROVIDING RAILROAD SERVICE.

21 The authority may enter into contracts, leases, and other
22 arrangements on terms as the authority may determine with any
23 persons:

24 1. Granting the privilege of using or improving the
25 railroad or any portion or facility or space for commercial
26 purposes.

27 2. Conferring the privilege of supplying goods,
28 commodities, things, services, or facilities along the
29 railroad.

30 3. Making available services to be furnished by the
31 authority or its agents.

32 In each case the authority may establish the terms and
33 conditions and fix the charges, rentals, or fees for the
34 privileges or services, which shall be reasonable and uniform
35 for the same class of privilege or service.

1 Sec. 38. NEW SECTION. 306E.38 GRANT OF OPERATING
2 PRIVILEGES AND USE OF RAILROAD AND FACILITIES.

3 Except as may be limited by the terms and conditions of any
4 grant, loan, or agreement authorized by this chapter, an
5 authority may by contract, lease, or otherwise grant, for any
6 consideration and term as it may determine, to any person the
7 privilege of operating or using any railroad or railroad
8 facilities or property, owned, or controlled by the authority.

9 Sec. 39. NEW SECTION. 306E.39 DISPOSITION OF PROPERTY OF
10 AUTHORITY.

11 Except as may be limited by the terms and conditions of any
12 grant, loan, or agreement, made or received by the authority,
13 an authority may, by sale, lease or otherwise, dispose of any
14 of its property, or portion thereof or interest therein.

15 Sec. 40. Section 427.1, Code Supplement 1987, is amended
16 by adding the following new subsection:

17 NEW SUBSECTION. 41. REGIONAL RAILROAD AUTHORITY. The
18 property of any regional railroad authority created pursuant
19 to chapter 306E.

20 Sec. 41. Section 471.4, Code Supplement 1987, is amended
21 by adding the following new subsection:

22 NEW SUBSECTION. 7. REGIONAL RAILROAD AUTHORITIES. Upon
23 all regional railroad authorities in accordance with section
24 306E.18.

25 Sec. 42. Section 471.10, subsection 2, Code 1987, is
26 amended to read as follows:

27 2. The Iowa railway finance authority and a regional
28 railroad authority, created under chapter 306E, may begin
29 condemnation proceedings in district court.

30 Sec. 43. Section 471.16, Code 1987, is amended to read as
31 follows:

32 471.16 RIGHT TO CONDEMN ABANDONED RIGHT-OF-WAY.

33 Railroad right-of-way which has been abandoned by order of
34 the proper authority, may be condemned by a railway
35 corporation, or the Iowa railway finance authority, or a

1 regional railroad authority, created under chapter 306E,
2 before or after the track materials have been removed. The
3 procedure to condemn abandoned right-of-way shall be the same
4 as for an original condemnation.

5 EXPLANATION

6 This bill allows two or more political subdivisions,
7 defined for purposes of the bill as cities and counties, to
8 create by agreement regional railroad authorities. The
9 regional railroad authorities may plan, establish, develop and
10 operate railroads and railroad facilities. The regional
11 railroad authorities have the power of eminent domain and may
12 issue bonds and notes. The regional railroad authority may
13 provide for the levy of property taxes of up to \$1.08 per
14 \$1,000 of taxable valuation of property for the operation of
15 the authority. However, if not prohibited in the agreement
16 creating the authority, the authority may, after hearing,
17 designate various zones or geographical portions of member
18 political subdivisions which will be or have been benefited by
19 the authority's projects and levy the taxes only to the
20 benefited area.

21 This bill is patterned after similar provisions in South
22 Dakota law.

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